

Private Trust Companies: Recent Developments

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Wyoming Private Trust Company Administration

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Private Trust Companies- Roadmap



- Part I - Private Trust Companies
 - ▣ Background
 - ▣ Attributes
 - ▣ Structure
- Part II – Specific State Analysis

Background

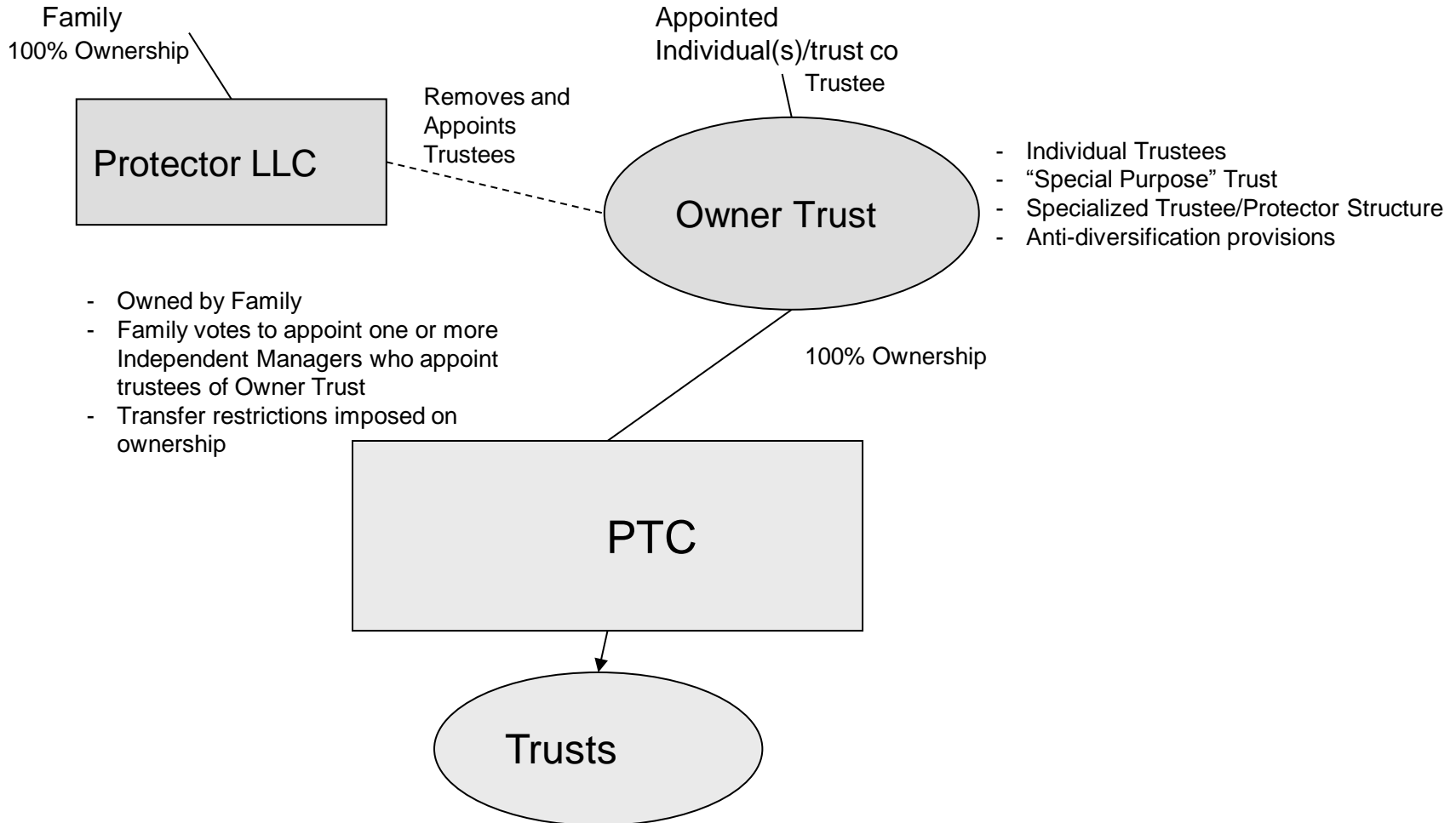
“Fiduciary entity established to serve a family”

- Private trust companies have existed in some form for years
 - A number of large public trust companies began as state-chartered trust companies formed for a single-family
- Over the past decade, certain states have enacted laws and regulations to impose fewer regulations and restrictions on trust companies that operate solely on behalf of one family

