

Special Needs Answers

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What Are the Responsibilities of an SNT Trustee?

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The trustee of a special needs trust (SNT) has all of the duties of any trustee, plus specific added responsibilities due to the special needs of the beneficiary. All trustees are responsible for:

- Appropriate investment of trust property
- Bookkeeping and accounting of trust activities
- Communication with trust beneficiaries
- Tax reporting for the trust
- Appropriate distribution of trust property to the beneficiary or beneficiaries, taking into account both current and future needs.

On top of these responsibilities, the trustee of an SNT must also:

- Inquire into the needs and welfare of the trust beneficiary
- Make certain that the beneficiary maintains her eligibility for public benefits programs
- Report to the agency or agencies administering such programs, and
- Work with the family members, teachers, social workers or others providing support for the trust beneficiary.

Due to these demands, many families find that a professional trustee is better prepared to act as trustee or as co-trustee with a family member. Professional trustees, such as banks, trust companies, and some attorneys, are equipped to handle details like establishing accounts for the management of trust assets, handling trust recordkeeping, hiring and overseeing the activities of any service providers (such as tax reporting), making distribution decisions and investing trust assets.

With regard to taxes, the trustee is responsible for notifying the IRS that the SNT has been signed and requesting an employee identification number (EIN) that will be used on tax returns. The trustee also must prepare and file annual federal and state fiduciary income tax returns, reporting any income the trust earns, whether in the form of interest, dividends or capital gains. Since tax rules vary by state and type of SNT, it is critical for the trustee to know when potential tax reductions may warrant making distributions to or for the beneficiary.

The trustee also has sole responsibility for distribution decisions. To avoid compromising public benefits eligibility, distributions generally should be made directly to providers of goods or services, rather than to the beneficiary. When the beneficiary receives an amount above the allowable monthly limit, it is considered unearned income and SSI benefits are reduced on a dollar-for-dollar basis. Similarly, distributions made for items covered by SSI (i.e., food and shelter) are considered "in-kind" income and reduce monthly SSI benefits.


The trustee must fully understand and follow SSI's distribution guidelines, which vary by state. He or she also must adhere to any distribution guidelines the Grantor outlined in the trust.

One of the most significant abilities of a trustee is often the necessity of saying "no" to a request for trust funds. While trusts may look like they hold a lot of money, often when distributed over the lifetime of the beneficiary it's not as much as is needed. Even with as much as \$1 million invested, it may well be necessary to scrimp and to use the trust funds quite sparingly. It can often be easier for an independent, professional trustee to say "no" than for a family member to do so.

Finally, the trustee has fiduciary responsibility for the management of trust assets, even if he or she chooses to hire professional investment managers to make day-to-day investment decisions. While the appropriate investment strategy depends, in part, on the beneficiary's age and needs and the amount of assets that can be invested, the trustee generally must comply with the "Prudent Investor Act," which requires that investment decisions be made responsibly and impartially. When the trust outlines specific investment guidelines, however, those take precedence over Prudent Investor Rules.

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