I Am a Trust Beneficiary – Now What?

By Helena Jonassen, Kate Mulvany and Ashley Ferriello

Editor's note: Each beneficiary of a trust is unique. However, beneficiaries do tend to share a number of questions and concerns. We asked our Wealth & Fiduciary Advisors to address some of the most frequently asked questions. Of course, many of these issues are quite complex, and the right solutions will be very specific to the goals and circumstances of the families and individuals involved.

Q: **I'm able to manage my own affairs. Why do I need a trust?**

A: Your parents (or grandparents) wanted to assist the next generations and be thoughtful about taxes and asset protection. Most trusts are very flexible and allow you, working with your trustee, to ensure that a portion of your financial needs will always be met. Trusts can often cover medical expenses and tuitions, provide for a down payment on the house of your dreams, or help you start your own business. Assets placed into the trust may be protected from taxes on your estate, depending on the trust terms and length of time the assets are held. This means that your own children could inherit the entire amount instead of paying 40%-50%, depending on estate taxes. Importantly, these assets are generally protected from your creditors and from liabilities due to litigation or divorce.

Q: Is the trust considered part of my assets?

A: Irrevocable trusts can be complex, and a lot depends on the trust provisions, including age terminations and powers of appointment. While the assets are in trust, however, they are typically not considered assets of the beneficiary. When you are seeking to borrow money, a bank will generally consider your trust assets as part of your overall financial condition.

Q: Do I have to pay income tax on my trust distributions?

A: That depends on the type of trust and the trust's governing provisions. The trustee is responsible for understanding how trust taxation works and for planning distributions in the most tax-efficient manner possible.

Q: What does a corporate trustee do?

A: A corporate trustee can balance the goals of the grantors with your needs and those of your children and any other future beneficiaries. We are responsible for the management of the assets of the trust, distributions from the trusts, and the preparation of tax returns and any other necessary filings. A corporate trustee is held to a higher standard than individuals in discharging these responsibilities.

Q: How much should I expect annually from the trust?

A: First, let's figure out your financial goals. We will then determine an appropriate asset allocation for the trust, balancing your spending requirements, your risk tolerance, and the long-term purpose of the trust. Based on our current capital market assumptions and the terms of the trust, annual distributions can range from to 2.5%-4% of the trust's assets, or more if the trust is designed to terminate when beneficiaries reach a certain age.

Q: I'd like more income. Why can't we invest the trust wholly in bonds, to generate as much income as possible?

A: Investing only in bonds means that the principal of the trust will remain static and, over time, inflation will erode the purchasing power of the trust. We can demonstrate that taking a total-return approach to the trust should ultimately provide you with more in distributions than an income-only approach.

Q: I have greater needs than my sibling and/or less money. How can you help me?

A: The grantors of the trust usually determine the guidelines for making trust distributions. We generally recommend that trusts be created for each family member, thereby making distributions based on each beneficiary's needs. If the assets are concentrated in one trust, we, as the corporate trustee, have full discretion in terms of distribution. To the extent possible, we try to treat beneficiaries equally – but if you have a demonstrable need, we will consider an unequal distribution and engage your sibling in that conversation, if you are both comfortable with that approach.

Q: What rights do I have as a trust beneficiary? I know people with trusts managed at other firms or by relatives or friends of the grantor who have a really difficult time obtaining information or receiving distributions.

A: As your corporate trustee, we take very seriously our duties of loyalty and impartiality, and our duty to inform and account. It's important for you to understand that no trustee has absolute discretion. We must work in accordance with the terms and purposes of the trusts and the interests of the beneficiaries. We recommend that trust grantors include a provision in the trust that calls for the removal and replacement of trustees in the event that all beneficiaries believe the trustee is not carrying out their duties appropriately.

Q: How can I learn more?

A: Ask us. We work to educate trust beneficiaries, with individuals and, if appropriate, with families. The more you understand, the better your decisions, for yourself and succeeding generations. Again, these are only examples. The right solutions are always specific to the people involved. Please contact your Evercore Wealth Management Wealth & Fiduciary Advisor for further information.

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