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Helping Families Preserve and Protect Assets and Values

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THOUGHT YOU'D LIKE TO SEE THIS:

DYNASTY TRUSTS

Imagine a trust which could give your client's beneficiaries the use and enjoyment of trust property without the transfer tax problems (i.e., your client could save federal transfer taxes), protect trust assets from the claims of a spouse who divorces a beneficiary, and insulate property from creditors' claims (including a divorcing spouse). Advocates of the so-called **Dynasty Trust** believe it may do all those things!

Additional reasons to create a dynasty trust include saving federal, state, and local income taxes, saving federal, state, and local intangibles taxes, providing long-term investment management (particularly for minor or physically, mentally, or emotionally disabled individuals), protecting beneficiaries from well (or not so well) meaning "advisors," protecting beneficiaries from inexperience or imprudence, providing incentives for certain behavior (e.g., they get extra amounts upon the completion of college, grad or medical school, or upon marriage or the birth of children, and keeping the control of family owned assets (e.g., a family compound or the voting control of a family business entity).

What Is a Dynasty Trust? A dynasty trust (also called a "Megatrust") can be thought of as an irrevocable trust on (**legal**) steroids.

How Does a Dynasty Trust Differ from A Typical Irrevocable Life Insurance Trust (ILIT)? Most ILITs are typically designed to provide for two generations of individuals. A person will create a trust (usually providing a trustee with discretion to "sprinkle" income and "spray" capital powers and with limited—ascertainable standard—withdrawal powers) to provide for a spouse for life, then provide for children for life, and then whatever is in the trust passes to grandchildren.

But the dynasty trust, rather than requiring distributions of property to future generations, is deliberately designed to continue for as long as legally permissible under the state law where it is located (situs).

A second distinction is that, in the classic ILIT, capital is usually required to be paid out entirely by the time it reaches the grandchildren's level. On the other hand, the dynasty trust does not require the pay out of capital; it makes trust capital or assets available to beneficiaries (they get the use of the asset) without giving them actual outright ownership. This second distinction follows the objective of a dynasty trust, to keep huge amounts of wealth in a family for as long as state law limits allow and at the same time attempts to avoid federal estate and generation-skipping taxes as the use of the property moves from generation to generation to generation. So a dynasty trust might provide for the payment of income to your client's children for life, then to their grandchildren for life, then to that grandchild's children for life, etc.

Who Should Consider a Dynasty Trust? Obviously, the dynasty trust is not for everyone. It is only one of many types of trusts and trusts are only one category of many of the various tools and techniques of estate planning. There is no single device that will solve all problems.

The ideal client for such planning using life insurance as the funding vehicle during their life time, is one who meets that following criteria:

1. their net investable wealth is more than they will ever need;
2. they are very unlikely to ever need the money in the trust;
3. their wealth is growing significantly faster than their personal living expenses, personal gifts, and charitable gifts;
4. they are willing to embark on a major gift-giving program for their descendants' benefit;
5. they would feel comforted by asset protection from malpractice suits or creditors, and \
6. they have assets (e.g. real estate or a business interest or stock that may go public) very likely to substantially appreciate.

Dynasty trusts also make sense as a part of a clients testamentary planning for their descendants where the client sees the benefit of the protecting family capital while making it available as needed.

AS ALWAYS, PLEASE FEEL FREE TO CALL TO DISCUSS THESE ISSUES OR ANY OTHERS OF INTEREST TO YOU AND THOSE IMPORTANT TO YOU!

Sincerely,
Weatherby & Associates, PC

Henry C Weatherby