Practical Delaware Planning Ideas and Solutions for Families and Business Owners

CAEPC Presentation
March 2, 2020

Anne Booth Brockett
President & Chief Trust Officer
BMO Delaware Trust Company

Why Delaware? It’s the total package.

- History and depth of experience
- Progressive statutes and tax legislation
- Many statutes developed organically in recognition of changing grantors’ and beneficiaries’ needs
- Delaware legislature’s strong track record of passing progressive statutes with regular updates
- Court tested by Delaware’s Chancery Court
- The overall combination of available tools and strategies

Highlighted Planning Tools

- **Direction Trusts**
- **No Rule Against Perpetuity**
- **Favorable Tax Treatment**
- **Privacy and Quiet Trusts**
- **Pre-Mortem Validation**
- **Creditor Protection Strategies**
- **Modification Strategies**
  (Decanting, Mergers, Section 3338 and 3342 NJSAs)

Delaware's Direction and Excluded Trust Statutes

Delaware's **Direction Trust**

An Overview

Delaware's Direction Trust statute offers Settlors and beneficiaries the opportunity to retain a level of flexibility and control in the management of a trust.

Duties and responsibilities generally held by the Trustee can be fully divided and allocated among other fiduciaries named in the governing instrument. Although highly customizable, these power holders are generally referred to as "advisers" and fall into one of three categories:

- Direction Investment Adviser
- Distribution Adviser
- Trust Protector

Each fiduciary's liability is limited to the fiduciary's **own** actions, subject to a wilful misconduct liability standard. This division allows the advisers to act independently, without the Trustee having the responsibility or duty to monitor the advisers. Instead, the Trustee and the advisers can focus on the respective roles for which they were separately chosen.

Delaware Direction Trust

The Delaware Trustee holds the fiduciary powers that have not been allocated to the advisers. Additionally, the Trustee completes all actions as directed by the advisers.

Net result: Management is centralized.

The Direction Investment Adviser has sole power and authority over the trust's assets.

The Distribution Adviser has power and authority to direct the Trustee regarding all discretionary distribution decisions.

The Trust Protector role can be highly customized to include a wide range of powers.

Delaware Direction Trust Ownership = No Change in the Company's Management

- No change in the company's day to day management
- No change in the company's long-term or strategic planning process
- No change in the primary decision makers, driving your company's future

Excluded Trustee Statute – Section 3313-A

How it Works

- The co-Trustee role is defined under Delaware's Excluded Trustee statute with specific reference the statute.

- Governing instrument bifurcates defined fiduciary responsibilities and duties, and allocates them to at least one of multiple co- Trustees then serving.

- Bifurcation is full and complete.

- Authorized co-Trustee can act and bind the Trust to the exclusion of the other Trustees.

- The remaining co-Trustee(s) to whom the responsibilities and duties are <u>not</u> allocated are deemed to be Excluded Trustees.

- Unlike in a Directed Trustee arrangement, the statute provides the Excluded Trustee <u>has no liability</u> for the decisions, actions or inactions of the co-Trustee relative to the bifurcated powers.

- *Dynastic Planning*
- *Delaware's Favorable Income Tax Treatment*
- *Trustor Tax Reimbursement Tool*

Delaware Favorable Tax Strategies

Opportunity to benefit successive generations without successive tax bites

There is a long-standing history of Delaware adopting a progressive approach to taxes.

Generation Skipping Transfer Tax

- Delaware was the first state to abolish its Rule against Perpetuity.
- Individuals may create Delaware trusts which may last forever, with the exception that real estate may not be held in trust longer than 110 years. This exception is often addressed by placing the property in an LLC.

Income Tax

If properly structured, a non-grantor Delaware Truss potentially may be structured so it is subject solely to Delaware for fiduciary income tax purposes.

Potentially applicable for both newly created or already existing trusts migrated to Delaware.

Delaware Dynastic Planning

Illustrations

Completed Gift DAPTs

Asset Protection Trusts (DAPTs) that are created by the Grantor as a completed gift. However because of the asset protection overlay, the Grantor is one of the beneficiaries.

