NEW YORK PRIVATE TRUST
A DELAWARE TRUST COMPANY

DELAWARE TRUST ADVANTAGE

"Dynasty" Trusts

Delaware allows the creation of "dynasty" trusts permitting personal property to remain in trust forever and real estate to remain in trust for 110 years. Not only does this allow for the preservation of wealth for multiple generations, such a trust can also be used to significantly enhance the benefit of the federal exemption from generation-skipping transfer tax (the "GST" tax). By allocating that GST tax exemption to a transfer to a dynasty trust; all subsequent transfers from that trust are exempt from GST tax. This is a particularly valuable planning tool if the trust is funded with rapidly appreciating assets.

Directed Trusts

To enhance investment flexibility, yet still secure the safety that comes with the appointment of a corporate trustee, Delaware permits the creation of "directed" trusts. These trusts explicitly allow the use of third party investment advisors but shield the trustee from liability for investment decisions made by this third party. This Delaware law makes it easy for a trust to use a family member or a family's existing financial advisor as the investment manager of all or a portion of a trust's assets.

Total Return Uni-Trusts

Delaware permits the creation of very flexible total return uni-trusts that align the interests of the income and remainder beneficiaries.

- Asset allocation does not need to be skewed in favor of low appreciation, income-producing assets to provide a reasonable payout to an income beneficiary.
- The trustee can pay current beneficiaries from 3% to 5% of trust principal, regardless of the trust's actual income; either the trust or current beneficiaries can pay capital gains taxes; beneficiary payments can be calculated based on the trust's average value over more than a three year time period, the limit in many other states.

The Benefits of Delaware Trusts

When selling highly appreciated assets on retirement, or to diversify an investment portfolio with substantial imbedded capital gains, residents of high income tax states often use an irrevocable non-grantor Delaware trust to sell the assets because Delaware eliminates or limits the state income tax liability for its resident trusts.

Delaware irrevocable trusts are exempt from Delaware income tax on accumulated earnings and capital gains so long as no remainder beneficiaries are Delaware residents. In addition to the exemption from these state taxes, intangible assets held in trust are not subject to estate or personal property taxes.

Asset Protection trusts

Delaware law authorizes asset protection trusts which allow the trust creator to benefit from the trust assets while shielding them from all types of creditors.

In addition, a Delaware trust that contains a "spendthrift" clause provides significantly greater protection from creditors' claims than is available in other states. Delaware's "spendthrift" provisions can even protect Individual Retirement Accounts (IRAs) and rollover IRAs from attachment.

Delaware Court of Chancery

Delaware's Court of Chancery, established in 1792, is exceptionally experienced in trust administration and enjoys an outstanding reputation. Its trust law decisions serve as guideposts for courts throughout the country. Furthermore, because of its specialized role as a commercial and fiduciary court, it does not suffer from the backlogs that plague many other states' civil courts.

Delaware's Chancery Court also permits irrevocable trusts created under the laws of other states to be moved to Delaware by a beneficiary exercising a limited power of appointment if the law of the original jurisdiction does not prevent this result.

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