

GUIDELINES FOR SUCCESSOR TRUSTEES

These Guidelines are designed as an aid to those of you who have been entrusted to serve as successor trustee(s). It is not possible to answer all of your potential questions. However, we hope to answer those, which will come up with some regularity.

You may have assumed the duties as successor trustee either because of the incapacity or death of the primary trustee(s). Therefore, these Guidelines are divided into two groups. Choose the group, which applied to your situation at the present time, bearing in mind that if you assume the duties because of the incapacity, you ultimately will also be doing these things listed at the time of death.

SUCCESSION DUE TO INCAPACITY

If you have taken on the primary trustee responsibilities because of the incapacity of the primary trustee(s), you should take care of the following items:

1. Locate all of the trust assets and make certain that title to the assets has been transferred into the name of the trust. If there are assets, which have yet to be transferred into the trust, the person or persons holding a Durable Power of Attorney can complete the transfers. Since a Power of Attorney is no longer effective after the death of the Principal, it is important not to delay this step.
2. Determine the needs of the Settlor or Settlers. It will be your responsibility to manage their funds, and to take care of their financial needs to the extent the funds of the trust permit.
3. If long-term nursing home placement is a possibility, consider whether or not it may be advisable to “gift” trust assets to someone other than the Settlor. Note: The Trust should never make gifts directly to anyone. If gifts are to be made, they should first be made to an account in the Settlor’s name, which is outside the Trust. The person holding Power of Attorney can establish this account, if needed, and then make the “gifts” from this account. This qualifies the “gift” for the federal gift tax annual exclusion.
4. Provide an annual account to the beneficiaries of the Trust, which tells them, what funds were in the trust, how much income the trust had, and how that income was spent. As a general rule, you will want to distribute all of the income earned by the trust each year so that the trust does not have to pay tax on that income.
5. You will need to file on an annual basis, form 1041 with the Internal Revenue Service. This form requires you to show the income of the trust, its expenses, and the manner in which the income was distributed. If the income has all been distributed, the trust will pay no tax, and this return is merely an information return. This form has a number of lines, you will not be using most of the lines. With some guidance, you should be able to complete the form.

SUCCESSION BECAUSE OF DEATH

If you have assumed the duties of successor trustee because of the death of one or more of the original trustees, your task is as follows:

1. Locate all of the assets of the Trust. If the Settlor have been maintaining the assets inventory section of their Trust portfolio, this should be a simple matter.
2. Verify the date of death value of all assets. This value will become the new tax basis for the assets, and therefore, it is very important.
3. Determine whether or not all of the real estate owned by the Settlor has been transferred to the Trust. Check this portfolio, safety deposit box or any other safe for unrecorded deeds.
4. Determine the expenses of last illness, taxes due and owing, funeral expenses and debts of the Settlor. The funds of the Trust must first be used to pay these items.
5. Once you are sure that all of the expenses have been paid, distribute the trust assets. Make sure you have allowed for any income tax due and payable on the last year's income of the Settlor. You will be responsible for any shortage of these funds. It is not uncommon to make a partial distribution of funds initially, with a final distribution once all expenses have been paid.
6. If the estate exceeds the then Federal Estate Tax a return must be filed. Because of the complexity of this return, we suggest you employ an attorney or accountant to assist you.

Checklist:

- _____ Make Funeral Arrangements
- _____ Order Death Certificates through funeral home.
- _____ Notify Family members and other friends and associates
- _____ Check safe deposit box and safes and examine contents. Key are in:

Person authorized to open box: _____

- _____ Advise Social Security and/or Company Personnel Dept. if receiving benefits
- _____ Notify Insurance Companies including a copy of Death Certificate

_____ Notify the following advisors:

_____ Review the Estate Plan Portfolio & details of the Trust

_____ Make certain that all assets have been transferred to the Trust and, if not, which assets must be probated. If you are not the Executor/Personal Representative of my Will, the Executor/Personal Representative will Probate the Will and those assets will be transferred to the Trust.

_____ Review my business documents or records to determine administrative needs.

_____ Determine size of estate.

_____ At the date of death and six (6) months later, obtain an appraisal or valuation of all real assets. This is very important to the STEPPED-UP VALUATION of the assets, which affect taxes.

_____ Distribute special bequests and personal effects as listed in the “Memorandum Disposing of Tangible Personal Property”, “Division of Shares”, and “Last Will and Testament”, and any handwritten note I may have signed to that effect.

_____ Decide on which assets should best be sold or converted to income or distributed prior to distribution to the beneficiaries.

_____ If pertinent, determine the assets to be placed in separate family trust or separate trust for a beneficiary.

_____ Determine if estate taxes are due. Consult with an accountant. File Trust Tax Returns annually, using Trust Tax ID no. _____

_____ File for SS-4 for all new trust created.

