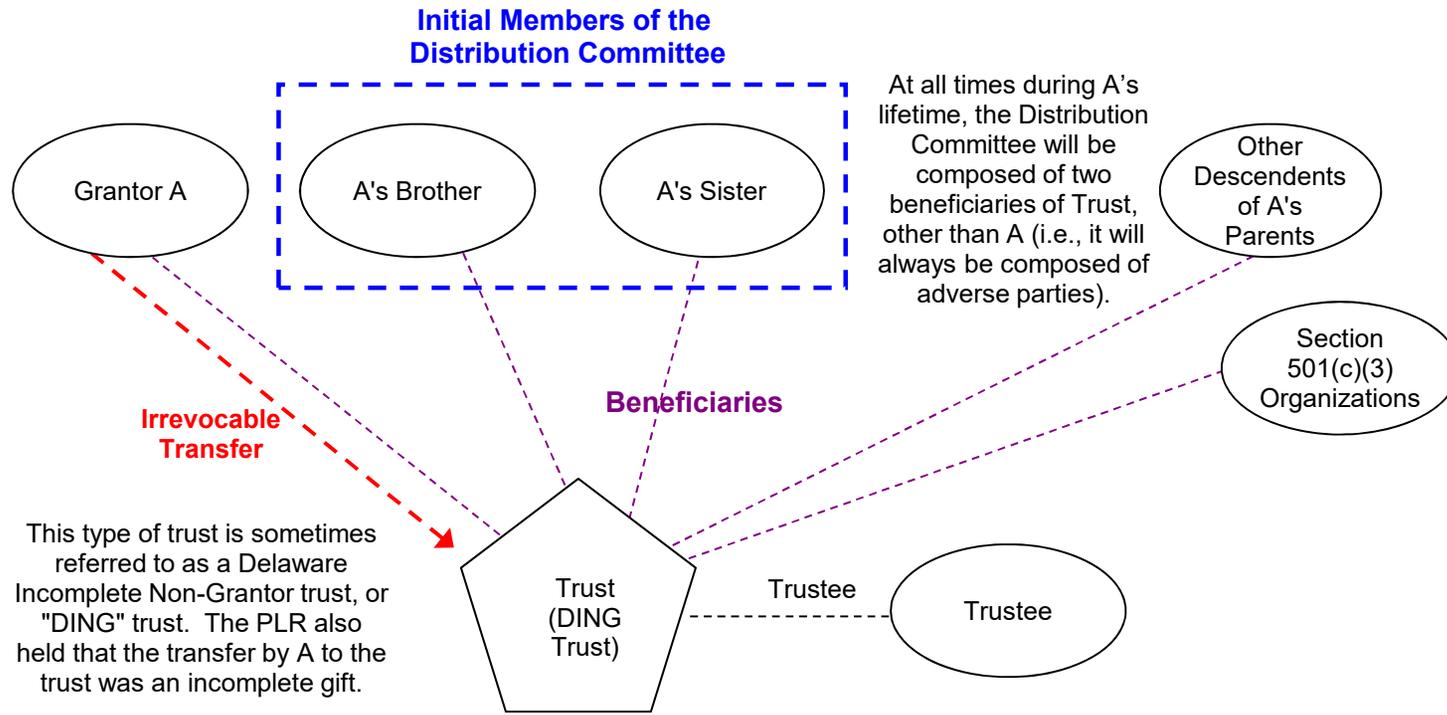


**Trust With Only Adverse Parties on the Distribution Committee Was Not a Grantor Trust**



This type of trust is sometimes referred to as a Delaware Incomplete Non-Grantor trust, or "DING" trust. The PLR also held that the transfer by A to the trust was an incomplete gift.

During A's lifetime, Trustee will pay over or apply the net income and principal, in such manner as the Distribution Committee shall determine, to or for the benefit of such one or more of (i) the descendants of A's parents as shall be living at the time of such payment or application; and (ii) any organization described in section 501(c)(3). Any net income not so paid over or applied shall be accumulated and added to the principal of the trust at least annually and thereafter shall be held, administered and disposed of as a part thereof. The Trustee shall make no distribution other than as directed by the Distribution Committee. The initial members of the Distribution Committee will be A's brother and sister, and at all times during A's lifetime, the Distribution Committee will be composed of two beneficiaries of Trust, other than A. All rights and powers conferred on the Distribution Committee are exercisable only by the unanimous consent of all members of the Distribution Committee, except that either member of the Distribution Committee, acting alone, may direct Trustee to make one or more distributions upon obtaining A's prior written consent to each such distribution.

Due to the discretion of the Distribution Committee, acting together, or singly with the consent of A, to make distributions from income and/or corpus to one or more of the beneficiaries which includes the members of the Distribution Committee, the members of the Distribution Committee have a substantial beneficial interest in both the income and the corpus portions of Trust. Any distribution that A wishes to make from assets contributed to Trust by A, could be made only if one of the members of the Distribution Committee agrees. Since each of the two Distribution Committee members is a potential recipient of Trust distributions, a consent to a distribution could adversely affect that individual's beneficial interest in Trust. Thus with respect to A, both of the members of the Distribution Committee are adverse parties within the meaning of section 672(a).

The requirement that at all times during A's lifetime, the Distribution Committee will be composed of two beneficiaries of Trust, who are either descendants of A's parents, other than A, or an organization described in section 501(c)(3), ensures that A will not be able to act independently of an adverse party. A does not have a reversionary interest in excess of five percent in any portion of Trust. Accordingly, section 673 does not apply to treat A as the owner of any portion of Trust. Because control over the beneficial enjoyment of, and any distributions of, income and corpus is exercisable by A only with the consent of a Distribution Committee member, who is an adverse party, A will not be treated as the owner of any portion of Trust under section 674 or section 677. Trust does not authorize any of the circumstances that cause administrative controls to be considered exercisable primarily for the benefit of A under section 675. Section 676 does not apply to A because A cannot revert title in A in any portion of Trust. Section 678 is not applicable since none of the trustees and no other person will have a power exercisable solely by that person to vest the corpus or income of Trust in that person.