Insights

Corporate Trustee vs. Individual: Will an Individual Provide You With All the Advantages of a Corporate Trustee?

In addition to deciding who receives your property when you pass away, one of the most critical decisions in your estate plan is choosing the right trustee. This choice can mean the difference between a peaceful, efficient handling of your estate or one wrought with challenges.

People often believe a family member, a close friend or an attorney should be the trustee of trusts for their family. However, there are a myriad of reasons why a professional fiduciary like Fiduciary Trust is a better choice.

The job of a trustee is time consuming, highly technical, fraught with potential liability and can last for many years, even decades. The trustee will continue to be responsible for managing the assets and distributing them to your beneficiaries.

Six Important Factors to Consider When Choosing a Trustee

To do the job well, trustees should be prepared for a large amount of time-consuming work. They must be extremely organized recordkeepers and have significant knowledge about financial and legal matters. The trustee will need to be able to work with and manage various professionals including attorneys, accountants and investment managers.

Consider these six factors before making this important decision:

1. Costs
   People often believe that individual trustees are cheaper than institutions. This is not true. Individual trustees must hire other professionals, such as attorneys, CPAs, custodians and investment managers to help them perform trust-related duties. When the costs of these individual services are added on to the trustee fee that an individual will charge, you may be paying more than with a corporate trustee who provides these capabilities in house. Often these fees are bundled into one, comprehensive fee.

   Additionally, tax costs and state trust laws need to be considered. The residence of a trustee may determine the income taxation of a trust and the governing law. Corporate trustees such as Fiduciary Trust may have offices in jurisdictions that will avoid state income tax and capital gains taxes on your trusts.

2. Ability to Make Difficult Decisions
   Trustees are often asked to make difficult personal decisions, such as withholding property from a spendthrift beneficiary or helping a beneficiary with substance abuse problems find a rehabilitation facility. Individuals may not have the tools or resources to make those decisions objectively. Some individuals may not have the ability to say “no” when necessary and, if they do say no, the relationship between the beneficiary and the individual trustee may suffer.

   A corporate trustee is impartial in making decisions related to the beneficiaries and will administer the trust in accordance with its terms and applicable law. Experienced trust officers make major decisions about discretionary distributions based on their professional understanding of trust provisions, beneficiary circumstances and intentions.
3. Recordkeeping and Reporting
Administering a trust involves many responsibilities including filing tax returns, issuing regular statements and keeping records of trust account activity. For example, trusts must keep separate income and principal records for accounting purposes, and they must file an annual income tax return with the IRS. Trustees must report income, deductions, gains and losses of the trust, income that is either accumulated or held for future distribution or distributed to beneficiaries, the income tax liability of the trust and any employment taxes paid in wages to household employees. In addition, multiple tax schedules may be required.

Family members or other appointed individuals may find this responsibility to be overwhelming and too time consuming. And, any errors, omissions and late filings can subject the trustee to heavy fines as well as to personal liability if the beneficiaries are adversely affected by incorrect accounting.

4. Safeguarding Assets
Trusts administered by individual trustees are rarely subject to examination, which may leave potential mismanagement of the trust undetected and uncorrected, even if accidental.

Trusts managed by corporate trustees are supervised and reviewed by internal bank auditors and examiners from governmental regulatory agencies. At Fiduciary Trust, state regulators regularly examine our books and records to assure compliance with the law, and an internal audit team examines accounts on a regular basis. All these reports are reviewed by our independent board. No such safeguards exist with respect to an individual trustee.

5. Acceptance of Liability
An individual trustee may be personally liable even for good faith, unintentional conduct that falls short of legal standards. Improper accounting, mishandling of assets, conflicts of interest, poor investment decisions and failing to achieve the most advantageous tax savings are all reasons an unhappy beneficiary may seek legal action against the trustee.

A corporate trustee is equipped to avoid such liability and carries insurance as further protection. In addition, corporate trustees have bookkeeping systems to ensure meticulous accounting of receipts and disbursements and to provide accurate reporting to beneficiaries and tax authorities.

6. Service Consistency
An individual trustee may not be able to respond to a beneficiary’s needs in a prompt manner for a variety of reasons, and trust beneficiaries would have no recourse if the trustee stopped responding.

For example, it may be difficult for the trustee to respond to requests if he or she is on vacation outside of the country or in a remote location. Service consistency becomes an even greater issue if an individual trustee becomes ill or incapacitated. Replacing the trustee in this case could be complicated since there are many levels of incapacity, and proving your trustee is no longer fit for the job could be a difficult and painful experience for your family, as well as for the trustee and his or her family.

Lastly, an individual trustee could die, in which case the trustee’s estate would need to appoint a representative. Before assuming responsibility, the representative may request an accounting to exonerate the trustee for his or her actions during the term of the trust. A new trustee may be advised to wait until that exoneration has occurred to step into the role, during which time the trust would be unattended. If the financial markets were to experience a shift during this time, there may be a costly delay in adjusting the trust portfolio.

A break in service is not an issue with a corporate trustee, since the corporate trustee is always available and devotes its full time and attention to the required duties and responsibilities of administering your trust. Unlike an individual trustee, a corporate trustee will not go on vacation, predecease you or otherwise be unable to administer the trust.
## Why Use Fiduciary Trust as Trustee Rather than an Individual?

