
PRIMER

Dynasty Trusts: How the Wealthy Shield Trillions from Taxation Onshore

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Key Take Away Points

- A dynasty trust is a form of trust that is designed to sequester wealth for longer than ordinary trusts — sometimes for centuries or forever. They are often formed in U.S. states that have suspended or altered their state “rule against perpetuities,” legislation that previously limited the lifespan of a trust.
- The wealth defense industry deploys dynasty trusts to enable ultra-high net worth individuals — those with \$30 million or more — to systematically avoid wealth transfer taxes – that is, estate, gift, and generation-skipping taxes.
- Because the super-wealthy are avoiding or reducing their taxes, they are shifting the obligations to pay for society’s investments onto lower and middle-income households. Dynasty trusts also entrench existing levels of wealth inequality and facilitate the formation of dynastic concentrations of hereditary wealth and power.
- Lawmakers should act at the federal level to shut down or discourage the formation of dynasty trusts for the purposes of tax avoidance and dynastic succession. Actions could include the passage of a federal “rule against perpetuities,” banning certain trust arrangements, and taxing income and wealth in trusts.

Introduction

Dynasty trusts are used routinely in estate planning by millions of Americans of modest wealth. But they also serve as a vital tool in the systematic tax avoidance of trillions of private wealth, helping to entrench inequality and bolster the development of multi-generational wealth dynasties.

In a healthy democratic society, with an effective and progressive tax system, great fortunes dissipate over a few generations. Significant wealth may accumulate, but it disperses down the family line as more heirs come on the scene. If a wealthy family pays its fair share of annual income taxes and estate or inheritance taxes, as well as takes advantage of tax incentives for charitable giving, these fortunes do not accelerate but diminish. The natural order in such societies is to prevent dynastic wealth formations.

In the U.S., however, we are witnessing a massive reassertion of dynastic wealth. One can assume, though it is difficult to trace in every case, that some families have arrested this process of wealth dispersal through aggressive tax avoidance.

American tax law currently encourages the perpetuation and accumulation of trust-held wealth, where assets are out of reach of taxation and family wealth can privately grow, aided by laws promising opacity and secrecy. The United States — besting Switzerland — is now the world’s Number 2 secrecy jurisdiction according to the Tax Justice Network’s Financial Secrecy Index, which ranks tax havens.¹ The honor is thanks to a patchwork of U.S. states competing in recent decades to lower their standards to attract the investment

capital of the world's ultra high-net worth individuals — those with more than \$30 million. Only the Cayman Islands shelters more wealth than the U.S.

The sheer size of what social scientist Jeffrey Winters calls the “Wealth Defense Industry” — the tax attorneys, accountants, wealth managers, and family offices deployed to help the richest 0.1 percent — reflects a staggering amount of professional fire power devoted to making the wealthiest people on the planet appear to own considerably less wealth than they do.²

The number of family offices, formed with the mission of growing and sequestering family wealth — and facilitating the creation of inherited wealth dynasties — has mushroomed from fewer than 1,000 in 1980 to an estimated 10,000 today.³

Wealth advisors are paid millions to hide trillions with their sophisticated networks of offshore bank accounts, anonymous shell companies, and dynasty trusts.

These activities sustain and protect dynastic wealth, giving rise to the powerful families whose wealth has made them household names.

A century ago, Frank Mars created a popular candy bar. His son, Forrest Mars, Sr., took over his candy company and grew it into an empire. In 1983, Forrest Mars was worth \$2.7 billion in today's dollars. The Mars family has used its wealth and power to abolish the estate tax in Virginia — and attempt to repeal it at the national level. At the end of 2020, the Mars family was worth an estimated \$94 billion.⁴

Sam Walton founded Wal-Mart and in 1983 was worth nearly \$6 billion in today's dollars. The Waltons have lobbied to abolish the estate tax and protect their company's monopoly power. Audrey Walton even went to tax court to defend her use of tax loopholes; her success resulted in a trust named after the family.⁵ According to *Forbes*, the Walton family is worth over \$247 billion.⁶

In 1878, E.W. Scripps founded his first newspaper company, eventually creating a nationwide chain of daily papers. The heirs of the Scripps media empire are worth an estimated \$8.4 billion.⁷ Some in the Scripps family are regular philanthropists, though the family has its own Nevada-based private trust company: Miramar Fiduciary Corporation is named after what E.W. called the house he built on his ranch in California.⁸

Instead of wealth dispersing over generations, it is accelerating and concentrating. As the number of billionaires increases, from 15 in 1983 to over 700 today, we should be concerned about how dynastic wealth is growing.⁹

Unless the U.S. can reverse this trajectory, we're on track to become a hereditary aristocracy of wealth, as the French economist Thomas Piketty has warned, where one generation from now, the sons and daughters of today's billionaires will dominate our economy, politics, philanthropy, and culture.¹⁰ The domination of today's billionaires is already corrosive, but it can get even worse.

