



DELAWARE TRUST PLANNING

Creating a trust for your family (or yourself)?

Five reasons you should consider Delaware law for your trust

When you're creating a trust for the benefit of yourself or your family members, choosing the state law that will govern it has many implications and potential benefits for you and your beneficiaries. Delaware has long been the state law of choice for grantors. So, what makes Delaware law so special, and how can it benefit you and your family?

1) Directed trusts

Delaware permits a grantor to create a directed trust, which bifurcates the traditional responsibilities of a trustee between two or more fiduciaries. This approach has several benefits, including:

- Flexibility and control with respect to investments, especially when concentrated positions or privately held business interests are owned by the trust
- Discretionary distribution decisions can be directed by the family or a third party who may better know the family and their intentions

2) Flexibility

Delaware trust law offers flexibility to the grantor, beneficiaries and trustees, making it a relatively flexible jurisdiction for trusts for several reasons, including:

- Its decanting statute allows for relatively easy, cost-effective trust modifications
- Delaware "dynasty" trusts generally allow the trust assets to accumulate for the benefit of one generation to the next, in perpetuity, without the imposition of transfer taxes
- Delaware "purpose" trusts allow grantors to establish perpetual, non-charitable trusts

3) Quiet trusts

Traditional trust law requires a trustee to keep a beneficiary informed; however, under Delaware law the grantor can change that rule and provide for a "quiet" trust which can provide for the following:

- Grantors can direct trustees to not inform a beneficiary of his or her interest in the trust for a period of time specified in the trust document
- Grantors can specify the age or time at which the beneficiary should be informed

4) State income tax

Establishing a trust in a state that permits the trust assets to grow without payment of fiduciary income tax can provide a significant economic advantage to the trust beneficiaries. Delaware is known as a tax-friendly state for trusts for many reasons, including:

- Trusts may not be subject to Delaware state income tax if beneficiaries aren't Delaware residents—whether earning interest or dividend income or selling a capital asset
- Trusts may not need to file a Delaware state income tax return

However, it's important to note that beneficiaries who receive trust distributions may still be subject to taxation, and the trust may be taxed in the grantor's home state depending on its rules. You should consult with your tax advisor to determine the impact to your tax situation.

5) Asset protection trusts

Traditionally, an individual could not create an irrevocable trust for his or her own benefit while also protecting those assets from claims of creditors. However, Delaware allows for such asset protection trusts that can be advantageous to many, including:

- Grantors with significant wealth in their own name who want the ability to protect assets from future creditors while maintaining a beneficial interest in the trust
- Anyone engaged in high-risk activities or professions, such as physicians and attorneys

Case study: For current and future generations

Client situation

- Desire to transfer wealth
- Primarily for grandchildren
- Also benefit children, but concerned about derailing child's progress

Why Delaware

- Perpetual trusts
- Quiet trusts

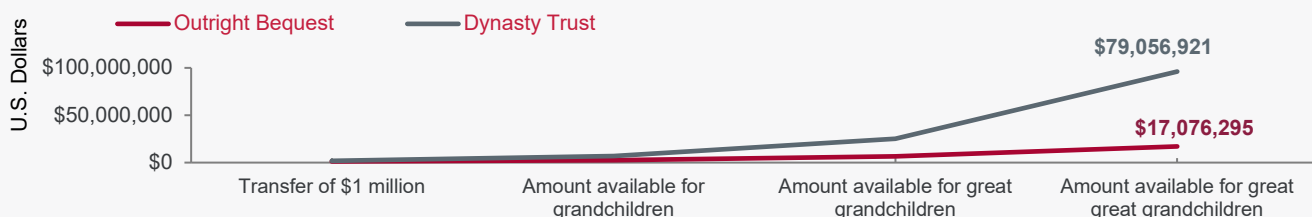
Planning outcome

- Dynasty trust created
- No duty to inform for 15 years

Comparing outright gifts and dynasty trusts

The following charts illustrate the potential effect of long-term compounding free of transfer tax in a dynasty trust compared with the imposition of transfer tax at each generation.

Dynasty trust compared to outright bequest	Outright bequest	Dynasty trust
Transfer of \$1,000,000	\$1,000,000	\$1,000,000
Future value (25 years @ 6%)	4,291,871	4,291,871
Estate tax (at children's death @ 40%)	(1,716,748)	(0)
Amount available for grandchildren	2,575,122	4,291,871
Future value (25 years @ 6%)	11,052,093	18,420,154
Estate tax (at grandchildren's death @ 40%)	(4,420,837)	(0)
Amount available for great-grandchildren	6,631,256	18,420,154
Future value (25 years @ 6%)	28,460,491	79,056,921
Estate tax (at great-grandchildren's death @ 40%)	(11,384,197)	(0)
Amount available for great-great-grandchildren	17,076,295	79,056,921



This illustrates the potentially dramatic difference between making a \$1 million outright gift to the next generation, allowing it to grow and be subject to estate tax in each succeeding generation, and transferring that same \$1 million to a trust that lasts for several generations without being subject to estate tax. Using the assumed rates in this example, using a dynasty trust, James and Jennifer's trust can reach almost \$80 million at the end of their great grandchildren's lives, compared with \$17 million if they make an outright gift. (Not taking into account distributions.)

There are many reasons why Delaware is attractive as the state law of choice for a trust. **For more information about why Delaware may be right for your trust, visit our [Delaware Trust Planning](#) resource page.**

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