

Naming Your Trustee

When you establish a trust, you can make your trustee's responsibilities as broad or as limited as you want and as the law permits. Yet the important consideration in choosing your trustee is not so much what the duties will be, but *how* your trustee will carry them out. A trust is only as effective as the trustee that oversees it.

When you create a trust, you make a legal arrangement that gives your trustee power to hold the assets you place in the trust for the benefit of one or more beneficiaries. The trustee you choose will protect your assets, caring for them as you instruct in your trust agreement, and serve the interests of the beneficiary or beneficiaries you name.

Who Can Serve as Trustee?

Generally, you can choose almost anyone who has reached the legal age of majority in his or her state of residence to serve as your trustee. You can name your spouse, a friend or colleague, or your professional or legal advisor. You can also name a corporate fiduciary, such as a bank trust department.

You can even name yourself as trustee of a living trust. A living trust is a trust you set up during your lifetime. One popular living trust strategy is to create a so-called standby trust with yourself as trustee and a *successor* or *contingent* trustee named to take over management of your assets if some triggering event occurs. You specify these events in your trust agreement. They might include your physical or mental incapacity, extended travel, or simply your request to have the trustee take over management.

When choosing an individual trustee, it's very important to make sure that the person is willing to serve, particularly with testamentary trusts — trusts created in your will — that won't go into effect immediately.

You can name more than one trustee to serve at the same time. For example, you might want to name an individual co-trustee with a professional advisor or corporate fiduciary. That way, you can gain the experience of the advisor or corporate fiduciary without losing the insight, concern, and family contact that an individual trustee might add.

Standby trusts aren't the only trusts that should have a designated successor trustee. If you have named an individual other than yourself to serve as your trustee, you should name a successor trustee in case your primary trustee either is unavailable when the trust goes into effect or becomes unable to serve.

A Trustee's Duties

Your trustee will follow the specific instructions you give in your trust agreement. But generally, a trustee's duties include:

- Accounting and administrative duties, such as paying bills, retitling assets, and bookkeeping
- Managing the trust assets, including reviewing investment performance, maintaining records, tracking investments, and collecting dividends and other income
- Administering the trust and seeking legal counsel when needed
- Maintaining and transferring real estate, including obtaining titles, deeds, and appraisals
- Managing, appraising, and disposing of any business interests held in the trust
- Preparing and filing trust tax returns
- Distributing trust assets according to the terms of the trust

With a standby trust, your trustee might also hold your securities as custodian, pay your bills and expenses, and care for your financial needs if you are incapacitated or absent.

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What To Look For

Serving as a trustee is a serious responsibility that may not be simple to fulfill. To help you make the right choice for your trust, here are some qualities to look for in a trustee.

Investment knowledge. Your trustee should be capable of investing the trust assets productively and prudently. You'll want someone who understands the goals you've set for your trust and can implement an effective investment strategy to achieve those goals. Your trustee should have access to the current investment research and analysis needed to make unbiased, fact-based investment decisions. If your trust contains real estate or other special assets, your trustee should also have experience handling those types of assets.

Objectivity. Your trustee will be called on to make careful, objective decisions that are in the best interests of all your beneficiaries. A trustee cannot allow personal bias to cloud trust decisions.

Availability. Your trustee will need to have sufficient time, possibly over many years, to administer the trust, manage the trust assets, and attend to the needs of your beneficiaries. You need a trustee who will not get caught up in competing business and personal concerns and place your trust on the back burner.

Your professional financial advisor can provide you with more information on the duties and responsibilities of a trustee and help you choose a trustee that will be right for you and your trust.

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