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Matters of Trust: Super-Rich Set Up Companies

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It isn't enough to have a trust fund any more. The next step is to have your own trust company.

A small but increasing number of the super rich are setting up their own trust companies -- boutique trust firms owned or controlled by wealthy families themselves. Some want more say over how their trust assets are handled; others want to consolidate a bunch of family trusts under one umbrella.

- **The Issue:** Increasingly the super-rich are setting up family-owned trust companies to handle their trust assets.
- **The Dynamic:** Many wealthy families want greater control over how their trust assets are handled or to consolidate a number of family trusts under one umbrella.
- **Background:** The ranks of the very rich are expanding. Last year, those with at least $30 million in investment assets in the U.S. rose 11% to 37,100.

This isn't a game for the average trust-fund baby. Families typically should have at least $100 million to set one up, and most that do have at least $250 million. Experts estimate there are only a couple hundred private trust companies in the U.S.

Still, their numbers have increased in the past decade as trust lawyers begin to tout their benefits. John P.C. Duncan, a Chicago lawyer who specializes in private trust companies, is setting up 16 this year, compared with only five four years ago. The South Dakota Trust Co., Sioux Falls, which provides back-office and other services for private trust companies, is helping to administer 12 private trust companies this year, up from five last year.

A trust essentially is an agreement to transfer an individual's assets to someone -- a trustee -- who looks after the funds or property for that individual's beneficiaries. Families set up trusts for a wide variety of reasons: to save on estate taxes, provide for future generations or incapacitated family members, pass on a family home or business, among others.

These private trust companies also can solve the problem of who takes over when a trustee dies. Thomas R. Beecher Jr., a lawyer from Buffalo, N.Y., who serves as trustee for several families, says he is considering setting up a private company to manage the trusts for generations to come. "The private trust company will last longer than I will," Mr. Beecher says.

A few states -- including South Dakota, New Hampshire and Wyoming -- are chasing this money by enacting laws to help attract more trust business. Among the measures: Some states don't levy income taxes on certain trusts or now permit trusts to last for hundreds of years, benefiting many future generations.

Private trust companies are getting a lift from the expanding ranks of the very rich. The number of ultrahigh-net-worth individuals in the U.S. -- those with at least $30 million in investable assets, excluding the houses they live in -- increased 11% last year to about 37,100, according to a report compiled by Merrill Lynch & Co. and Capgemini Group.

You'll need it, because owning your own trust company can get expensive. First, it involves set-up costs and legal fees that usually range from $50,000 to $300,000 or more. There also are capitalization requirements (the minimum net worth of the trust company) that vary by state but usually are at least several hundred thousand dollars.

Then there are annual administration fees, typically 0.10% to 0.50% of assets under management, and investment fees, which depend on the type of investment and manager used.

Though set-up costs generally are much less when using a big trust company as a trustee, families may save money over time on ongoing expenses with private trust companies because they have more control over the managers and services used, says Mr. Duncan.

Trusts have soared in popularity in recent years, not just among the very rich but also among the merely well-to-do. In 2006, there were $907.88 billion in personal-trust assets held by banks, a big jump from the $537.78 billion in assets a decade earlier, according to an analysis of data from SNL Financial by The VIP Forum, a wealth-management research firm. Assets also are held in trust by individuals, but these data aren't publicly available.

Typically, families name family members, trusted advisers or trust companies to serve as trustees. Responsibilities include investing and monitoring the money, ensuring that tax forms and other paperwork are filed and making payouts to beneficiaries.

Choosing the right trustees, and the right mechanism for naming successor trustees over time, have grown particularly important as more very wealthy families create trusts to last for many generations, or even forever.

Some very affluent families have become dissatisfied with their options for trustees, especially if they are setting up long-term trusts. It can be tough to find suitable replacements for individual trustees when they die or become incapacitated. It also may be hard to find qualified individual trustees if an individual is setting up a trust in a far-away state that has trust-friendly laws.

Meanwhile, large trust companies, especially those that have gone through lots of mergers and acquisitions, may provide impersonalized service, high staff turnover and hefty trust management fees -- and may try to push their own investment products on trust clients.

Families often turn to private trust companies if they have special assets, such as a closely held family business, real-estate or partnership interests, that they don't feel comfortable handing over to either an individual or a big trust company to manage, or they want to ensure that the particular asset isn't sold. Family trust companies, which have boards and various committees, enable family members from many generations and branches to be involved in managing the family's wealth.

To minimize tax snafus -- and to help keep trust assets out of a family's estate -- lawyers recommend that family members avoid being involved in distribution decisions over their own particular trust funds.

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