



# THE ULTIMATE ESTATE PLANNER, INC.

UNLOCKING YOUR PRACTICE'S POTENTIAL

[HOME](#)

[ABOUT US](#)

[PRODUCTS](#)

[BLOG](#)

[EVENTS](#)

[RESOURCES](#)

[CONTACT US](#)

**Sign Up For Our  
Free Newsletter!**

Email:

## Special Interview with Guest Expert: Steven J. Oshins, Esq. on Dynasty Trusts

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 dynasty trusts and other advanced level estate planning and asset protection techniques.

I recently interviewed Steve on the topic of Dynasty Trusts. This first installment of the interview will cover the use of a Dynasty Trust in place of the traditional irrevocable life insurance trust.

**Phil Kavesh:** Would you please start by describing how the Dynasty Trust works?

**Steve Oshins:** Let me begin by clarifying that I'm talking about the Dynasty Trust in the context of a lifetime irrevocable trust. This is very similar to the Personal Asset Trust<sup>SM</sup> that your law firm drafts inside the Living Trust, except the Dynasty Trust is irrevocable and funded during life rather than revocable and funded after death.

A Dynasty Trust leverages a person's gift and generation-skipping transfer tax exemptions for as many generations as applicable state law permits. Whereas most attorneys draft trusts to provide for mandatory distributions to the grantor's children at staggered ages, a Dynasty Trust is drafted to encourage the trustees of the trust to keep the assets in trust for the benefit of the beneficiaries and to allow the beneficiaries to use the trust property rather than receive it outright where it will be subject to estate taxes, creditors and divorcing spouses.

A true Dynasty Trust is one which is set up under the laws of a state that has modified its rule against perpetuities to allow the trust to continue perpetually or, such as Nevada, that has modified its perpetuities laws to provide for a much longer term than that permitted in the majority of jurisdictions.

If the client does not reside in one of these favorable Dynasty Trust jurisdictions yet is not satisfied with the traditional perpetuities term in that client's home state, then the client can

## ABOUT THE AUTHOR

**Steven J. Oshins**



**Steve Oshins, Esq.** is an attorney at the Law Offices of Oshins & Associates, LLC in Las Vegas, Nevada. He is listed in the Best Lawyers in America and has been named one of the Top 100 Attorneys in Worth Magazine. He

utilize another state's law by using a co-trustee in that more favorable state. The co-trustee can be an individual, a trust company or a bank. In order to provide for continuity, it is preferable to use a trust company or bank.

**Phil Kavesh:** Steve, now that you have described the Dynasty Trust concept, how do you use the Dynasty Trust as an irrevocable life insurance trust?

**Steve Oshins:** In my practice, I use a Dynasty Life Insurance Trust in nearly every instance in which most attorneys would use a traditional irrevocable life insurance trust. Essentially, if the amount of life insurance death benefit is sufficient to cause an estate tax and thus should be purchased by an irrevocable life insurance trust in order to keep it out of the taxable estate, then it is clearly enough value to justify the slightly more expensive Dynasty Life Insurance Trust.

Put another way, if saving estate taxes at the first generational level is valuable to the client's family, then it certainly is similarly important to also save estate taxes on the life insurance death benefit at the next generational level and each successive generational level thereafter. The combination of the leveraged life insurance death benefit with the leveraged estate tax savings creates a huge fund for the client's descendants.

An estate planning attorney or life insurance agent who presents the Dynasty Life Insurance Trust concept to a prospective client stands to outdo any competition for that client's business. If I were the client and one advisor told me to use a Dynasty Trust and another advised me only to use a single generation life insurance trust, I would certainly hire the one who gave me the Dynasty Trust advice since I would have more confidence in the advisor who is looking out for my family's long-term future.

**Phil Kavesh:** I agree with your analysis. Can you describe the funding of the Dynasty Trust when purchasing life insurance?

**Steve Oshins:** Absolutely. There are a number of ways to fund the Dynasty Trust to pay the insurance premiums. The most common way to fund it is with annual exclusion gifts. This is often called a "Crummey trust", named after a 1968 case called *Crummey v. Commissioner*.

A Crummey trust is funded with gifts in which the trust provides that certain beneficiaries are given an immediate withdrawal power over those gifts. By giving the beneficiaries this power, the gifts qualify for the annual exclusion and thus do not use any of the settlor's million dollar gift tax exemption. As of 2009, each settlor is allowed to gift up to \$13,000 per year per beneficiary under the settlor's annual exclusion. If the settlor's spouse elects to gift-split on a timely filed gift tax return, the allowable annual gifting amount is doubled.

Even though no gift tax exemption is used, this is not the rule for generation-skipping transfer tax ("GST tax") purposes. For GST tax purposes, the settlor must apply some of his GST tax exemption to 100% of the gifts. This is because the annual exclusion rules are different for GST tax purposes.

Note: In the second installment of this article, which we will publish next month, Steve will focus on how to draft the Dynasty Trust for maximum creditor and divorce protection.

can be reached at (702)  
341-6000, Ext. 2 or  
soshins@oshins.com.

His website is [http://  
www.oshins.com/](http://www.oshins.com/)

© 2009 The Ultimate Estate Planner, Inc.

212 Yacht Club Way, Suite A-11 | Redondo Beach, CA 90277 | Phone: 1.866.754.6477 | Fax: 310.464.3514

Copyright 2008 The Ultimate Estate Planner, Inc. | All Rights Reserved