

Trustee Compensation – Georgia

The following code section, from the Revised Georgia Code of 2010, indicates how Georgia Trustees may be compensated. Although Trustees are not required to take compensation, they may be compensated. If compensation is taken, then it is taxable income and should be reported as such.

§ 53-12-210. Compensation of trustee

(a) Trustees shall be compensated in accordance with either the trust instrument or any separate written agreement between the trustee and the settlor. After the settlor's death or incapacity or while the trust is irrevocable, the trust instrument or the agreement relating to the trustee's compensation may be modified as follows:

(1) If all the qualified beneficiaries are sui juris, or if some of the qualified beneficiaries are not sui juris but all of them have a guardian or conservator, the trustee and the sui juris qualified beneficiaries and the guardians or conservators of qualified beneficiaries who are not sui juris may by unanimous consent modify the trust instrument or agreement relating to the trustee's compensation without receiving the approval of any court; and

(2) If one or more of the qualified beneficiaries who are not sui juris have no guardian or conservator, and all of the other qualified beneficiaries, including the guardians or conservators of qualified beneficiaries who are not sui juris, and the trustee are in agreement, any sui juris qualified beneficiary or the guardian or conservator of a beneficiary who is not sui juris or the trustee shall petition the court to approve a modification of the trust instrument or agreement relating to the trustee's compensation. The court shall appoint a guardian ad litem for each beneficiary who is not sui juris and who does not have a guardian or conservator, and service of notice of the petition for modification of the trustee's compensation shall be made on each such guardian ad litem. The court shall hold a hearing and shall either allow or deny the modification that is requested in the petition.

(b) If there is no provision for trustee compensation in the trust instrument and there is no separate written agreement between the trustee and the settlor relating to the trustee's compensation, a separate written agreement relating to the trustee's compensation may be entered into between the trustee and the qualified beneficiaries as follows:

(1) If all the qualified beneficiaries are sui juris or if some of the qualified beneficiaries are not sui juris but all of them have a guardian or conservator, the trustee and the sui juris qualified beneficiaries and the guardians or conservators of beneficiaries who are not sui juris may by unanimous consent enter into an agreement relating to the trustee's compensation without receiving the approval of any court; or

(2) If one or more of the qualified beneficiaries who are not sui juris have no guardian or conservator, and all of the other qualified beneficiaries, including the guardians or conservators of qualified beneficiaries who are not sui juris, and the trustee are in agreement, any sui juris qualified beneficiary or the guardian or conservator of a beneficiary who is not sui juris or the trustee shall petition the court to approve an agreement relating to the trustee's compensation. The court shall appoint a guardian ad litem for each beneficiary who is not sui juris and who does not have a guardian or conservator, and service of notice of the petition for approval of the agreement shall be made on each such guardian ad litem. The court shall hold a hearing and shall either allow or deny the agreement that is requested in the petition.

(c) In cases other than those described in subsections (a) and (b) of this Code section, the trustee shall be entitled to compensation as follows:

(1) With respect to a corporate trustee, its published fee schedule, provided such fees are reasonable under the circumstances; and

(2) With respect to an individual trustee:

(A) One percent of cash and the fair market value of any other principal asset received upon the initial funding of the trust and at such time as additional principal assets are received; and

(B) An annual fee calculated in accordance with the following schedule based upon the cash and the market value of the other principal assets valued as of the last day of the trust accounting year prorated based on the length of service by the trustee during that year:

Percentage Fee Market Value

1.75 percent / year on the first.....	\$ 500,000.00
1.25 percent / year on the next.....	\$ 500,000.00
1.00 percent / year on the next.....	\$ 1,000,000.00
0.85 percent / year on the next.....	\$ 3,000,000.00
0.50 percent / year on values over.....	\$ 5,000,000.00