

FIDUCIARIES

A fiduciary for estate planning purposes is a person(s) or institution given the authorization to act on the behalf of another in situations where the person cannot act on his or her own behalf due to being disabled, incapacitated, or death.

There are certain items to consider when selecting a fiduciary including:

- Trusting that this individual would work in the best interest of the estate.
- The ability for him or her to handle the financial aspects of an estate.
- Accessibility of the fiduciary to oversee the estate – it becomes difficult if fiduciary is located out of the area.
- The availability of the fiduciary to devote the time needed to serve as fiduciary.

A family member or close friend is often named as a fiduciary but there are other options available, including a corporate fiduciary or a private fiduciary.

CORPORATE FIDUCIARIES

An institution serving in a fiduciary capacity, including a trustee, executor, and administrator of one's estate.

ADVANTAGES

- They are usually insured and are closely monitored by federal and/or state regulators to ensure that adequate controls are in place.
- Banks are very conservative by nature.
- Extensive knowledge and capabilities.
- Ability to provide multigenerational trust relationships.

DISADVANTAGES

- In California, corporate fiduciaries are exempt from licensing.
- Corporate fiduciaries may use the investment departments inside their corporation, regardless of performance. There is a possible conflict of interest as the corporation's interests may be put before that of the Trustor.
- High fees with a potentially complex fee structure.
- Possible lack of personalized service.
- Potential minimum account size.

PRIVATE FIDUCIARIES

These individuals have been licensed by the CA Department of Consumer Affairs Professional Fiduciary Bureau as a professional fiduciary. They are required to complete a series of professional education courses as well as 15 hours of continuing education each year in the fields of accounting, asset management, or estate planning.

ADVANTAGES

- Many of these fiduciaries take on the same cases banks do, and their fees are generally lower than that of banks or trust companies.
- Development of personal relationship.

DISADVANTAGES

- Less consistent internal controls.
- Decreased potential to handle complex estate needs.
- Potential succession issues with individual fiduciary as opposed to a company.

It is important that serious thought be given to who will serve as fiduciary of one's estate as the goal is for their wishes to be respected and followed. In the event this does not happen, this can cause friction between the fiduciary and the beneficiaries and potentially result in having the courts decide on how the estate is to be handled or distributed.

This material is for informational purposes only. The information expressed in this document is as of the date of its publication and is subject to change. Please contact your financial advisor regarding the application of these issues to your business and individual circumstances.



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