Attributes

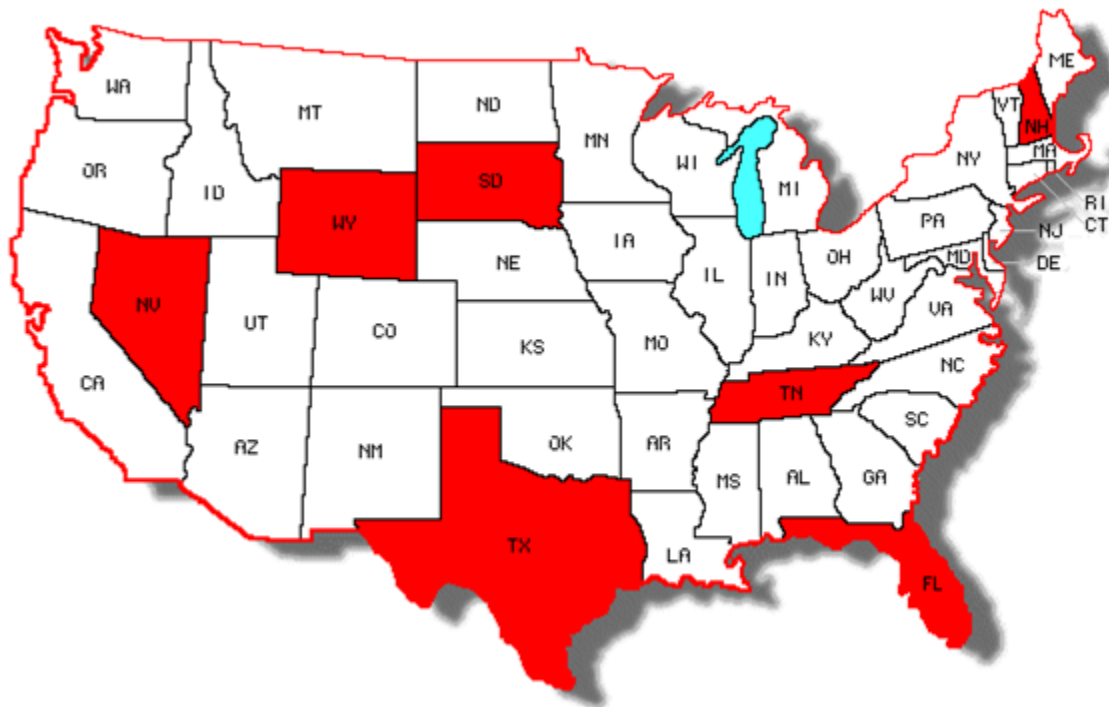
- ▣ Minimizes individual /commercial trustee disruptions
- ▣ Greater family control and participation
- ▣ Greater flexibility and knowledge to deal with family business or large concentration of “legacy” stock w/o diversification
- ▣ Limited Director and Officer Liability
- ▣ Long-Term Cost and Tax Savings
- ▣ Investments and Investment Advisors
- ▣ Integration with Family Office and Foundations
- ▣ Privacy
- ▣ Choice of Situs for Inbound Transactions, notwithstanding residence of directors

