

# The Dating Game: Choosing Between Multiple Jurisdictions



## Panelists:

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## Moderator:

Cynthia D.M. Brown, Esquire

## Representing:

SD

NV

DE

NH



# The Rules:

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The format of this session will closely parallel the 1960's classic game show, THE DATING GAME:

- There will **one “bachelorette” OR “client”** asking questions to help her determine which state will best suit her family's trust planning goals
- There are **four contestants** who will be answering these questions, all are knowledgeable attorneys from premiere trust jurisdictions, including:
  - *Delaware*
  - *Nevada*
  - *New Hampshire*
  - *South Dakota*
- All will be **vying for the favor of the client** to secure the family's trust business.



# Question #1: States to Discuss

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- Can you each tell me where you are from and your favorite thing about your home state?





## Question #2: Exception Creditors

- My family has achieved significant wealth, which was inherited from my grandparents. There are a number of family trusts, of which my brother and I are both beneficiaries. In addition, both of us have significant wealth of our own and are looking to create some trusts for ourselves and our families.
  1. If my brother sets up a trust today and names himself and his children as beneficiaries, will his wife have any ability to reach those assets in the event that they subsequently divorce?
  2. What about with regard to child support?



## Question #3: Statute of Limitations Period

- I am an attorney. If I were to set up a trust for the benefit of myself and my family, how long would it be before I can feel comfortable that the money will be safe from the claims of clients or creditors?





## Question #4: Perpetuities Reform

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- Once I set up my trusts, can they go on indefinitely? I want to be certain that there isn't a random date upon which the assets would have to be given to my grandchildren or great grandchildren and then be used for "big parties" and not something meaningful.



## Question #5: Open Architecture

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- I like the idea of continuity that a corporate trustee can offer, but, I don't like being tied to one investment strategy. Are there alternatives available in your state which would allow me to have a corporate trustee, with the flexibility to have someone else making the global investment decisions?
  1. Is that “bifurcation” possible in other areas?
  2. How does the “bifurcation” affect trustee responsibilities? Does the trustee continue to be responsible for oversight?
  3. How does a “Protector” or “Family Advisor” differ from a direction adviser?



## Question #6: State Income Taxation

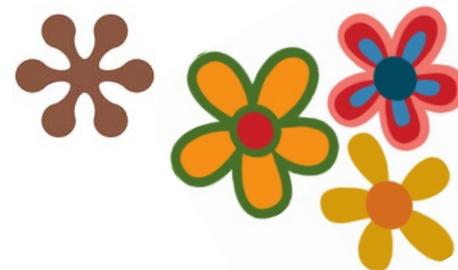
- With all of these different advisors operating in various states, how does that affect state income taxation of the trusts? I don't want to set up trusts that are taxable in more than one state.





## Question #7: Private Trust Companies

- If my family ultimately established twenty or more trusts, we may want to look into creating our own trust company, how difficult is that in your state?



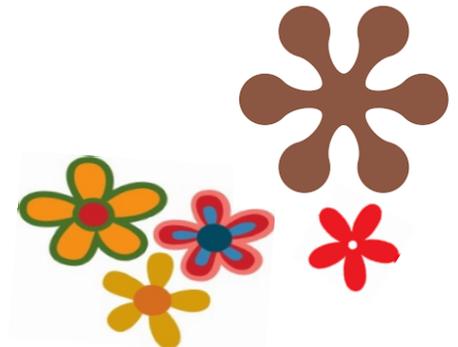
- Are there any alternatives to creating a private trust company which could offer my family a similar level of control over the trusts and still serve to reduced the overall expenses of administering the trusts?



## Question #8: Private Placement Life Insurance

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- I've heard about opportunities available through the use of insurance trusts, particular with regard to private placement life insurance. Is that something that I should be seriously considering?
  1. What advantages does your state offer in regards to this type of trust?
  2. Are trustees familiar with these types of transactions?





## Question #9: Trust Modification

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- What if I change my mind at some point in the future and want to change the terms of one or more of my trusts. How easily can that be done and what options are available?
  1. Who needs to be involved to effect the changes?
  2. What if someone wants to change the terms of my trust after I die, can I prevent them from overriding my intent to suit their purposes?
  3. Who is there to make sure that nothing is changed in my trust that I wouldn't want to be?



## Question #9 (continued): Judiciary

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- What is the court system like in your state if problems arise or my beneficiaries need to interpret the trust after I am gone?
  1. Does the court hear other types of cases, or is it a specialized court?
  2. What makes this court unique?





## Question #10: Quiet Trusts

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- If something happens along the way and I want to keep my trust private, not letting certain beneficiaries know about the trust, is that possible?
  1. Can I appoint someone to represent the beneficiary's interest during the period in which they do not know about the trust?
  2. If they do find out about the trust, what information are they entitled to?



## Question #11: Trust Record Privacy

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- Privacy is always a concern for my family, and not just with regard to the beneficiaries of the trust. Does your state have any mandatory registration process or state governmental body who will receive information about our trusts?
  1. What type of information does that government entity see?
  2. What if the trust becomes involved in litigation, is that similarly private?



## Question #12: Why your state?

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- Give me your final sales pitch, why should I bring my trust business to your state?





# Time for the “Big Decision”

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- Who will it be...
  - Delaware?
  - Nevada?
  - New Hampshire?
  - South Dakota?

