

# Why should I choose a corporate trustee?

## ATTRIBUTE:

### Trustee knowledge and experience

An experienced fiduciary is more likely to appreciate the broad and complex multiplicity of laws involved and know who to call on for assistance if needed; thereby avoiding many mistakes and more efficiently administering and executing the terms of the trust.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Collective years of staff experience</li><li>• This is all they do—they know how to do it</li><li>• Familiar with all types of trusts and tax issues</li><li>• Understands estate planning</li><li>• Understands legal responsibilities</li></ul>	<ul style="list-style-type: none"><li>• Often has no experience in being a trustee</li><li>• May not have financial or tax experience</li><li>• May not understand how trusts work</li><li>• May not have experience in asset management or investments</li></ul>

## ATTRIBUTE:

### Decision-making ability and Legal Capacity

The trustee must be able to make many decisions, some of great significance, over an extended period of time. This requires both emotional maturity and wisdom as well as practical knowledge and experience. Also, a trustee must have what is known as legal capacity.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Accustomed to making decisions as trustee</li><li>• Has experience and resources needed</li><li>• Legal capacity is not an issue</li></ul>	<ul style="list-style-type: none"><li>• May be uncomfortable with big decisions</li><li>• May not know where to get help</li><li>• Minor children may not be appointed</li><li>• Legally incapacitated adults may not serve as trustee</li><li>• What if you choose someone who later becomes incapacitated?</li></ul>

## ATTRIBUTE:

### Availability, Stability, Continuity and Longevity

Trusts often last for years, even generations. A trustee must be willing—and have the resources—to serve throughout the term of the trust, maintaining a consistent level of interest and continuity required to manage the trust effectively. The two important issues are permanency and proximity. Can the trustee serve effectively for a long period of time, and does the trustee have representatives in the area? Will the trust management continue seamlessly even if something happens to you?

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Corporate trustees are more likely to serve for the duration of the trust</li><li>• No illness, divorce, vacations, death or distractions</li><li>• Always someone available to talk to</li></ul>	<ul style="list-style-type: none"><li>• Individuals may lose interest, move away, become incapacitated or die before the trust is finally distributed</li><li>• Inability to manage personal finances, family circumstances, social problems [gambling, alcoholism, etc.] can occur</li></ul>

## ATTRIBUTE:

### Integrity

Honesty and loyalty are the watchwords of trusts. Vast sums of money and other assets are entrusted to fiduciaries who must exercise a high degree of care over trust property, and act consistently on behalf of trust beneficiaries. You must have total confidence in the integrity of your chosen trustee!

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Checks and balances in place</li></ul>	<ul style="list-style-type: none"><li>• May be subject to pressure and/or temptation under adverse circumstances</li></ul>

## ATTRIBUTE:

### Peace of Mind

Peace of mind is one of the primary reasons for establishing a trust. Knowing that your wishes will be carried out, that the trust will continue to take care of things, and that you have relieved your spouse or family members of the burden of management is an important consideration.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• You can rely on their experience and integrity</li><li>• You know your wishes will be carried out.</li><li>• Relieves family members of responsibility</li></ul>	<ul style="list-style-type: none"><li>• May decide they don't want to do it</li><li>• May move far away</li><li>• May not be capable of doing what's needed</li></ul>

## ATTRIBUTE:

### Asset Management Experience and Investment Expertise

A trustee should have a high degree of investment sophistication and experience, a specific investment policy, and a proven track record in asset management. Choose a trustee with a disciplined investment approach.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Experience with all asset types</li><li>• Give full attention to asset management</li><li>• Potential for better performance</li><li>• Wider array of investment choices</li><li>• Customized strategy for each account, based on grantor's instructions</li></ul>	<ul style="list-style-type: none"><li>• May have little or no experience in investing or managing assets for someone else</li><li>• May not be interested in investments</li><li>• May demonstrated inability to manage personal finances</li></ul>

## ATTRIBUTE:

### Impartiality and Objectivity

A trustee is legally bound to treat all parties equally and fairly. The trust document must always be the governing authority in administering the terms of the trust. The trustee should never have a conflict of interest—for example, being both trustee and beneficiary of the trust.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Governed by provisions of the trust document, not by emotions or feelings</li><li>• Treats all beneficiaries impartially, can't be pressured or coerced like an individual could</li></ul>	<ul style="list-style-type: none"><li>• Naming one family member as trustee over another can cause hard feelings</li><li>• Other family members or beneficiaries can exert pressure or coercion</li><li>• May not be comfortable confronting others or making difficult decisions</li><li>• May find it hard to act impartially, especially if he/she is also a beneficiary</li></ul>

