



Why Wyoming?

By: Tassma A. Powers, Esq., CTFA®



The current transfer tax structure, depressed values and low interest rates create tremendous opportunities for our estate planning clients. As estate planners, we constantly evaluate the best options for those clients. The choice of jurisdiction is a factor that should be considered in the structure of our more sophisticated estate plans. It is well-recognized that there are states that have more trust-friendly laws than others. While we are crafting our clients' estate plans it is important to understand the benefits of these friendlier jurisdictions and the role they might play in those plans.

Wyoming has been quietly revising its statutes to compete with the more well-known trust jurisdictions. Additionally, the state and its judiciary respect an independent and private trustmaker, which is a beneficial complement to the favorable statutory provisions.

Below is an overview of Wyoming's laws in regards to the usual jurisdictional factors:

State Taxes: Wyoming does not have state income, gift or estate taxes for individuals, corporations or trusts. Wyoming also has low property taxes. Additionally, it has one of the lowest insurance premium tax rates, which is a flat 75 basis points for the annual premium on policies written in Wyoming.

Rule Against Perpetuities: Wyoming has a progressive term-of-years statute that allows a trust to opt out of the Rule Against Perpetuities' application for up to 1000 years. This maximizes the effectiveness of GST exemption and minimizes the implications of future transfer taxes on the trust assets.

Updated Trust Laws: Wyoming has adopted a modified version of the Uniform Trust Code. Its laws include the modern provisions for directed trusts, delegated trusts, purpose trusts, virtual representation, trust protectors, trust

advisors, unregulated special purpose entities, reformation and modification. Wyoming codified the Uniform Prudent Investor Act.

Wyoming adopted a modified Uniform Principal and Income Act, which allows for the power to adjust in regards to total return trusts. The Wyoming Courts have been proactively interpreting these provisions consistent with a modern approach. Additionally, courts are easily accessible and any litigation cost is significantly less than in other jurisdictions.

Private Family Trust Company: An attractive alternative to a corporate trustee for affluent families is the Private Family Trust Company. Wyoming allows an entity to serve as trustee for the benefit of one particular family. It is easy to form the entity with the State of Wyoming and its administration is not regulated by the Wyoming Banking Commission. Additionally, there are no minimum capital or committee requirements. A Private Family Trust Company is appealing for fiduciaries desiring liability protection, cost control, family involvement and privacy.

Asset Protection: Wyoming provides excellent asset protection through a variety of approaches. Wyoming has a unique entity known as the Wyoming Close Limited Liability Company. In addition to other benefits, the Wyoming Close Limited Liability Company Act provides the charging order as the sole remedy. A feature of Wyoming Limited Liability Companies that is attractive to clients is the complete privacy that is afforded the members. There is no requirement that managers or members be publicly disclosed in the Articles of Organization.

Wyoming also has self-settled and third-party spendthrift trusts as part of its Uniform Trust Code. The Wyoming version of the spendthrift trust allows for both mandatory and discretionary distributions by a qualified trustee. The spendthrift trust limits a creditor from compelling both dis-

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cretionary and mandatory distributions, except in limited circumstances.

Planners and clients will also find Wyoming an attractive situs due to the following:

Privacy: The privacy protection of Wyoming Limited Liability Companies is extensive and limits the required disclosure of its Limited Liability Companies to only the registered agent. Additionally, Wyoming protects the privacy of its trusts by allowing for privacy affidavits and certifications of trust. There is no requirement that trusts be recorded or filed in the public record. Thus, a trust whose assets are held by a Wyoming Limited Liability Company can be administered with complete privacy as to the beneficiaries and underlying owners.

Cost of Establishing Presence: As part of the estate plan, it may become advisable to establish a connection with the jurisdiction that is chosen as the situs. Generally, the cost of doing so is significantly less in Wyoming. The available commercial real estate and administrative support is well-priced and plentiful in this jurisdiction.

Although Wyoming is a lesser-known trust situs it has all the advantages for most of our estate planning clients and embraces the independent and private philosophy that matters most.

About the Author:

Tassma A. Powers, Esq., CTFA®, is an attorney with the Legacy Planning Group of Schwartz, Bon, Walker & Studer, LLC located in Casper, Wyoming and co-founder of WYOMING TRUST COMPANY. Her practice emphasizes Estate Planning, Asset Protection and Business Planning.