As wealth and power concentrates, the cycle continues. The wealthy exert their power to further shape the rules, news, and culture of society. They block popular reforms by capturing the political system, fend off enforcement, and ensure dysfunctional gridlock. This leads to further consolidation of wealth dynasties, impervious to taxation and accountability. It also leads to further social breakdown and polarization, as our collective capacity to solve big problems — like responding to a pandemic or ecological disruption — is rendered inoperative.

Even in a country that was forged out of a rejection of feudalism, it may be hard for those of us in the U.S. to spot the telltale signs of a reassertion of feudalistic and monarchic norms. One component is what law professor Allison Tait describes as a culture of “high wealth exceptionalism,” where the wealthy believe they are entitled to a separate set of laws and rules governing them because of their wealth — and the rest of society tolerates this arrangement.¹¹

As this brief primer will explain, we can fix this. Lawmakers could shut down this hidden wealth apparatus overnight by outlawing particular trusts and loopholes, promoting ownership transparency, passing global trade treaties that prohibit offshore practices (and consign rebel states to economic pariah status), and investing in robust enforcement.

The “dynasty trust” is a trust designed to drive dynastic wealth accumulation. This primer is devoted to understanding this key tool in the wealth-sequestering toolbox.

What is a dynasty trust?

Trusts are one way that America’s wealthy families protect their money. The Rockefellers, the Hearsts, the Du Ponts — these families tucked their wealth into trusts to pass it down through generations. Trusts are legal relationships between *grantors*, creators of the trusts, and *trustees*, who hold, manage, and administer trust assets on behalf of the trust’s *beneficiaries*.

A dynasty trust is a particularly powerful type of trust; it shelters wealth from transfer taxation for the long term — possibly forever. Generally, trust assets diminish and are consumed within a few decades. But when massive wealth is placed into dynasty trusts, it can accumulate in a manner that far outstrips the needs of beneficiaries. Although dynasty trusts have been with us for a long time, there has been a sharp uptick in dynasty trust formations over the past several decades. Like the name suggests, dynasty trusts facilitate the creation of multi-generational, modern-day wealth dynasties.

What’s fueled the explosion in dynasty trust formations?

As a rule, transfer taxes — estate taxes, gift taxes, and generation-skipping transfer taxes — are meant to prevent dynastic wealth from exponentially accumulating as it is passed from generation to generation. Establishing a dynasty trust allows grantors to allocate the \$11.7

million generation-skipping transfer tax exemption (\$23.4 million for married couples) to assets transferred to the trust, while moving these assets out of the taxable estate.¹² If a dynasty trust is carefully designed, these assets — which will almost certainly continue to grow — can move to the next generation, and to the next generation after that, all without being subject to transfer taxation. Because income taxes are still due on any revenue generated by the assets, those setting up dynasty trusts often do so in states without income taxes, or they place assets that don't produce income in the trust, such as growth stocks or life insurance policies.

As a result, the wealth that dynastic families have accrued over the years is out of reach. After 300 years, an initial \$1 million investment in a dynasty trust, growing at a 6 percent after-tax rate, would be worth approximately \$39 trillion, a little under half of the world's current GDP. It's hard to conceptualize what this absurd number would even mean 300 years from now, but this is how the industry markets itself to would-be wealth hidiers.¹³ It's also a good illustration of how dynasty trusts, whether lasting for 100 years or forever, will accelerate the widening of the chasm between the poor and the extremely rich.

Take the Mars family: according to reporting by *Forbes* and the Bloomberg Billionaires Index, the Mars family has apparently been able to avoid estate taxation for generations. Jacqueline Mars and John Mars, the two surviving children of Forrest Mars, Sr., are each worth \$31.3 billion.¹⁴ Their brother Forrest Mars, Jr. died in 2016, and today his four daughters have \$7.8 billion each — for a total of \$31.2 billion.¹⁵ That's not a coincidence.

