

WHY NOW IS A GREAT TIME FOR FAMILY BUSINESS OWNERS TO FORM A DYNASTY TRUST TO PROTECT THEIR WEALTH

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Business owners who have successfully built a business over the years are often concerned with how to preserve the fruits of their labor. For many, their business assets are the foundation of transferring wealth to family members and successive generations.

Among the best ways to preserve and protect wealth is through careful estate planning involving well-drafted trusts using the laws of a top trust jurisdiction, such as Tennessee – where a dynasty trust is often an excellent option. By establishing a dynasty trust now, a business owner can set forth the terms under which their wealth is used and maintained for future generations. Dynasty trusts can be an effective estate planning strategy for business owners and can be funded through lifetime gifts made prior to or soon after a liquidity event involving a sale or merger.

At the federal level, tax laws are among the most favorable ever for making gifts thanks to temporary increases in the estate and gift tax exclusions in the Tax Cuts and Jobs Act of 2017 (TCJA). With the TCJA, the lifetime exclusion was increased from \$5.5 million in 2017 to \$11.4 million in 2019 and is adjusted annually for inflation through December 31, 2025.

In 2026, the amounts revert to pre-TCJA levels. What this means is that a person may currently gift \$11.4 million in assets to a trust tax-free – double that amount for spouses using portability. And while there was previously concern the IRS might retroactively apply lowered exclusions if the grantor dies after the increases expire, the IRS recently confirmed in IR 2019-189 that there will be no such “clawback” on gifts made prior to that time.

Despite its dramatic name, a dynasty trust, which spans multiple generations, is not the exclusive province of the ultra-wealthy. It can be an effective wealth management tool for a wide array of business owners. The primary benefits of a dynasty trust are:

(Almost) Perpetual Duration

The common law rule against perpetuities (a life in being plus 21 years) is no longer a limit on dynasty trusts for the top trust jurisdictions. In Tennessee, for example, a dynasty trust can have a term of up to 360 years. This allows business owners to preserve their wealth for literally hundreds of years.

Irrevocability and Grantor Intent

Well-drafted trusts clearly express the grantor’s intent, which is especially important for long-term dynasty trusts, so a trustee can carry out the grantor’s wishes decades after the business owner has passed away. The grantor can include terms providing for the continuation of a family business or management of other investments with the intent of preserving the trust corpus for many years into the future.

Sustained Family Values

Due to the inherent long-term nature of a dynasty trust, it can be an effective tool in “values-based” estate planning, where the grantor directs the trustee to pass along important family values and standards over successive generations.

Asset Protection

Dynasty trusts are also used to shield trust assets from creditors of the grantor and beneficiaries. The trust should use a jurisdiction with strong spendthrift laws, such as Tennessee. Strong asset protection is critical to making sure the trust endures.

It cannot be stressed enough that business owners seeking the benefits of a dynasty trust should consider a top-tier trust jurisdiction, such as Tennessee. They should also consider a corporate trustee – either initially, or as a successor trustee. Corporate trustees offer the objectivity, expertise and longevity that are important for dynasty trusts to thrive.

If you are interested in learning more about a Tennessee dynasty trust, we invite you to [contact us](#) and speak with one of our relationship managers.



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