

DYNASTY TRUSTS

TABLE OF CONTENTS

I. Introduction: What Is a Dynasty Trust? What Makes it Possible?.....	1
A. Avoiding Federal Tax with Successive Life Estates.....	1
B. The Generation-Skipping Transfer Tax Limits Successive Tax-Free Transfers.....	2
C. “Loopholes” in the Generation-Skipping Transfer Tax	2
D. The Dynasty Trust Takes Advantage of These Planning Opportunities.....	2
II. Dynasty Trusts and the Generation-Skipping Transfer Tax.....	5
A. Understanding the Generation-Skipping Transfer Tax	5
B. GST Tax Exemptions and Funding of the Dynasty Trust.....	9
C. Using Leverage to Accelerate the Dynasty Trust Advantage	12
III. Dynasty Trusts and the Rule Against Perpetuities – How Long Can the Dynasty Last.....	15
A. Understanding the Rule Against Perpetuities	15
B. How Long May the Dynasty Last?	15
C. Prohibiting Restraints on Alienation.....	15
D. Beware the “Dead Hand”	15
E. Statement and Explanation of the Rule	16
F. Significant Difference in State Laws.....	17
G. No Federal Exceptions to the Rule	18
H. Attractiveness of the Dynasty Trust.....	19
IV. How the Dynasty Trust is Designed and Structured.....	20
A. Summary of Advantages.....	20
B. Dynasty Trust Design Considerations.....	20
C. Inter Vivos or Testamentary.....	20
D. Trust Beneficiary Considerations.....	20
E. The Delaware Tax Trap.....	25
F. Trustees and Trust Powers.....	26
G. Funding and Uses of the Dynasty Trust.....	31
V. Termination of a Dynasty Trust.....	37
A. Must the Trust Ever End?	37
B. What to Do with “Pooled” vs. Separate Share Trusts	37
C. Failure of the Beneficial Line.....	38
VI. Selecting the Jurisdiction for a Dynasty Trust.....	39
A. Freedom of Choice of Jurisdiction.....	39
B. Watch Out for State Income Taxes	39
C. Maintain Flexibility.....	40
VII. Conclusions	41