



WYOMING TRUST
ASSOCIATION

FACTS ABOUT TRUSTS AND THE WYOMING TRUST INDUSTRY

TABLE OF CONTENTS

Summary 2

Trusts..... 3

 What is a trust? 3

 What is a trustee? 4

Wyoming's Trust Industry 5

 Why has the trust industry become important to Wyoming? 5

 What benefits does the trust industry provide to Wyoming? 6

 Why is there global interest in US Trusts? 7

 Why do families choose to establish Wyoming trusts and business entities? 7

 Who keeps track of trusts in Wyoming? 7

 How do trustees confirm that trusts are being used for valid purposes? 8

 Do Wyoming trusts pay tax? 9

 What fees are paid by state trust industry? 10

About the Wyoming Trust Association 10



WYOMING TRUST ASSOCIATION

Summary

- A trust is a legal entity that is managed by one party (the “trustee”) for the benefit of others (one or more “beneficiaries”). Trusts have been in existence for centuries and serve many purposes, such as preserving a family farm or ranch.
- In the United States, state laws largely create the legal framework governing the establishment and administration of trusts.
- In 2003, Wyoming's legislature adopted the Uniform Trust Code (UTC) with the intention modernizing the state’s trust laws. Because the legislature has regularly amended the state’s trust laws, Wyoming is now a top US trust jurisdiction.
- The two primary types of institutional trustees operating in Wyoming are bank trust departments and independent trust companies. The following applies to both:
 - Oversight and regular examinations by the Wyoming Division of Banking; some banks with national charters are also regulated by federal examiners.
 - New charters are approved by the State Banking Board after a review and public hearing process guided by state statute.
 - Required compliance with federal Anti-Money Laundering, Bank Secrecy Act, and Office of Foreign Asset Control (OFAC) laws, as is the case with all regulated financial institutions in the US.
 - Must know the identity of the grantors and ultimate beneficial owners of Wyoming trusts; expressly prohibited by federal and state laws from doing business with any persons or firms that are subject to any US sanctions.
 - Must keep track of all trusts and maintain detailed records, which are subject to review and examination by the Wyoming Division of Banking at all times.
- Trusts are taxed the same way as all other assets owned by a Wyoming person or entity; income and capital gains taxes are paid at the federal level.
- Similarly, Wyoming banks and trust companies are taxed the same way as every other business entity operating in the state that has the same corporate form (LLC, S Corp, C Corp, etc.) There is no special tax status at either the state or federal level for trust companies.
- The Wyoming Trust Association’s eighteen member firms include independent trust companies, bank trust companies, law firms, accounting firms, insurance advisors, and multi-family offices. Together these firms employ over 220 individuals located in thirteen Wyoming cities and towns, including Alpine, Buffalo, Casper, Cheyenne, Evanston, Gillette, Jackson, Lander, Laramie, Lyman, Riverton, Sheridan, and Worland.



WYOMING TRUST ASSOCIATION

Trusts

WHAT IS A TRUST?

A trust is a legal entity that is managed by one party (the “trustee”) for the benefit of others (one or more “beneficiaries”). Trusts are a fundamental common law concept that have existed in the UK, US, and other common law jurisdictions for centuries. Their purpose includes:

- Stewarding family wealth and legacies by separating legal ownership and management (i.e., decision-making) from beneficial ownership (i.e., use and enjoyment),
- Providing families with succession plans,
- Protecting against fractionalization by providing for collective ownership of family asset (e.g., preserving a family ranch or farm)
- Facilitating consolidated management of family businesses, and
- Safeguarding assets against depletion through overspending, mismanagement, or other loss.

Unlike LLCs and corporations, trusts do not have “owners” — rather, the trustee is the legal owner of all property held in a trust, with a fiduciary (i.e., legally enforceable) duty to manage the assets for the benefit of the beneficiaries, consistent with the terms of the trust and applicable laws.

There are many different types of trusts, each with its own particular costs and benefits. Every trust has a trust agreement, a legal document that creates and describes the trust and determines the rights of the trustee, the beneficiaries, and other interested parties.

