Trusts come in all types, but even simple trusts can be complicated for people who have not worked closely with them before. If you have been named trustee or are otherwise expected to help administer a trust, the good news is that the law does not require you to hire an attorney. But the bad news is that mistakes in estate administration can be costly. If a trustee does—or fails to do—something they are supposed to do, they can be held personally liable.

For that reason, many people seek advice from a trust administration attorney. A legal advisor familiar with trust duties could help establish a list of tasks or a routine for ongoing maintenance. For a complex trust with long-term obligations, an attorney can take over regular responsibilities to avoid worry and paperwork in the future.

How Trusts Work

A trust is a tool for holding property, and that property can be of all types. Some attorneys describe trusts as big virtual buckets or file folders.

The person who establishes the trust is often called the settlor or grantor because they grant property into the trust. Once they do, that property belongs to the trust rather than to them. The property will be used one way or another to help the person named as beneficiary.

Often, trusts are created to hold property for people who cannot manage property on their own or who should not own it directly because of legal issues. For instance, a trust could hold property for minors who are not old enough to manage it on their own. Or the beneficiary could be an adult with special needs who receives government benefits and they would lose those benefits if they owned the property outright.

The property in the trust is managed by the trustee. A trustee has a fiduciary duty to act in the best interests of the beneficiary rather than their own best interests.

For a revocable living trust set up to avoid probate, the grantor often acts as their own trustee and beneficiary during their lifetime. After they pass away, the

successor trustee takes over property management and eventually distributes trust property to the successor beneficiaries.

Duties of a Trustee

The duties will vary according to the type of trust and its purpose. For a revocable trust used for probate avoidance, the trustee will need to wind up the affairs of the grantor, such as paying bills. Once those obligations are fulfilled, the trustee will ensure the remaining property in the trust goes to the new beneficiaries.

For a trust holding property for minors, the trustee may be required to manage the property for several years. They will need to protect the value of the property. They will need to file annual tax returns and may need to make periodic distributions as needed or as provided for according to the terms of the trust. For a special needs trust or other specific types of trusts, the trustee may need to keep specific records about how the property is managed and how distributions fit with legal requirements.

Talk to The Nordhaus Firms if You Have Questions About Trust Administration

Trusts can be confusing, and it is important to get the details right to avoid problems in the future. At The Nordhaus Firm, we help with all facets of trust administration. If you have questions or would like to discuss how we could assist, we invite you to contact us at your convenience.