

Court Accountings on 1301 Trusts

Sarah Sulak
&
Scott Stebler

Overview

1. What is a 1301 Trust?
2. When is an Accounting Required and Not Required?
3. Timeline of Accounting & Reporting Requirements
4. Annual Accountings
5. Final Accountings & Closing of 1301 Trust
6. What is Filed and What is Not Filed?
7. Trustee Fee/Compensation Issues
8. Issues Related to Scope of Trustee Discretion
9. Know Your Local Court Approach to Trust Accountings
10. Tips for Trustees
11. Tips for Attorneys
12. Suggestions from the Court Auditors

What is a 1301 Trust?

Nature of a 1301 Trust . . .

- Established under Chapter 1301 Texas Estates Code
- Serves as Alternative to Guardianship of the Estate
- Formerly Known as 867 Trusts
- Can be an SNT, but not all are SNTs
- Established for either . . .
 - ✓ Minor Child
 - ✓ Incapacitated Adult
 - ✓ Disabled Adult with Physical Disabilities Only

• 3

What is a 1301 Trust?

Where is a 1301 Trust Created . . .

- Established by Court with Guardianship & Probate Jurisdiction
- Statutory Probate Court, County Court, County Court at Law
- Venue = County of Beneficiary's Residence In Most Cases

• 4

What is a 1301 Trust?

1301 Trusts Compared with 142 Trusts. . .

| | 142 Trusts | 1301 Trusts |
|------------------|--|--|
| Court? | <ul style="list-style-type: none">• District Court• Non-Probate Court | <ul style="list-style-type: none">• Probate Court• Statutory Probate• CCAL |
| Accounting? | No | YES! |
| Fees? | Published Fee Schedule | 5x5 Fee |
| Court Oversight? | Limited | YES! |

What is a 1301 Trust?

1301 Trusts Compared with 142 Trusts. . .

- Corporate Fiduciaries Prefer 142 Trusts
- 142 Trusts Are Less Costly to Administer
- 1301 Trusts Should Be Avoided When Possible

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](http://utcle.org/elibrary)

Title search: Court Accountings on 1301 Trusts

Also available as part of the eCourse

[2017 Special Needs Trusts eConference](#)

First appeared as part of the conference materials for the

13th Annual Changes and Trends Affecting Special Needs Trusts session

"Court Accountings for Trusts Established Under Chapter 1301 of the Texas Estates Code"