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South Dakota's Long History of Support for the Trust Industry Keeps It a Top Choice as Trust Situs

For anyone actively involved in trust situs shopping, there are a few clear candidate states in the US that make everyone's short list. Several states have 0% state income and capital gains tax - South Dakota, Delaware, Alaska, Nevand decanting statutes may reveal a clearer picture. To make the focus crystal clear one also needs to examine the state's business and economic support for the trust industry and the businesses and people involved.

In our experience, South Dakota edges out all other candidates. The state has a deeply-entrenched relationship with the trust industry, unique in the high level of cooperation among the legislature, regulators, and the business community. It is the only state in the country with a trust task force appointed by the Governor who is responsible on an annual basis for continually enhancing and improving SD trust law.

From an economic perspective, South Dakota is one of the few states in the country with a triple A debt rating and state pension liabilities funded 103%. This translates to high benefit and low risk to families that are looking to decant or create new trusts in South Dakota and have peace of mind that state income taxes will never be assessed in the state.

Here is a partial list of twelve (12) areas in which South Dakota has been—and continues to be—progressive in supporting the trust business, and why attorneys continue to select South Dakota over other states with similar tax advantages:

1. **Progressive**

Regulated by the state's Department of Banking, South Dakota is one of the country's leading trust jurisdictions with over 125 public and private trust companies chartered in the state. Today, South Dakota has more bank and trust assets than any other state in the country by a factor of two.

2. **Unlimited Duration**

South Dakota was the first state to eliminate the rule against perpetuities. This allows families of wealth to protect assets in trust in perpetuity as well as avoid generation skipping tax for future generations.

3. **Tax Savings**

South Dakota has no state income tax, capital gains tax, intangibles tax, corporate income tax, dividends and interest tax, city or local tax. In fact, this is memorialized in the state constitution giving lawyers comfort that the state will never impose an income tax on trusts in the future.

4. **Involvement**

South Dakota enables family members and advisors to participate in trust decisions through the creation of directed trusts that enables the traditional duties of a trustee to be bifurcated to investment and distribution advisors/committees.

5. Privacy

A privacy statute provides for a total seal forbidding the release of trust information to the public during litigation in perpetuity. In addition, South Dakota grants the settlor the power to expand, restrict, eliminate, or modify the rights of the beneficiaries to receive information about a trust.

6. Protection

South Dakota allows for the creation of self-settled trusts allowing the grantor of the trust to also be a beneficiary of the trust as long as an independent third party is making all distribution decisions. This allows the client to retain a level of control and be fully protected from creditors.

7. Employment

The South Dakota trust industry employs over 450 residents. The state has an unemployment rate of 2%--well below the national average. South Dakota has transformed its economy from being 100% agrarian to today where financial services make up over 30% of the states GDP.

8. Out-of-State Visitors

The trust industry created over 2000 hotel nights from visitors to South Dakota, generating \$500,000 of revenue for local hotels.

9. Regulation & Risk

In addition to being essentially self-funded from a state regulatory perspective, the trust industry helped establish a risk-mitigation structure to protect the state. South Dakota created a governor task force for trusts, to continually update and improve trust law.

10. Business Spending

The South Dakota trust industry doesn't just benefit families globally. Trust companies paid over \$10M to South Dakota-based businesses for products or services.

11. Philanthropy

Trust companies donated \$1M to South Dakota charitable causes, along with 2700 employee volunteer hours.

12. Future Workforce

Several educational institutions have trust-specific degrees to meet the industry's future needs in the state, including Dakota Wesleyan University, Northern State University and The University of South Dakota School of Law.

It is likely that many of these facts are not known to most attorneys and aren't immediately included in the comparison checklists when choosing a state. But to us, these elements collectively represent South Dakota's long-term commitment to the trust industry and the businesses involved. It translates to a stable environment that clearly has long-term commitment to providing the protection, structures, and tax advantages sought by HNW and UHNW families and their attorneys.

If you are currently shopping for a trust situs, please reach out and let us share more detail on the many advantages found in South Dakota.

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