## ATTRIBUTE:

### Security, Regulation and Accountability

A trustee must use the same degree of care and skill that a person of ordinary prudence would exercise in dealing with his/her own property. The security of the funds entrusted to the trustee and the depth of the trustee's pockets in the event of litigation by beneficiaries is an important concern.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Banks and trust companies are regularly audited both internally and externally</li><li>• Trust assets must be kept separate from other assets and cannot be loaned out, mixed with the trustee's corporate assets or used to satisfy its creditors</li><li>• Required to have appropriate insurance as protection against fraud and negligence</li><li>• Active risk management procedures</li><li>• Regulated by state or federal agencies</li><li>• Must have regular audits</li></ul>	<ul style="list-style-type: none"><li>• No regulation</li><li>• Little or no oversight</li><li>• Limited accountability</li><li>• Accountability is not formalized—no checks and balances</li><li>• May be vulnerable to trustee's creditors</li><li>• Assets managed by individuals have no protection against fraud</li><li>• May not be adequately protected against trustee liability for errors/omissions</li><li>• Little or no risk analysis or management</li></ul>

## ATTRIBUTE:

### Legal Impact

A trust may be declared invalid if state law trust requirements are not met. All benefits of the trust are lost if it is invalidated. [For instance, a trust is invalid if no assets are held in the name of the trust.] Also, the trustee must fully understand everything contained in the trust document.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Knows state requirements for a valid trust</li><li>• Follows through with all necessary steps of trust administration</li><li>• Understands trustee powers granted in the document, fiduciary duties, responsibilities, and liability</li></ul>	<ul style="list-style-type: none"><li>• May be unaware of certain state trust requirements</li><li>• May unwittingly cause problems with trust validity</li><li>• May be unaware of trustee responsibilities and liability</li></ul>

## ATTRIBUTE:

### Record-keeping and Reporting

A trust is a long-term arrangement under which accountings must be made periodically over many years to a number of parties that may include the grantor, the beneficiaries, the appropriate federal and state taxing authorities and a supervising court. This requires regular statements of the receipts, disbursements and assets of the trust in an intelligible form, and careful long-term record storage.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Has systems in place for trust accounting</li><li>• Has storage capacity</li><li>• Understands record-retention requirements</li><li>• Familiar with reporting requirements</li></ul>	<ul style="list-style-type: none"><li>• Lack of trust accounting knowledge</li><li>• May destroy records too soon due to lack of space or ignorance</li><li>• May be unaware of reporting requirements</li></ul>

**ATTRIBUTE:**

**Accounting and Tax Planning**

The trustee must have a working knowledge of the accounting laws and both federal and state tax laws involving income, estate, gift and generation-skipping tax.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Familiar with these issues because of experience in trust administration</li><li>• Audits, examinations and reference library provide up to date information</li></ul>	<ul style="list-style-type: none"><li>• May not understand complex tax laws</li><li>• May not know where to get reliable help</li><li>• Potential tax liability if not done right</li></ul>

**ATTRIBUTE:**

**Tax Impact**

If one of the reasons for establishing a trust is to save taxes, the expertise of the trustee in tax matters becomes even more significant. The potential for adverse tax consequences increases when the trustee is given discretionary powers over the income or principal of the trust .

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Understands tax laws as they apply to trusts</li><li>• Makes sure all assets are handled in a tax-appropriate manner</li><li>• Understands proper use of trustee powers</li></ul>	<ul style="list-style-type: none"><li>• May have no experience or knowledge of complex tax law requirements</li><li>• Tax consequences can result from improper trustee selection</li></ul>

**ATTRIBUTE:**

**Flexibility**

A trustee must be able to adapt to changing circumstances. It is inevitable that tax laws will change; the circumstances of beneficiaries can also change significantly. As a trust is a mechanism specifically designed to meet those changes, the trustee must be willing and able to change as well.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Maintains current information on tax laws applying to trusts.</li><li>• Maintains regular contact with trust beneficiaries.</li></ul>	<ul style="list-style-type: none"><li>• May be unaware of changes in tax laws or other requirements.</li><li>• May not have regular contact with all beneficiaries.</li></ul>

**ATTRIBUTE:**

**Business Experience and Resources**

Trust administration requires expertise in many different areas. For example, if one or more businesses are held in the trust, it is extremely important that the trustee have expertise in that type of business. Even if the trustee sells the business, knowing when and how best to dispose of it is a very important skill.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• Has a network of available and proven resources to call on</li><li>• Access to experts across a wide spectrum</li></ul>	<ul style="list-style-type: none"><li>• May not know where to seek help or how to make sure advice is reliable</li></ul>

**ATTRIBUTE:**

**Cost**

A trustee is entitled to a reasonable fee. All fees and expenses generated by the trustee must be paid from trust assets, thereby reducing funds available for distribution to beneficiaries. Some oversight of fees and expenses should be exercised.

CORPORATE TRUSTEE	INDIVIDUAL TRUSTEE
<ul style="list-style-type: none"><li>• A corporate trustee usually charges a fee, based on a published schedule</li></ul>	<ul style="list-style-type: none"><li>• Is entitled to trustee fee and expense reimbursement, but there is little oversight of what fees may be charged</li><li>• Increased costs from having to hire lawyers, accountants, tax advisors, etc. to perform routine trustee responsibilities</li></ul>

