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## Selecting the Right Fiduciary

DECIDING WHO WILL CONTROL THE MANAGEMENT AND DISTRIBUTION OF YOUR ASSETS AFTER YOU PASS AWAY IS AN ESSENTIAL PART OF ESTATE PLANNING.

**W**hen having a will or trust document prepared, the choice of fiduciaries could be the single most important decision you make. Your fiduciary—the person or institution who has a duty to act on your behalf when you die—will play multiple roles in assuring that your estate or trust is managed as you would like.

Filling a fiduciary role can be challenging yet with expert planning you can develop a successful strategy. A good first step is to identify your fiduciary needs in order to select the right person for the job. Fiduciary roles include guardians, medical or financial powers of attorney, estate executors and trustees.

- *A guardian* acts on behalf of a minor child until the age of majority—or indefinitely if the child is incapacitated—providing shelter, guidance and financial support.
- *A medical or financial power of attorney* makes medical or financial decisions for you if you are incapacitated.
- *An executor* carries out the will and settles the estate within probate.
- *A trustee* is responsible for investing, managing and distributing your trust's assets.

The fiduciary you choose will probably serve in all of these roles. So deciding who will be the best fit for this responsibility requires careful consideration and a clear understanding of the qualities necessary to fill this role successfully, including the individual's level of experience, skills, expertise and knowledge.

"It's important to think about two things when deciding who the fiduciary of your estate should be," says Susan Gell Meyers, an estate

attorney and partner of law firm Warner Norcross & Judd in Grand Rapids, Michigan. "First, you need to make sure that the person has the ability to manage and invest your estate's assets prudently. Secondly, the person needs to be a decision maker. That means they have to have the ability to say 'no' sometimes."

### FAMILY MEMBERS AS POTENTIAL FIDUCIARIES

Married couples often designate their surviving spouse as the fiduciary in their estate. This is often a good decision, up to a certain age. If you and your spouse are both elderly, it is often wise to change your fiduciary to relieve your spouse from the stress and burden of the role at such an old age.

There are many advantages when appointing a spouse or other family member as your fiduciary. For instance, a close family member is going to know more about you as a person, and your financial history, than someone who works for a large financial institution. Having this frame of reference will be good when making decisions about how aggressively to invest your assets, and when and to whom distributions should—and should not—be made. A family member will often act as your fiduciary free of charge, and this is certainly the least expensive option when it comes to managing your estate.

However, the role of fiduciary can put that person at odds with the rest of your potential heirs. Family members often have a hard time saying "no" to other family members. If you have family members who will likely want to ask for large or numerous distributions from

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your trust, you'll want a fiduciary who is strong enough to say "no" when the distribution—say for a new wardrobe or vacation—is unnecessary. Saying "no" often can lead to strained relationships between family members, something you don't want to leave behind. In addition, family members may not be the most skilled financial experts or have the insight to manage an estate. While family members are cheaper, you are better off hiring a professional money manager if your family doesn't have the proper acumen for the job.

## ADVANTAGES OF THE PROFESSIONAL TRUSTEE

Meyers stresses that you should choose someone who is reliable and will act in the best interests of your estate, both financially and emotionally. No one wants family members squabbling over their money, even

if it is well managed and growing. She says that a third-party fiduciary from a bank or financial institution is a way to alleviate those strains.

A professional trustee has the resources and expertise to make smart investment choices. Since most people want to leave a living trust that grows for generations to come, placing your assets in the hands of a savvy financial pro can reap tremendous rewards. Corporate trustees also have a working knowledge of all of the regulatory and tax filings that need to be filed on a quarterly or annual basis. Putting this in their hands is often worth their fee. Typically, corporate trustees charge a small percentage of the trust's assets under management, plus an hourly rate for various administrative services.

Aside from the expensive fees that come with a professional trustee's services, another consideration is that these trustees, especially at large, national firms, are often unaware of a family's particular needs on a day-to-day basis and, as a result, may be slow or inattentive to details that are very important to your family trust.

## ROUNDTABLE DISCUSSION WITH YOUR TEAM

Once you have selected the fiduciary of your estate, it is important to meet with your entire team, including your accountant, financial advisor and estate attorney, to discuss your estate planning objectives.

Along with discussing your distribution of assets and how aggressively your trusts should be invested, you should also talk about your medical concerns and wishes. Since your fiduciary will have power of attorney of your estate, they will be asked to make decisions regarding your health care should you become unable to make those decisions on your own. Be sure to make your requests known in specific detail. Not only will it ensure that your desires are met, it will also take the pressure off your fiduciary when it comes time to make these decisions.

The fiduciary(ies) you name will play an important role in assuring that your assets are ultimately used to support the people and causes you care about. It may be a good idea to consult with your financial advisor and legal and tax counsel before making that important decision. ■

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