

# Private Clients/ Trusts and Estates

Skadden

Attorneys in the Private Clients/Trusts and Estates Group at Skadden have extensive experience in all aspects of estate planning and the administration of trusts and estates. The group is skilled in the complicated tax and state laws governing the transfer and management of assets and is sensitive to the many family and personal issues related to this practice area.

Skadden received the top prize at the inaugural *Chambers High Net Worth USA Awards: Trusts and Estates Team of the Year* in 2019. Our practice was ranked in *Chambers High Net Worth* for Private Wealth Law, which recognizes the world's leading high-net-worth advisers, and listed in the top tier by *U.S. News — Best Lawyers Best Law Firms*. Our attorneys are active in the New York State and City Bar Associations and in ACTEC.

## Need for Planning

Without sophisticated planning, an affluent family faces the prospect of losing up to one-half of its wealth to taxation when it passes to the next generation. In addition, it often is necessary to develop a governance structure for inherited assets. Addressing these tax and governance concerns requires thoughtful consideration and action during one's lifetime.

## Creating Responsive Solutions

Our Private Clients/Trusts and Estates Group works with our clients to create customized comprehensive estate plans that accomplish the clients' management goals while reducing the effective rate of eventual estate tax. An important aspect of the group's practice involves helping clients identify which of the established and innovative lifetime wealth transfer approaches are most appropriate for them to use to transfer an increased portion of their assets to their beneficiaries on an after-tax basis. These choices may be impacted by recent changes to laws affecting gift and estate taxes, including the tax treatment of individuals as spouses and adjustments to federal and state transfer tax exemption amounts. Once decisions have been made, the group develops the legal structures, such as specialized trusts and limited liability companies, to implement the plan and manage the client's wealth over time.

## Diverse Clientele

We represent clients from a variety of backgrounds, ranging from successful entrepreneurs to beneficiaries of inheritances provided by past generations. We also address our clients' specific needs relating to special assets, such as art collections and real estate. For Skadden's international clients, we offer considerable experience with the special techniques (including qualified domestic trusts and offshore entities) that can produce significant tax benefits when planning for U.S. situs property or U.S. beneficiaries.

## Planning for Business Interests

Skadden's extensive representation of corporations and other businesses has resulted in a special emphasis on estate planning for business owners. This area of our practice focuses on developing tax strategies related to crucial "transition events" in the life of a business owner, such as the establishment of a new investment fund, an initial public offering or the sale of a business. We also help business owners with "succession" planning, looking to the eventual passage or sale of the business on the owner's death or retirement. Often, issues emerge related to whether the business is a unique asset to be retained by the family or is just one way in which family wealth may be held. The resolution of these issues likely determines the course of tax and liquidity planning and how succession of control over future business decisions will be handled.

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## Charitable Giving

A dominant issue for many of our high-net-worth clients is the eventual division of family wealth between descendants and charity, which serves to encourage good moral and social character in their family members, assist in furthering personal philanthropic goals and reduce estate taxation. As a result, another major area of our practice is in advanced techniques of charitable giving, including charitable remainder trusts, charitable lead trusts and private foundations. Complex tax rules govern the use of these techniques and must be addressed, especially when business interests are involved. Our Tax Group and Private Clients/Trusts and Estates Group work together to provide highly sophisticated advice to our business owner clients interested in charitable giving. We also assist donors in their grant agreements, including in specifying grant terms and conditions. In addition, we counsel individuals on the creation of significant private foundations and represent those foundations with respect to ongoing administration and governance, excise tax compliance, grant-making and planned-giving fundraising techniques.

## Estate and Trust Advice and Administration

An inevitable outcome of estate planning is the need to manage its results. Executors and trustees frequently engage our team to oversee the administration of large estates and trusts and to handle the required legal, tax and accounting work. We also assist in carrying out various fiduciary functions, such as collecting, valuing and disposing of assets and maintaining all records, with the assistance of our experienced team of fiduciary accountants and administrators. Even in this more settled area of law, important steps need to be

taken to reduce taxes and preserve wealth, while ensuring that the intentions of the grantors are preserved and the needs of beneficiaries served.

## Litigation and Dispute Resolution

Our attorneys represent fiduciaries and beneficiaries in a variety of contested and complex matters involving the administration of estates and trusts. We represent executors and trustees in court proceedings ranging from challenges to the validity or construction of estate planning documents to the manner in which they have discharged their fiduciary duties. We also represent beneficiaries of substantial estates and trusts seeking to assert their rights in accounting and other proceedings by contesting the exercise of a fiduciary's discretion as a breach of trust.

We are sensitive to the many delicate issues often related to trust and estate controversies. Because the parties involved are typically estranged family members, and from wealthy and recognizable families, confidential resolution of disputes can be particularly important. We recognize this concern and have significant experience resolving contested matters outside of the domain of formal court proceedings.

In addition, our attorneys have achieved significant victories for taxpayers in estate and gift tax matters before the Internal Revenue Service and in the U.S. Tax Court. Our Private Clients/Trusts and Estates Group works closely with our Tax Controversy and Litigation Group to resolve high-stakes, complex tax controversies.