Sample Completed Gift DAPT Funding Strategies

- Created and funded by the Grantor
- Dynasty Trust is declared by the Grantor but funded via a directed decanting from an existing DAPT or DING.

Additional Planning Options

- **DAPT Hybrids**
- **Springing DAPTS**
- **SLATs**
- **BDITs**
- **GRATS**

All of the above can additionally benefit from other Delaware statutes involving direction trusts, investment latitude, income tax statutes, etc.

Delaware Tax Trap

.

Delaware's Favorable Income Tax Laws

Delaware's favorable income tax laws can potentially benefit any type of trust that is structured as its own tax paying entity.

Depending on a trust's associated facts and circumstances, it is possible for a Delaware trust to be structured to that it effectively does not pay any state income tax.

NOTE: Assets held in Delaware trusts cannot avoid state tax owed on source income and paying federal income tax.

Delaware does not impose state income tax on recognized capital gains and accumulated income that are retained in Delaware trusts.

- No Delaware tax is imposed on distributions completed to nonresident beneficiaries.
- No Delaware tax is owed on accumulated income retained in a Delaware trust for future distributions to nonresident beneficiaries (i.e. the remaindermen).

Delaware's Tax Laws May Intersect with Other States

Considerations and Illustrations

While a trust may not be subject to Delaware income tax, it does not necessarily mean that it is not subject to paying any state income tax.

A number of factors can cause trusts to be subject to other tax jurisdictions. Careful analysis is recommended at the time of a trust's creation, during administration, and when it is being considered for transfer to another jurisdiction.

Illustrations Involving Potential Income Tax Savings

- **Successor Trusteeships** - Trusts with individual or corporate trustees that are currently paying state fiduciary income tax.
- **Irrevocable Trusts Being Drafted** – Choosing Delaware as opposed to another jurisdiction may result in significant tax savings. However, this result is highly fact specific.
- **DING Trusts** (**D**elaware **I**ncomplete **n**on-**G**rantor) Trusts

Sample Stock Sale

Arizona Trust versus Delaware Trust

Sale of a Company

An Arizona resident funds a trust with interests in a closely held company. The shares are subsequently sold, triggering a $10 MM long term capital gain. The transaction is structured as a stock sale with no recognition of source income.

Business Interests sold by the Arizona trust	**Estimated Net Tax Proceeds**
Arizona income tax (assumes 4.5%)	($450,000)
Federal income tax (assumes 20%)	($2,000,000)
	$7,550,000

Business Interests sold by the Delaware trust	**Estimated Net Tax Proceeds**
Delaware income tax	($0)
Federal income tax (assumes 20%)	($2,000,000)
	$8,000,000
Tax Savings Through Delaware Planning	$450,000

Assumptions:

- 4.5% Arizona marginal tax rate, excluding county and city income tax.
- The Delaware trust is structured so that it is solely subject to Delaware tax jurisdiction and has no Delaware beneficiaries.

Delaware Incomplete Non-Grantor Trust ("DING")

A DING trust is a type of asset protection trust which incorporates an income tax saving strategy. Similar to other asset protection trusts, it is an irrevocable, self settled trust which, if properly designed, is funded as an incomplete gift with the trust becoming its own tax paying entity. Consequently, the trust (as opposed to the Grantor) is responsible for the on-going tax reporting and payments.

Highlights of the Design Elements:

- The trust must be created as a Delaware Asset Protection trust.
- Distributions by the Trustee require direction by a Distribution Committee, comprised of individuals who are adverse parties for any distributions to the Grantor and/or the Grantor's spouse. Often this Committee is comprised of family members such as children and or siblings.

  An adverse party is defined as someone who may receive distributions from the trust.

  The Distribution Committee generally has at least 3 members with the committee structure including a "last man standing" arrangement.
- The trust should be structured so its funding is an incomplete gift.
- The Grantor retains a veto right over distributions to himself and lifetime and testamentary special powers of appointment.

Delaware Illustration

Income Tax Strategy that Provides Investment Control and Asset Protection – New Drafting

Prospect Profile

Tom's family has a long-standing commercial relationship with a Bank. He is currently a Florida resident. He plans on moving to California within the next few months to start another tech venture.

