

# ***GOLDENBULLETS***

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## **THOUGHT YOU'D LIKE TO SEE THIS: DYNASTY TRUSTS**

Imagine a trust which could give your beneficiaries the use and enjoyment of trust property without the transfer tax problems (i.e., you could save federal transfer taxes), protect trust assets from the claims of a spouse who divorces a beneficiary, and insulate property from creditors' claims (including a divorcing spouse). Advocates of the so-called **Dynasty Trust** believe it may do all those things!

Additional reasons to create a dynasty trust include saving federal, state, and local income taxes, saving federal, state, and local intangibles taxes, providing long-term investment management (particularly for minor or physically, mentally, or emotionally disabled individuals), protecting beneficiaries from well (or not so well) meaning "advisors," protecting beneficiaries from inexperience or imprudence, providing incentives for certain behavior (e.g., they get extra amounts upon the completion of college, graduate or medical school, or upon marriage or the birth of children, and keeping the control of family owned assets.

**What Is a Dynasty Trust?** A dynasty trust (also called a "megatrust") can be thought of as an irrevocable life insurance trust (ILIT) on (legal) steroids.

**How Does a Dynasty Trust Differ from A Typical Irrevocable Life Insurance Trust (ILIT)?** Most ILITs are typically designed to provide for two or three generations of individuals. A person will create a trust (usually providing a trustee with discretion to "sprinkle" income and "spray" principal/corpus powers and with limited—ascertainable standard—withdrawal powers) to provide for a spouse for life, then provide for children for life, and then whatever is in the trust passes to grandchildren.

But the dynasty trust, rather than requiring distributions of property to future generations, is deliberately designed to continue for as long as legally permissible under the state law where it is located (situs).

A second distinction is that, in the classic ILIT, capital is usually paid out entirely by the time it reaches the grandchildren's level. On the other hand, the dynasty trust does not pay out principal/corpus; it makes trust assets available to beneficiaries (they get the use of the asset) without giving them actual outright ownership. This second distinction follows the objective of a dynasty trust, to keep huge amounts of wealth in a family for as long as state law limits allow and at the same time attempts to avoid federal estate and generation-skipping taxes as the use of the property moves from generation to generation to generation. So a dynasty trust might provide for the payment of income to your children for life, then to your grandchildren for life, then to that grandchild's children for life, etc.

**Who Should Consider a Dynasty Trust?** Obviously, the dynasty trust is **NOT** for everyone! It is only one of many types of trusts and trusts are only one category of many of the various tools and techniques of estate planning. There is no single device that will solve all problems.

But you should consider such a trust at the point where your net investable wealth is far more than you will ever need and you are very unlikely to ever need the money in the trust, your wealth is growing significantly faster than your personal living expenses, personal gifts, and charitable gifts, you are willing to embark on a major gift-giving program, and you have assets (e.g. real estate or a business interest or stock that may go public) highly likely to substantially appreciate.

Golden Advice: Do your parents have executed durable powers of attorney and health care powers of attorney? These documents are as important as wills and trust agreements. Powers of attorney can be invaluable when an elderly parent begins to fail physically and/or mentally.

**AS ALWAYS, PLEASE FEEL FREE TO CALL TO DISCUSS THESE ISSUES OR ANY OTHERS OF INTEREST TO YOU AND THOSE IMPORTANT TO YOU!**

*IF YOU PREFER TO RECEIVE "GOLDEN BULLETS" BY EMAIL, PLEASE SEND A NOTE TO ME AT: [rwilson@fraserlawfirm.com](mailto:rwilson@fraserlawfirm.com). Thank you.*

**"Golden Bullets" is provided as a source of general information about current developments in the practice of estate planning and related topics. If you have questions regarding this issue or estate planning in general, please contact me prior to taking action.**

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