

TRUST AND ESTATE SERVICES

## The Delaware Asset Protection Trust



Trusts can be effective estate planning tools as part of your overall plan. We've managed trusts for families that span multiple generations, providing trusted fiduciary oversight and skilled administration.

### Why do I need a Delaware asset protection trust?

If you are a doctor or dentist, corporate executive, business owner, or other professional who may have an increased chance of becoming subject to costly lawsuits due to the nature of your occupation, you may want to consider a Delaware asset protection trust (APT).

You can help preserve your financial security by placing some of your personal assets in an asset protection trust. Provided you remain solvent after the trust is funded, the trust assets should be protected from the claims of most creditors, while you retain certain benefits from the assets. It may also be beneficial if you are interested in prenuptial planning, or wish to maintain an "emergency" or "rainy day" fund.

### Benefits of the Delaware asset protection trust:

- In certain instances, income tax on undistributed ordinary income and capital gains imposed by your state of residence may be avoided
- Once you have created an irrevocable Delaware spendthrift trust, payments of income and principal may be made to the beneficiaries (including yourself) under certain circumstances as outlined in the trust agreement
- Possible estate tax savings can be achieved if the trust is considered a completed gift for federal gift tax purposes and its assets appreciate in value
- Protects assets from your own creditors
- Because Delaware APTs are immune from most claims by future spouses, your children can use them to shield assets from those claims without providing the financial disclosure that is required to implement effective prenuptial agreements

### Important information to know

Delaware's distinctive trust law allows someone living anywhere in the United States, or the world, to create a Delaware APT. Even if you don't live in the state of Delaware, we can help you explore the many reasons why you should consider establishing a new trust in Delaware or moving an existing trust to the First State.

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## Key terms

**Grantor:** The person who creates a trust and who determines what property to include and who the beneficiaries will be.

**Asset protection trust:** A trust created to hold an individual's assets to shield them from creditors.

## The Wilmington Trust difference

We have helped to shape the latest trust, tax, and estate planning legislation in Delaware, gaining extensive knowledge of the state's favorable laws for personal trusts and business entities.

**Please contact us if you would like to learn more about the advantages of a Delaware asset protection trust.**

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Note that a few states, including Delaware, have special trust advantages that may not be available under the laws of your state of residence, including asset protection trusts and directed trusts.

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