

# GONNELLA ADAMSON, PC

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## **Why Wyoming?**

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## **Wyoming Advantages**

Clients considering purchasing real property in Wyoming are aware of many of the benefits Wyoming affords – natural beauty, seclusion, and economic stability. However, many are unaware of the powerful tax, business, trust, and asset protection planning opportunities available to Wyoming residents. The purpose of this presentation is to provide an overview of those opportunities.

### **1. Low Taxes**

- a. No state income tax
- b. No state corporate income tax
- c. No state gift tax
- d. No state estate tax
- e. No excise tax
- f. No intangibles tax
- g. No tax on mineral ownership
- h. Low real estate taxes

### **2. Sophisticated Trust Planning**

- a. Dynasty Trusts – Wyoming has enacted legislation allowing properly-drafted trusts to be exempt from gift, estate, and generation skipping transfer taxes for up to 1,000 years.
- b. Privacy – Unlike many states, Wyoming does not require trust agreements, assets, or beneficiaries to be reported or disclosed as a matter of public record.
- c. Modern Statutes and Administrative Flexibility – Wyoming allows for trust protectors, directed trusts, waiver of notice, virtual representation, liberal trust modification, and decanting in order to maximize flexibility and administrative efficiency.

- d. Private Trust Companies – Wyoming is one of only two states that authorizes unregulated private trust companies, providing for centralized control of family trusts and assets, nexus with Wyoming, and continuity of management and family governance.

### **3. Business and Asset Protection Planning**

- a. Single member LLC – Wyoming is one of only two states that specifically afford a single member LLC the same creditor protection as a multi-member LLC.
- b. LLC Charging Order – A creditor may only attach distributions from the LLC; the creditor may not force a dissolution of the LLC or assume the debtor's voting rights.
- c. Enhanced Privacy – Wyoming does not require the disclosure of owners or managers of an LLC as a matter of public record.
- d. Low Costs – Fees for creating and maintaining business entities in Wyoming are among the lowest in the nation.
- e. Qualified Spendthrift Trust (QST) – Typically, trust assets are not immune from creditors of the Grantor of a trust where the Grantor is also a beneficiary. A properly drafted Wyoming QST allows enhanced creditor protection even when the Grantor retains a beneficial interest in the trust assets.
- f. Tenancy by the Entirety – In Wyoming, married couples may own real property as tenants by the entirety. Such property is not subject to the individual creditors of either spouse.

### **Wyoming Residency**

Wyoming does not have a definition of residency for tax purposes because Wyoming doesn't impose an income tax. The challenge is sufficiently severing ties with other states to preclude the assertion of tax jurisdiction. Demonstrating intent to terminate residency in the old state and establish residency in Wyoming is essential. Because most states use a fact-based inquiry rather than a bright-line test for residency, we advise our clients take as many of the following actions as possible under the circumstances.

1. Maintain a domicile (preferably one you own) in Wyoming
2. Sell (or downsize) your residence in the former state
3. Spend more time in Wyoming than anywhere else
4. Register to vote (and vote) in Wyoming
5. Register vehicles in Wyoming
6. Obtain a Wyoming driver's license;
7. Renew your passport to reflect Wyoming address
8. Amend estate planning documents to reflect Wyoming residence
9. Move financial accounts to Wyoming
10. Move situs of trusts and businesses to Wyoming

11. Engage in social, civic, and religious organizations in Wyoming
12. Sign an affidavit of domicile
13. Make charitable donations in the new state (consider reducing the charitable donations in the old state)
14. Establish relationships with a doctor, dentist, accountant, and attorney in Wyoming
15. Update mailing address: financial institutions, magazines, memberships, clubs, and insurance
16. Make Wyoming your home – move family records, photo albums, heirlooms, items that are “near and dear”

### **Planning Opportunities for Non-Wyoming Residents**

For the client considering a real estate purchase in Wyoming but not yet willing or able to assume Wyoming residency, planning opportunities still exist. Tax laws vary state to state and some states offer greater planning opportunities.

1. Resitus Assets – Trusts and Business Entities that don't generate state-source income
2. **W**yoming **I**ncomplete Gift **N**on-**G**rantor (WING) Trust
  - a. Defers state income tax to receipt rather than recognition
  - b. Ideal for clients with high income who anticipate moving to Wyoming
  - c. Can be combined with a QST for enhanced asset protection
  - d. Not effective for some states – New York, Connecticut

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