What probably happened was that before 1986, the year the generation-skipping tax was instituted, Forrest Mars, Sr. transferred his wealth into a trust divided into three equal shares — one share for Jacqueline, one for John, and one for Forrest, Jr. Then, when Forrest, Sr. died in 1999, his estate didn't include the wealth in the trust, and it was passed tax-free to his children. The trust Forrest, Sr. established for Forrest, Jr., likely provided that upon the death of Forrest, Jr., it would be split automatically into equal trusts for the children of Forrest, Jr., thus causing it not to be included in Forrest, Jr.'s estate. If that trust was established before 1986, the generation-skipping tax would not apply as a result of Forrest Jr.'s death.

The Rule Against Perpetuities

State rules differ on the legal lifespans of dynasty trusts, with some states more attractive than others — which is why the ultra-wealthy are setting up trusts in states like South Dakota, Nevada, Wyoming, and Delaware. The use of dynasty trusts in these states have climbed because of the repeal or weakening of the “rule against perpetuities” over the past few decades.

The rule against perpetuities is hundreds of years old, having arisen out of England's feudal past as a way to limit the wealthy from exerting power over property from the grave. Back then, landowners would tie up their estates in trusts that would continue after their deaths, allowing their descendants to enjoy the benefits of an estate they did not outright own. The rule against perpetuities thus ensured that trusts were vested after a certain period of time

— generally 21 years after the last beneficiary alive when the trust was created dies — instead of lasting for perpetuity. The rule was a response to dynastic wealth, a way to curb its influence and ensure that assets wouldn't be bound in a trust for generations, but would return to the economy.

Fast forward to the modern day, and a number of states aiming to attract trust business have passed legislation that permits trusts to last centuries. More than half of states have eliminated or severely curbed the U.S. version of the rule against perpetuities, either allowing trusts to remain intact for hundreds of years, or in the case of some states, forever.¹⁶ In addition to the long lifespans of trusts, states have also attracted the assets of the wealthy (without having to personally relocate) — and appeased wealth industry lobbyists — by abolishing income tax and promising to seal trust records.

These states have created environments ripe for dynastic wealth to thrive.

State Legislatures Have Been Captured by the Wealth Defense Industry

South Dakota is the country's leader in dynasty trusts and wealth protection. The state was one of the first to repeal the rule against perpetuities and has no income tax, no inheritance tax, and no capital gains tax. It also protects assets in trusts from divorce, creditors, and child support claims. South Dakota has a population of fewer than one million, but there is no need to be a resident of a state to set up a dynasty trust there. As evidence of a booming industry, there are more than 100 trust companies operating in the state, managing a disclosed \$367 billion in assets.¹⁷ But there's probably much more in assets than what is disclosed; in 1997, Governor Bill Janklow set up a trust task force, now made up largely of wealth industry professionals “with the goal of establishing and maintaining South Dakota's stature as the premier trust jurisdiction in the United States,” as stated on the South Dakota Division of Banking's website.¹⁸ That means finding new ways to attract wealth hidiers, creating a few hundred jobs in return for managing the billions of the world's richest 0.1 percent.

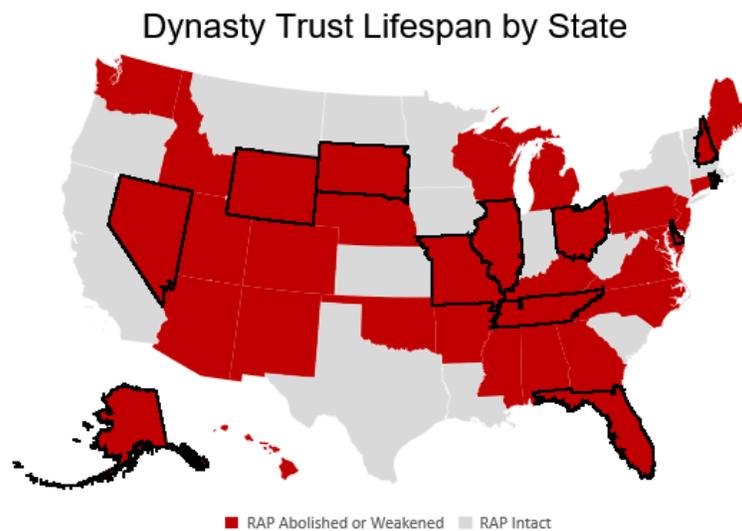
More states continue to rewrite their trust laws, joining the majority that have broken the floodgates to let dynastic wealth flow across their borders. Indeed, given that a majority of states have weakened or eliminated the rule against perpetuities, states may feel pressure to adopt similar, wealth industry-friendly legislation to remain competitive. In 2019, Connecticut passed legislation allowing trusts to last up to 800 years. A representative from the Connecticut Bar Association, arguing in favor of the new law, said:

