

# TAX AND WEALTH ADVISOR ALERT: HOW MUCH SHOULD A TRUSTEE BE PAID?

Let's say you have been named trustee of a loved one's trust. Now, you've just found out how much time and work it will take to fulfill your trustee responsibilities and duties. How much should you be paid to be trustee?

Because every situation is unique, there are no hard and fast rules in Wisconsin on what constitutes "reasonable compensation" for a trustee. Most trust documents will say that the trustee is entitled to "costs and reasonable compensation," but what does that really mean?

First, you should check the actual trust provisions to see if the document provides more specifics on how much you should be paid. If the trust document does not provide specifics, Wisconsin statutes and case law give *some* guidelines on how much you should be paid. Wisconsin statutes specify that trustees are entitled to compensation that is "reasonable under the circumstances." The factors taken into consideration include the size of the trust estate, its complexity, the trustee's skill and experience, the risk assumed in administering the trust, including making discretionary distribution, the amount of time the trustee puts in, and the quality of the trustee's performance.

It is worth noting that if a trust is administered by a corporate trustee, a corporate trustee would normally charge between 1-2% of the trust assets.

A trustee is entitled to be reimbursed for expenses that were properly incurred in the trust administration. This can include the trustee's travel expenses to administer the trust. A trustee should keep all of his or her receipts for these expenses.

Finally, in order to avoid a conflict, a trustee should be transparent with the trust beneficiaries about the trustee's fee. The trustee should clearly document the time he or she spends overseeing the trust so that the beneficiaries know that the requested trustee's fee is made in good faith. The trustee could ask the trust beneficiaries to unanimously agree in writing upon a trustee's fee to take the ambiguity out of the situation, but this can get complicated if the beneficiaries are minors or are disabled.

*If you have any questions, please contact Kelly M. Spott at [kelly.spott@wilaw.com](mailto:kelly.spott@wilaw.com) or 414-276-5000.*

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# **OCHDL IS PLEASED TO ANNOUNCE THAT ATTORNEY KELLY M. SPOTT HAS JOINED THE FIRM**

Attorney Kelly M. Spott, a graduate of Marquette University Law School, has recently joined the Milwaukee law firm O'Neil Cannon. Previously Kelly was an Advanced Planning Attorney at Northwestern Mutual. Kelly is a member of the Business Law and Tax and Succession Planning Groups. She assists clients with estate planning, probate, trust administration and inheritance litigation.

O'Neil Cannon, founded in Milwaukee in 1973, is a full-service legal practice that primarily focuses on providing business law and civil litigation services to closely-held businesses and their owners. The firm represents corporations, institutions, and partnerships at all stages of the business life cycle, helping them start, grow and transition from one generation to the next. We also assist business owners with their personal legal needs including tax and estate planning, family law and litigation—including personal injury litigation.