What Trustees Need To Know About Oklahoma's New Trust Code: Key Changes and Practical Applications

Oklahoma's new Uniform Trust Code (OUTC), effective November 1, 2025, significantly impacts trust administration. The OUTC codifies fiduciary duties, including cost control and the duty of loyalty, and imposes detailed notice and reporting obligations on trustees. Additionally, it creates statutory exposure to creditors' claims for trustees of revocable trusts upon the settlor's death.

By Amanda Swain

Oklahoma Bar Journal

Effective Nov. 1, 2025, Oklahoma enacted a modified version of the Uniform Trust Code (OUTC), significantly reshaping the legal landscape for trust administration in the state.[1] Unlike many legislative changes, the OUTC applies not only to trusts created after its enactment but also to existing trusts.[2] As a result, trustees may now be subject to duties and obligations that did not exist, or were less clearly defined, when the trust was originally drafted.

Prior to enactment of the OUTC, Oklahoma courts looked to the *Restatement* (Second) and (Third) *of Trusts* as persuasive/common-law guidance where the trust instrument, Oklahoma Statutes, or Oklahoma precedent did not supply the rule.[3] The OUTC replaces much of that common-law framework with codified, and in many cases non-waivable, statutory duties and requirements.[4] These changes include codified fiduciary obligations, more detailed notice and reporting requirements, and

new exposure to creditor claims for certain trusts that become irrevocable at death.

This article highlights several of the most significant changes affecting trustees, with particular attention to 1) expanded duties to control costs; 2) materially enhanced notice and reporting obligations; 3) strengthened enforcement of the duty of loyalty; and 4) new creditor claim provisions applicable to trusts that become irrevocable at the settlor's death.

FIDUCIARY DUTIES

Duty to Control Costs

The requirement of a fiduciary to only incur reasonable and necessary expenses has long been a part of trust common law[5] but was not expressly required in the Oklahoma Trust Act.[6]

Change: The OUTC expressly mirrors the Uniform Prudent Investor rules[7] but also ties cost control requirements to a trustee's skills and delegation of duties to third parties.

Oklahoma Statutes Title 60, §1608.5 imposes a direct restraint on trustees: "In administering a trust, the trustee may incur only costs that are reasonable in relation to the trust property, the purposes of the trust, and the skills of the trustee." While the duty to incur only reasonable or necessary costs has been established for some time in the common law, this provision of the OUTC ties these costs back to the skill level of the trustee, the trustee's delegation of duties to others and the trustee's special skills. If a trustee is delegating all or most of the duties of the trustee to others, such as by engaging and paying investment advisors, attorneys and accountants, the amount of the fee payable to the trustee may need to be reduced.[8]

Enforcement of Duty of Loyalty

The duty of loyalty has always been one of the most central fiduciary duties

a trustee owes to a beneficiary.[9]

Change: The OUTC codifies the common law rule that a trustee cannot profit from serving as trustee, even if there is no breach of trust in the transaction, as a way to enforce a trustee's duty of loyalty to the beneficiaries.

The addition of 60 O.S. §1609.2 addressed the enforcement of a trustee's duty of loyalty and provides that "[a] trustee is accountable to an affected beneficiary for any profit made by the trustee arising from the administration of the trustee, even absent a breach of trust." Within the duty of loyalty, a trustee "should not be allowed to use the trust as a means for personal profit other than for routine compensation earned."[10] The most common situation in which this occurs is when a trustee earns a commission from a third party for a trust-related action. Many trustees may be surprised to learn that this type of transaction is now expressly forbidden and could result in surcharge to the trustee and/or removal as trustee.[11]

