



## The Delaware Advantage

Many trust offices of nationally recognized financial institutions are located in Delaware in order to offer their clients what is called the Delaware Advantage. The state's sophisticated and active trust law has caused it to be widely regarded as the premier jurisdiction both in the U.S. and worldwide. It has attracted both settlors who wish to create new trusts and existing trusts that want to transfer jurisdiction. It has also become the home of fiduciary organizations such as Oppenheimer Trust Company of Delaware.

Underlying the advantage of Oppenheimer Trust Company of Delaware's location is the state's well-developed and long-established body of case law applicable to trusts. This law offers consistency, reliability and depth.

The state's Court of Chancery, which is recognized worldwide for its reputation in corporate and commercial matters, also has jurisdiction over Delaware-based trusts. Over the past 150 years, Delaware's trust statutes have evolved as a very detailed and clear body of law concerning common law trusts. Furthermore, Delaware's legislature is quick to react to new developments and respond to concerns in an attempt to create flexible trust laws.

Oppenheimer Trust Company of Delaware works to assist you in your planning either to establish a new trust or to transfer an existing one. Combined with our professionals and our ability to collaborate with our clients' legal and tax team, we use our Delaware presence to add value for you.

### • **Indefinite Duration of Trusts**

Delaware has repealed the common law rule against perpetuities. Delaware law allows the creation of trusts with perpetual duration, known as "dynasty trusts" that can avoid or reduce federal and state estate, generation skipping transfer taxes. Newly created Delaware trusts that include the grantor's federal generation skipping transfer (GST) tax exemption can last indefinitely without federal estate or GST tax, protecting a family's wealth over the very long term.

### • **Protection of Trust Assets from Creditors**

Delaware's 1997 passage of a law called the Qualified Dispositions in Trust Act, helped solidify its position as the most favored jurisdiction for trusts. Under this law, assets held in a Delaware-based trust are protected from the claims of the settlor's creditors even if: (i) the trustee has the power to distribute the assets back to the settlor; (ii) the trustee cannot distribute trust assets to any one other than the settlor without the settlor's approval; and (iii) the settlor has the power to determine who receives the assets upon the settlor's death. This law enables Oppenheimer Trust Company of Delaware to preserve assets for the beneficiaries and restricts the potential for litigation. It is another area in which our ability to collaborate with legal professionals stands to benefit our clients.

### • **Sophisticated Treatment of Investment Management Issues**

***Flexibility of State's Prudent Investor Rule.*** Delaware law is very liberal in permitting a settlor to establish a trust's investment policy. If a trust's governing institution does not cover investment management guidance, the state's Prudent Investor Rule will. In a Delaware-based trust, a trustee can invest in a manner that considers the overall portfolio rather than – as is the case in many other states – viewing each investment separately from other portfolio assets. However, if the terms of the trust agreement specify, Delaware's so-called prudent investor rule can be waived in its entirety.

***Broad Discretion in Selecting Advisers for Directed Trusts.*** Delaware's directed trustee statute enables the trustee to act solely at the direction of an adviser without having to monitor or second guess his or her decisions. This ability to maintain directed trusts has become an attractive feature for trust settlors and beneficiaries alike because they are able to divide responsibility for investments, distributions or other activities from the rest of the trust administration.

***Unitrust Conversions.*** In 2000, Delaware enacted the first Total Return Unitrust Statute ("Unitrust Statute") in the country. The Unitrust Statute enables trustees to elect to convert a traditional income trust to a total return unitrust. This reformation makes it possible to use both the income and principal of the unitrust to pay annual distributions to the income beneficiary. Historically, the annual payment amount has tended to be between 3% and 5% of the trust's value.

## **Powerful Synergies Between Oppenheimer's Integrated Services and the Delaware Advantage**

In addition to the benefits of Delaware's legal environment, which is favorable to trusts, Oppenheimer Trust Company of Delaware offers its clients not just meticulous client service and rigorous attention to detail, but, in addition, the potential for integrated financial services. The company is able to draw on the asset management and financial planning expertise of Oppenheimer Asset Management. We offer the unique ability for trust clients to continue to work with their Financial Advisor.

## **About Oppenheimer**

Oppenheimer & Co. Inc. (Oppenheimer), a principal subsidiary of Oppenheimer Holdings Inc., provides a full range of wealth management, securities brokerage, capital markets and investment banking services to high-net-worth institutions, businesses, individuals, families and corporate executives.

**Oppenheimer Trust Company of Delaware**, also a subsidiary of Oppenheimer Holdings Inc., is a limited purpose bank, chartered to provide fiduciary services such as trust administration and investment management. As such, it focuses on personal trust and estate administration, working with wealthy individuals and their families as well as charities and foundations to provide the highest level of services.

Oppenheimer is committed to helping its clients meet their financial needs by providing independent financial advice, a comprehensive suite of product solutions and responsive client service. Oppenheimer Financial Advisors, with extensive experience in the industry, help clients grow, manage and preserve their financial assets. With offices located throughout the United States, Oppenheimer has a unique combination of local presence and national resources that enables its professionals to provide attentive, personalized service and talented solutions customized for each client.

Clients have access to a broad array of traditional and specialized products and services to help fulfill their financial needs. Institutional clients globally may benefit from Oppenheimer's balanced reach, its investment banking capabilities and the seriousness with which it addresses its fiduciary responsibilities.

## **Contact Information**

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