South Dakota's Situs Advantages Over Connecticut

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INTRODUCTION

Connecticut is home to an extraordinary concentration of inherited wealth, hedge fund principals, private equity professionals, and multi-generational family fortunes, yet it remains one of the more fiscally demanding trust jurisdictions in the northeastern United States. Connecticut imposes a state income tax on trust income at rates up to 6.99%, maintains a state estate tax on large estates, and, uniquely among most states, still levies a state gift tax on lifetime transfers. Connecticut has no Domestic Asset Protection Trust statute, limits dynasty trust duration, and provides no automatic privacy protections for trust court proceedings.

Connecticut enacted its Uniform Trust Act in 2020, bringing meaningful modernization to its trust law framework, but a uniform act is a starting point rather than a competitive advantage. South Dakota's trust law is instead the product of more than 40 years of deliberate, expert-driven legislative innovation. This whitepaper provides a detailed comparison of South Dakota and Connecticut across twelve critical planning dimensions.

STATE INCOME TAX ON TRUST INCOME

South Dakota has had no state income or capital gains tax since 1942, and the state constitution prohibits any new tax without a supermajority vote. For a trust generating $1 million annually in income, South Dakota siting can save up to $69,900 per year in state income tax compared to a Connecticut-sited trust, once the trust no longer retains a Connecticut nexus. [SD Const. Art. XI, §14]

Connecticut imposes state income tax on trust income at rates up to 6.99% for income over $500,000, taxing trusts based on the residency of the grantor or fiduciary. Capital gains are taxed as ordinary income, with no preferential rate, so a Connecticut trust realizing large gains faces the same top rate as its ordinary income. [Conn. Gen. Stat. §§ 12-700 et seq.]

STATE ESTATE TAX & GIFT TAX

South Dakota has neither an estate tax nor a gift tax. Transfers at death and lifetime gifts made by a South Dakota resident are therefore entirely free of state-level transfer taxes, on top of whatever federal transfer tax applies.

Connecticut imposes both a state estate tax and a state gift tax, each at a flat rate of 12% above the Connecticut exemption. [Conn. Gen. Stat. §§ 12-391; 12-642 et seq.] Connecticut is one of only a handful of states that still taxes lifetime gifts, which makes ongoing gifting programs meaningfully more expensive for Connecticut-domiciled grantors.

Connecticut's gift tax is tied to the grantor's domicile at the time of a lifetime transfer, so South Dakota siting delivers its full value immediately on the income tax, asset protection, and privacy side. A grantor who also relocates their own domicile out of Connecticut before making future gifts can position the family to avoid Connecticut gift tax on those transfers as well, and Sterling can help sequence that planning with counsel.

FLEXIBILITY & LEGISLATIVE MODERNIZATION

South Dakota's Governor's Task Force on Trust Administration Review and Reform meets annually and has continuously modernized the state's trust statutes for over 40 years. [SDCL § 55-17-5] Its recent innovations include Community Property Trusts, the Family Advisor concept, and Purpose Trusts of unlimited duration.

Connecticut enacted the Connecticut Uniform Trust Act in 2020, which brings the state to a modern baseline but leaves it without an annual dedicated trust reform mechanism, a Community Property Trust statute, or a Family Advisor concept. The CT UTA is a meaningful step forward, but it represents a single legislative event rather than the continuous refinement South Dakota's statutes undergo every year.

RULE AGAINST PERPETUITIES & DYNASTY TRUSTS

South Dakota was the first state to abolish the Rule Against Perpetuities, doing so in 1983, enabling true perpetual trusts for all asset classes. [SDCL § 43-5-8] More than four decades of case law and institutional practice now back that framework.

Connecticut adopted the Uniform Statutory Rule Against Perpetuities, applying a wait-and-see period of up to 90 years. [Conn. Gen. Stat. §§ 45a-491 et seq.] True perpetual dynasty trusts are not available under Connecticut law, so any Connecticut-sited trust intended to run for more than four or five generations will eventually confront that duration limit.