REPORTING

Prior to the OUTC, Oklahoma did not impose any proactive obligation to provide information to beneficiaries but relied on statute and case law regarding a trustee's obligation to respond to a request for information. Under Okla. Stat. Ann. tit. 60, §175.23(A), the district court was granted original jurisdiction "to require accounting by trustees; to surcharge trustee; and in its discretion to supervise the administration of trusts." An action in district court could be brought by a beneficiary in an effort to obtain an accounting from a trustee.[12] For trusts not under court supervision, if a beneficiary who was an eligible or permissible distributee did not object within 180 days after being provided a copy of the trustee's accounting (together with written notice of the discharge provision), the beneficiary was deemed to have approved the accounting, and the trustee was similarly discharged from liability.[13] This accounting discharge mechanism, while providing procedural structure, placed a reactive burden on the beneficiary

to object rather than imposing a proactive affirmative duty on the trustee to report. The statute also tied a two-year limitations period to the trustee's accounting for the period of any breach.[14] There also existed certain common-law duties imposed on trustees to provide information, but no specific rules on form, required information or timing had ever been established in Oklahoma unless the trust agreement itself had specific timing or required form. These new notice requirements are also not waivable by the trust agreement, so while the trust agreement could impose additional notice requirements for a trustee, it cannot waive the notices required by the OUTC.[15]

Change: The OUTC imposes detailed, time-specific disclosure obligations that did not previously exist in Oklahoma.

The OUTC's disclosure requirements represent some of the most significant enhancements to trustee duties in Oklahoma. Under Oklahoma Statutes Title 60 §1608.12, the trustee must "keep the qualified beneficiaries of the trust reasonably informed about the administration of the trust and of the material facts necessary for them to protect their interests" and must "promptly respond to a beneficiary's request for information related to the administration of the trust" unless unreasonable under the circumstances. A qualified beneficiary in Oklahoma includes a current or permissible income beneficiary, a person with a vested interest in the remainder, a charitable organization expressly entitled to receive benefits of a charitable trust or the attorney general "with respect to a charitable trust having its principal place of administration in this state."[16] Note that this definition of qualified beneficiaries was expressly changed from the Uniform Trust Code model code which would include a wider range of possible remaindermen as qualified beneficiaries.[17]

Trustees now have specific timeframes for their duty to inform beneficiaries as well as a specific set of information that is required.

Upon Request

Upon request by a qualified beneficiary, a trustee must "promptly" provide a copy of the trust instrument and the trustee's report (described below).[18]

Within 60 Days

Within 60 days of accepting a trusteeship, the trustee must furnish the qualified beneficiaries with that acceptance along with the trustee's name, address and telephone number.[19]

Within 60 days of the trustee obtaining knowledge of the creation of an irrevocable trust, or when a previously revocable trust becomes irrevocable, the trustee must notify the qualified beneficiaries of the trust's existence, the identity of the settlor or settlors, the beneficiary's right to request a copy of the trust instrument, and the right to the trustee's report.[20]

Upon Occurrence

The trustee must notify qualified beneficiaries upon any change in the trustee's compensation, including a change in either method or rate.[21]

Annually and Upon Termination of Trust

A trustee must send to distributees and potential distributees (note the annual notice requirement does not apply to the broader "qualified beneficiaries," although the broader group of qualified beneficiaries may request the trustee's full report) the trustee's report.[22]

What Must be Included in a Trustee's Report?

The trustee's report, as referenced in the notice provisions, must contain: "a report of the trust property, liabilities, receipts, and disbursements, including the source and amount of the trustee's compensation, a listing of the trust assets and, if feasible, their respective market values." [23]

CREDITORS' CLAIMS

Change: The OUTC creates statutory exposure to creditors' claims for trustees of revocable trusts upon the death of the settlor.

Prior to the enactment of the OUTC, Oklahoma did not have any statutory or case law authority for the proposition that a trust that became irrevocable upon the settlor's death may be subject to the claims of the creditors of the settlors. The new OUTC, by contrast, specifically sets out that "the property of a trust that was revocable at the settlor's death is subject to claims of the settlor's creditors, costs of administration of the settlor's estate, the expenses of the settlor's funeral and disposal of remains, and statutory allowances to a surviving spouse and children to the extent the settlor's probate estate is inadequate to satisfy those claims, costs, expenses, and allowances." [24]

This presents a particular challenge for trustees of a revocable trust after the settlor's death who are not aware of the settlor's particular creditors. There is no process in the OUTC that is corollary to the notice period in the Oklahoma probate statutes, which would provide for notice to the public and a cutoff date for creditors to present their claims. Without this process, a trustee must make reasonable efforts to identify and provide notice to any potential creditors and pay such claims prior to making distribution to the trust's beneficiaries.

