



# Choosing a Fiduciary: Executor, Trustee, or Guardian

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Choosing an executor, trustee, or guardian (a *fiduciary*) is often the most important decision you will make in connection with your estate and financial planning. Available options are close friends or family members or corporate trustees. After considering these options, you may decide that a professional attorney-trustee at Baker Law, Ltd., may be a good, third alternative. Following is a list of things to consider:

	Friend or Family Member	Corporate Trustee	Baker Law Fiduciary Services
<b>Legal Knowledge regarding fiduciary rules</b>	Individuals, even with trust knowledge, will hire a lawyer to address routine trust matters	Often have in-house experience for routine trust matters but hire outside lawyers for non-routine trust matters	Extensive in-house legal experience for both routine and non-routine matters. Often no need for outside counsel
<b>Tax knowledge</b>	Individuals need to hire outside tax professionals who may not have holistic view of investments and relationship to estate or trust objectives	Often have in-house tax services for tax reporting and sometimes proactive planning	Extensive in-house experience with fiduciary, personal, and business tax planning as well as estate, gift and GST tax planning and can effectively coordinate with estate or trust objectives
<b>Accountability</b>	Suing an individual trustee may not result in any benefit	Regulated and solvent institution with ability to pay for claims; may also be insured for losses due to breach	Insured under special professional liability insurance specifically including fiduciary services
<b>Incapacity or death</b>	An individual trustee's death or incapacity can cause significant delay in administration and continuity of decision making	Does not die or become incapacitated	Although an individual attorney serves as fiduciary, other attorneys at the firm can easily step into role as successor fiduciary without interruption due to

			extensive institutional fiduciary platform
<b>State regulated</b>	No regulation	Extensive state and often federal regulation ensuring compliance with law	No specific regulation as fiduciary but regulated by state requirements for practice of law including Rules of Professional Conduct
<b>Fees</b>	Entitled to receive fee and may also hire legal and tax counsel, a custodian and investment managers, which often result in higher total cost	Comprehensive fee based on assets under administration	Comprehensive fee based on assets under administration; can be separated for investment services if using client preferred investment advisors
<b>Decision making</b>	May not have the tools and resources to make difficult decisions; may be in difficult position to say “no” to family members	Objective decision maker with decision making experience; often most discretionary decisions must be submitted to a committee and “compliance”	Objective decision maker with decision making experience; individual attorney-trustee makes decisions allowing more timely decision making and an ability to have deeper relationship with beneficiary(ies)
<b>Replacement</b>	Replacement of fiduciary who is no longer wanted by the family can be difficult because of personal relationships	Can be done but may resist if there is no “cause”	Replacing a fiduciary is viewed as a business decision, not a persona one. Our policy is to step down upon request (unless being done to circumvent the trust terms)
<b>Investment management</b>	Must hire investment advisor and custodian; may need to hire advisors to manage special	In-house investment team. Often experienced with real estate and other special assets but often decline to serve with business assets	We serve as fiduciaries only—we hire outside investment professionals which can either be our preferred advisors or

	assets (business, art, etc.) or real estate	or extensive real estate holdings	a family's preferred advisors; often serve for trusts with special assets and business holdings
<b>Turnover</b>	Individuals often don't resign but they may not be active in their role	Individual trust officers often change institutions because their compensation is significantly based on "new business" and not "retention" or move banks for increased compensation; trust officers often limited by non-compete and non-solicitation agreements so trusts must stay with institution	Trustee is attorney with firm and compensation is directly related to the administration of the trust rather than "new business generation." We plan to serve as trustee for our professional career and if attorney changes firm then trust relationships can move with the attorney
<b>Conflict of interest</b>			



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