

## **Overview of Nevada's High Net Worth Trusts and Estates Environment**

As one of the leading United States jurisdictions in private wealth management, Nevada continues to attract discerning high net worth individuals and families from other states and other countries. Nevada is one of the most favored jurisdictions for trust situs due to the following.

- Innovative statutory approach to sophisticated trust administration
- Strong asset protection history
- Highly favorable state tax climate with notably no personal income tax, estate tax or inheritance tax
- Innovative business organizations law
- Supportive and efficient regulatory environment
- Superior family and private family trust company laws

A key cornerstone to successful planning is to locate and administer wealth in long-term discretionary spendthrift trusts in stable trust and tax friendly jurisdictions like Nevada with a lengthy rule against perpetuities period under the supervision of highly competent corporate fiduciaries and private family trust companies. Nevada's rule against perpetuities for the maximum duration of trusts is 365 years. Full utilization of a parent or couple's generation skipping transfer tax exemption which may be subject to reduction by 2025 coupled with an instalment sale of assets to a long-term discretionary trust treated as a grantor trust for US tax purposes can cause one of the best potential multigenerational transfers of wealth attainable in today's tax and risk climate.

- Among the many timely benefits of a long-term discretionary trust are:
- Family governance, succession, value transmission and education which promote functional family units
- Planned trustee selection and succession
- Provide investment management using long term endowment focus
- Ability to hold concentrated, illiquid, and non-marketable securities without diversification
- Diversify into private equity, alternative asset classes, and real estate while limiting fiduciary risk
- Use investment trust advisors, distribution trust advisors and trust protectors of the family's selection

- Asset protection from creditors, ex-spouses, improvidence, and third party manipulation through no contest clauses, spendthrift provisions and discretionary distributions which encourage asset retention for beneficial use versus outright distribution
- Segregation and maintenance of separate property
- Incentive clauses to encourage productive drug free lifestyles
- Privacy and confidentiality including record sealing, record redaction and blocker entities
- Retention of trust information from beneficiaries until the appropriate time
- Incapacity, minor and special needs planning
- Preservation of legacy assets and businesses and consolidation of voting interests in public and closely-held businesses
- Ability to adapt the trust to changing circumstances through testamentary and lifetime powers of appointment, strategic and tactical decanting, distribution, judicial and non-judicial modification, merger, division, and re-situs to address change in tax and trust laws
- Ability to move trusts to more beneficial situs for certain assets, certain trust outcomes,
- Minimize and avoid state and local income taxes
- Ability to substitute assets of equivalent value while the trust is a grantor trust for tax purposes
- Lifetime utilization of generation skipping exemption and unified credit

In administering discretionary long term trusts, both types of professional fiduciaries need to be well equipped and versed in the planning, administration and interplay of many specialized trust and entity structures used in comprehensive wealth transfer planning such as the asset protection trust, spousal lifetime access trust, grantor retained annuity trust, charitable lead and remainder trust, charitable trust, defective grantor trust, private foundation, and family limited partnership or limited liability company. Nevada has very progressive laws which maximize the benefits of those trusts and entity structures including the ability to decant trusts when circumstances require the trust relationship to be modified. In fact, Nevada's statutory decanting laws allow greater fiduciary discretion than many of states to which it is compared.

Much of high net worth wealth creation and wealth compounding occurs through the fortunate early concentration of wealth in certain asset classes that started as a family business, which is the epitome of private equity, and careful, timely planning when liquidity events arise. As that concentrated high net worth wealth matures, the need for thoughtful diversification becomes paramount to preserve and grow wealth for generations of beneficiaries and to support charitable endeavors to improve the world communities. Taxes, costs of administering wealth and distributions must be reasonably minimized to achieve the compounding of high net worth wealth. Trusts should be situated and administered in states like Nevada, which has no state income tax and lower administration costs, so wealth can grow and the impact of taxes and creditors on beneficiaries is minimized.

There are multiple situations where corporate fiduciaries may not want to take on the risks of concentrated positions, illiquid assets, restricted securities and real estate to achieve diversification and wealth compounding. Fortunately, private family trust companies and investment trust advisors can play a valuable role in administering those risky asset classes while investment managers and corporate fiduciaries oversee the marketable portions of the high net worth family's portfolio. Nevada, among a handful of jurisdictions, has developed the use of both regulated and unregulated family private trust companies to play an integral role in wealth succession and adopted a directed trust statute which allows the fiduciary investment risk to be shifted from and among corporate fiduciaries and individuals best able to manage the risk of a particular set of assets and situations.

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