CONCLUSION

The enactment of the OUTC marks a shift from a largely common-law framework to a detailed statutory regime governing trust administration in Oklahoma. While many of the underlying fiduciary principles will be familiar to experienced trustees, the specificity of the OUTC, especially with respect to reporting obligations, timelines, and creditor claims, creates new areas of potential risk.

Trustees can no longer rely on informal practices or assumptions about prior law. Compliance with the OUTC now requires a working knowledge of

statutory duties, careful attention to required notices and reports, and a proactive approach to identifying creditor claims when administering trusts that become irrevocable at death.

Attorneys who regularly advise trustees must make them aware of these changes that will bring increased scrutiny and potential liability. Trustees and the attorneys that advise them should review their existing trust administration practices to ensure alignment with the OUTC's requirements going forward.

ABOUT THE AUTHOR

Amanda M. Swain is the founder of Swain Trusts & Estates in Oklahoma City, where she advises clients on estate planning, trusts, taxation, and family office matters. She is a graduate of Wake Forest University and the OU College of Law, where she graduated first in her class. She has practiced in Oklahoma for nearly 20 years.

ENDNOTES

[1] 60 O.S. §§1601.1-1610.3.

[2] *See* 60 O.S. §1601.12 and 60 O.S. §1610.3.

[3] E.g. Welch v. Crow, 2009 OK 20, 206 P.3d 599; *Showmaker v. Estate of Freeman*, 1998 OK 17, ¶ 19, 967 p.2d871, *May v. Oklahoma Bank & Trust Co*., 2011 OK 52, ¶ 15, 261 P.3d 1138.

[4] *See* 60 O.S. §1601.5.

[5] *See* Restatement (Third) of Trusts: Prudent Investor Rule §227(c)(3) (1992).

[6] 60 O.S. §§175.1-175.57.

[7] *See* 60 O.S. §175.67.

[8] *See* Unif. Trust Code §708 cmt (2023).

[9] *See* Restatement (Second) of Trusts Section 170(i)(1959).

[10] Unif. Trust Code §1003 cmt (2023).

[11] *See* 60 O.S. §175.57.

[12] 60 O.S. §175.23(C).

[13] 60 O.S. §175.57.

[14] *Id.*

[15] S*ee* 60 O.S. §1601.5.

[16] 60 O.S. §1601.3(13).

[17] *See* Unif. Trust Code §103(13)(2023). An additional bill with changes to the Oklahoma Uniform Trust Code has passed and will be effective Nov. 1, 2026 that brings Oklahoma's definition of qualified beneficiaries in alignment with the Uniform Trust Code's definition.

[18] 60 O.S. §1608.12(B)(1).

[19] 60 O.S. §1608.12(B)(2).

[20] 60 O.S. §1608.12(B)(3).

[21] 60 O.S. §1608.12(B)(4).

[22] 60 O.S. §1608.12(C).

[23] *Id.*

[24] 60 O.S. §1605(A)(2).

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Presented by Amanda M. Swain

WHAT TRUSTEES NEED TO KNOW ABOUT THE UTC

1

AGENDA

1. Duty to control costs
2. Notice and reporting
3. Enforcement of duty of loyalty
4. Creditor claims against trusts – irrevocable at death

2

Duty to Control Costs -§ 1608.5

- Trustees may incur only costs reasonable in relation to the trust property, the trust's purposes, and the trustee's skill.



