

## Change in Texas Law Regarding Trusts



**Pete Benenati**

Licensed in Texas, Arkansas,  
Nevada and New York

Board Certified Estate Planning & Probate Law  
Texas Board of Legal Specialization

*Estate Planning*

*Tax Planning and Asset Protection*

*Real Estate and Business Transactions*

*Business Planning and Formation*

*Mergers and Acquisitions*

*Intellectual Property/Trademark*

*Labor and Employment Law*

### **Benenati Law Firm, PC**

2816 Bedford Road  
Bedford, TX 76021

**Meetings available in  
Bedford and Dallas for our  
clients' convenience**

Phone: 817-267-4529

Fax: 817-684-9000

Email contact:

sgoldman@benenatilaw.com

[www.benenatilaw.com](http://www.benenatilaw.com)

Last year we sent an email about a change in Texas law that would permit trusts to last 300 years before becoming subject to estate tax. These trusts are known as Dynasty Trusts or Generation-Skipping Transfer Trusts because it skips the estate tax for multiple generations. We recommended an amendment to your revocable trusts to take advantage of this change in law, but noted that this was a bit more complex to address in irrevocable trusts.

It was initially thought that an irrevocable trust would require a court to modify the terms of the trust to take advantage of the new law, which may be unduly burdensome and expensive with no guarantee that the court would approve the requested change. The law is still developing in this area, and it's not yet clear as to whether this is necessary.

But for those irrevocable trusts that qualify, we are recommending that a beneficiary exercise a testamentary special power of appointment to determine the applicable term of future trusts created under that irrevocable trust. After research and several seminars, it is our belief that this may be a solution to take advantage of the change in Texas law to extend the trust term to 300 years.

If an irrevocable trust does not grant a beneficiary a testamentary special power of appointment, then the exercise of such power is not possible and we will continue to monitor the law to determine your options to extend the trust term to 300 years.

For those who have irrevocable trusts, please schedule a call to discuss whether your irrevocable trust qualifies and your options to address this change. Normal fees apply for all consultations. The fee for the power of appointment will vary from case to case.

### **Meet Our Attorneys and Staff**

Of course we begin with Pete, but you may not be aware of or have met the rest of the Benenati Law Firm. Please don't hesitate to give us a call if you need help or have questions. Our goal is to take care of YOU!

#### **Attorneys:**

Ellen Dickerson: Wills, Trusts, Probate

Joe Dressman: Business

Lacey McCoy: Wills, Probate, Business

Rachel Tyra: Wills, Probate, Business

#### **Support Staff:**

Kameron Bradley: Paralegal

Marilyn Kocian: Paralegal

Nicole Pollard: Paralegal/Coordinator

Ruth Buyers: Receptionist/Admin

Suzy Goldman: Office Manager

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