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ATTORNEY GENERAL

Resource for Charitable Beneficiaries of Wills and Trusts

Charities are frequently named as beneficiaries of wills and trusts, and are responsible for protecting their own interests in receiving these gifts. Under Michigan law, the Attorney General represents the public's interest in preserving charitable gifts and trusts and, at times, may assist a charity or intervene. Charities may seek assistance from the Attorney General by calling 517-335-0851.

This document is intended to help charities know their rights as beneficiaries; it is not a substitute for the advice of private counsel.

Fiduciary Duties

A personal representative of an estate or a trustee of a trust is a fiduciary with duties of **loyalty** to the beneficiaries and **care** regarding the estate's or trust's assets. Although the precise duties differ slightly between personal representatives and trustees, the general duties are alike and as follows.

- **Expeditious Administration:** Personal representatives and trustees are obligated to administer the estate or trust expeditiously and efficiently. [MCL 700.3703](#); [MCL 700.7801](#).
- **Notice:** Shortly following appointment (28 days for estates, 63 days for trusts), the personal representative or trustee shall notify the beneficiaries of the appointment. [MCL 700.3705](#); [MCL 700.7814\(2\)](#).
- **Duty to Inform:** Personal representatives and trustees must keep beneficiaries reasonably informed of the administration of the estate or trust, including notices of hearings and copies of the inventory (for wills, within 91 days of appointment of personal representative, [MCL 700.3706](#)), will or relevant terms of the trust, and accounts. [MCL 700.3705](#); [MCL 700.7814](#).
 - “A trustee shall keep the qualified trust beneficiaries reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests. Unless unreasonable under the circumstances, **a trustee shall promptly respond to a trust beneficiary’s request for information related to the administration of the trust.**” [MCL 700.7814](#) (emphasis added).
- **Annual Reports**
 - Trustees are obligated to report **at least annually** to the trust beneficiaries regarding trust property, income, expenses, and distributions. [MCL 700.7814\(3\)](#).

- Personal representatives are likewise obligated to inform beneficiaries if the estate is not fully settled within one year of the personal representative's appointment and the reasons for the delay. [MCL 700.3705\(1\)\(g\)](#).

Beneficiaries may petition the probate court for redress if the personal representative or trustee breaches these duties.

Fees

Personal representatives and trustees may charge reasonable fees for their services. Beneficiaries have the right to review itemized billing records documenting the services performed and the hours and rates billed. Beneficiaries may question the reasonableness of any fees and may petition the probate court to review the reasonableness of these fees. Typically, attorneys charge an hourly rate for attorney services performed, and a lower rate for administrative or fiduciary services performed for the trust or estate, i.e., non-technical services performed for the estate or trust. Additionally, when possible, attorneys should delegate less complicated tasks to subordinates at lower hourly rates, such as associate attorneys, paralegals, and support staff.

Disputes and Settlements

Sometimes disputes arise during the administration of a trust or an estate, such as a challenge to the validity of the will or trust based on lack of capacity or undue influence. Charities should inform the Attorney General regarding these disputes as the Attorney General represents the People's interest in preserving these gifts; moreover, any settlement involving such a dispute must include the Attorney General as a party or receive the Attorney General's waiver of participation. See Supervision of Trustees for Charitable Purposes Act, MCL 14.251 et seq.

Governing Statute

The governing statute for the administration of wills and trusts in Michigan is the Estates and Protected Individuals Code, [MCL 700.1101 et seq](#). For detailed requirements of the duties and powers of personal representatives, see Article III, part 7, [MCL 700.3701 et seq](#). For detailed requirements of the duties and powers of trustees, see Article VII, part 8, [MCL 700.7801 et seq](#).

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Note: The Department of Attorney General's Public Administrator represents the State of Michigan in estates when there are no known heirs. It's possible that the Public Administrator's interest could be adverse to the charitable interest, e.g., if undue influence is alleged against the charity. The Department of Attorney General also has a Medicare recovery unit that at times makes claims against estates, which also may be adverse to the charitable interest as it diminishes the assets available for distribution to charitable beneficiaries.