

# KATZ LOOK & ONORATO, P.C.

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## Fiduciary Services Q&A

by Christine V. Finn

**T**he term fiduciary is used to describe the individual or entity named to be in charge in an estate plan. If people name you to be in charge, they are saying they trust you to handle everything properly. That is a nice compliment to give you, but it is also a serious job.

### **Q: My loved one died and put me in charge. What should I do?**

**A:** No one is born knowing how to administer an estate or trust, so you have to learn what to do. As a fiduciary, you have many ethical and administrative duties and responsibilities. You have to be careful, because if you do not handle everything properly you may be personally liable to the beneficiaries. You are generally entitled to reasonable compensation for your services and reimbursement for your expenses. You can hire professionals to help you such as attorneys, accountants, and financial advisors. We can meet with you to discuss your duties and responsibilities to ensure that you follow your loved one's wishes, protect yourself, and handle everything properly.

When you are planning your estate, you will need to name an individual or entity to be in charge. You may not know what your options are or what criteria you should consider.

### **Q: Who should I name to be in charge in my estate plan?**

**A:** Your options include a spouse, one or more children, an investment advisor, an accountant, a relative, a personal friend, a business associate, a bank or trust company, or a law firm. The individual or the entity representatives should exercise good judgment, prudence, common sense, diligence, fairness, honesty, have reasonable skill, and have experience in the management of the types of assets you have, or the good sense to obtain assistance in the management of those assets. You can name one individual or entity to be in charge, or you can name two or more to act together. Some people name both an individual and an entity to leverage their collective expertise. You can also name a tiebreaker to step in when necessary. You should consider the length of time someone needs to be in charge, because you do not want the fiduciary to pass away before the job is done. You should always name a successor in case your first choice cannot act for any reason.

### **Q: How long will someone need to be in charge?**

**A:** The estate plan should indicate how long someone needs to be in charge. Sometimes it is a short period of time, and sometimes it is much longer. A short period of time would be if you want the assets passed out to your adult children after death. A much longer period of time would be if you want to provide for your surviving spouse for the rest of his or her lifetime and then pass out the remaining assets to your adult children.

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*Katz, Look & Onorato,  
P.C. answers your  
questions about  
fiduciary services.*

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### Q: How much do fiduciaries charge for their services?

A: Fiduciaries are generally entitled to reasonable compensation for their services and reimbursement for their expenses. Some fiduciaries earn their fees on an hourly basis, and some are compensated based on the size of your estate or trust. Fiduciaries deserve compensation for performing fiduciary duties and taking on potential liability, but you should inquire about cost before actually naming fiduciaries in your estate plan.

### Q: Can I name Katz, Look & Onorato, P.C. to be in charge?

A: Naming our firm is an option. Our firm was established in 1972. Our firm's attorneys are governed by the Colorado Supreme Court as opposed to being regulated by the Colorado Division of Banking. We have extensive knowledge and experience in handling estates and trusts, and the flexibility to serve as sole fiduciary, co-fiduciary, successor fiduciary, or tiebreaker. It may be advantageous for you to name our firm as your fiduciaries instead of individuals because of our impartiality, independence, and lack of emotional bias. This separation can minimize family disputes considerably. We have the time availability to perform fiduciary duties, whereas many individuals do not due to work and family obligations. Also, naming our firm can ensure fiduciary succession for years to come, instead of only for the remainder of an individual's lifetime. We earn our fees on an hourly basis and we are reimbursed for costs. Our compensation is based on work performed instead of on the size of your estate or trust.

If you have been named to be in charge in an estate plan, you do not have to go it alone. You can and should ask for help if you need it. The last thing you need after losing a loved one is an additional foray into the unknown.

When you name the proper individual or entity to be in charge in your estate plan, you have peace of mind and you make things easier on your loved ones. Knowing your options and the criteria to consider will make it easier to make the right choice for your situation.

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## Tax Snippet - Deducting Assisted Living

by Klaralee R. Charlton

The cost of assisted living is deductible if the principal reason for being in assisted living is to receive medical care. If a patient with a condition such as Alzheimer's needs to be supervised, then both housing and medical care costs are deductible on Schedule A. If an elderly parent simply wants to live in a community where they have meals prepared for them and they happen to receive some medical care, then only the medical care is deductible and not the room and board.

If a nurse or home healthcare worker assists you or a loved one with dressing, bathing, or taking medications at home, those wages are deductible medical expenses. If the assistant also performs household chores such as cleaning or meal preparation, that portion of their wage is not deductible.

You may only deduct out of pocket expenses—not expenses paid for or reimbursed by insurance. If you are paying these expenses, then you may deduct those expenses on your tax return. A child may deduct assisted living and medical expenses that they pay for their parent so long as the child also pays over half the parent's annual support. The parent does not necessarily have to qualify as the child's dependent for the child to take these medical deductions.

Shareholder, Klaralee R. Charlton, obtained her Masters of Tax Law from the University of Denver. She enjoys working with individual and business clients to resolve existing tax issues and develop plans for future transactions with an eye toward minimizing tax liability. She can be reached at 303-832-1900 or [KCharlton@TheDenverLawyers.com](mailto:KCharlton@TheDenverLawyers.com).