Trust assets are leaving states like Connecticut because of our antiquated trust laws and are migrating into New Hampshire and other modern trust jurisdictions. This exodus materially and adversely impacts Connecticut's financial services industry and, consequently, Connecticut's economy as a whole.¹⁹

The Estates and Probate Section of the Connecticut Bar Association drafted the legislation, with help from the Connecticut Bankers Association.²⁰

Lawmakers often defer to industry experts because of the complexities of trust laws. In practice, this means the financial services industry effectively captures small state legislatures to advance practices that will encourage wealth dynasties in the U.S. and even facilitate global wealth hiding.

The map below shows which states have abolished or weakened the rule against perpetuities (RAP). The states highlighted in black are some of the most notorious onshore tax havens, popular not only for the abolition or weakening of the RAP but for other laws that don't levy income tax on trusts or that protect assets from creditors. They are South Dakota, Nevada, Delaware, Alaska, Tennessee, Wyoming, Rhode Island, Ohio, New Hampshire, Illinois, Florida, and Missouri.²¹



However, as one trust and estate attorney explained:

The problem with some states abolishing the RAP is that large sums of wealth now can concentrate indefinitely, exacerbating an already horrific wealth inequality situation. Truth is, however, the RAP itself was too lenient on this front. It allowed a trust to last for a century or more. That may be better than 500 years, but not much.²²

Even in states with the rule against perpetuities intact, trusts that can last for 100 years or more can still facilitate wealth dynasties. If a trust can last 100 years, it could be another 70 years or so until the wealth in that trust is subject to a transfer tax.

American Aristocracy

It's difficult to know exactly which families are utilizing dynasty trusts because of the secretive nature of wealth planning. We can get glimpses of who has benefited from dynasty trusts when financial disputes are inevitably taken to court. But South Dakota, the number one state for wealth hiding, seals its records from the public eye.

We know a few names of families benefiting from dynasty trusts: the Chicago Pritzkers (Hyatt Hotels), the Minnesota Carlsons (Radisson Hotels), the Wrigleys (heirs of chewing gum magnate William Wrigley), and the Scripps family.²³ Steven Mnuchin placed \$32.9 million worth of corporate stock, art, and a jet in his dynasty trust, disclosed to federal ethics officials.²⁴ Jeff Bezos's mother, Jacklyn Bezos, has a generation-skipping trust, which we know because of Amazon SEC filings from the 1990s.²⁵

Additionally, a number of wealthy families have chartered their own private trust companies in South Dakota: for example, the Cargill-MacMillans (the Cargill agriculture corporation) and the Dillons (heirs of investor Clarence Dillon).²⁶

When asked about their estate planning, wealthy families unsurprisingly are tight lipped. "We are a very public family with a very private investment philosophy," said Christopher Kennedy, whose family is worth approximately \$1 billion.²⁷ Of course, that's peanuts compared to families like the Waltons (net worth: \$247 billion), whose family spokesperson assured *Bloomberg* in 2013 that "[A]ny charitable or estate planning practices employed by the Walton family are broadly available and commonly used."²⁸

Given that dynasty trusts are becoming so popular, and so easy for American billionaires and multimillionaires to create, perhaps a better question is: *How many ultra-rich families haven't made one?* In all likelihood, very few.

Why should we care?

There are three primary reasons we should be concerned about the role of dynasty trusts in a larger hidden wealth system. First, they enable wealthy individuals from around the world to move their money to the U.S. to escape accountability. There is growing evidence that the U.S. has become a premiere destination for kleptocratic capital. Wealthy individuals are plundering the wealth of their home nations, especially hurting the world's most poor and vulnerable populations. Hidden wealth systems, including dynasty trusts, empower criminals, deadbeats, and kleptocrats, allowing them to thrive in secrecy.

Secondly, when wealthy individuals use dynasty trusts to dodge and evade their tax responsibilities, they shift obligations onto those with fewer resources. Dynastic trusts undermine how self-governing societies organize meaningful tax systems, raise revenue, and make public investments. The tax dodges and shifts that undermine public finance and democratic decision-making — some of which are considered "legal" — are a huge cost to societies. When the wealthy don't pay, they leave the bills to everyone else for public services, ranging from caring for veterans and protecting national parks to building infrastructure and protecting the public from infectious diseases.

