Crossing State Lines
to Gain Tax Savings and Other Benefits

People who live in states with high income taxes sometimes relocate to a state with a more favorable tax climate. A similar strategy can be available for trusts. If a trust is subject to high state income taxes, it may be possible to make changes to reduce tax exposure.

Take states' laws into consideration

It's important to review both the inbound and outbound states' laws for determining a trust's "residence" for tax and other purposes. Typically, states make this determination based on factors such as:

- The grantor's home state (when funded),
- The location of the trust's assets,
- The state where the trust is administered (that is, where the trustees reside or the trust's records are kept), and
- The states where the trust's beneficiaries reside.

For example, if a New York trustee moves to Florida, it may eliminate New York State taxation of the trust. If a beneficiary of a Connecticut trust moves to New Hampshire, the trust is no longer subject to Connecticut tax.

There are several cases currently being litigated that are interpreting states' ability to tax trust income. A North Carolina case has recently been argued in front of the U.S. Supreme Court.

Keep in mind that some states tax income derived from in-state sources even if earned by an out-of-state trust.

What can a "trust-friendly" state offer?

In addition to offering low (or no) tax on trust income, some states:

- Authorize domestic asset protection trusts, which provide added protection against creditors' claims,
- Permit silent trusts, under which beneficiaries need not be notified of their interests,
- Allow perpetual trusts, enabling grantors to establish "dynasty" trusts that benefit many generations to come,
- Have directed trust statutes, which make it possible to appoint an advisor or committee to direct the trustee with regard to certain matters, or
- Offer greater flexibility to draft trust provisions that delineate the trustee's powers and duties.

If another state's laws would be more favorable, consider moving a trust to that state — or set up a new trust there.

Making the right move

To enjoy the advantages of a trust-friendly state, establish the trust in that state and take steps to ensure that the choice of residence is respected (such as naming a trustee in the state and keeping the trust's assets and records there). It may also be possible to move an existing trust from one state to another.

For more information about setting up trusts in another state, contact your Anchin Relationship Partner or Tamir Dardashtian and Michael Rudegeair, members of Anchin Private Client, at 212.840.3456 or info@anchin.com.

ANCHIN
Private Client

Jared Feldman, CPA
Leader
jared.feldman@anchin.com

Mela Garber, CDFA
Tax Leader
mela.garber@anchin.com

1375 Broadway, New York, NY 10018 • 212.840.3456 • www.anchinprivateclient.com