

# Delaware Trusts



## At a Glance

Trusts are a valuable estate planning tool, but they can be complex and difficult to administer.

Delaware makes the process easier, offering distinct advantages, such as investment and administrative flexibility and control, a consistent and experienced court, fiduciary income tax savings, and unique estate planning options.

Bessemer Trust Company of Delaware, N.A., offers clients access to Delaware's attractive trust laws. Our experienced professionals provide practical guidance on appropriate trust structures, trust administration, investment management, and other specialized services.

## About Bessemer Trust

Privately owned and independent, Bessemer Trust is a multifamily office that has served individuals and families of substantial wealth for more than 110 years. Through comprehensive investment management, wealth planning, and family office services, we help clients achieve peace of mind for generations.

## Small State, Big Benefits

For many families, establishing trusts to pass assets from one generation to another is a key component of an estate plan. Yet trusts — and the laws that govern them — are often complex, making it challenging to extract their full benefits.

Delaware's sophisticated and progressive trust laws make it easier, offering advantages when it comes to protecting your wealth and achieving your wealth transfer goals.

While several states offer similar benefits, Delaware provides the most comprehensive combination of advantages for trust creators and

beneficiaries — and the longest history of doing so. A few examples:

**Directed trusts for flexibility and control.** Unlike many other states, Delaware's laws have long recognized the concept of a "directed trust" with regard to investments and distributions, and its courts have upheld their use. The trust's creator chooses an adviser to fulfill certain responsibilities traditionally within the trustee's discretion. Often, this means the corporate trustee handles trust administration while investment and/or distribution powers reside with the adviser, ensuring maximum investment flexibility and allowing you to hold certain assets (business interests, real

## The Delaware Trust Advantage

### Directed Trusts for Flexibility and Control

Assign administrative/other duties to a trustee and appoint an adviser to control investments and distributions. Ensures investment flexibility.

### A Trust-Friendly Court System

A long history of well-reasoned court rulings and a commitment to protecting the advantages of its trust laws.

### Confidentiality via Quiet Trusts

With quiet trusts, providing information to beneficiaries (even as to the trust's existence) may be deferred. When combined with a hands-off court, quiet trusts allow for confidential trust administration.

### Enhanced Tax Savings

No state income tax on income/capital gains for nonresident beneficiaries and no indirect taxes. With dynasty trusts, proper planning can reduce or eliminate federal and state\* estate, gift, and generation-skipping transfer taxes indefinitely.

\*Effective December 31, 2017.

estate, concentrated positions) that a corporate trustee may be unwilling to hold.

**A trust-friendly court system.** Delaware has a long history of well-reasoned court rulings and a demonstrated commitment to safeguarding the advantages of its trust laws. Delaware trust cases fall exclusively within the jurisdiction of a single state court, the Delaware Court of Chancery, which only hears trust and corporate law cases, leading to consistent results and expertise in complex trust and corporate matters — especially since there are no jury trials. In practice, court proceedings are handled in a timely, efficient, and in some circumstances, confidential manner.

**Confidentiality via quiet trusts.** Many parents are wary about letting their children know about the extent of their wealth or the trusts held on their behalf before they are mature enough to handle the information responsibly. Not all states permit quiet trusts, but in Delaware, the duty to provide information to beneficiaries (even as to the trust's existence) may be deferred to a specific date, age, or triggering event. Including such language in a trust, when coupled with the Delaware court's hands-off approach (trusts are not registered with the court, and the court does not supervise trust administration unless an interested party requests it), allows for confidential trust administration.

**Enhanced tax savings.** Delaware imposes 1) no state income tax on an irrevocable trust's undistributed income and capital gains for nonresident beneficiaries and 2) no indirect taxes, such as the intangible personal property tax, ad valorem tax, franchise tax, gross receipts tax, GST tax, and gift tax. Also, unlike many states, Delaware permits trusts with no time limits (dynasty trusts), so the assets may indefinitely remain free of federal and state (as of 12/31/17) estate taxes, gift taxes, and GST taxes.

## The Bessemer Difference

One of the largest trust companies in Delaware by assets, Bessemer Trust Company of Delaware, N.A., is ideally equipped to handle all of your Delaware trust needs.

Most of our trust officers are attorneys by training, many holding advanced degrees in taxation. Several are former practicing estate planning attorneys, are licensed to practice law in Delaware, and are actively involved with the Estates and Trusts Section of the Delaware Bar Association (the organization that drafts new trust legislation).

We operate our Delaware office to best protect your Delaware trust and to limit the possibility of a legal challenge in a court outside of Delaware.

Not only can we work with you and your estate planning attorney to create a new Delaware trust that meets your needs, but we also have extensive experience with migrating existing trusts into Delaware. We are open to customizing trusts, and we do not require any standard language that would be solely for our benefit. This minimizes modifications when transferring an existing trust to Delaware and maximizes your creativity when creating a new trust.

In addition to serving as trustee or co-trustee, we also offer investment management and specialized services — such as independent guidance for private businesses held in trust, monitoring concentrated stock positions held in trust, or valuations of business assets held in trust — that draw upon the best thinking and resources of our entire firm.

*To learn more about Delaware trusts or any of our other offerings, please contact your client service team or your local Bessemer Trust office.*

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