When the wealthy form dynasty trusts to reduce or eliminate transfer taxes, they create a two-tier tax system — one set of rules for themselves, another for everyone else. As a result, we end up with absurd situations where a senior government official says, "only morons pay the estate tax," acknowledging that the U.S. estate tax system is optional for the wealthiest.²⁹

Finally, dynasty trusts contribute to the rapid growth of income and wealth inequality, fortifying oligarchic concentrations of dynastic wealth and power that lead to an erosion in economic opportunity and social mobility — and ultimately threatens self-governing democracies.

When professionals in the Wealth Defense Industry lodge enormous wealth in a dynasty trust, they are working as agents of inequality. By helping the rich avoid their responsibilities to the communities and nations from which they draw their wealth, they accelerate our movement toward a future of grotesque division and social disruption. They will claim they are helping their clients obey the laws. But, while the left hand is using various wealth-hiding techniques and loopholes, the right hand is fending off oversight, lobbying for special privileges, and creating new loophole innovations.

What should we do?

Any effort to require the wealthy to pay their fair share must end the pernicious use of dynasty trusts and shut down this global wealth hiding system.

With political leadership, this could be fixed easily by increased enforcement and the elimination of tax avoidance strategies that drive trust formation and perpetuation. The U.S. should join other nations in boosting transparency and information sharing to shut down illicit money flows.

The first step to reform is getting past our cultural tolerance for “billionaire exceptionalism.” The second is to recognize that the wealth defense industry thrives on complexity and opaqueness and to press lawmakers for transparency and simplicity instead.

Congress made an important first step in December 2020 with the bipartisan passage of the Corporate Transparency Act, legislation requiring corporations to disclose their beneficial owners to an arm of the Treasury Department. Pressure from around the country led Delaware’s secretary of state to finally end the state’s opposition to such legislation.³⁰ Unfortunately, trusts and partnerships are exempt from the law, creating a glaring loophole the Wealth Defense Industry will exploit. This will only increase the prevalence of dynasty trusts.

What follows are a set of legislative and administrative fixes, slightly overlapping in some cases, to discourage the build-up in dynastic wealth and to specifically to constrain dynasty trusts.

Federal Rule Against Perpetuities. To close down dynasty trusts, William and Mary Law School professor Eric Kades calls for a federal rule to limit the lifespan of trusts, what he calls the National Anti-Feudalism Act. A federal restoration of the “Rule Against Perpetuities” would undercut the race between states in watering down their standards. It

would create a limited lifespan for trusts. Trusts would not disappear, but the ability to sequester wealth for centuries would be curtailed.

Outlawing Certain Types of Trusts. Lawmakers must plug loopholes that use trusts as tax avoidance vehicles. Senator Bernie Sanders' estate tax reform legislation would be a huge step in the right direction.

One wealth advisor, Martin Shenkman, sounded the alarm in *Forbes* when Sanders first suggested these provisions in 2019. "Whoever helped craft those proposals understood many of the tax planning strategies the uber-wealthy use to shift assets outside their trusts," Shenkman complained.

"Bernie's changes include restrictions on the use of valuation discounts, GRATs, and more that have been the grease for many estate plans," wrote Shenkman. Sanders's provisions "would emasculate this type of planning and might result in a costly tax after fifty years of a trust." Shenkman advised his clients to go out and create new dynasty trusts before a Sanders law could take effect.³¹

One provision of Sanders estate tax bill would end tax breaks for dynasty trusts and other sophisticated wealth hiding provisions. The Sanders bill would:

- Strengthen the "generation-skipping tax," which is designed to prevent avoidance of estate and gift taxes, by applying it with no exclusion to any trust set up to last more than 50 years.
- Prevent abuses of grantor retained annuity trusts (GRATs) by barring donors from taking assets back from these trusts just a couple of years after establishing them to avoid gift taxes (while earnings on the assets are left to heirs tax-free). The lawyer who invented this technique for the Waltons claims it has cost the Treasury \$100 billion since 2000.³² This is a grotesque understatement.
- Prevent wealthy families from avoiding gifts taxes by paying income taxes on earnings generated by assets in "grantor trusts."
- Sharply limit the annual exclusion from the gift tax (which was meant to shield the normal giving done around holidays and birthdays from tax and recordkeeping requirements) for gifts made to trusts.

