

# 2020 Dynasty Trust State Rankings

Dynasty trusts are irrevocable trusts that create a legacy for future generations and protect gifted assets from the estate and GST taxes for as long as possible under state law. These trusts are designed so that they fail to give the beneficiaries an ownership interest in the trust's property while still allowing them an income interest for life. Thus, when a distribution is made from the trust, taxation is similar to the tax that would have been paid if the gift had been made directly from one generation to the next. Dynasty Trusts are used not only for estate tax savings, but also for asset protection and income tax savings.

A dynasty trust is designed to continue for as many generations as permissible under state law. Dynasty trusts terminate in the future according to the state's rule against perpetuities, which limits the duration of a trust. In jurisdictions that follow the common-law Rule Against Perpetuities (RAP), a transfer of property in trust will be invalid unless it vests within a lifetime of the youngest beneficiary alive at the creation of the trust, plus 21 years. In general, a trust subject to the RAP can last approximately 90-100 years. For most trust grantors, this is long enough, but for those looking for longer protections, there are states that can help.

In fact, a number of states have revised the common-law RAP. Some have passed legislation that permits a grantor to opt out of the rule, while other states have abolished it entirely. Thus, trusts established in these states could last much longer than 100 years — possibly even indefinitely. To take advantage of the revised or repealed RAP, it's generally necessary to have at least one trustee located within the state that has the revised or repealed legislation.

The Tax Cuts and Jobs Act of 2017 doubled the federal estate and gift tax exemption to \$11.18 million per person, or \$22.36 million per married couple, increasing by an inflationary factor, but is scheduled to be cut back in half in 2026. Because of the high estate and gift tax exemption, the 2018 dynasty trust is more focused on variables beyond simply saving estate tax. Clients who want to take advantage of the temporary increase in the ability to fund a dynasty trust also need to consider state income tax, the creditor protections provided to trusts in that state, the possible duration of the trust, and even the ability to modify the trust with a decanting statute. All of those factors were weighed in the ranking that follows and are crucial decision points when creating a trust that can exist for multiple centuries.

## DYNASTY TRUST STATE RANKINGS CHART\*

Rank	State	Rule Against Perpetuities	State Income Tax	Third-Party Spendthrift Trust Provision Effective Against Divorcing Spouse/Child Support	Discretionary Trust Protected from Divorcing Spouse/Child Support	Non-Judicial Settlement Agreement Statute
1	SD	Perpetual	No	Protected	Protected	Yes
2	NV	365 years	No	Protected	Protected	Yes
3	TN	360 years	No (except dividends/ interest on residents)	Protected	Protected	Yes
4	AK	Perpetual/1,000 years if exercise of power of appointment	No	Protected	Protected	No



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5	WY	1,000 years	No	Divorcing spouse = protected Child support = not protected	Protected	Yes
6	RI	Perpetual	No (except residents)	Protected	Protected	No
7	OH	Perpetual/1,000 years if exercise of power of appointment	No (except residents)	Divorcing spouse = not protected Child support = not protected	Protected	Yes
8 (tie)	DE	Perpetual for personal property/110 years for real estate	No (except residents)	Divorcing spouse = not protected Child support = not protected	Protected	Yes
8 (tie)	NH	Perpetual	No (except dividends/interest on residents)	Divorcing spouse = not protected Child support = not protected	Protected	Yes
10 (tie)	IL	Perpetual	No (except residents)	Divorcing spouse = protected Child support = not protected	Protected	Yes
10 (tie)	MO	Perpetual	No (except residents)	Divorcing spouse = not protected Child support = not protected	Protected	Yes
12	FL	360 years	No	Divorcing spouse = not protected Child support = not protected	Writ of garnishment allowed for spouse, former spouse, child support	Yes

\*Source: Steve Oshins. "Annual Dynasty Trust State Rankings Chart," <https://www.oshins.com/state-rankings-charts>.

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