CREDITOR CLAIMS & ASSET PROTECTION (DAPT)

South Dakota has had a Domestic Asset Protection Trust statute since 1997, with a two-year lookback period and a clear-and-convincing standard of proof. [SDCL §§ 55-16-10; 55-1-44] Trustee attorney fees are reimbursed if a creditor's suit fails, which discourages meritless challenges.

Connecticut has no Domestic Asset Protection Trust statute, and a settlor who creates a discretionary trust for their own benefit cannot shield those assets from creditors under Connecticut law. [Conn. Gen. Stat. § 45a-499y] For Connecticut-resident clients in high-liability professions, this leaves no domestic self-settled option and pushes the conversation toward an out-of-state DAPT jurisdiction.

DIRECTED TRUSTEES

South Dakota's directed trust statute has been in place since 1997, and approximately 68% of South Dakota trust business is conducted on a directed basis. [South Dakota Division of Banking, Annual Trust Company Report] [SDCL § 55-1B-1] Under this model, a family's existing investment advisor keeps managing the portfolio while Sterling handles administration and fiduciary oversight.

The CT UTA includes directed trust provisions [Conn. Gen. Stat. § 45a-499oo et seq.], but these were only enacted in 2020, roughly 23 years after South Dakota's statute. Connecticut therefore has a correspondingly less developed specialist trustee ecosystem and a thinner body of directed-trust case law to guide practitioners.

DECANTING

South Dakota's decanting statute is ranked #1 nationally for flexibility. [SDCL § 55-2-15] It permits fully discretionary expansion of a trust and allows current or future beneficiaries to be added or removed, with no requirement to preserve the original beneficial interest structure.

Connecticut's decanting statute under the CT UTA [Conn. Gen. Stat. § 45a-499ss et seq.] is more restrictive, requiring broader beneficiary notice and imposing more court oversight triggers. Advisors managing longstanding Connecticut trusts in need of an overhaul will find meaningfully fewer tools available than in South Dakota.

QUIET TRUSTS (BENEFICIARY NOTIFICATION RIGHTS)

South Dakota has the most comprehensive quiet trust statute in the nation. [SDCL § 55-2-13] A settlor, trust protector, or advisor can restrict or eliminate a beneficiary's right to information about the trust entirely, which is particularly useful for dynasty trusts spanning several generations.

The CT UTA imposes a duty to keep qualified beneficiaries reasonably informed, though some waiver is permitted. [Conn. Gen. Stat. § 45a-499m et seq.] The statute overall is less explicit than South Dakota's, leaving more uncertainty about how far a Connecticut settlor can actually go in restricting disclosure.

PRIVACY

South Dakota provides a permanent, automatic seal on all trust judicial records. [SDCL § 21-22-28] No court petition is required, and the seal does not depend on a judge's discretion or the outcome of a motion.

Connecticut court proceedings involving trusts are generally public record, with no automatic statutory seal. Confidentiality requires a motion showing good cause, and Connecticut courts are not obligated to grant it even where the family's privacy concerns are legitimate.

SPECIAL PURPOSE ENTITIES (SPE)

South Dakota is the only state with a statute permitting trust advisory roles through an LLC for liability protection. [SDCL § 51A-6A-66] This lets an advisor serving as trust protector or investment direction advisor act through the entity rather than exposing themselves personally.

Connecticut has no codified Special Purpose Entity framework in the trust context. Advisors who take on trust protector or investment advisory roles in Connecticut must therefore do so in their individual capacity, without the liability shield South Dakota's statute provides.

PPLI PREMIUM TAX

South Dakota imposes a premium tax of just 0.8 basis points (0.008%) on Private Placement Life Insurance premiums over $100,000, among the lowest such rates in the country. This translates into material savings for UHNW families using PPLI as a trust-based tax deferral strategy, with the difference compounding over the life of the policy. [SDCL § 10-44-2]

Connecticut imposes a premium tax of 1.75% on life insurance premiums. On a $5 million PPLI policy, this differential represents approximately $85,400 in excess annual cost compared to a South Dakota-sited trust.