The Sanders bill would also close other common loopholes used by estate planners called "valuation discounts," restrictions placed on interests in family businesses that are claimed, falsely, to reduce the value of the estate. Another loophole game involves claiming that the value of an inherited asset is lower, for estate tax purposes, than what is claimed for income tax purposes to calculate gains when the asset is sold.³³

Establishment of Inheritance Tax on Heirs. Shifting from an estate tax to an inheritance tax would capture and tax wealth when it enters dynasty trusts and when it flows to recipient heirs. A targeted and progressive inheritance tax would not eliminate dynasty trusts, but it would limit dynastic flows to next generations.

Oversight and Enforcement. The oversight role of the Internal Revenue Service has been decimated over the last few decades, particularly in their ability to monitor complex trusts and tax loopholes. Rep. Ro Khanna has introduced the Stop Corporations and Higher Earners from Avoiding Taxes and Enforce Rules Strictly (CHEATERS) Act, legislation to strengthen enforcement of tax rules and crack down on tax dodging by the wealthy.³⁴ President Biden has also proposed a substantive investment in tax enforcement, spending \$80 billion over the next decade to rebuild the IRS's capacity to oversee the tax machinations of the very wealthy.³⁵

Administrative Actions. If Congress fails to act, the executive branch should dust off regulations first proposed in 2015 to address valuation discounts, which reduce the value of a transferred asset for tax purposes, as well as take additional action available to it to limit the use of trusts that are ripe for abuse, such as intentionally defective grantor trusts (IDGTs) and GRATs.³⁶

Constrain Dynasty Trusts. Here is a four-part program to arrest and ultimately reverse the explosion in dynastic wealth.

1. **Close Loopholes.** Enact the reform measures described above to close the gaping loopholes in the estate, gift and generation-skipping tax system. With those reform measures in place, dynastic wealth accumulations will be reduced substantially with the passing of each generation.

2. **End Step Up in Basis.** Replace the rules that currently eliminate the unrealized gain on appreciated assets at death with rules that require tax to be paid on that gain at the time the assets are passed at death or by gift. This will end the avoidance of income tax by the ultra-rich on massive amounts of gains. It will tax those who hold appreciated assets until death effectively the same as those who sell appreciated assets during their lifetimes. Legislation that would implement this change has been proposed by Senator Chris Van Hollen. ^[SEP](See the Sensible Taxation and Equity Promotion (STEP) Act).³⁷

3. **Tax Income in Trusts at Higher Rates.** Add an additional income tax bracket for trusts, five percentage points higher than the maximum income tax bracket for individuals, on undistributed trust income in excess of \$500,000. This will encourage the distribution of trust income to individual beneficiaries in order to reduce the applicable income tax rate but will not penalize reasonable accumulations of trust income to provide for the future needs of trust beneficiaries, including young and disabled beneficiaries. The distribution of income from dynasty trusts will slow the accumulation of dynastic wealth. ^[SEP]

4. **Wealth Tax on Trusts.** Enact a wealth tax on dynasty trust accumulations at the rates proposed by Senator Elizabeth Warren and Representatives Pramila Jayapal and Brendan Boyle in the Ultra-Millionaires Act: A two percent annual tax on dynasty trust accumulations in excess of \$50 million, and a one percent additional

annual tax on dynasty trust accumulations in excess of \$1 billion. The purpose of this tax in the context of dynasty trusts, we believe, is primarily to provide for the gradual reduction in dynasty trust wealth over time. Accordingly, we would modify the Warren-Jayapal-Boyle proposal to allow for the voluntary reduction of dynasty trust accumulations by charitable contributions. Any trust subject to the tax would be allowed a dollar-for-dollar contribution to qualified charitable organizations, not including private foundations or donor advised funds.

For the purposes of provisions 3 and 4, rules would lump all trusts established by the same grantor (treating spouses as one person for this purpose) together in computing the tax.

Conclusion

The cost to society of continued dynastic wealth formations is high. Ultimately, dynastic accumulations of wealth are on a collision course with democratic norms and institutions. When the wealthiest people in the society avoid taxation and create a separate set of rules governing their wealth accumulation, the rest of society suffers.

We can fundamentally end this destructive system of wealth sequestration. With a deeper understanding of the perils of dynastic wealth and the determined leadership to constrain its growth, we can shut down this democracy-undermining system within a decade.

Notes

¹ Tax Justice Network, “Financial Secrecy Index 2020.”

