



FIDUCIARY CONSIDERATIONS

Trying to understand the roles of a beneficiary and a trustee of a trust?

A guide to understanding the relationship between trustee and beneficiary

A trust is an arrangement whereby one person (the grantor) places property in the care of another (the trustee) for the benefit of a third (the beneficiary) for the purposes and under the terms described by the grantor. Trusts are often created for the long term, with certain beneficiaries enjoying a current interest in the trust and others having an interest that takes effect in the future. The role of the trustee is to balance impartially the potentially adverse interests of the beneficiaries while carrying out the terms of the trust. Understanding the nature of your interest in a trust, as well as the role of the trustee in carrying out the terms specified by the grantor, can help set your expectations regarding management and distributions.

1) Duties of a trustee

The trustee of a trust assumes responsibility for the management and distribution of the trust assets and adheres to the duties owed to the trust beneficiaries. Generally, trust law imposes the following duties on a trustee:

- Carry out the terms of the trust document
- Manage and preserve trust property in a prudent manner, including the duty to diversify trust assets
- Exercise reasonable care and skill
- Weigh the interests of all beneficiaries—both current and remainder
- Keep accounts of trust activity and keep beneficiaries informed

2) Role of the beneficiary

Even though trust law does not include a list of duties for a beneficiary to follow as it does for a trustee, beneficiaries can still optimize their interest in the trust and their relationship with the trustee. In most successful trust arrangements, a beneficiary understands:

- The purposes of the trust as described by the grantor in the trust document
- The nature of their interest in the trust as a current beneficiary or a remainder beneficiary
- The investment objective of the trust
- The terms of the trust, including the standard under which distributions must or can be made
- The factors that go into whether a trustee should make a discretionary distribution, which may include:
 - The grantor's stated purpose for trust distributions
 - Other resources available to the beneficiary
 - The documentation provided by the beneficiary to support the distribution request
 - The size of the requested distribution in relation to the size of the trust
 - The income tax consequences of the distribution

Trustees have a fiduciary responsibility to manage and distribute trust property in accordance with the purpose of the trust as set forth by the grantor. This responsibility requires balancing the interests of people who may have competing needs.

Understanding the nature of trust administration and the terms and purposes for which a particular trust was created can help to make the relationship between beneficiaries and their trustees a harmonious and productive one. **For more information on understanding the roles of a beneficiary and a trustee of a trust, visit our *Fiduciary Considerations* resource page.**

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