In the United States, state laws largely create the legal framework for the establishment and administration of trusts. These rights and obligations, in turn, determine how the trust will be taxed under federal and state law.

Wyoming trusts are used by residents of Wyoming, other US states, and countries around the world.



WYOMING TRUST ASSOCIATION

WHAT IS A TRUSTEE?

The trustee of a trust is the legal owner of trust property and must use that trust property as instructed in the trust agreement and applicable state law. Trustees have an obligation to manage trust property for the benefit of the beneficiaries, with three primary duties:

1. **INVEST:** Manage the assets owned by the trust,
2. **DISTRIBUTE:** Determine when and how the beneficiaries can use and enjoy the property owned by the trust, and
3. **ADMINISTER:** Maintain the books and records of the trust and ensure compliance with the trust agreement and applicable laws.

Today, there are several types of trustees. As shown below, fiduciary options have evolved over time to mitigate issues associated with individuals serving in this very important role.

INDIVIDUAL



- Individual trustees are the traditional form of trustee, and are still the most commonly used today
- Typically a family member, friend, or other trusted advisor
- Not subject to regulation by any governmental body because they are a fiduciary for a family
- Individual trustees must comply with AML/BSA and due diligence requirements required to open bank or investment accounts and establish professional relationships with service providers

INSTITUTION



- Institutional trustees include trust departments of state- or nationally-chartered banks and public trust companies authorized to provide fiduciary services to the general public; they may be large financial institutions or boutique providers
- Increasing in popularity with families because they provide longevity, professionalism, experience, and unbiased, independent decision-making
- Subject to state and federal regulation

PRIVATE FAMILY TRUST COMPANY



- Some states like Wyoming authorize private trust companies (PTCs), a trust company owned and operated by the family that may only do business with that family
- PTCs may be chartered by the state or unchartered, depending on state laws
- PTCs must comply with AML/BSA and due diligence requirements required to open bank or investment accounts and establish professional relationships with service providers



WYOMING TRUST ASSOCIATION

Wyoming's Trust Industry

WHY HAS THE TRUST INDUSTRY BECOME IMPORTANT TO WYOMING?

In 2003, Wyoming's legislature adopted the Uniform Trust Code (UTC) with the intention of modernizing the state's trust laws. The UTC, which has been adopted by 31 states and the District of Columbia, "provide[s] States with precise, comprehensive, and easily accessible guidance on trust law questions."¹ Since that time, the Wyoming legislature has regularly updated Wyoming's trust statutes, making the state one of the top trust jurisdictions in the United States due to its modern trust laws. These legislative initiatives have resulted in meaningful growth in the sector, adding hundreds of new jobs and positively contributing to the state's economy.

The importance of the trust industry to a diversified Wyoming economy was reaffirmed in 2017, when Governor Mead and the Joint Minerals, Business and Economic Development Interim Committee established the *Economically Needed Diversity Options for Wyoming (ENDOW) Executive Council*, intended to propel Wyoming's economy forward. In August 2018, the Council published a **20-Year Economic Diversification Strategy**, which stated that "the professional and financial services sector is critical to supporting new industry across *all* sectors."² Supporting this assertion is the \$1.63 IMPLAN output multiplier for Wyoming's finance and insurance industry: for every dollar of production in the trust industry, it is estimated that \$1.63 of activity is generated in the local economy.³

The trust industry is part of the *Knowledge and Creative* sector, which ENDOW identified as one of the five⁴ pillars of the state's "next generation engine...that will create economic opportunity and job growth and shelter Wyoming from future economic volatility over time."⁵ A key action item in the 20-year strategy was "to develop Wyoming into the #1 state for business entities, trusts and estates."

¹ Uniform Trust Code, National Conference of Commissioners on Uniform State Laws, 2003. Page 6. <https://www.uniformlaws.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=6bae0bb2-00ea-8080-d084-5be9ef7bbc66>

² ENDOW 20-Year Economic Diversification Strategy, 2018. Page 99. https://3706579a-b62e-451c-b576-31a8ca50ae57.filesusr.com/ugd/e4e133_2c1746a901754418be4d6fbd50b19f32.pdf

³ As per IMPLAN, the leading provider of economic impact data and analytical applications, multipliers are a measure of an industry's connection to the wider local economy by way of input purchases, payments of wages and taxes, and other transactions.