<https://fsi.taxjustice.net/en/introduction/fsi-resultsP>

² Jeffrey Winters, “Wealth Defense and the Limits of Liberal Democracy,” APSA 2014 Annual Meeting Paper, 2014. <https://ssrn.com/abstract=2452419>

³ Collins, *The Wealth Hoarders: How Billionaires Pay Millions to Hide Trillions* (2021). Rebecca Gooch, Campden’s head of research, estimates 5,300 according to *The Economist*, in “Family Offices become financial titans,” *The Economist*, December 13, 2018.

<https://www.economist.com/briefing/2018/12/15/family-offices-become-financial-titans>. David Batty, “How London’s booming ‘butler class’ takes care of the wealthy elite,” *The Guardian*, March 12, 2016.

<https://www.theguardian.com/business/2016/mar/12/family-office-private-wealth-funds>.

⁴ *Forbes*, “America’s Richest Families 2020,” accessed April 15, 2021.

<https://www.forbes.com/profile/mars-1/?sh=2e8dc6fec8ed>

⁵ This trust is known as the Walton Grantor-Retained Annuity Trust (GRAT). See *Forbes*, “The Walton GRAT,” May 14, 2001.

⁶ *Forbes*, “America’s Richest Families 2020,” accessed April 15, 2021.

<https://www.forbes.com/profile/walton-1/?sh=3eb763266f3f>

⁷ *Forbes*, “America’s Richest Families 2020,” accessed April 15, 2021.

<https://www.forbes.com/profile/e-w-scripps/?sh=2278d6366a65>

⁸ Institute for Policy Studies analysis of SEC filing data.

⁹ Americans for Tax Fairness & Institute for Policy Studies, “Billionaire Pandemic Wealth Gains,” April 15, 2021.

<https://inequality.org/wp-content/uploads/2021/04/IPS-ATF-Billionaires-13-Month-31-Year-Report-copy.pdf>

¹⁰ See Thomas Piketty, *Capital and Ideology* trans. Arthur Goldhammer (Cambridge: Harvard University Press, 2020); Thomas Piketty, *Capital in the Twenty-First Century* trans. Arthur Goldhammer (Cambridge: Harvard University Press, 2014).

¹¹ Allison Tait, “The Law of High-Wealth Exceptionalism,” *Alabama Law Review* 71, (2017).

<https://ssrn.com/abstract=3406070>

¹² Allowable tax exemptions for 2021.

¹³ See South Dakota Trust Company, “South Dakota Dynasty Trust.”

<https://www.sdtrustco.com/why-south-dakota/dynasty-trust/>; Wealth Management at Northern Trust, “Nevada Trusts: Safeguarding Personal Wealth,” 2020.

<https://cdn.northerntrust.com/pws/nt/documents/wealth-management/the-nevada-whitepaper.pdf>

¹⁴ *Forbes*, “Billionaires 2021,” accessed April 15, 2021. <https://www.forbes.com/profile/jacqueline-mars/>; <https://www.forbes.com/profile/john-mars/>

¹⁵ *Forbes*, “Billionaires 2021,” accessed April 15, 2021. <https://www.forbes.com/profile/victoria-mars/>; <https://www.forbes.com/profile/marijke-mars/>; <https://www.forbes.com/profile/valerie-mars/>; <https://www.forbes.com/profile/pamela-mars/>

¹⁶ Institute for Policy Analysis of state laws and compendiums of RAP laws. See The American College of Trust and Estate Counsel, “The Rule Against Perpetuities: A Survey of State (and D.C.) Law.” https://www.actec.org/assets/1/6/Zaritsky_RAP_Survey.pdf; Lawrence W. Waggoner, “From Here to Eternity: The Folly of Perpetual Trusts,” *Law & Economics Working Papers* 76, (2014). https://repository.law.umich.edu/law_econ_current/76

¹⁷ South Dakota Department of Labor and Regulation, “2020 Annual Report.”

<https://dlr.sd.gov/publications/documents/annrpt20.pdf>

¹⁸ South Dakota Department of Labor and Regulation, Division of Banking, “Governor's Task Force on Trust Administration Review and Reform.”

https://dlr.sd.gov/banking/trusts/trust_task_force.aspx

¹⁹ *An Act Concerning Adoption of the Connecticut Uniform Trust Code: Public Hearing, Before the Judiciary Committee*, Connecticut General Assembly (2019) (Testimony of Kelley Galica Peck, Vice Chair of the Estates and Probate Section of the Connecticut Bar Association).