He has a history of creating and selling companies.

He is married with four young children.

His net worth is approximately $50 MM with $2 MM of annual income.

Need

Currently Tom is not paying state income tax. He is interested in income tax savings strategies that could help reduce the bite of California's 13.3% state income tax.

Solution – DING Trust

Tom created a DING trust which will hold shares of his family's closely held company.

Tom's sister will be the **Direction Investment Adviser.** The Delaware Trustee will not be involved in the management of the company.

Although irrevocable, the trust is funded without Tom using his exemption. The trust assets will remain as part of his estate.

The trust is designed so that <u>it will not pay state income tax on realized capital gains and *income earned by the trust but not distributed.</u>

Excludes asset based sales and source income.

Trustor Tax Reimbursement
New Tool – Effective 2019

- Certain trustees may have a discretionary power to reimburse the trustor of a so-called “grantor trust” for any amount of the trustor’s personal federal or state income tax liability attributable to the trust.
- Barring prohibitive language in the governing instrument, the trustor may be reimbursed for the trustor’s personal federal or state income tax liability that is attributable to the trust ‘s income, capital gains, deductions and credits in the calculation of the trust’s taxable income.
- The decision to reimburse the Trustor may be made at the Trustee’s sole discretion or at the direction or consent of an adviser.
- Both the Trustee and the adviser cannot be related or subordinate party to the trustor.
- Delaware’s spendthrift provision extends protection to trusts in which this action is completed.
- This reimbursement power does not apply to trusts in which the reimbursement will reduce a charitable deduction otherwise available to any person for state or federal income, gift or estate tax purposes.

Tools for Moving and Modifying Trusts

- ❑ ***Decanting***
- ❑ ***Merger***
- ❑ ***Section 3338 NJSA***
- ❑ ***Section 3342 NJSA***

Tools for Moving Trusts to Delaware and Modifying Them

Multiple Tools that Are Actively Used

Decantings –The statute provides both for traditional decantings between a distributing and receiving trust, as well as decanting within the same trust (i.e. a modification)

Mergers – The statute provides that an existing trust can be merged into a trust which has been declared under a new agreement for the purpose of the merger and not funded other than to receive assets from the original existing trust. Under this approach, the GST exemption status for the original trust transfers to the new resulting trust.

The new trust cannot result in a material change in the beneficial interests.

Non-Judicial Settlement Agreements

- Section 3338 – Statute outlines several potential uses; material purpose cannot be violated
- Section 3342 – Modification by Consent While the Trustor is Living; broad power to modify the trust, even if inconsistent with a material purpose

Delaware Illustration

Family Trust Created by Family Business, Modified to Invest in Future Family Businesses

Prospect Profile

An Arizona corporate Trustee manages a $13 MM trust. Sarah is the current beneficiary. Upon her death, she has the ability to direct how the assets pass to her children and grandchildren. In default, the assets pass outright equally to her children.

The trust was created with wealth created by her family's company which existed for multiple decades. The trust instrument reflected the Grantor's support for ownership in family owned companies.

Need

Sarah would like for the trust to invest in her son, Dale's company. A national pharmacy retailer has expressed an interest in carrying his product. Dale has several investors but needs an additional $300,000 to expand production.

The corporate Trustee has investment responsibility.

Potential tax savings with the move to Delaware!

Solution – Sole Power/Direction Combo

A Delaware corporate Trustee is appointed as the successor Trustee and the trust is modified so that:

- Sarah is able to appoint herself as the Direction Investment Adviser; and
- is able to direct the Delaware Trustee to invest up to 5% of the Trust FMV (valued annually) in businesses created by family members.

The family's attorney is appointed as the Trust Protector and has the ability to name a successor Direction Investment Adviser if Sarah is no longer willing or able to serve.

The Trust Protector is also able to make administrative amendments in case future changes are needed for future investments.

Sarah directed the Delaware Trustee to raise $300,000 cash and invest the proceeds in Dale's company. The corporate Trustee continues to manage the remaining assets.

