Leave your mark with a dynasty trust

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If a prime objective of your estate plan is to leave a lasting legacy, a dynasty trust may be the right estate planning vehicle for you. And, thanks to the substantially increased generation-skipping transfer ("GST") tax exemption amount established by the Tax Cuts and Jobs Act, a dynasty trust is more appealing than ever.

GST tax and dynasty trusts

A dynasty trust allows substantial amounts of wealth to grow and compound free of federal gift, estate and GST taxes, providing tax-free benefits for your grandchildren and future generations. The longevity of a dynasty trust varies from state to state, but it's becoming more common for states to allow these trusts to last for hundreds of years or even in perpetuity.

Avoiding GST tax liability is critical to a dynasty trust's success. An additional 40% tax on transfers to grandchildren or others that skip a generation, the GST tax can quickly consume substantial amounts of wealth. The key to avoiding the tax is to leverage your $11.40 million GST tax exemption.

For example, let's say you haven't used any of your $11.40 million combined gift and estate tax exemption. In 2019, you transfer $10 million to a properly structured dynasty trust. There's no gift tax on the transaction because it's within your unused exemption amount. And the funds, together with all future appreciation, are removed from your taxable estate.

Most important, by allocating your GST tax exemption to your trust contributions, you ensure that any future distributions or other transfers of trust assets to your grandchildren or subsequent generations will avoid GST taxes. This is true even if the value of the assets grows well beyond the exemption amount or the exemption is reduced in the future.

Setting up a dynasty trust

A dynasty trust can be established during your lifetime, as an inter vivos trust or part of your will as a testamentary trust. An inter vivos transfer to a dynasty trust may have additional benefits associated with transferring assets that have greater appreciation potential out of your taxable estate.

After creating the trust, you must determine which assets to transfer to it. Because the emphasis is on protecting appreciated property, consider funding the trust with securities, real estate, life insurance policies and business interests.

Finally, you must appoint a trustee. Your choices may include a succession of family members or estate planning professionals. For most people, however, a safer approach is to use a reputable trust company with a proven track record, as opposed to assigning this duty to family members who might not be born yet.

If you think a dynasty trust might be right for your family, please talk with us before taking action. A currently effective dynasty trust is irrevocable — meaning that, once you create it, you may be unable to modify the arrangement if your family dynamic changes.

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