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Preserving Your Client's Legacy with a Dynasty Trust

What Is a Dynasty Trust and Which Clients Should Consider Them?

Advising your clients on the best ways to protect their family and wealth requires considerable financial and estate planning knowledge. Armed with this knowledge, you can help your clients explore all options available to protect their legacy. Depending on a client's situation, a dynasty trust may be one of the options you present.

Who Could Benefit from a Dynasty Trust?

An ideal client for a dynasty trust is typically someone with substantial wealth and a desire to create a lasting financial legacy for their family that spans multiple generations. These clients are often concerned about preserving their wealth from erosion due to taxes, potential creditors, lawsuits, or other financial risks while ensuring responsible management and distribution of their money and property.

High-net-worth individuals may need complex estate planning strategies to achieve these goals. A successful estate plan is not just about transferring wealth to the next generation. It is about sharing their vision for their family's financial future along with setting certain guideposts for the management and distribution of wealth to ensure responsible financial stewardship.

How a Dynasty Trust Works

Creating and funding a dynasty trust should be done by an experienced estate planning attorney along with other trusted advisors. In working together as a team, these professionals can guide the client in deciding which cash, real estate, investments, or other valuable property should be transferred to the trust. The client may be able to use their lifetime gift tax exemption to successfully transfer these items while minimizing tax consequences for themselves and their heirs in the future. Tax-efficient growth creates an even greater legacy for successive generations.

A dynasty trust is designed to be perpetual or of long duration. Unlike some other trusts that have a limited or fixed termination date, a dynasty trust will likely last for multiple generations and continue to accumulate and grow wealth over time.

A dynasty trust often involves appointing a professional trustee, such as a bank or trust company, to oversee the management and administration of the trust. They must follow specific terms and guidelines, ensuring responsible governance and distribution of resources according to your client's wishes. These terms may include flexible distribution provisions to provide income to beneficiaries, an option for the trustee to make discretionary decisions based on specified criteria or permitting the trustee to adjust distributions in response to changing family circumstances.

But not all dynasty trusts are established with a grand vision of preserving principal for hundreds of years. Although dynasty trusts may last for a very long while, the focus of some clients is to create a dynastic trust with primarily their children and grandchildren in mind, rather than more remote generations of descendants. In such a situation, the client permits his or her child to act as trustee of the dynasty trust as long as the child has reached a certain age or maturity level. Dynasty trusts established in this manner are usually comprised of substantial assets, but perhaps not so significant that the clients anticipate or desire that assets from the trust be conserved for more remote future generations. Even for clients with non-taxable estates, it is not unusual to establish dynasty trusts as subtrusts within their living trusts so that their descendants benefit from the non-tax related benefits of the dynasty trust (such as increased creditor protection).

Why Would Your Client Want a Dynasty Trust?

By placing money and property in a well-structured dynasty trust, your client ensures that the wealth they have worked hard to accumulate remains protected within the family.

Life is unpredictable, and unforeseen circumstances such as lawsuits, creditors, or even divorces can pose threats to the financial stability of your client's family. Since money and property are legally owned by the dynasty trust rather than any individual family member, they can be safeguarded from creditor claims and legal judgments in many cases.

Estate taxes can significantly erode the wealth passed down to heirs. Dynasty trusts are structured to minimize the impact of estate taxes over multiple generations. Additionally, the appreciation in value of trust resources while the client is alive will occur outside your client's taxable estate, allowing for potential growth free from estate tax implications.

Customized provisions in a dynasty trust can govern how money and property in the trust are managed and distributed. This level of control is particularly beneficial when there are concerns about the financial acumen or spending habits of future generations. Your client can ensure that their wealth is managed responsibly while still providing for their heirs.

If you have high-net-worth clients seeking to create a lasting financial legacy for their families, help them discover sophisticated planning tools like the dynasty trust. By leveraging the benefits of perpetual duration, tax-efficient growth, asset protection, and responsible governance, your clients can address the unique needs and goals of their families over multiple generations. If you are interested in learning more about dynasty trusts and how we can work together to serve your high-net-worth clients, call to schedule an appointment.

