

## Delaware Trusts: An Introduction

Trusts are highly effective vehicles for the transfer of wealth and frequently can help families meet a variety of estate-planning and tax-minimization goals. Modern developments in trust law permit the creation of ultra-customized trust structures. With the guidance of their advisors, individuals and families looking to establish a trust today must make a number of important decisions. One such decision is the state where the trust will be administered. Choosing the right state to establish a family's trust can have a significant impact on the ongoing management of the trust and the tax savings that may be achieved over time.

### **A Global Reputation for Excellence**

The state of Delaware holds a nearly unrivaled global reputation for excellence as a jurisdiction in which to establish a business entity or trust. This reputation is well earned and is based on several concrete factors. First, Delaware has world-renowned statutes in the areas of trust and business entity law. Second, the Delaware Court of Chancery is considered by many to be the premier state court forum in the United States for sophisticated corporate litigation and trust matters. Third, Delaware has a well-established legal and banking community that serves the wealth management needs of clients worldwide. These factors converge to make it no coincidence that Delaware is the home of 68% of Fortune 500 companies, more than a million limited liability companies and is the desired location for personal trusts of families around the world.

### **The Delaware Trust Advantage**

Much of Delaware's appeal to individuals and families, both U.S.-based and international, can be summed up by two factors: 1) tax savings and 2) customization and flexibility.

#### ***Tax Savings***

Delaware does not tax the income of a trust accumulated in the trust for distribution to non-Delaware resident beneficiaries. Depending on the tax laws of the settlor's home state, it is frequently possible to avoid state income tax on trust income. This benefit, particularly when compounded over many years, is significant in growing and preserving the assets of a trust.

## *Customization and Flexibility*

Delaware permits a high degree of customization and flexibility in the design and administration of a trust. Some of the most effective structures include:

- **Directed Trusts:** Delaware permits trustee responsibilities to be allocated to specific individuals or institutions. The most common structure is to carve out responsibilities for making investment or distribution decisions from the trust administration duties. This can be highly useful for someone who wishes to place responsibility for making investment decisions over specific assets in the trust, such as privately held stock, on someone other than a corporate trustee.
- **Dynasty Trusts:** A person creating a Delaware trust can choose the duration of the trust, even setting it up to exist indefinitely. Such trusts, frequently known as dynasty trusts, offer the potential for significant gift, estate and generation-skipping transfer tax savings across multiple generations.
- **Silent Trusts:** Many settlors do not wish for the beneficiaries to learn about the details of the trust right away, such as the value of the assets in the trust or even the fact the trust exists. This can be particularly desired when a trust is established for younger beneficiaries during a period when the beneficiaries are being encouraged to pursue an education and establish a career. Silent trusts offer the opportunity to restrict the right of a beneficiary to be informed of the details of the trust for a period of time.
- **Asset Protection Trusts:** Delaware offers strong statutory protections for both traditional third-party beneficiary trusts, as well as what are known as "self-settled asset protection trusts," under which the settlor remains a beneficiary of the trust.

Depending on an individual's personal circumstances, some or all of these structures may benefit a settlor creating a new trust. In addition to new trusts, in many circumstances existing trusts currently managed in another state may be moved to Delaware to obtain these advantages. If you would like to discuss the advantages of a Delaware trust, please contact your Glenmede Relationship Manager.

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