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Special Interview with Guest Expert:
Steven J. Oshins, Esq. on Dynasty Trusts
Part 3 of 3

Steve Oshins is a nationally renowned estate planning and asset protection attorney based in Las Vegas, Nevada, with clients all over the United States. Steve was the author of Nevada's 365-year Dynasty Trust law and often works jointly with estate planning attorneys from other states on setting up Dynast Trusts and other advanced level estate planning and asset protection techniques.

I had the pleasure of interviewing Steve Oshins on Dynasty Trusts in our May and July newsletters. In this newsletter, we are featuring Part 3 of this 3-part interview. Enjoy!

Phil Kavesh: We've talked about the benefits of passing assets using a Dynasty Trust and how to draft the Dynasty Trust for maximum protection from estate taxes, creditors and divorcing spouses. One of the most effective - - and often overlooked - - uses of a Dynasty Trust involves the transfer of a hot business or investment opportunity. Would you please describe this technique for our readers?

Steve Oshins: I call this technique "Opportunity Shifting". It is the ideal strategy to use when your client has a hot business or investment opportunity because the client, by shifting the opportunity to a Dynasty Trust, can protect it from estate taxes, creditors and divorcing spouses for multiple generations.

The Opportunity Shifting technique is very simple. We have our client ask his parent or grandparent to set up and fund a Dynasty Trust for the benefit of our client and his family. Our client is the investment trustee and can select the distribution trustee. As investment trustee, our client uses the money gifted from his parent or grandparent to start the new business opportunity as an asset owned by the Dynasty Trust.

Phil Kavesh: This sounds very simple and straightforward. Why isn't everybody doing it?

Steve Oshins: That's the big question. In fact, the Opportunity Shifting technique is so simple that it is shocking that there aren't more estate planners and asset protection planners creating

ABOUT THE AUTHOR

Steven J. Oshins

Steve Oshins, Esq. is an attorney specializing in advanced level estate tax and asset protection planning at the Law Offices of Oshins & Associates, LLC in Las Vegas, Nevada. He is listed in the Best Lawyers in America and these for their clients every day. I suspect that planners just don't think about it. But once they hear about it, it is so obvious and so easy to implement that they start using it all the time.

Phil Kavesh: Does this Opportunity Shifting technique work for an existing business or investment, or must it be a new business or investment opportunity?

Steve Oshins: It must be a new business or investment opportunity. Otherwise, the IRS will treat the beneficiary as having made a gift to a trust for his own benefit which would cause the trust to be included in that beneficiary's taxable estate and would open the trust assets up to the beneficiary's creditors and divorcing spouses.

It is very important not to shift an asset to the trust if the asset already has value. If the business or investment already has value, then, rather then Opportunity Shifting, the beneficiary may instead be able to sell the business or investment to the Dynasty Trust for cash or for a promissory note.

Phil Kavesh: I understand that the Opportunity Shifting concept is very useful as a divorce protection technique. Please explain how this can be used in that context.

Steve Oshins: Not even considering the significant estate tax reasons for Opportunity Shifting, divorce protection in and of itself is a great reason to have such a trust. Even if the client has a prenuptial or postnuptial agreement, the client's assets are at risk if the agreement is found to be too one-sided or was signed under coercion.

Using the Opportunity Shifting technique, the client can avoid increasing his net worth and his marital estate that is potentially divisible upon a divorce. Even if the client resides in a community property jurisdiction, not only are the Opportunity Shifting Dynasty Trust assets not community property, but they're not even separate property. Rather, the assets are trust-owned property which is not subject to a divorce if the Dynasty Trust is properly drafted. For this reason, every successful entrepreneur should have an Opportunity Shifting Dynasty Trust.

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We wanted to send our sincerest gratitude and appreciation to Steve Oshins for taking the time to provide our readers such important information! We encourage all of you to contact him for additional information and resources. You will want to discuss with him how he may be able to help you and your clients! Thanks again, Steve!

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