

Administrative Trustee Services overview for trust attorneys

An administrative trustee alternative

When your clients want to create a trust as part of their estate planning, they are often challenged to decide who will serve as trustee and/or successor trustee on their trusts. Many of your clients have strong, long-term relationships with their investment advisors and would like to maintain continuity of investment management as assets are passed on to the next generation in trust.

Trusts with a Delaware administrative *situs* (domicile) are allowed by law to separate investment management from trust administration. Administrative Trustee Services from Charles Schwab Trust Company of Delaware (“CSTCD”) helps you take advantage of this provision. The grantor’s trust document authorizes the investment advisor to exercise full investment discretion, while CSTCD serves as the administrative trustee.

Overview of Administrative Trustee Services

With Administrative Trustee Services, exclusive investment discretion is granted to the investment advisor and CSTCD is appointed to serve as the administrative trustee in the trust document. Though CSTCD requires that Delaware law govern trust administrative provisions, validity and construction may continue to be governed by the laws of other states.

Delaware—potential advantages for personal trusts

For years attorneys across the country have been using Delaware law to create corporations. The Court of Chancery’s experience with and exposure to issues of business law are well known. This same court has oversight of trusts in Delaware and, together with Delaware’s favorable trust laws, has helped make Delaware one of the leading states for trust administration.

Below are several of the most commonly noted provisions of Delaware trust law:

- **Investment flexibility**—Unique statutory framework permits the separation of trust duties between the investment advisor and the corporate administrative trustee. Delaware also has its own Prudent Investor Rule, which permits a total return investment approach as opposed to an asset-by-asset approach. This allows for the investment advisor to make other investment choices.
- **Potential tax advantages**—Delaware does *not* impose:
 - A state fiduciary income tax on income or capital gains accumulated for non-resident beneficiaries
 - An income tax on income distributed to a non-resident beneficiary
 - A sales tax
 - An intangibles tax
 - A gift tax or inheritance tax
- **Confidentiality for trusts**—No public filings or accountings are required. The trust document may restrict, for a period of time, the ability of beneficiaries to receive statements.
- **Total return trust statute**—Net-income trusts can be converted to a total return trust approach.
- **No rule against perpetuities**—Permits dynasty trusts of infinite legal duration.

Roles and responsibilities

Allowing trusted financial advisors to continue to manage their clients' overall investment portfolios, including trust assets, can provide solace and continuity to both clients and beneficiaries. The goal of CSTCD is to enable financial advisors to do what they do best—manage assets according to their clients' unique investment profiles and levels of risk tolerance—while leaving the administrative fiduciary tasks to another professional. A Delaware trust situs facilitates this.

Investment advisor

- Primary client relationship manager
- Manager of trust financial assets

Charles Schwab Trust Company

- Trust administration according to trust document and applicable law
- Safekeeping of trust assets
- Dividend and interest payments
- Income and principal distributions
- Annual administrative account reviews
- Fiduciary accounting and recordkeeping
- Preparation and filing of federal and state fiduciary tax returns

Getting started—trust provisions

CSTCD can provide you with suggested language that should be included in trust agreements where CSTCD will be acting as administrative trustee. Among other things, the recommended language:

- Clearly differentiates the roles and accompanying responsibilities of the administrative trustee (CSTCD) and the investment advisor
- Stipulates that Delaware law will apply to the administrative situs of the trust

- Allows for resignation or replacement of the trustee and investment advisor by the grantor (or after the grantor's death, by subsequent beneficiaries) and provides for successor fiduciaries, as desired
- Permits the trustee and investment advisor to receive reasonable compensation for their services
- Authorizes the investment advisor to use affiliated investment products and services

CSTCD will review each trust document and work with you to provide guidance for preparing or amending your client's trust document. *CSTCD does not draft trust documents or serve as legal advisor to your clients.*

Your next step

To discuss your client's specific situation, contact the Charles Schwab Trust Company of Delaware at **800-745-7721**, or contact your client's investment advisor.

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AHA (0116-0036) MKT41586-04 (12/15)

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