

Using TN Situs for Wealth Planning

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**A KEY ESTATE
PLANNING GUIDE**

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Why Tennessee

- TN has favorable legislation and advantages like DE, SD, NV and AK so it provides a jurisdiction practitioners should consider in trust planning.
- TN has a longer jurisprudence than most realize – TN started enacting favorable trust laws in 2001.
- No state income tax (the 1% dividend tax, call the “Hall Tax” was repealed effective 2021).
- Favorable dynasty trust features (caution that this may be affected by proposed tax legislation but there will be no difference in the impact in TN versus other jurisdictions).
- Favorable privacy laws – TN permits trustees to withhold documents from current and remainder beneficiaries (silent trust provisions) at the direction of the grantor, trust protector or trust adviser.

Why Tennessee

- Special purpose entity is embodied in TN law. This allows for additional liability protection and potential tax savings in situations involving investment direction advisers, trust protectors and distribution advisers. This is very similar to SD's law.
- Extremely flexible decanting statute.
- Non-judicial settlement agreements permitted under TN statute.
- Barbeque and country music is pretty good!
- Community property law – married couples can convert joint or separate property into community property for a full step-up in basis (which benefit may not survive upcoming tax legislation). Presently only SD, AK and TN have these rules.
- Competitive private trust company legislation and environment.

3 Ideas Why You Might Dip Your Trust Toe into TN Waters

- 1st – Using paired SLATs. You want to deflect a reciprocal trust doctrine challenge. TN is an ideal alternate jurisdiction to help create a separate fact pattern.
- 2nd – Domestic and foreign revocable and irrevocable trusts for foreign families with US ties. There is no state income tax and strong dynasty and direction trust flexibility. It is also easier for foreign families to physically get to “kick the tires.”

3 Ideas Why You Might Dip Your Trust Toe into TN Waters

- 3rd – Private trust companies and hybrid models. Use of special purpose entities to consolidate complex governance structures. Use of TN as central location to consolidate family office and private trust company functions.

Additional information

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