Delaware Illustration

Widow Needs a Trustee Who Will Work with a Broker- Successor Trusteeship

Prospect Profile

Jennifer was the beneficiary of several trusts with a corporate Trustee with a brokerage arm. Both her personal assets and trusts were managed by her broker, Barb. Jennifer and Barb had worked together for over ten years.

Barb moved to another brokerage.

The trust documents required that a corporate Trustee serve. Raymond James refused to serve with Barb managing the assets held with another firm.

Need

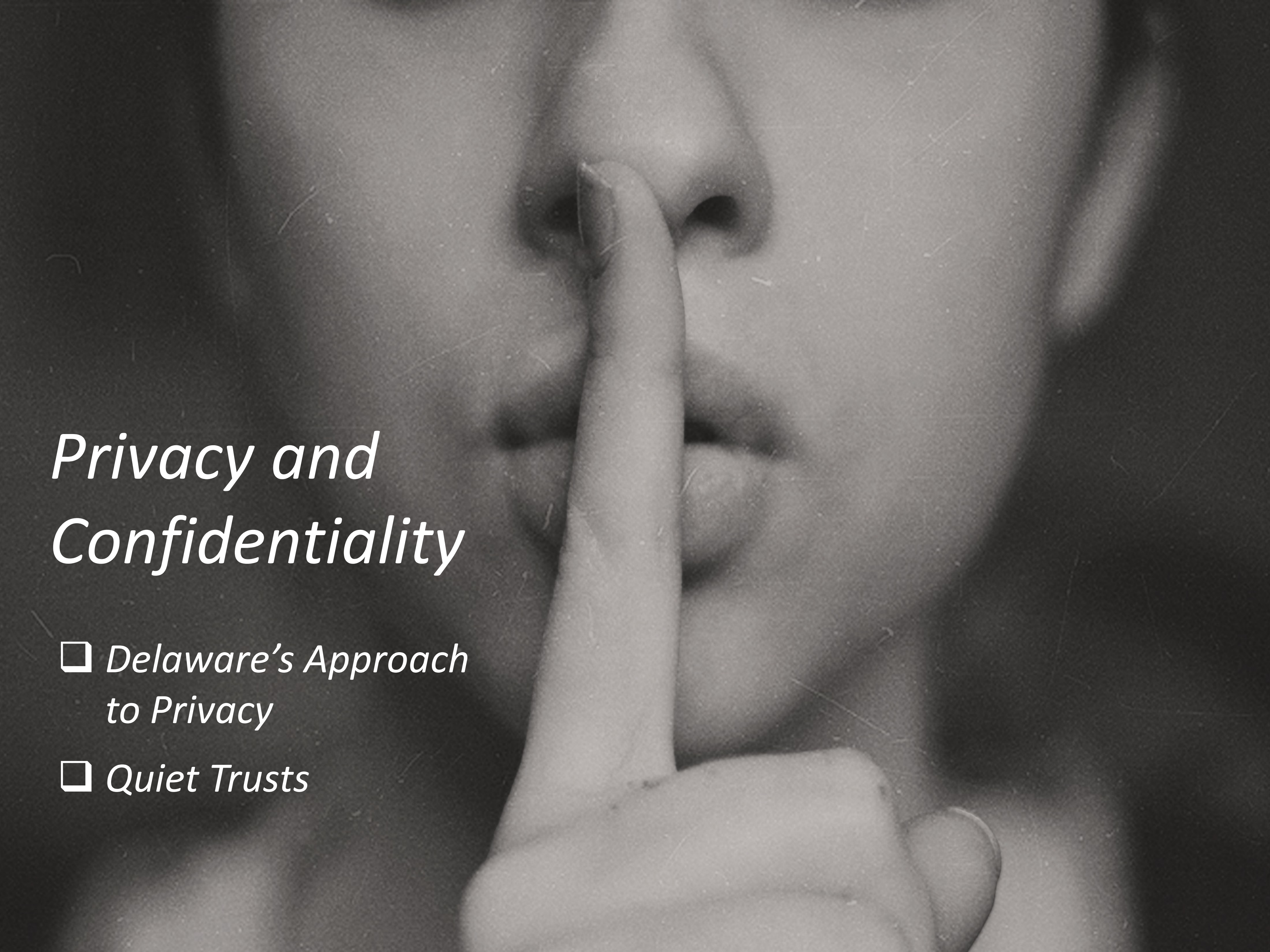
Jennifer wanted Barb to be involved in the management of the trusts' assets but needed to find a corporate Trustee who will let the broker be involved.

