

## SPECIALIZED TRUSTS

*A Comparison of Various Jurisdictions with Favorable Trust Laws*

What does it mean for a state to be considered “trust friendly?” States that have focused on modernizing trust laws to promote flexibility and tax and non-tax advantages. Key attributes include the ability to establish long-term trusts for wealth enhancement, lack of a state income tax, laws permitting advisors to direct investments or distributions, alternatives for transferring assets into new trusts and the opportunity to establish confidential trusts. The comparison chart below provides a high-level overview of trust-friendly states.

ATTRIBUTE	DELAWARE	NEVADA	SOUTH DAKOTA	ALASKA	WYOMING
<b>Long-Term or Perpetual Trusts (good jurisdiction for Dynasty Trusts)</b>	Perpetual (real estate is 110 years, but can be held in LLC and be perpetual)	365 years	Perpetual	Perpetual	1000 years
<b>State Income Tax on Trusts</b>	No Delaware income tax assuming no Delaware beneficiaries	No state income tax	No state income tax	No state income tax	No state income tax
<b>Directed Trusts</b>	Statute is most developed and supported by case law	Effective statute	Effective statute	Directed trust statute doesn't clearly provide full protection for trustee	Effective statute
<b>Decanting</b>	Flexible statute	Very flexible statute	Very flexible statute	Less flexible statute	Less flexible statute
<b>Merger</b>	Cannot result in material change in the beneficial interests of beneficiaries; statute does not require court approval; statute does not require notice*	No merger statute	Cannot impair rights of a beneficiary or substantially affect accomplishment of trust purpose; statute does not require court approval; statute silent regarding notice requirement*	No merger statute	Cannot impair rights of a beneficiary or adversely affect achievement of trust purposes; statute does not require court approval; notice must be provided to qualified beneficiaries



ATTRIBUTE	DELAWARE	NEVADA	SOUTH DAKOTA	ALASKA	WYOMING
<b>Trust Modification Statute/ Non-Judicial Settlement Agreement (NJSA) Statute</b>	Only NJSA statute	No trust modification statute; no NJSA statute	Only trust modification statute	No trust modification statute; no NJSA statute	Trust modification statute and NJSA statute
<b>Self-Settled Asset Protection Trusts</b>	4-year look-back period; exceptions for marital claims that arose before assets transferred into the trust and tort claims that arose before assets transferred into the trust	2-year look-back period; no exceptions	2-year look-back period; exceptions for marital claims that arose before assets transferred into the trust	4-year look-back period; no exceptions	4-year look-back period; exceptions for marital claims that arose before assets transferred into the trust and tort claims that arose before assets transferred into the trust
<b>Asset Protection – Third-Party Trusts</b>	Statute provides no creditor can receive distributions from a trust unless that creditor is a beneficiary named in the trust, AND provides that distributions can be made on behalf of a beneficiary as well as directly to a beneficiary	Standard spendthrift provisions	Statute specifies discretionary interest is not a "property interest" owned by the beneficiary, and therefore not property that a creditor could try to attach	Statute specifies discretionary interest is not a "property interest" owned by the beneficiary, and therefore not property that a creditor could try to attach	Statute specifies discretionary interest is not a "property interest" owned by the beneficiary, and therefore not property that a creditor could try to attach



ATTRIBUTE	DELAWARE	NEVADA	SOUTH DAKOTA	ALASKA	WYOMING
<b>Privacy – Court Action Under Seal</b>	Allowed in civil actions	Court has option to keep action under seal	Can be under seal indefinitely	Limited privacy	Not permitted
<b>Privacy – Notice to Beneficiaries</b>	Statute does not require notice to be given to beneficiaries for a period of time	No provisions regarding ability to restrict notice to beneficiaries	Notice not required to be given to beneficiaries	Notice not required to be given to beneficiaries	Notice not required to be given to beneficiaries
<b>State Tax on Insurance Premiums Paid by Trust</b>	200 basis points	350 basis points	8 basis points	10 basis points	75 basis points
<b>Private Trust Companies</b>	Permitted by statute	Permitted by statute	Permitted by statute	Not a popular state for private trust companies	Not a popular state for private trust companies
<b>Judicial and Legislative Environment</b>	Recognized as the leader in this category, having the longest history and most case law regarding flexible and progressive trust environment	Concentrated focus on favorable trust laws, and has received rulings (PLRs) regarding Nevada trusts	Recently enacted the "Governor's Task Force" to promote flexible and progressive trust environment	Fewer trust companies and smaller numbers of attorneys specializing in trusts & estates	Fewer trust companies and smaller numbers of attorneys specializing in trusts & estates

\* As a general industry practice, most trustees require consents, release and indemnification from interested parties.



## FOR MORE INFORMATION

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