Dynasty Trust Provides a Bridge to Keep on Giving

With a properly executed estate plan, your wealth can be enjoyed by your children and even their children. But did you know that by using a dynasty trust, you can extend the estate tax saving benefits for *several* generations, and perhaps indefinitely?

A dynasty trust can build a bridge that protects your wealth from gift, estate and generation-skipping transfer ("GST") taxes and helps you leave a lasting legacy. And, with today's higher lifetime gift and GST tax exemptions, a dynasty trust is all the more powerful.

Dynasty Trust in Action

Transfers that skip a generation -- such as gifts or bequests to grandchildren or other individuals two or more generations below you, as well as certain trust distributions -- are generally considered to be GSTs and subject to the GST tax (on top of any applicable gift or estate tax). However, you can make gifts up to the GST exemption amount free of GST tax.

The exemption is expected to be $11.2 million through 2018 (up from $5.49 million in 2017). So you may want to use as much of your exemption as you can afford to this year and next. Applying it to a dynasty trust can help you make the most of your exemption.

Your contributions to a dynasty trust will be considered taxable gifts, but you can minimize or avoid gift taxes by applying your lifetime gift tax exemption -- also expected to be $11.2 million through 2018 (up from $5.49 million in 2017).

After you fund the trust, the assets can grow and compound indefinitely. The trust should be designed to make distributions to your children, grandchildren and future descendants according to criteria you establish. So long as your beneficiaries don't gain control over the trust, the undistributed assets will bypass their taxable estates.

Enhancing the Benefits

To increase the benefit to future generations, you can structure the trust as a grantor trust so that you pay any taxes on the trust's income. The assets will then be free to grow without being eroded by taxes (at least during your lifetime).

Also consider further leveraging your GST tax exemption by funding the dynasty trust with life insurance policies or property that's expected to appreciate significantly in value. So long as your exemption covers the value of your contributions, any future growth will be sheltered from GST tax, as well as gift and estate tax.

Allowing a trust to grow for several generations can produce enormous amounts of wealth. For example, a trust funded with an initial contribution of $5 million and earning an average annual return of 6% will be worth more than $92 million in 50 years and almost $1.7 *billion* in 100 years (assuming no income taxes or distributions).

Three Planning Scenarios

Even though the long-term tax-saving benefits may be substantial, you may question the reasons to include distant descendants as beneficiaries. Here are three scenarios to consider:

1. If your estate plan already provides for your immediate family with resources to spare, a dynasty trust can be a nice supplement to your plan.

2. You may be reluctant to turn your children into "trust fund babies" by allowing them to live off their inheritances. You can design a dynasty trust to ensure that your children, grandchildren and future generations pursue their own careers while at the same time providing them a safety net in the event they're unable to pay for health insurance, medical care, education, housing or other necessities.

3. A dynasty trust can be a great tool for encouraging charitable giving. For example, you might provide for the trust to make matching distributions to beneficiaries equal to a percentage of the charitable contributions they make each year.

Whatever your reasons for including a dynasty trust in your estate plan, it's important to communicate your intentions to your present *and* future beneficiaries.

Considering State Law

If you think a dynasty trust might help you achieve your estate planning goals, talk to your adviser about the state law considerations. Some states apply the rule against perpetuities, which limits a trust's life span, generally to no more than 100 years or so. But many states have extended the limit to several hundred or even 1,000 years or have no rule against perpetuities.

You don't have to live in a perpetual trust state to take advantage of this technique; it can be just a matter of specifying the applicable state law in the trust agreement. But additional requirements may include appointing at least one trustee who resides in the state whose laws govern the trust -- a bank or other corporate trustee, for example -- and locating at least some of the trust assets in that state.

Laws vary from state to state, so choose carefully. Typically, the most attractive states are those that both allow perpetual trusts and have no state income tax.

Is a Dynasty Trust Right for You?

If establishing a lasting legacy is an estate planning goal, a dynasty trust may be the right vehicle for you. However, before you take action, consult your estate planning adviser, because a dynasty trust can be complicated to set up.

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com