Solution – Delaware Directed Trust

The trusts were modified so that Jennifer was given investment power as the Direction Investment Adviser.

The trusts were moved to Delaware with a Delaware Trustee being appointed as the successor Trustee.

Jennifer directed the Trustee to hire Barb's firm. The Trustee engaged the broker and arranged for the broker to work directly with Jennifer in managing the portfolios.



Privacy and Confidentiality

- ❑ *Delaware's Approach to Privacy*
- ❑ *Quiet Trusts*

Statutes Promoting Privacy
History of Privacy and Confidentiality

Delaware's Approach

Delaware's laws and trust culture reflect a history of protecting privacy and confidentiality. Information concerning a trust's existence, terms, assets, beneficiaries, etc. is private and not a matter of public record.

Absent being compelled by Delaware's Court of Chancery or a mandate in the governing instrument, intervivos and testamentary trusts are not required to file accountings.

Who May Benefit

Individuals and families who value privacy and who do not want their wealth and estate plans to be subject to public scrutiny.

Business owners who want to do planning without having to publicly disclose the ownership structure of their company.

Statutes Promoting Confidentiality

Quiet Trusts

Delaware takes a different approach from most states, allowing a Settlor to create a "Quiet Trust". Through a combination of Delaware's statutes, a Settlor is able to restrict the Trustee and other fiduciaries from disclosing information concerning the trust to a beneficiary for a period of time. This can offer an opportunity to:

- Create an arrangement which both benefits and protects spendthrifts or individuals with various lifestyle issues;
- Fine tune when beneficiaries receive information so as to not interfere with their educational and career pursuits; and/or
- Help protect information regarding the beneficiary's wealth when their living situation may otherwise cause the information to be readily accessible to outside individuals (i.e. a college dormitory or shared apartment).

Quiet Trusts
Key Components

- Clear direction to the trustee and other fiduciaries regarding their duties, the desired restrictions and which beneficiaries the restrictions apply to.

- Directions should include the nature of the restricted information and the restriction time period.

- The time period or “quiet period” is a key component and should be tied to a “triggering event”. Delaware’s statutes provide examples of acceptable time periods.

- Designated Representatives are highly recommended for Quiet Trusts.
  - Serves as a fiduciary in representing the beneficiaries
  - Receives trust information and is able to legally bind them relative to the information, judicial proceedings and nonjudicial matters
  - Ensure there are no conflicts with the appointment

Note: Delaware Trustees are required to provide full and adequate notice to beneficiaries if the governing document does not include disclosure restrictions.

Quiet Trusts

Illustrations

Who May Benefit

- Parents or grandparents who want to create trusts for their children or grandchildren but do not want to provide a disincentive for young beneficiaries to work or complete their education.
- Families who are concerned that their kids may not be careful with information or statements while living in a dorm or roommate setting.
- Individuals who want to create trusts for family members but want to do so in a manner that addresses lifestyle management issues.

Sample Arrangements

- The quiet period remains in effect until the beneficiary attains a defined age or accomplishment.
- The quiet period remains in effect until the beneficiary attains age 30. However the Trust Protector has broad discretion to shorten the quiet period. If this decision is made, the Trust Protector is to direct all of the fiduciaries and powerholders.
- A trust is established for Gen 2 and 3 with the latter consisting of minors. Discretionary distributions may be made to each with primary consideration being given to Gen 2. Gen 2 receives full disclosure while Gen 3 is subject to non-disclosure until age 27.

Delaware's Pre-Mortem Validation

A *Powerful Tool with Potential Personal Consequences*

Delaware’s Pre-Mortem Validation

Relatively New, Successfully Tested Litigation Tool

Delaware has several statutes enabling certain wills, trusts, and exercises of testamentary powers of appointment to be validated prior to the death of the testator, Grantor, or power exercisor.

