

Greenway Capital Advisors, LLC

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Private Trust Company Planning Tips

Wealthy families place a high premium on giving each generation the opportunity to participate in decisions regarding the preservation and growth of their wealth. This task becomes more difficult when family wealth is inside of irrevocable trusts, and the trustee is an individual or a financial institution.

One potential solution for this dilemma is a private trust company. A private trust company, also known as a family trust company or an exempt trust company, is with limited exceptions a state chartered or licensed entity. A private trust company is authorized to provide trust and fiduciary services to a single family, and it is prohibited from transacting business with the general public. More importantly for wealthy families that have substantial wealth inside of irrevocable trusts, it provides a forum for current and future generations to discuss and influence the preservation and growth of that wealth.

For wealthy families contemplating the creation of private trust companies, here are a few planning tips to consider:

- 1. \$100 million and above.** There are always exceptions to general rules. However, a private trust company is generally best suited for family trusts with \$100 million or more in assets.
- 2. Work with experienced advisors.** Planning for private trust companies is a highly specialized area of the law, and few attorneys and other advisors are devoting substantial time to it. Experienced advisors will assure that wealthy families are put in the best possible position to make fully informed decisions.
- 3. Follow IRS Notice 2008-63.** On July 11, 2008, the IRS issued Notice 2008-63, which provides guidance on building firewalls within the governing documents of a private trust company to avoid adverse transfer tax and income tax consequences. Notice 2008-63 is a proposed revenue ruling. However, until final guidance is issued by the IRS, the proposed revenue ruling and the firewalls it has identified should be incorporated into the governing documents of private trust companies.
- 4. Combine estate planning with private trust company planning.** Estate planning and private trust company planning go hand in hand. The best of all worlds is to work with attorneys and other advisors who have expertise in both areas.
- 5. Obtain family commitment.** A private trust company requires more than a financial commitment. It requires a human commitment. To meet family goals, it is imperative that each generation commit substantial time and energy to a private trust company.



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