Private Trust Companies

A Global Solution for Managing Family Trusts

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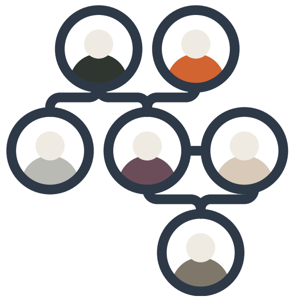

Key Takeaways:

- Private trust companies give American families greater control of their trusts and access to more favorable tax laws.
- For international families, private trust companies provide the privacy they seek and help mitigate the potential risks of their home country.
- This solution often has lower ongoing administrative expenses, making it more cost-effective than a third-party trustee.

Who will serve as trustee of your trust? It's a decision that requires careful thought and consideration. Third-party trustees, like a bank or corporate trust company, have historically been the trustee of choice. However, another option is becoming increasingly more popular among wealthy American and international families—private trust companies (PTC).

Private Trust Companies: An Alternative to Corporate and Bank Trustees

A private trust company is a legal entity created by a family to serve as the trustee of their trusts. It operates like a corporate fiduciary with one critical difference—family members can own and manage the PTC. The entity is typically established in Wyoming, South Dakota, Nevada, or Florida, with Wyoming being particularly popular due to low statutory fees and the absence of capital requirements.

Let's look at some reasons why you might set up a PTC instead of a trust in your home state or country.

1. **Better governing law and tax efficiency.** Some states are more "trust friendly" than others. For American families, PTCs offer a way to create their trusts and other legal structures under the laws of states other than those in which they live. For example, if you reside in California (an "unfriendly" trust state), creating a PTC in Wyoming means your family trusts are administered under Wyoming's laws, which provide for near-perpetual trust duration, strong liability protection and no state income taxes.

2. **Privacy.** PTCs are private (as the term implies), and you can choose a trust name that doesn't identify your family in any way. Complete privacy can be difficult to achieve with a corporate trustee because more "outside" people are aware of your family affairs. PTCs also provide a better way to handle confidential decision-making.

This privacy aspect is one of the primary reasons international families establish PTCs. Unlike most other developed countries, the U.S. is not subject to the "Common Reporting Standards" that require the automatic sharing of information between countries like Switzerland and the family's home country. A properly-structured PTC in the U.S. can maintain a family's privacy, which is vitally important if they live in a country where the risks of kidnapping, extortion and government expropriation of private assets are high. Plus, they get to enjoy all the other benefits of a PTC.

3. **Control.** As mentioned above, a private trust company allows you and your family to have more control over your trusts, rather than relying on a corporate trustee to act on your behalf. You select the individuals who will serve in various governance roles including:
    - Appointers (Individuals who can remove and replace all other parties and terminate the PTC)
    - Board of managers and trust company officers
    - Investment and distribution committees

4. **Flexibility.** While all governance provisions are "warehoused" under the PTC, you can set different provisions for each trust. For example, you could provide that each child is the head of the investment committee of his or her own trust. Also, as your family situation evolves, you can update the structure of your PTC to evolve with it.

5. **Liability protection for fiduciaries.** If you ask family members or trusted advisors to act as trustees of your trusts, these individuals necessarily assume significant liabilities. By contrast, if the same people are serving various roles in your PTC, their responsibilities can be defined explicitly in the governing documents.

6. **Future family coordination.** The PTC becomes the legal infrastructure of your family office, which family members in the future can continue to utilize and benefit from. Also, within your PTC, you can provide for the ongoing succession of the governance roles, defining how decision-making authority is passed down from generation to generation.

7. **Cost.** Although there are some one-time set-up costs, the ongoing administration expense of a PTC can be significantly less than the annual fees of a traditional corporate trustee. For example, the capital requirements for a PTC in Wyoming are minimal, and there is no requirement to have full-time employees or a staffed office. Sufficient connection with the state can be established by hiring a service firm in Wyoming to maintain the books and records, keep the PTC in good standing and if needed, serve on the board of the PTC.

Put Our PTC Expertise to Work for You

At Cerity Partners, we have extensive experience helping form and administer private trust companies for both American families living in high-tax states and international families seeking privacy of their assets. Contact one of our advisors to learn more about this planning opportunity.

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Paul is the Chief Planning Office and a Partner in the New York office. He has over twenty-five years of experience in helping families create and optimize their wealth planning structures. His expertise extends beyond traditional trust and estate planning to areas such as asset protection planning, income tax strategies, charitable and philanthropic structuring, and planning for international families and individuals.