This provides the opportunity for Individuals to provide family members advance notice of their estate plans and face disputing family members in court, should any proceed to file objections in Delaware’s Chancery Court.

The Pre-Mortem Validation Election under Section 3546 was successfully tested: See Ravet vs Northern Trust of Delaware and Barry C. Fitzpatrick in their Capacities as co-Trustees (C.A. No. 7743- VCG).

Who May Benefit

- Individuals who do not intend to treat family members equally.
- Business owners who intend to provide differently for their children based on their interest and roles in the family company.

Delaware's Pre-Mortem Validation

Powerful Tool with Potential Personal Consequences

Possible key consideration….. future holiday meals with family.

Depending on where things lead, pre-mortem validation can be a useful tool for preventing or controlling the timing of future litigation. However the applicability of its use and application is highly fact specific.

Asset Protection Strategies

- *Statutory Tenancy By The Entireties Property In Trust*
- *Spendthrift Provision*
- *Domestic Asset Protection Trusts*

Creditor Protection

Highlights of Available Tools

Statutory Tenancy By The Entireties Property In Trust.

Provides creditor protection for property titled as tenants by entireties when contributed to Delaware revocable trusts and asset protection trusts.

- Generally protects property titled as tenants by the entireties from creditors for a debt of one spouse.
- Permits married couples to contribute tenancy by the entireties property to a revocable trust without losing whatever creditor protection they enjoyed when holding the property as tenants by the entireties.
- Enables spouses to contribute their respective joint interests in the property to different revocable trusts without losing the creditor protection afforded by the statute.

Spendthrift Provision

- Designed to provide trust beneficiaries practically complete statutory protection against claims against the trust or beneficiaries' personal creditors clams against the beneficiary's interests in the trust
- Statute is well tested with favorable results
- Recent case - *Mennen, et al. v. Fiduciary Trust International of Delaware, et al. (May 17, 2017)*

Delaware's Spendthrift Provision

Sample Coverage

- If a Trustee has the power to reimburse the Trustor for income taxes, the Grantor will not be considered a beneficiary of the trust or cause the trusts assets to be subject to the Grantor's creditors.
- A Grantor's retained right to receive discretionary distributions as reimbursement for income taxes paid by the Grantor, attributable to the trust assets will not in and of itself cause the Grantor's transferred property to become subject to the Grantor's creditor claims.
- A beneficiary is not considered a trust's Grantor solely because of a lapse, waiver, or release of the beneficiary's right to withdraw all or a part of the trust property.
- Intervivos marital trusts that are treated as qualified terminable interest property or are eligible for the marital deduction -
  - o Property not treated as being contributed by the Grantor, even if the Grantor is a potential beneficiary after the death of the Grantor's spouse; extends spendthrift protection to the Grantor if the Asset Protection Trust does not provide protection.

Delaware's Asset Protection Trust Statute

Qualified Dispositions in Trust Act ("The Act:")

- Delaware passed its statute shortly after Alaska in 1997.
- 23 years of administration experience with some Court involvement.
- See 12 <u>Del. C.</u> §§ 3570-3576. Statute is referred to as "The Act".
- **The Act outlines the statutory requirements for both newly created trusts as well as those transferred to Delaware.**
- Offers guidance for trusts transferring to Delaware to meet the Act's requirements:
  - A transferred trust is deemed to be a Delaware Asset Protection if it satisfies the requirements of the Act with the appointment of a Delaware Trustee.
  - The Act requires references to Delaware governing law; if missing from the governing instrument of a transferred trust, a qualified disposition will be effected upon the appointment of a Delaware Trustee.