Generational Wealth through Adoption and Dynasty Trusts

Since a dynasty trust is mainly used to create a lasting financial legacy for multiple generations, it is structured to provide for the client's descendants. This is a common strategy to ensure that wealth is preserved and passed down over many lifetimes and stays within the bloodline. However, if a beneficiary does not have any descendants, other family members may likely inherit. If the beneficiary would like someone else to inherit, they may consider adopting that individual so that they will be considered a descendant.

The Rights of Adopted Children According to State Law

Under most state laws, adopted children typically have the same legal rights and privileges as biological children. Once the adoption process is complete, adopted children are treated as the biological offspring of their adoptive parents.

Adult Adoptions According to State Law

Adult adoptions are legally permitted in some jurisdictions, but the laws vary and can be very restrictive. In some places, adult adoptions may be allowed for reasons beyond familial relationships, such as inheritance or emotional bonds.

If the state allows it, your client's beneficiaries could consider adopting adults to ensure that a loved one receives a share of their inheritance.

Legal Considerations

Inconsistencies in trust language can often lead to probate and estate litigation. If a trust does not specifically address the adoption and intent, it can cause problems, as was the case in *Morse v. SunTrust Bank, N.A.*¹

In 1967, a multi-generational testamentary trust was created to provide separate subtrusts for each of the decedent's 13 grandchildren, including any new grandchildren born before or after the grantor's death. If a grandchild died without any descendants, their subtrust would be divided and added equally to the remaining subtrusts. The decedent did not address whether adult adoptees would be treated as descendants.

One of the decedent's grandchildren, Molly, never had any children. In 2018, she adopted two adults, ages 34 and 36, admitting that the adoptions were for the purpose of receiving distributions from her subtrust on her death.

Other subtrust beneficiaries objected to Molly's adopted adult beneficiaries, accusing her of fraud. A trial judge agreed, preventing Molly's adopted adults from inheriting as descendants.

An appeals court reversed the trial judge, noting that the testamentary trust had failed to place any limits on an adult adoption. Also, Georgia's adult adoption statute did not include any language that would prevent Molly's adopted adults from becoming beneficiaries of her subtrust.

Adoptions and Trusts

It is important for your client to address the potential for adoptions as part of their estate plan. They need to know how adopted individuals (adults or children) will be treated as beneficiaries according to your state law and ensure that their trust clearly expresses their wishes. A trust can contain a definition of a descendant and address the possibility that an adopted individual will become a beneficiary of the trust. Alternatively, provisions in the trust can exclude adopted individuals.

Advising Your Clients

Adoptions are not necessary to transfer your client's own money and property to those they choose. But trust beneficiaries without children may be able to use adoption to steer trust funds to the person of their choice rather than having the money redistributed to other relatives. However, adoption can backfire if a relationship ends, leaving an outsider with a share of the family fortune or alienating family members.

It is crucial to consult with other professionals if adoption and estate planning fall out of your scope of expertise. They help ensure that any adoption-related strategies align with state laws and regulations, which define rules for succession for adopted individuals, whether minors or adults. Trust documents should be carefully drafted to account for various scenarios and to provide clarity on how adoptions would affect the distribution of money and property within the trust.

¹873 S.E.2d 238 (Ga. Ct. App. 2022).

Successful Dynasty Trusts in History: The Rockefeller Family

Dynasty trusts have played a crucial role in preserving wealth and fostering a lasting financial legacy for many affluent families throughout history. One excellent example is the Rockefeller family, whose strategic use of dynasty trusts has made them one of the most prosperous and enduring family dynasties in the world.

Who Started It?

The Rockefeller dynasty trust was established by John D. Rockefeller, the American business magnate and philanthropist who founded the Standard Oil Company in 1870.¹ As the wealthiest individual of his time, Rockefeller developed values and traditions to keep his family together and preserve their wealth over 150 years.² In 1934, he established the family's first trust, which laid the foundation for the creation of the dynasty trust in 1952,³ both managed by Chase Bank, that would protect the interest of family descendants for generations.⁴

Standard Oil would go on to control 90 percent of US refineries and pipelines, and Rockefeller became the wealthiest man in the world and one of the first billionaires, with a family fortune valued at over \$600 billion in today's dollars.⁵ Standard Oil now operates under ExxonMobil and Chevron corporations.

