



Preserving and Protecting Wealth

Hodgson Russ's Estates & Trusts Practice Group provides sound legal advice and insight to help protect your assets during your lifetime and for your family's future. Whether for high-net-worth individuals, businesses, nonprofits, or corporate trust departments—and in local, multistate, and multinational transactions—the Estates & Trusts Practice Group delivers sophisticated strategies.

The Estates & Trusts Practice Group advises clients on all aspects of planning, administration, settlement, and taxation of estates and trusts, collaborating with other practice areas to provide comprehensive solutions. With five offices in New York State, including two in New York City, and two offices in South Florida, Hodgson Russ is particularly well positioned to assist clients who spend time in both states. With our office in Toronto, Ontario, we assist Canadian clients with U.S. estates and trusts matters.

The group's attorneys go beyond navigating complicated laws and tax codes. Hodgson Russ is known for developing and implementing strategies to protect the assets of its clients from creditors, including spousal creditors in the event of a divorce. This can reduce significantly, and in some cases eliminate completely, death taxes that can otherwise consume more than half of the wealth accumulated over a lifetime, allowing these asset-protection and tax-saving features to continue for future generations.

Hodgson Russ was among the first law firms to implement estate planning strategies involving the use of family limited partnerships and related entities. We have lectured widely in this area, including on sales to intentionally "defective" grantor trusts, and have considerable experience successfully defending these techniques from attacks by the IRS. For Florida residents, we recommend short-term trusts, out-of-state partnerships, and related techniques to reduce or eliminate annual liability for the Florida Intangible Personal Property Tax.

Hodgson Russ attorneys serve as advisors to nonprofit organizations and develop strategies to enhance the tax benefits of lifetime and testamentary charitable giving, both to public charities and to private and supporting foundations. Hodgson Russ attorneys routinely counsel clients regarding the effective use of living trusts and durable powers of attorney to avoid the need for expensive and

time-consuming guardianships and probate and to thus enable the families of our clients to settle the affairs of a deceased family member with minimum delay and publicity and at minimum cost.

Full-Service Law Firm

Hodgson Russ's estates and trusts attorneys work closely with the firm's business and tax attorneys to structure personal retirement plans for high-net-worth individuals and family gift programs to accomplish the multigenerational transfer of assets, as well as to integrate corporate and operational business considerations in the sale or other transfer of closely held corporations to family members or others. The focus is on minimizing taxes and facilitating family and estate-planning objectives. This area of practice encompasses advice on insurance planning, structuring family partnerships, and business-succession planning.

In conjunction with Hodgson Russ's Employee Benefits Practice Group, our estates and trusts attorneys offer highly specialized experience and advice in the field of taxation of pension plans, profit-sharing plans, IRAs, and other forms of retirement plans. In addition to working with businesses, professional practices, and self-employed individuals on the design and structure of retirement plans, we frequently advise clients concerning tax and other issues related to distributions from qualified plans and IRAs. Absent successful planning through a complicated maze of federal and state pension and tax rules and regulations, retirement plan assets are subject to both income and estate taxes that can consume in excess of 70 percent of the asset value.

Occasionally litigation arises with respect to various estate and trust instruments, including will contests, interpretation of wills and trust agreements, accountings, and breach of fiduciary duty issues. Our experience ranges from simple will contests to complicated (and occasionally high-profile) cases. We have experience dealing with the IRS and state departments of taxation and revenue and, when necessary, we represent our clients in connection with tax audits and litigation. We are frequently consulted by accountants, trust companies, and other advisors to assist in a "special counsel" capacity in various tax dispute resolution matters.

Clients advocating for or against changes in the tax law and regulations are assisted by Hodgson Russ attorneys in

the Government Relations Practice Group. Our clients are alerted to legislative and administrative developments by receiving “early warning” services.

Trusted Advisors, Respected Professionals

We sell no product and offer independent advice relating to life insurance proposals as well as tax-leveraged investment opportunities, such as hedge funds wrapped inside of insurance policies. Hodgson Russ serves as general counsel to the corporate trust department of a major banking institution, and our estates and trusts attorneys are often retained as a special counsel to other financial organizations.

Our attorneys lecture and publish in many facets of our specialty and have assumed leadership positions in many professional organizations, including chairing the New York State Bar Association Trust and Estates Law Section, the Florida Attorneys-Trust Officers Liaison Conference, and various local estate planning councils. In addition, several of our attorneys have been elected as fellows of the American College of Trust and Estate Counsel. For over 35 years, we have lectured and written on techniques for preparing life insurance trusts and other documents required to implement tax-leveraged investment opportunities.

Significant matters handled

Hodgson Russ’s estates and trusts attorneys have participated in a variety of unique and complete transactions, including:

- ▶ Reviewing and analyzing grandfathered generation-skipping trust with assets in excess of \$300 million
- ▶ Planning and coordinating a judicial construction proceeding to expand the power of appointment planning options for a multigenerational (i.e., dynasty) trust
- ▶ Challenging a \$9 million federal estate tax deficiency in U.S. Tax Court (the final result—elimination of entire proposed deficiency)
- ▶ Designing an efficient exercise of power of appointment for maximum multigenerational benefit
- ▶ Designing and implementing numerous plans to take advantage of opportunities for valuation discounts

- ▶ Designing and implementing multigenerational trusts in jurisdictions without rule against perpetuities
- ▶ Designing and implementing trusts to eliminate the need for ancillary probate
- ▶ Designing and implementing techniques to eliminate the annual liability for Florida Intangible Personal Property Tax, resulting in annual tax savings of more than \$500,000
- ▶ Designing and implementing the sale of a \$50 million limited partnership and limited partnership interest to a defective grantor trust, achieving tax savings of approximately \$11 million
- ▶ Restructuring the estate plan of 72-year-old client with a net worth of \$30 million who wished to leave the estate to grandchildren, resulting in an increase in after-tax inheritance from \$6 million to more than \$30 million
- ▶ Structuring the sale of a \$30 million professional practice in the Miami area to triple the after-tax yield
- ▶ Designing and implementing dozens of family limited partnerships to achieve estate tax savings and enhanced asset protection
- ▶ Developing the “sale to grantor trust” estate freeze technique and implementing numerous such estate freezes

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