<https://www.cga.ct.gov/2019/JUDdata/Tmy/2019HB-07104-R000215-Peck,%20Kelley-Connecticut%20Bar%20Association-TMY.PDF>

²⁰ The Office of the Probate Court Administrator also helped draft the legislation, but only supported the bill's streamlining of trust code provisions and did not take a stand on the rule against perpetuities provisions.

²¹ These states were ranked as the top 12 states to create a dynasty trust by Steve Oshins, a trust and estate lawyer in Nevada whose yearly rankings are widely used by the industry. See Oshins's 2020 rankings: https://db78e19b-dca5-49f9-90f6-1acaf5eaa6ba.filesusr.com/ugd/b211fb_79b9ea83b72543e995ad71695279d4e3.pdf

²² Chuck Collins, *The Wealth Hoarders* (New York: Polity Press, 2021).

²³ Oliver Bullough, “The Great American tax haven: why the super-rich love South Dakota,” *The Guardian*, November 14, 2019.

<https://www.theguardian.com/world/2019/nov/14/the-great-american-tax-haven-why-the-super-rich-love-south-dakota-trust-laws>.

²⁴ Zachary Mider, “Mnuchin May Have Used Tax Loophole Obama Attacked,” Bloomberg News, January 12, 2017.

<https://www.bloomberg.com/news/articles/2017-01-12/trump-s-treasury-pick-may-have-used-tax-loophole-obama-attacked>

²⁵ “Amazon.com, Inc. Form SC 13G/A,” EDGAR, Securities and Exchange Commission, 1999.

<https://www.sec.gov/Archives/edgar/data/1018724/0000891020-99-000258.txt>

²⁶ The Cargill-MacMillans have Way Trust and the Dillons have Dillon Trust Company LLC.

²⁷ Carl O'Donnell, “How The \$1 Billion Kennedy Family Fortune Defies Death And Taxes,” *Forbes*, July 8, 2014. <https://www.forbes.com/sites/carlodonnell/2014/07/08/how-the-1-billion-kennedy-family-fortune-defies-death-and-taxes-3/>

²⁸ Zachary Mider, “How Wal-Mart's Waltons Maintain Their Billionaire Fortune: Taxes,” *Bloomberg*, September 12, 2013. <https://www.bloomberg.com/news/articles/2013-09-12/how-wal-mart-s-waltons-maintain-their-billionaire-fortune-taxes>

²⁹ Robert Frank, “‘Only morons pay the estate tax,’ says White House's Gary Cohn,” CNBC, August 29, 2017. <https://www.cnbc.com/2017/08/29/only-morons-pay-the-estate-tax-says-white-houses-gary-cohn.html>

³⁰ Jeanne Whalen, “After a long campaign by anti-corruption groups, Congress bans anonymous shell companies,” *The Washington Post*, December 11, 2020. <https://www.washingtonpost.com/us-policy/2020/12/11/anonymous-shell-company-us-ban/>

³¹ Martin Shenkman, “Sanders Estate Tax Proposal: Estate Planning Steps To Take Now,” *Forbes*, March 21, 2019. <https://www.forbes.com/sites/martinshenkman/2019/03/21/sanders-estate-tax-proposal-estate-planning-steps-to-take-now/>

³² Zachary Mider, “Accidental Tax Break Saves Wealthiest Americans \$100 Billion,” *Bloomberg*, December 17, 2013. <https://www.bloomberg.com/news/articles/2013-12-17/accidental-tax-break-saves-wealthiest-americans-100-billion>

³³ See more on Bernie Sanders's For the 99.8% Act: <https://www.sanders.senate.gov/press-releases/sanders-introduces-estate-tax-reform-to-combat-inequality-2/>

³⁴ Ayelet Sheffey, “House Democrats want to raise another \$1.2 trillion in taxes on the wealthy just by auditing them more,” *Business Insider*, February 18, 2021.

<https://www.businessinsider.com/house-dems-to-raise-12-trillion-in-taxes-through-auditing-2021-2>

³⁵ Jim Tankersley and Alan Rappoport, "Biden Seeks \$80 Billion to Beef Up I.R.S. Audits of High-Earners," *The New York Times*, April 27, 2021.

<https://www.nytimes.com/2021/04/27/business/economy/biden-american-families-plan.html>

³⁶ Intentionally defective grantor trusts (IDGTs) allow a grantor to transfer assets out of the estate while still paying income tax on any appreciation, but protecting beneficiaries from gift taxes and possibly estate taxes.

³⁷ <https://www.vanhollen.senate.gov/download/step-act-one-pager>