What Does the Trust Hold?

The Rockefeller dynasty trust encompasses significant and diversified assets, including equities, real estate, energy, technology, private investments, and philanthropic foundations.⁶ A strategic approach to protecting resources in trusts has allowed the family to preserve wealth and adapt to economic upheaval and fluctuating markets.

Who Benefits from It?

For over 150 years, multiple generations of Rockefeller family members have benefited from the trusts that successfully passed down wealth to support their financial literacy and education.⁷ This in turn allowed them to continue the family's charitable pursuits in education, healthcare, business, and more.⁸

Other Accomplishments and Philanthropic Initiatives

Beyond the financial aspects, the Rockefeller dynasty trust drives numerous philanthropic initiatives. It utilizes financial resources to encourage a sense of stewardship and philanthropy to shape the family's financial future and guide each generation to make responsible impacts on society.⁹ The Rockefeller Foundation was established in 1913, addressing global challenges such as public health, education, scientific research, and environmental conservation, and still plays a pivotal role in shaping cultural institutions today.¹⁰

The Rockefeller Trust Continues to Be a Success

The last surviving grandchild of the Rockefeller patriarch, David Rockefeller, died at age 101 in March 2017. His oldest son, David Rockefeller Jr., 76, continues to protect the family's financial security and philanthropy. The Rockefeller net worth is currently valued at \$8.4 billion, spread out over 170 heirs.¹¹ Various trusts have helped fund projects ranging from the arts to international trade.¹²

¹Rockefellers v. Vanderbilts: How It Started & How It's Going, Trust & Will, <https://trustandwill.com/learn/rockefellers-vs-vanderbilts> (last visited Feb. 28, 2024).

²Robert Frank, *4 Secrets to Raising Wealthy Kids, According to the Billionaire Rockefeller Family*, CNBC Make It (Mar. 28, 2018), <https://www.cnbc.com/2018/03/26/david-rockefeller-jr-shares-4-secrets-to-wealth-and-family.html>.

³Abby Schultz, *The Rockefeller Legacy*, Penta (June 20, 2018), <https://www.barrons.com/articles/the-rockefeller-legacy-1529467230>.

⁴Rockefellers v. Vanderbilts, *supra* note 1.

⁵*Id.*

⁶Sean Fisher, *The Rockefellers are Still One of the Richest Families of All Time—5 Ways They Created Generational Wealth*, GoBankingRates (Sept. 29, 2023), <https://www.gobankingrates.com/money/wealth/the-rockefellers-still-richest-families-all-time-5-ways-created-generational-wealth>.

⁷*Id.*

⁸Alicja Zelazko, *Rockefeller Family*, Britannica (Jan. 4, 2024), <https://www.britannica.com/biography/Rockefeller-family>.

⁹Abby Schultz, *supra* note 3.

¹⁰*Our History*, The Rockefeller Foundation, <https://www.rockefellerfoundation.org/about-us/our-history> (last visited Feb. 29, 2024).

¹¹Robert Frank, *supra* note 2.

¹²*From Rockefellers to Rothschilds: How Five Old-Money Dynasties Live Today*, LoveMoney, <https://www.lovemoney.com/gallerylist/77379/from-rockefellers-to-rothschilds-how-five-oldmoney-dynasties-live-today> (last visited Feb. 29, 2024).

Tips for Clients Considering a Dynasty Trust

If your clients are considering a dynasty trust, you should collaborate with other professionals to help them get started. Since setting up and funding a trust is a complex process, it could take some time to create the right strategy that aligns with financial and family goals. Clients need to understand their options to protect their assets and their family's future.

If your client chooses to include a dynasty trust in their financial and estate planning, you can explain how this flexible tool is designed to hold, control, and distribute property over many generations. Using a dynasty trust, your client can decide how their money is going to be transferred, to whom, and when. Ask them to think about what they want for their family's future and help them clearly articulate their goals for the next generations.

Dynasty trusts are powerful tools for those who want to provide a lasting legacy and financial security for future generations. The Rockefeller dynasty is a great example of the enduring success of well-structured and meticulously managed trusts and estate planning strategies. If you have clients who want to make a lasting impact on their families and the world, we can help.

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