<table>
<thead>
<tr>
<th></th>
<th>Fiduciary Trust</th>
<th>Individual</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Trust Legal Knowledge</strong></td>
<td>Fiduciary Trust has a large in-house legal team that interprets and administers trusts. We work with outside lawyers for non-routine trust matters.</td>
<td>Individuals, even with trust knowledge, will hire a lawyer to address routine trust matters.</td>
</tr>
<tr>
<td><strong>Accountability in Case of Theft or Negligence</strong></td>
<td>Fiduciary Trust is a solvent institution; we also carry insurance to ensure accountability to our clients.</td>
<td>Suing an individual trustee may not result in any benefit.</td>
</tr>
<tr>
<td><strong>Responsiveness</strong></td>
<td>Our professionals are trained to provide prompt responses. Any lag times are escalated immediately to a supervisor who ensures requests are addressed.</td>
<td>An individual may not be able to respond if they are on vacation or ill; beneficiaries generally have no recourse if the trustee stops responding.</td>
</tr>
<tr>
<td><strong>Incapacity</strong></td>
<td>Fiduciary Trust does not become incapacitated.</td>
<td>If an individual becomes incapacitated, replacing that trustee can be complicated.</td>
</tr>
<tr>
<td><strong>Death</strong></td>
<td>Fiduciary Trust has been in business for over 85 years.</td>
<td>A trustee's death causes a delay in trust administration and the trust may be unattended for a long period of time.</td>
</tr>
<tr>
<td><strong>State Regulated</strong></td>
<td>State regulators examine our books and records to ensure compliance with the law. Additionally, our internal audit team regularly performs examinations. All these reports are reviewed by our independent board.</td>
<td>No such safeguards exist with respect to an individual trustee.</td>
</tr>
<tr>
<td><strong>Fees</strong></td>
<td>Our fee is comprehensive.</td>
<td>Individuals are entitled to receive a fee to act as trustee, and may also hire legal and tax counsel, a custodian and investment managers, which may result in a higher total cost.</td>
</tr>
<tr>
<td><strong>Making Difficult Decisions</strong></td>
<td>Trustees are often asked to make difficult decisions, and we are experienced in making these decisions objectively, based on a professional understanding of trust provisions, the beneficiaries, and client's intentions.</td>
<td>Individuals may not have the tools and resources to make those decisions.</td>
</tr>
<tr>
<td><strong>Ability to Replace</strong></td>
<td>Replacing Fiduciary Trust is viewed as a business decision, not a personal one. Our policy is to step down as trustee upon request.</td>
<td>Replacing an individual trustee who is no longer wanted by the family can be difficult because of personal relationships that may have developed.</td>
</tr>
<tr>
<td><strong>Tax Knowledge</strong></td>
<td>Our team of income tax and transfer tax experts provides professional advice on tax matters related to the trust.</td>
<td>Individual trustees need to hire outside tax professionals who may not have a holistic view of the trust’s investments and other goals.</td>
</tr>
<tr>
<td><strong>State Income Taxes and State Law</strong></td>
<td>The residence of the trustee may determine the state income taxation of the trust. We can place the trust in a favorable jurisdiction for tax and legal purposes.</td>
<td>An individual does not have this flexibility.</td>
</tr>
</tbody>
</table>
Contact Us.
For more information about Fiduciary Trust’s corporate trustee services, please contact us at (877) 384-1111.

GROWING AND PROTECTING WEALTH FOR GENERATIONS

Fiduciary Trust is a wealth management firm founded in 1931 by families for families, with a singular focus on growing and protecting your wealth through generations. We work closely with individuals, families and foundations to build and manage personalized investment portfolios, and to develop estate plans that extend wealth to future generations.

Wealth Planning  |  Wealth Administration  |  Investment Management and Solutions

Fiduciary Trust International Offices
New York, NY
(877) 384-1111

Arlington, VA
(703) 647-4132

Boca Raton, FL
(561) 988-8460

Coral Gables, FL
(800) 618-1260

Fort Lauderdale, FL
(561) 988-8460

Los Angeles, CA
(800) 421-9683

San Mateo, CA
(877) 284-2697

St. Petersburg, FL
(800) 618-1260

Washington, DC
(888) 621-3464

Wilmington, DE
(866) 398-7414

FTCI (Cayman) Ltd.
Grand Cayman
(877) 384-1111

(212) 632-3000
(calling from outside the US)

https://fiduciarytrust.com

Securities, mutual funds and other non-deposit investments:

NOT FDIC INSURED  |  MAY LOSE VALUE  |  NO BANK GUARANTEE

Fiduciary Trust Company International and subsidiaries (doing business as Fiduciary Trust International) and FTCI (Cayman) Ltd. are part of the Franklin Templeton Investments family of companies.

This communication is intended solely to provide general information. The information and opinions stated are as of August 16, 2019, unless otherwise noted, and may change without notice. The information and opinions do not represent a complete analysis of every material fact. Statements of fact have been obtained from sources deemed reliable, but no representation is made as to their completeness or accuracy. The opinions expressed are not intended as individual investment, tax or estate planning advice or as a recommendation of any particular security, strategy or investment product. Please consult your personal advisor to determine whether this information may be appropriate for you. This information is provided solely for insight into our general management philosophy and process. Historical performance does not guarantee future results and results may differ over future time periods.

IRS Circular 230 Notice: Pursuant to relevant US Treasury regulations, we inform you that any tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein. You should seek advice based on your particular circumstances from your tax advisor.