PTC Structure

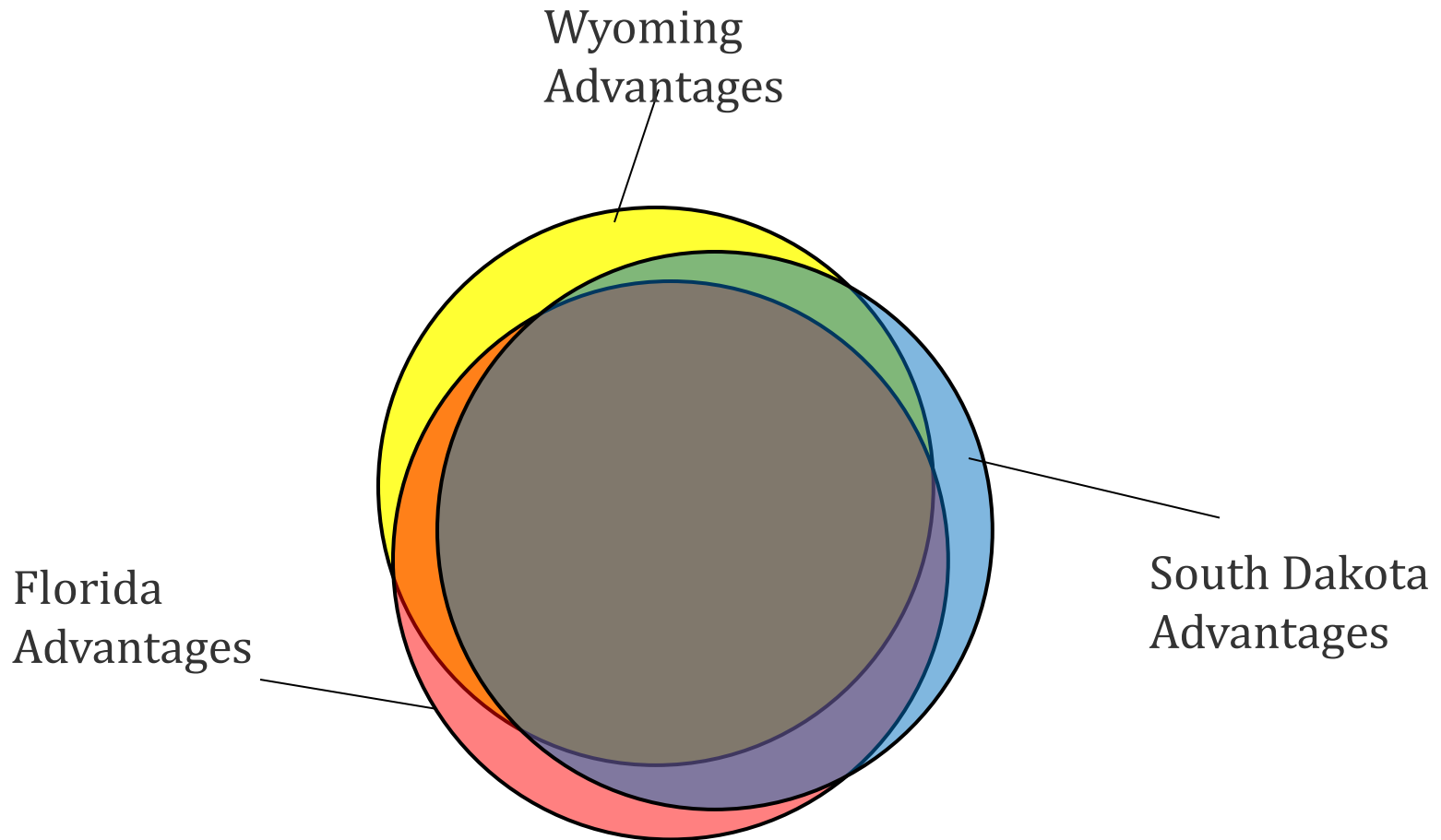


US PTC Jurisdictions

- Seven Primary Jurisdictions: Only 3 with an unregulated/unlicensed option



Commonality Far Exceeds Differences Among States



South Dakota

- Regulated
- Office in South Dakota, and resident board member
- Division of Banking examination every 3 years
- Situs Requirements to Take Effect July 1, 2015; requires South Dakota law requires each company to perform three or more of the following, in whole or in part:
 - Annual account reviews; investment reviews, accountings, correspondence, complete tax returns, distribute account statements

Florida

- Florida Family Trust Company Act becomes effective October 1, 2015
 - Class of permissible family clients is broad
 - Allows out of state family trust companies to operate a trust office in Florida
 - Requires 1 resident FL director
 - PTC can't be an executor of a FL estate
 - Examinations are (very) limited
 - Unlicensed option

Nevada

- Regulated or Unregulated
- No recent changes to PTC law, but very active legislature with respect to trust law
- Regulatory proposal: heightened examination but with option to hire outside auditor to conduct the exam

Texas

- Regulated--License from Banking Department required to act as PTC
- At least 3 directors (one Texas resident)
- Legislative proposal – align permissible clients to SEC single family office exemption (based on common ancestor rather than individuals who control PTC)

Tennessee

- Regulated--License from Banking Department required to act as PTC
- At least 5 directors
- 2014 – legislative amendment to streamline application process for PTCs

New Hampshire

- 2006 - Trust Modernization and Competitiveness Act, which provided for the formation of family trust companies
- No PTC proposals, but very active legislature with respect to trust law

Wyoming



Wyoming – Current Law

- Regulated – limited charter for a single family
 - Current process
- Unregulated—avoidance of ‘Trust Business’
 - (W.S. §§ 13-5-101 to -104, 13-1-101(xv); 1993 Att’y Gen. Opinion)
 - No filing with Wyo. Division of Banking

Wyoming – 7/1/2015

- Wyoming Chartered Family Trust Company Act
- “Chartered family trust company” or “family trust company”
- Does not transact or solicit trust business or act as fiduciary for the general public;
- Broad definition of “family member”: 10th degree of lineal kinship and 9th degree of collateral kinship of designated relative.
 - Also: spouses, former spouses, relatives of spouses and former spouses within 5th degree lineal kinship, family affiliates, family estates, trusts, charities

Questions

- Thank you