⁴ ENDOW's four other "next generation engines" are Advanced Manufacturing, Agriculture, Natural Resources, and Tourism & Recreation.

⁵ ENDOW, page 15.



WYOMING TRUST ASSOCIATION

In brief, the Wyoming trust industry has grown and contributed positively to Wyoming's economy thanks to the foresight of previous legislatures, and ENDOW recognizes the industry's importance to the continued future economic success of Wyoming.

WHAT BENEFITS DOES THE TRUST INDUSTRY PROVIDE TO WYOMING?

Creating new, professional employment opportunities in the trust industry for Wyoming's residents is providing meaningful benefits to the state. The financial services industry — including the trust industry — is one of the success stories in the effort to diversify our state's economy beyond the extractive industries.

The Wyoming Trust Association's eighteen member firms include independent trust companies, bank trust companies, law firms, accounting firms, insurance advisors, and multi-family offices. Together these firms employ over 220 individuals located in thirteen Wyoming cities and towns, including Alpine, Buffalo, Casper, Cheyenne, Evanston, Gillette, Jackson, Lander, Laramie, Lyman, Riverton, Sheridan, and Worland. There are also fourteen additional bank trust departments and trust companies serving the state.

Firms operating in the trust industry pay state property taxes, procure goods and services in the conduct of business, rent office space, and engage Wyoming-based attorneys, accountants, IT providers, marketing agencies, auditors, payroll/HR firms, and other professionals based throughout the state. These firms also spend significantly on Wyoming food and lodging, office supplies, cleaning and mail services, communication services, health and general insurance, and donations to local charities and educational institutions.

Beyond firm-level contributions to Wyoming's economy, every business employs professionals in the state who pay sales and property taxes, buy goods and services, and otherwise benefit local economies. This speaks to the previously mentioned economic multiplier of \$1.63 to salaries earned for these types of professional jobs.

The trust industry has also benefitted Wyoming's banking industry. One of a trustee's responsibilities is to pay the trust's expenses on an ongoing basis. Most trusts maintain a bank account in Wyoming for this purpose. Therefore, the growth in the trust industry has also resulted in greatly increased depository balances at Wyoming financial institutions; the trusts of just two WTA Member firms hold hundreds of millions of dollars in depository



WYOMING TRUST ASSOCIATION

accounts at local Wyoming banks. As banks grow, so does the need for employees, further spurring the economy in towns throughout the state.

WHY IS THERE GLOBAL INTEREST IN US TRUSTS?

Increasingly, non-US families are forming trusts in the United States. Some families have US-resident family members or assets. Others seek access to US financial products, advisors, or capital markets. Still others seek to mitigate risks in their home countries (e.g., the threat of kidnapping and ransom, expropriation of assets).

WHY DO FAMILIES CHOOSE TO ESTABLISH WYOMING TRUSTS AND BUSINESS ENTITIES?

Wyoming has been innovating since it became the first state to adopt the limited liability company (LLC) in 1977. Since that time, the Wyoming legislature has regularly enhanced Wyoming standing as a trust and business planning situs. As mentioned above, Wyoming's legislature was an early adopter of the Uniform Trust Code, single family and chartered family private trust companies, and, most recently, has approved innovative laws in the digital asset and cryptocurrency space.

WHO KEEPS TRACK OF TRUSTS IN WYOMING?

It depends on who the trustee is. If the trustee is an institution like the trust department of a state- or nationally-chartered bank or a chartered trust company, they must keep track of the trusts, regardless of size. In addition, the Wyoming Banking Division has access to all trust records as regulator of these institutional trustees.

If, on the other hand, the trustee is an individual, that person keeps track of the trust. In addition, because most trusts have reporting obligations under the Internal Revenue Code and must make filings as any other taxpayer, the IRS also has access to trust-related information.



