How a Well-Being Trust Expands
Beyond Traditional Trust Planning

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Key Takeaways:

What Is a Beneficiary Well-Being Trust?

Reflecting the current and ongoing need for beneficiaries' financial education, estate, and asset planning, the Delaware legislature has enacted a new trust statute which enables a settlor to create a beneficiary well-being trust.

The statute authorizes the design and administration of trusts allowing the trustee(s) to educate beneficiaries about financial matters, estate planning, family legacy planning, family history, family governance, and philanthropy to enhance the beneficiary's well-being.

With this type of trust, administration transitions from simply meeting the requirements of the "HEMS" clauses (health, education, maintenance, and support) to a more holistic approach. It does this by providing the beneficiaries with the tools needed to navigate inheritances more effectively.

What Can Beneficiary Well-Being Trust Programs Include?

In addition to a specific "opt in" reference language required in the trust document by the settlor, trustee(s) and advisors are required to provide "beneficiary well-being programs". And these can either be individual programs or as a group (assuming multiple beneficiaries) as stated in the trust instrument.

According to the statute, "beneficiary well-being programs" are defined as seminars, courses, programs, or workshops. They can also be counselors, personal coaches, short-term university programs, group or one-on-one meetings, counseling, family meetings, retreats, reunions, and custom programs. But all of which must have one or more of the following purposes:

1. For Prepare each generation of beneficiaries for inheriting wealth. It must do this by providing them with multigenerational estate and asset planning, assistance with navigating intergenerational asset transfers, developing wealth management and money skills, financial literacy and acumen, business fundamentals, entrepreneurship, knowledge of family businesses, and philanthropy.
2. Educate beneficiaries about the beneficiaries' family history, family values, family governance, family dynamics, family mental health and well-being, and connection among family members.

Because some beneficiaries are entirely unprepared and uneducated in how a trust operates and what it means for them personally, this structure encourages a more personal relationship between the trustee(s) and beneficiaries. It also helps the beneficiaries gain a better understanding of the settlor's intent for creating the trust.

How Should Trustees Treat Program Costs and Deductions?

Subject to the fiduciary duties of the trustee(s) under the trust instrument and applicable law, the trustee(s) of a beneficiary well-being trust shall pay from the trust the costs and expenses for the programs. These payments are designated to be part of the costs and expenses of trust administration to the extent permitted by law.

If the trustee(s) has determined that a program expense is an administrative expense and not a distribution, the trustee(s) must then determine if it is fully deductible or only deductible to the extent it exceeds 2% of the trust's adjusted gross income (AGI). The Internal Revenue Code Section 67(e) states that administration expenses "which would not have been incurred if the property were not held in such trust or estate" are fully deductible. Therefore, well-being programs such as education, health and wellness coaching, and similar programs will only be deductible to the extent they exceed 2% of the trust's AGI because these programs could be provided to the beneficiaries without a trust.

What Challenges Come With Administering A Well-Being Trust?

There can be challenges with multigenerational trust administration. A trustee(s) must sometimes manage multiple beneficiaries across generations. The beneficiaries may not necessarily agree on the type of well-being programs. And they may also not agree with the costs associated with administering the programs. Plus, each beneficiary may have a different level of knowledge regarding the terms of the trust and willingness to participate in the designated training.

Although the statute and trust instrument may give the trustee(s) liberal discretion in determining what are appropriate programs to offer, beneficiaries may object. They may also bring a claim against the trustee(s) for improper use of trust funds or for not following the terms of the trust.

Nevertheless, by providing beneficiary education, families can help develop future generations of family leaders. This education also provides personal development, and help maintain multigenerational family unity.

These provisions in a trust instrument will encourage the trustee(s) to engage with advisors who are able to provide the Family Office educational and comprehensive wealth management and family governance services available to them and the trust beneficiaries.

(Delaware Code New Section 3345 Beneficiary Well-Being Trust, n.d.
(Delaware General Assembly, n.d.)
(IRS.gov, n.d.)

For more information, see:
TITLE 12 - Decedents' Estates and Fiduciary Relations. CHAPTER 33. Administrative Provisions

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FAQs on the Delaware Beneficiary Well-Being Trust:

What is a Delaware Beneficiary Well-Being Trust?

It is a type of trust that allows trustees to offer education and support programs. It goes beyond traditional HEMS (Health, Education, Maintenance, and Support) standards as it focuses on financial literacy, family values, and family legacy planning. This trust prepares beneficiaries for wealth.

What does Delaware Code Section 3345 allow?

Section 3345 allows a trust settlor to opt in to a structure where trustees can use trust assets to provide beneficiary education. They can also use it for personal development programs. As well, it defines the types of programs that qualify under the statute.

How is a well-being trust different from a traditional trust?

Traditional trusts focus on HEMS—health, education, maintenance, and support. A trust for beneficiary well-being expands the trustee's role. It includes preparing beneficiaries for inheriting and managing wealth across generations.

What types of programs can a trustee offer under a well-being trust?

Permitted programs include financial literacy workshops, estate planning seminars, and family retreats. They also include one-on-one coaching and courses on family governance or philanthropy.

Are well-being trust expenses tax deductible?

Some may be. If the expense qualifies as a trust administration cost under IRS Code Section 67(e), it could be deductible. However, most educational or coaching programs are only deductible to the extent they exceed 2% of the trust's adjusted gross income.

Who decides which well-being programs are offered?

Trustees have broad discretion, guided by the trust document. However, they must act in the beneficiaries' best interests. They may also face objections if beneficiaries disagree on the programs or their costs.

Is participation in well-being programs mandatory for beneficiaries?

It depends on the trust's terms. Some trusts may require participation to receive distributions, while others may encourage it without making it a condition.

Why would a settlor choose this trust structure?

A settlor may want to prepare heirs to handle inherited wealth responsibly. This trust allows for teaching money management, values, and family legacy planning. These topics are often missing in traditional trust structures.

What are the risks of using a well-being trust?

Risks include disputes among beneficiaries and resistance to participating in programs. Other risks include potential legal claims against the trustee for misusing funds or exceeding their authority.

How can a family office help administer a well-being trust?

A family office can coordinate educational programs, select qualified coaches or advisors, and manage logistics across generations. They help facilitate the trust supports the family's goals while maintaining compliance and oversight.

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