

Moving a trust over state lines can offer tax savings and other benefits

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People who live in states with high income taxes sometimes relocate to a state with a more favorable tax climate. A similar strategy can be available for trusts. If a trust is subject to high state income taxes, you may be able to change its residence — or “situs” — to a state with low or no income taxes.

What can a “trust-friendly” state offer?

In addition to offering low (or no) tax on trust income, some states:

- Authorize domestic asset protection trusts, which provide added protection against creditors’ claims;
- Permit silent trusts, under which beneficiaries need not be notified of their interests;
- Allow perpetual trusts, enabling grantors to establish “dynasty” trusts that benefit many generations to come;
- Have directed trust statutes, which make it possible to appoint an advisor or committee to direct the trustee with regard to certain matters; or
- Offer greater flexibility to draft trust provisions that delineate the trustee’s powers and duties.

If another state’s laws would be more favorable than your own state’s, you might benefit from moving a trust to that state — or setting up a new trust there.

Take states’ laws into consideration

It’s important to review both states’ laws for determining a trust’s “residence” for tax and other purposes. Typically, states make this determination based on factors such as:

- The grantor’s home state;
- The location of the trust’s assets;
- The state where the trust is administered (that is, where the trustees reside or the trust’s records are kept); and
- The states where the trust’s beneficiaries reside.

Remember that some states tax income derived from in-state sources even if earned by an out-of-state trust.

Making the right move

To enjoy the advantages of a trust-friendly state, establish the trust in that state and take steps to ensure that your choice of residence is respected (such as naming a trustee in the state and keeping the trust's assets and records there). In addition, it may be possible to move an existing trust from one state to another.

We can assist you in determining if setting up trusts in another state would help you achieve your estate planning goals.

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