



# IS DELAWARE FOLDING UP ITS WELCOME MAT?

## DELAWARE COURT CREATES NEW HURDLES FOR DELAWARE TRUSTS

In December 2012, a Delaware court issued an opinion reversing Delaware's long-standing judicial practice of hearing consent petitions to confirm the validity of various aspects of trusts. Historically, attorneys have filed such petitions to achieve a sense of comfort for their clients by obtaining the court's blessing regarding the trust's terms, applicable law and situs. In the event of an audit, such petitions are important because they are convincing evidence to verify, among other things, which state's laws apply to the trust. In addition, the December 2012 opinion imposed significant hurdles for trusts migrating to Delaware. Surprisingly, the court ruled that appointing a Delaware corporate trustee is no longer sufficient to ensure Delaware law will govern a trust. The result of these two significant rulings is a loss of certainty and peace-of-mind for attorneys and their clients.

Attorneys choosing to move their clients' trusts to Wyoming do not need to worry about such obstacles. Wyoming consistently ranks among the most preferred states in which to migrate a trust. This is due, in part, to straightforward laws regarding trust administration as well as the availability and willingness of Wyoming courts to issue rulings confirming trust terms. For example, Wyoming courts routinely issue rulings confirming that a trust's administration is governed by Wyoming law as long as a Wyoming trustee is appointed and some trust administration is performed in the state. In addition, Wyoming courts are able to confirm a change of situs as well as modify a trust to achieve the settlor's tax objectives. In light of the above, Wyoming is an ideal choice for clients wishing to migrate a trust to a tax-free state.

# Come home to Wyoming.



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