3

Duty of Loyalty Enforcement-§ 1609.2

- A trustee must account to an affected beneficiary for any profit from administering the trust, even with no breach of trust.
- Watch for commissions or referral fees on trust transactions
- Exception: routine compensation



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13. "Qualified beneficiary" means a beneficiary who, on the date the beneficiary's qualification is determined:

a. is a distributee or permissible distributee of trust income or principal,

b. would be a distributee or permissible distributee of trust income or principal if the interests of the distributee described in subparagraph a of this paragraph terminated on such date,

c. would be a distributee or permissible distributee of trust income or principal if the trust terminated on such date,

d. is a charitable organization expressly entitled to receive benefits under the terms of a charitable trust, or

e. is the Attorney General of this state with respect to a charitable trust having its principal place of administration in this state;

QUALIFIED BENEFICIARY

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Notice Requirements

Trigger	Deadline	What to send	To whom	Cite
Beneficiary request	Promptly	Trust instrument + trustee's report	Requesting qualified beneficiary	§1608.12(B)(1)
**Accepting trusteeship	60 days	Acceptance + trustee name, address, phone	Qualified beneficiaries	§1608.12(B)(2)
**Trust created irrevocable, or becomes irrevocable	60 days after knowledge	Trust exists, settlor identity, right to request instrument and report	Qualified beneficiaries	§1608.12(B)(3)
Change in compensation (method or rate)	On occurrence	Notice of change	Qualified beneficiaries	§1608.12(B)(4)
Annually and at termination	Annually	Trustee's report	Distributees and permissible distributees	§1608.12(C)

**60 O.S. §1608.12 - Not waivable by the trust instrument (§1601.5)

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CREDITOR'S CLAIMS

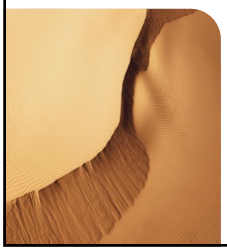
§1605(A)(2) Property of a trust revocable until death is subject to:

- The settlor's creditors' claims
- Estate administration costs
- Funeral and disposition expenses
- Statutory allowances for a surviving spouse and children

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WHAT SHOULD ATTORNEYS BE DOING?



- ☐ Audit current administrations for 60-day notices owed
- ☐ Build an annual trustee-report template with the required contents
- ☐ Provide trustees with notices
- ☐ Review fee arrangements where duties are heavily delegated
- ☐ Screen for third-party commissions or referral fees
- ☐ Add a creditor-identification step before distributions at a settlor's death
- ☐ Re-check notice lists against the broader qualified-beneficiary definition (eff. Nov. 1, 2026); update forms
- ☐ Consider changes to trust agreements (waive certain notices, additional language regarding reimbursement of trustee expenses?)

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Duty to Control Costs -§ 1608.5

