



TRUST & ESTATE TAX & ADVISORY SERVICES

Fiduciary Duties

Concept of Fiduciary Duties

A fiduciary has a duty to act solely for the benefit of another on matters within the scope of the fiduciary relationship and is, therefore, strictly accountable for this stewardship.

In a fiduciary relationship, the fiduciary takes possession of property for the benefit of the beneficiary or beneficiaries, and accepts a duty of undivided loyalty and confidence. This is the role of the Trustee or Executor.

Fundamental Obligations

Regarding a Trust or an Estate, the fiduciary has a duty with respect to the beneficiaries and to the assets/property (the *corpus*). This duty has a specific scope and entails certain obligations. Four fundamental obligations constitute fiduciary duty. They are:

- **The duty of management:** to use reasonable care to deal prudently and competently with the trust corpus; to generate a reasonable return for the *income* beneficiaries while also protecting it for the *remainder* beneficiaries.
- **The duty of loyalty:** to set the beneficiaries' interests ahead of the interests of any other party (including his or her own) in dealing with the fiduciary assets; a duty to follow the directives in the governing instrument—to defend the trust and to remain loyal to it.
- **The duty to account:** in addition to filing taxes, to provide relevant information to the beneficiaries; to keep records of all transactions affecting the trust and make them available to the beneficiaries; it is an affirmative duty and requires that the fiduciary do more than merely be honest—the fiduciary must keep records that prove honesty.
- **The duty to disclose:** to disclose to the beneficiaries all material facts concerning the administration of the trust—not just financial information; it also involves transactions that might take place in the future.

We are here to help you understand & fulfill your fiduciary responsibilities.