TRUST MODIFICATION & JUDICIAL ECONOMY

South Dakota's comprehensive nonjudicial modification statutes allow most changes without court involvement. [SDCL §§ 55-3-24 et seq.] South Dakota's courts have also developed particular expertise in the modification matters that do reach them.

Trust modification proceedings in Connecticut are handled by the Superior Court or Probate Court, and while the CT UTA provides for nonjudicial settlement agreements, court involvement remains more frequent than under South Dakota's framework. Connecticut's probate courts also vary significantly in sophistication and speed depending on the jurisdiction.

SOUTH DAKOTA VS. CONNECTICUT – AT A GLANCE

Dimension	South Dakota	Connecticut
State Income Tax on Trust Income	None (constitutional prohibition since 1942)	Up to 6.99%; capital gains taxed as ordinary income
Estate Tax & Gift Tax	None; no estate or gift tax of any kind	Estate tax at 12% above exemption; gift tax at 12% – tied to grantor's CT domicile at time of gift
Rule Against Perpetuities	Abolished 1983 – first in the nation. [SDCL § 43-5-8]	Modified USRAP; 90-year wait-and-see; no perpetual dynasty trusts
DAPT Asset Protection	Robust DAPT statute. 2-year lookback. Clear & convincing burden. [SDCL § 55-16-10]	No DAPT statute; self-settled trusts available to creditors under CT UTA
Directed Trustees	Statute since 1997; 68% of SD trust business is directed	CT UTA (2020); roughly 23 fewer years of institutional experience
Decanting	Ranked #1 nationally (Oshin). Fully discretionary. [SDCL § 55-2-15]	CT UTA decanting statute; more restrictive; broader court oversight triggers
Quiet Trusts	Most comprehensive in the nation. [SDCL § 55-2-13]	CT UTA duty-to-inform; limited waiver; less explicit than SD's statute
Privacy	Permanent, automatic seal. No petition required. [SDCL § 21-22-28]	No automatic seal; Superior Court & Probate Court proceedings public
Special Purpose Entities	Only state with statute permitting trust advisory LLCs. [SDCL § 51A-6A-66]	No codified SPE framework; advisors act in individual capacity
PPLI Premium Tax	0.8 bps (0.008%) – among the lowest in country. [SDCL § 10-44-2]	1.75% – ~$85,400 excess on $5M policy/yr
Legislative Modernization	Annual updates via Governor's Task Force	CT UTA enacted 2020; no annual reform mechanism; baseline uniform act
Trust Modification	Comprehensive nonjudicial modification; courts experienced in trust matters	Court involvement more frequent; variable probate court sophistication

CONCLUSION

Connecticut presents a compelling case for South Dakota trust siting on several fronts at once. The state income tax erodes trust income year over year, the absence of a DAPT statute leaves assets exposed to creditors, the 90-year RAP cap limits dynasty trust duration, and the PPLI premium tax penalizes one of the most effective trust investment strategies available to UHNW families.

South Dakota trust siting through Sterling Trustees addresses the income tax, asset protection, dynasty trust, and privacy gaps while preserving existing investment advisor relationships and AUM fully intact. Sterling Trustees administers over $13 billion across more than 500 trusts as an independent trustee, serving families in both directed and fully discretionary trust structures.

ABOUT THE AUTHORS



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This white paper is provided for educational purposes and does not constitute legal, tax, or investment advice. Trust siting decisions depend on the residency of the grantor and beneficiaries, the location and character of trust assets, and the specific terms of the trust instrument, among other factors. Readers should consult with qualified legal and tax advisors regarding situs selection and trust structure decisions specific to their circumstances.

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