W Y O M I N G T R U S T
A S S O C I A T I O N

HOW DO TRUSTEES CONFIRM THAT TRUSTS ARE BEING USED FOR VALID PURPOSES?

Wyoming chartered trust companies are supervised and examined by the Wyoming Division of Banking and, just as trust departments in state- or nationally-chartered banks — and any state or federally regulated financial institution — are required to comply with federal Anti-Money Laundering, Bank Secrecy Act, and Office of Foreign Asset Control (OFAC) laws. Institutional trustees are required to file Suspicious Activity Reports (SARs) with FinCEN, and must disclose ownership and control structures when opening accounts and making investments.

In addition to an institution's own regulatory compliance and due diligence, multiple other independent service providers (e.g., attorneys, accountants, banks, financial institutions/asset managers, and others) must also satisfy themselves as to the legality and appropriateness of planning purposes by completing customer due diligence prior to doing business with a trust or family.

Because trusts may typically own multiple bank and investment accounts, multiple institutions are required by state and federal law to complete in-depth regulatory due diligence prior to opening accounts. Further, if a trust includes non-US persons, there are enhanced due diligence steps taken prior to acceptance, including OFAC checks and other research.

In other words, by law, Wyoming chartered trust companies, bank trust departments, and other regulated financial institutions must know who the grantors and ultimate beneficial owners of Wyoming trusts are and are expressly prohibited by federal and state laws from doing business with any persons or firms that are subject to any US sanctions. This means, for example, that no Wyoming trust company (or any other firm) may do business with any Russian citizen that has been placed on a US sanctions list as a "Specially Designated National."



WYOMING TRUST
ASSOCIATION

DO WYOMING TRUSTS PAY TAX?

Wyoming is one of several states, like Florida and Texas, that has chosen not to impose a state income tax. Therefore, trusts are taxed the same way as all other assets owned by a Wyoming person or entity; income and capital gains taxes are paid at the federal level.

It is important to note that all the “premier” trust jurisdictions (Delaware, South Dakota, Nevada, and increasingly Tennessee and New Hampshire) impose no taxes on trusts.

LAW	WYOMING	DELAWARE	NEVADA	SOUTH DAKOTA
Tax Imposed due to Resident Settlor	No	Yes	No	No
Tax Imposed due to Resident Fiduciary	No	No	No	No
Tax Imposed due to Resident Beneficiary	No	Yes	No	No
LLC Income Tax	None	None	None	None
Estate/Gift Tax	None	None	None	None

This is one of the key attributes that makes people choose these states to domicile their trusts. For example, Delaware, which does impose state income tax on its residents, does not tax trust income or capital gains.

We have observed other jurisdictions both in and out of the US move from a no trust-tax environment to taxing trusts; this immediately destroys the industries. Both trust companies and trusts themselves move to other jurisdictions that have the laws in place to enable them to compete. This also has ripple effects on other professional service providers that work with the trust industry; the business prospects of attorneys, CPAs, and others are greatly diminished.

Similarly, Wyoming institutional trustees are taxed in the same manner as every other business entity operating in the state that have the same corporate form — LLC, S Corp, C Corp, etc. There is no special tax status at either the state or federal level for trust companies. If, for example, a trust company is formed as an LLC, all “profits” are passed through to the LLC’s members and taxed as such as with every other LLC regardless of the nature of the business.



WYOMING TRUST ASSOCIATION

In summary, Wyoming trust companies contribute precisely in the same manner to the state's revenue base as every other business entity operating in the state of Wyoming.

WHAT FEES ARE PAID BY STATE TRUST INDUSTRY?

Chartered trust companies pay ongoing supervisory and examination fees to the Division of Banking, which are set by the state legislature. The WTA supports increasing fees to ensure effective regulation, oversight, and examinations by the Wyoming Division of Banking.

About the Wyoming Trust Association

The Wyoming Trust Association (WTA) was formed in 2018 in large part to advocate for and to ensure effective industry regulation. We support effective and meaningful regulatory oversight of the trust industry and believe that WTA members and their clients benefit from effective regulatory oversight.