Domestic Asset Protection Trusts ("DAPT")

Who May Potentially Benefit – Individuals and Trusts

Who May Potentially Benefit

- Business owners
- Individuals in high risk professions (e.g. doctors, attorneys, architects, private pilots, etc.)
- Directors and members serving on corporate and non-profit boards
- Individuals receiving significant assets outright through inherited wealth or settlement agreements
- Individuals interested in pre-nuptial planning
- Individuals who qualify and are interested in strategies which help mitigate income tax and creditor risk
- Individuals who want to create irrevocable trusts for themselves and their family with the assets being excluded from their estate (with the added potential of achieving state income tax savings)

Additional Applications

- Dynasty Trusts
- GRATS
- CRUTs
- QPRTs

Delaware's Asset Protection Trust Statute

Considerations and Recommendations for Creating Strong Facts

- Strong jurisdictional ties are recommended; consider going beyond minimum statutory requirements.
- Outside fiduciaries and advisers may serve with the Delaware Trustee.
  - When selecting advisers, consider general conflicts of laws rules regarding choice of governing law.
- *"Exclusive Duties of the Delaware Trustee"* provisions can help strengthen Delaware jurisdictional ties.
- Expanded due diligence helps protect all parties, including the trust's integrity
- Affidavit of solvency is key, including pre and post solvency analysis
- Carefully consider funding assets (*character, location, cash flow, and alignment with trust's anticipated administration)*
- Grantor may select retained powers but balance is recommended
- 4 Year Tailing period
- Exception creditors
- Beware of fraudulent transfer rules
- Respect governance for the trust and related corporate entities

Delaware's Asset Protection Trust Statute

Why Jurisdictional Ties to Delaware are Important

- Avoids the trust becoming subject to the jurisdiction of courts in other states.

- Ensures the trust can be governing by Delaware law for issues relating to validity and other matters.

- Ensures the enforceability of the spendthrift clause under Delaware's jurisdiction and avoids general conflicts of law issues.

Delaware Case History – Situs Determination

Delaware's case history shows the Court giving strong consideration to the following when determining situs for intervivos trusts.

Intention of the settlor / the domicile of the trustee / the place in which the trust is administered

Lewis v. Hanson, 128 A.2d 819 (Del. 1957), aff'd sub nom. Hanson v. Denckla, 357 U.S. 235, reh'g denied, 358 U.S. 858 (1958) Wilmington Trust Co. v. Sloan, 54 A.2d 544, 549 (Del. Ch. 1947);Equitable Trust Co. v. Ward, 48 A.2d 519, 529 (Del. Ch. 1946).

Flexibility with Delaware's DAPT Statute

Qualified Dispositions in Trust Act

Delaware's Qualified Dispositions in Trust Act offers flexibility.

Enables Grantor to potentially meet personal tax objectives in addition to determining how the beneficiaries will enjoy the assets.

Tax Planning Options

As part of the creation process, a Grantor can choose from the following options for transfer and income tax purposes:

- Incomplete gift/grantor trust
- Income gift/ non-grantor trust
- Completed gift / grantor trust
- Completed gift / non-grantor trust

Retained Powers or Rights

Because the trust is irrevocable, the Grantor must relinquish control over the assets. However, the Delaware statute permits the Grantor to retain certain powers or rights.

It is generally recommended that the retained powers are properly balanced.

Appendix

- Highlighted Delaware Cases
- Biography – Anne Booth Brockett
- Disclosure

Highlighted Delaware Cases	
Direction Trust Statute	R. Leigh Duemler v. Wilmington Trust Company, C.A. 20033, V.C. Strine (Del. Ch. Oct. 28, 2004) (Trans.). Mennen v. Wilmington Trust Company, George Jeffrey Mennen and Owen J. Roberts as Trustees, C.A. No. 8432-ML (Del. Ch. Dec. 8, 2014) (Draft Report), C.A. No. 8432 (Del. Ch. April 24, 2015) (amended April 27, 2015)(Final Report), C.A. No. 8432 (Del. Ch. Dec. 8, 2015 (Final Order), aff'd, No. 1, 2016 (Del. Jun. 21, 2017). Paradee v. Paradee, C.A. No. 4988-VCL, V.C. Laster (Del. Ch. October 5, 2010) (Mem. Op.).
Case history regarding determination of situs for intervivos trusts	Lewis v. Hanson, 128 A.2d 819 (Del. 1957), aff'd sub nom. Hanson v. Denckla, 357 U.S. 235, reh'g denied, 358 U.S. 858 (1958) Wilmington Trust Co. v. Sloan, 54 A.2d 544, 549 (Del. Ch. 1947).
Confirmed definition and application of Delaware exclusive jurisdiction provisions	IMO Daniel Kloiber Trust U/A/D December 20, 2012, C.A. No. 9685-ML, VC Laster (Del. Ch. Aug. 6, 2014).

