



# HELPING TRUSTEES AVOID LIABILITY — THE DUTY OF IMPARTIALITY

When a trust has multiple beneficiaries, the trustee must treat all of them fairly. This is easier when all the beneficiaries are in the same class. It becomes more difficult when dealing with income and remainder beneficiaries or current and successive beneficiaries. To comply with the duty of impartiality, a trustee should:

- Follow the trust language and treat the beneficiaries as directed by the trust.
- Invest to produce reasonable income for current beneficiaries and also to preserve the trust principal for remainder beneficiaries.
- In situations where it is difficult to invest impartially, consider converting the trust to a unitrust.
- Use the same process to make all discretionary distribution decisions. (All beneficiaries don't need to receive the same amount, but the trustee should consider their interests equally).
- Document the factors used for making distributions, especially if beneficiaries in the same class receive different distributions.
- Balance the needs and desires of current beneficiaries with the potential needs of future beneficiaries, considering the size and anticipated duration of the trust.
- If a trust for multiple beneficiaries has tangible assets (e.g., a vacation home or RV), grant them equal opportunities to use those assets.

These guidelines will help the trustee administer the trust fairly and impartially.

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