

Directed vs. Delegated Trusts

What's the Difference?

DIRECTED TRUST

DELEGATED TRUST



OVERVIEW

A **directed trust** allows someone designated by the grantor to direct Peak Trust Company, as trustee, to make certain decisions, such as investments and distributions. As the trustee of a directed trust, Peak is not responsible for the decisions, actions, or inaction of the party having authority to direct Peak. Because of this, when acting as the trustee of a directed trust, Peak faces less exposure and liability because it must follow the direction of whomever the trust document appoints to direct the trustee's actions, versus Peak exercising exclusive discretion over investment and distribution decisions.

With a **delegated trust**, Peak Trust Company is responsible for appointing an investment advisor to manage the investment of trust assets. Delegated trusts are often existing trusts that were not drafted with indemnification and bifurcation language to allow for the flexibility to separate trustee duties. Because duties cannot be separated, Peak is responsible for performing due diligence on the advisor, overseeing the chosen investments, monitoring the advisor's investment performance, and managing distributions according to the terms of the trust document. With a delegated trust, Peak has more authority but also more exposure and liability than with a directed trust, because it is still responsible for fulfilling its fiduciary duty in the selection and oversight of third parties to whom investment and other duties are delegated.



INVESTMENTS

With a directed trust, the terms of the trust typically will designate an investment advisor who will direct Peak, as trustee, regarding all investment-related actions taken on the account. Peak will not take action without direction from the appropriate party authorized by the terms of the trust. Peak is not responsible for the decisions made by the investment advisor.

With a delegated trust, Peak delegates the management of trust assets to an investment advisor. Such delegation is a fiduciary duty undertaken by Peak and thus it must proactively monitor the advisor's performance according to the requirements of the trust and relative to industry standards. In a delegated trust scenario, Peak's liability is tied to its appropriate selection and oversight of the advisor.



INVESTMENT OVERSIGHT

A directed trust document includes indemnification language that relieves the trustee of any investment authority or oversight. The investment advisor named in the trust document is responsible for making all investment-related decisions for the trust assets. Peak is only responsible for carrying out the investment advisor's direction.

When serving as trustee of a delegated trust, Peak has a fiduciary duty in the exercise of selecting and performing due diligence on the investment advisor and monitoring the chosen investments and the advisor's investment performance.



DISTRIBUTIONS

If a trust is "directed" for distributions, Peak will follow the direction of the party authorized in the trust document to make distribution decisions. Peak is not responsible for determining the appropriateness of any distribution decision made by such party.

Peak will make distribution decisions consistent with the terms of the trust document, the grantor's intent, and the best interest of the beneficiaries.

While some trustees may also delegate distribution authority in addition to investment duties, Peak does not delegate distribution duties when serving as trustee of delegated trusts.