



The Top Five Responsibilities of a Trustee of a Special Needs Trust

If you are considering taking on the responsibility of serving as the trustee of a special needs trust, you will probably have questions about the trustee's role.

Trustees of special needs trusts have many important responsibilities, but these five likely rank at the top of any trustee's list.

1. Making Appropriate Distributions From the Trust

Before a trustee makes a distribution from a special needs trust, she has to confirm that the distribution is actually authorized under the terms of the trust and she must also understand the effect that the distribution will have on the beneficiary's government benefits.

At a minimum, every special needs trust will contain some language giving direction to the trustee. But no matter the wording, one thing is very clear - the trustee is legally required to follow the terms of the trust when making distributions. Not only must a trustee understand the terms of the trust itself, but the trustee must also recognize how a distribution affects the beneficiary's government benefits. Just because the trustee can spend the money does not mean that the trustee should spend the money, especially since certain purchases can reduce or end the recipient's government benefits. On the other hand, some distributions that affect government benefits may still be in the beneficiary's best interest and should still be made.

2. Investing the Trust Property Appropriately

A trustee is probably not going to be picking individual stocks to invest on behalf of the trust. But the trustee is required to make sure that the trust funds are appropriately invested by qualified financial professionals. This involves oversight of the investment activity, monitoring and frequent meetings with financial advisors and accountants to make sure that the trust's investment strategy is working properly. The trustee is also tasked with making sure that the level of risk is appropriate for a trust to provide steady growth while still generating some income for the trust.

3. Bookkeeping

The trustee is responsible for keeping the trust records and for providing accounts to the beneficiary and sometimes to others. Like investing, not all trustees are going to prepare

accounts on their own - sometimes they hire bookkeepers to do this. But the trustee must ensure that the proper information is recorded and distributed to the appropriate parties and that the trust's records are in order and available for audit by the beneficiary or a court.

4. Tax Reporting

Trustees are required to file the trust's state and federal income tax returns, typically on April 15th. Since trust tax returns are complicated, it's best to leave this job to a professional accountant, but the trustee must still understand the basics of trust accounting and how distributions from trusts are taxed to the beneficiaries. If the trustee is not careful, the trust beneficiary could experience an unwelcome tax bill come tax time.

5. Communication

Although all of these responsibilities are significant, communication with the trust beneficiary, his caregivers and others involved in his life is probably the most important responsibility of all. Trustees often have to coordinate payment for essential services like housing and medical care, and miscommunication can result in the loss of these sometimes life-saving benefits. Trustees also risk suit from beneficiaries or family members who feel that their needs are not being addressed by the trustee. Often a simple phone call can save a lot of hurt feelings. But this does not mean that a trustee shouldn't be able to say "no" to a beneficiary. While a million-dollar trust may seem like it will last a lifetime, it can be easily squandered if a trustee is more concerned with keeping a beneficiary happy than with making appropriate expenditures from the trust. Setting and communicating clear expectations about the use of trust funds avoids this problem.

For more information about special needs planning in general and special needs trusts in particular, contact Attorney John D'Onofrio today.

As a member of the Academy of Special Needs Planning, John is constantly reviewing new laws and amendments in this area of law as well as attending seminars and continuing education classes relevant to special needs planning and trusts.

Call today to schedule a free initial consultation. Call today, get peace of mind today.

412.928.2068

Attorney John A. D'Onofrio

D'Onofrio Law Office, P.C.

651 Holiday Drive

Foster Plaza 5, Ste. 400

Pittsburgh, PA 15220

john@donofriolawoffice.com