Highlighted Delaware Cases	
Spendthrift provision - covers intentional torts	Parsons v. Mumford, 1989 WL 63899 (Del. Ch. 1989); Gibson v. Speegle, 494 A.2d 165 (Del. 1984). *Mennen, et al. v. Fiduciary Trust International of Delaware, et al.* (May 17, 2017).
Confirmed definition and application of Delaware exclusive jurisdiction provisions	IMO Daniel Kloiber Trust U/A/D December 20, 2012, C.A. No. 9685-ML, VC Laster (Del. Ch. Aug. 6, 2014).
Spendthrift provision	Parsons v. Mumford, 1989 WL 63899 (Del. Ch. 1989); Gibson v. Speegle, 494 A.2d 165 (Del. 1984). Mennen, et al. v. Fiduciary Trust International of Delaware, et al. (May 17, 2017)
Pre-mortem validation	In Ravet v. The Northern Trust Company of Delaware and Barry C. Fitzpatrick, in Their Capacity as Co-Trustees, C.A. No. 7743-VCG, Order of the Delaware Supreme Court (Feb. 12, 2015).
Asset Protection Trusts	TrustCo Bank v. Susan M. Mathews, C.A. No. 8374-VCP, V.C. Parsons (Del. Ch. Jan. 22, 2015).

Professional Profile – Anne Booth Brockett

Anne Booth Brockett

President | Chief Trust Officer
BMO Delaware Trust Company
20 Montchanin Road, Suite 240
Greenville, DE 19807
Tel: 302-652-4980
Cell: 302-270-0765
annebooth.brockett@bmo.com

Anne Booth Brockett is the President & Chief Trust Officer for BMO Delaware Trust Company

As the President and Chief Trust Officer, Anne is responsible for the oversight and management of trusts administered by BMO Delaware Trust Company under Delaware law. Anne has over 30 years of Delaware based experience in advising and managing ultra high net worth individuals, business owners and multi-generational families. While based in Delaware, Anne has developed strong, collaborative relationships with clients and their other advisors, nationally. Prior to joining BMO, Anne worked with two other major Delaware Trust institutions, including one with a twenty-two year tenure.

Anne actively maintains a thorough understanding of Delaware's personal trust statutes and their practical applications. She brings this knowledge and experience as she works with individuals and advisors interested in incorporating Delaware planning strategies into the administration of both newly established and existing trusts. Illustrations of these include directed trusts, trust migrations and modifications, decantings, quiet trusts and asset protection strategies.

A University of Delaware graduate, Anne also completed the National Trust School and Graduate National Trust School programs, based at Northwestern University. She is a Certified Trust and Financial Advisor (CTFA).

Anne is a member of the Delaware Bankers Association, the Estate Planning Council of Delaware and a Founding Member for the University of Delaware's Fiduciary Trust Management minors program.

Disclosure

BMO Wealth Management is a brand name that refers to BMO Delaware Trust Company, BMO Harris Bank N.A., and certain of their affiliates that provide certain investment, investment advisory, trust, banking, securities, insurance and brokerage products and services.

Estate planning requires legal assistance, which BMO Delaware Trust Company, BMO Harris Bank N.A. and its affiliates do not provide. Please consult with your legal advisor.

This information is being used to support the promotion or marketing of the planning strategies discussed herein. This information is not intended to be legal advice or tax advice to any taxpayer and is not intended to be relied upon. BMO Delaware Trust Company, BMO Harris Bank N.A. and their affiliates do not provide legal advice to clients. You should review your particular circumstances with your independent legal and tax advisors.

BMO Delaware Trust Company does not offer depository, financing or other banking products, and is not FDIC insured. Not all products and services are available in every state and/or location.

.Investment products: **ARE NOT A DEPOSIT – ARE NOT INSURED BY THE FDIC OR ANY FEDERALGOVERNMENT AGENCY – ARE NOT GUARANTEED BY ANY BANK – MAY LOSE VALUE**.