

# Greenway Capital Advisors, LLC

## WEALTH ADVISORY – 1<sup>st</sup> Quarter 2012

### Nevada Family Trust Companies

In October 2009, Nevada enacted the Family Trust Companies Act. The Act supports and encourages the growth of family trust companies in Nevada. In addition, Nevada has very favorable trust laws that attract trust business into the state. With these two factors in place, forming a family trust company in Nevada has the following key advantages:

- 1. Low Minimum Capital.** A licensed family trust company is only required to have capital of \$300,000. By comparison, the minimum capital requirement for a public trust company in Nevada is currently \$750,000. It will increase to \$1,000,000 on October 1, 2012.
- 2. Unlicensed Family Trust Companies.** Nevada is one of 5 states that do not require a family trust company to be licensed. Because an unlicensed family trust company avoids the state application process, it can come into existence much quicker than a licensed family trust company. An unlicensed family trust company also does not have minimum capital requirements, and it is not subject to state regulatory oversight.
- 3. Reduced Regulation.** The Nevada Division of Financial Institutions has the discretion to examine the books and records of a licensed family trust company. Indications are that the regulatory scrutiny by the Division will be less than that of a public trust company if statutory requirements are adhered to and no family litigation or complaints are present.
- 4. Tax Friendly Environment.** The Tax Foundation has ranked Nevada as having the 4<sup>th</sup> best business tax climate among the 50 states and the District of Columbia. Nevada does not have a personal income tax, a corporate income tax, an inheritance tax, or a franchise tax.
- 5. Dynasty Trusts.** Nevada has extended the maximum duration for trusts beyond the Rule against Perpetuities to 365 years.
- 6. Domestic Asset Protection Trusts.** Nevada is one of 13 states that permit Domestic Asset Protection Trusts (DAPT's). Under Nevada law, a future creditor of a grantor of a DAPT established in Nevada must bring an action against the DAPT assets within 2 years after the transfer of the assets to the DAPT in order for that claim to be recognized under state law.
- 7. Expansive Charging Order Protection.** In Nevada, the sole remedy that a judgment creditor has against a debtor's interest in a limited liability company or a limited partnership is a charging order. A charging order only entitles the judgment creditor to distributions that are actually made from the partnership, and it prevents a judgment creditor from becoming an unwanted member of a limited liability company or an unwanted partner of a limited partnership. Nevada passed legislation in 2011 that extends the sole remedy protection of the charging order to single member limited liability companies and single shareholder corporations.



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