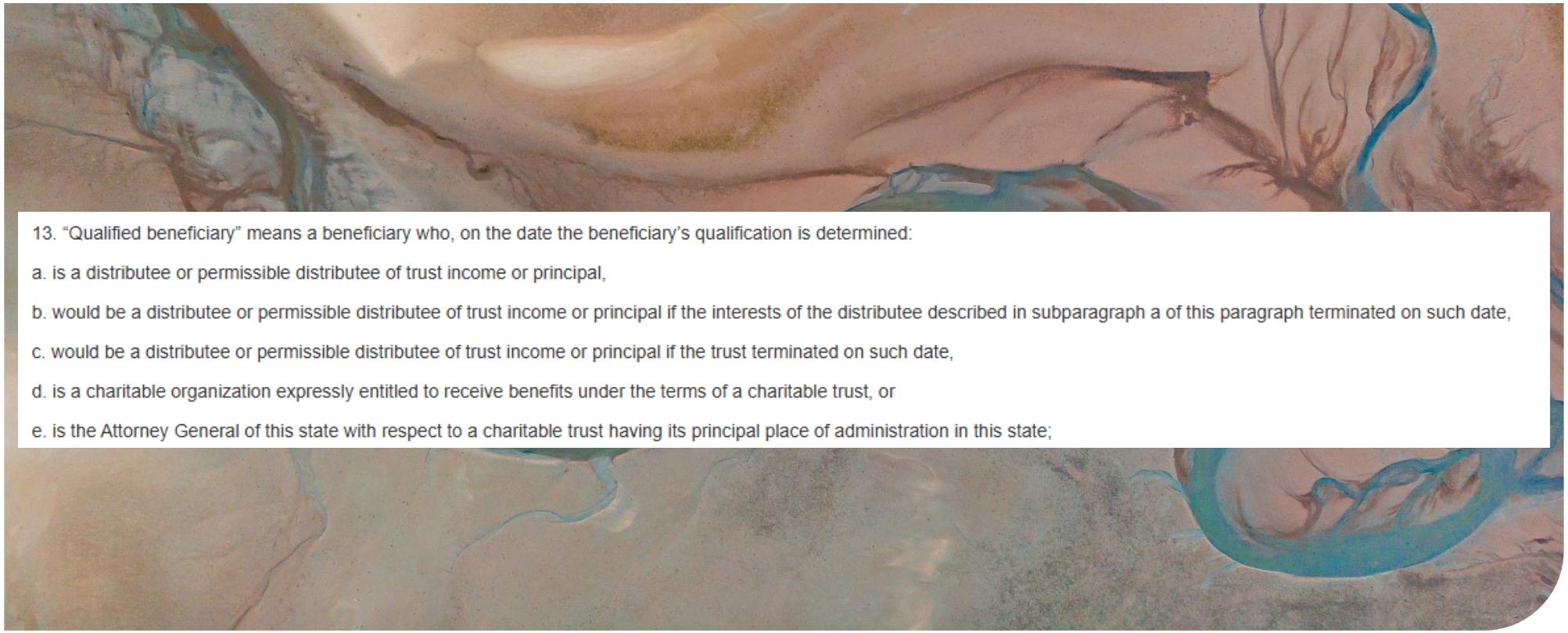
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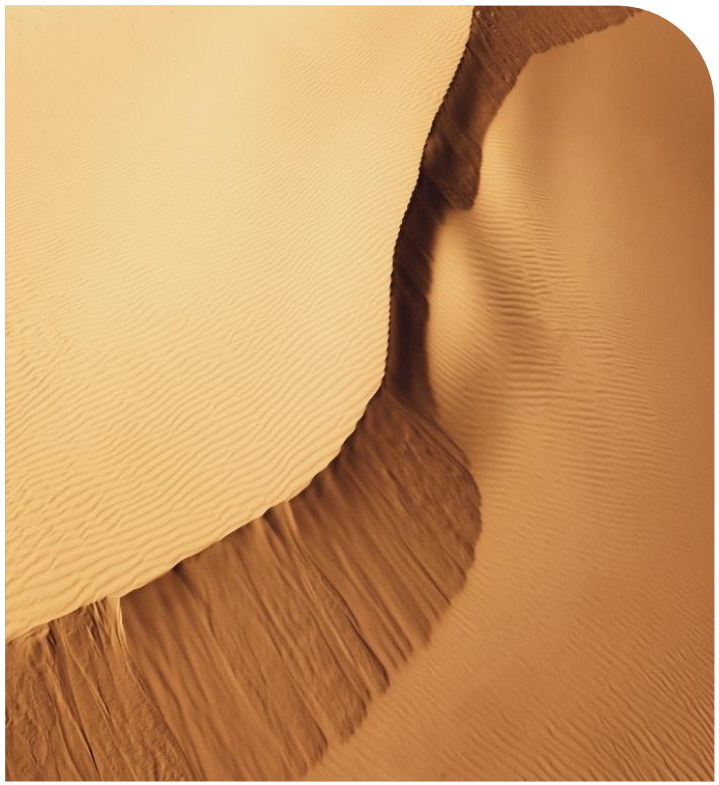
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