

What Responsibilities Will You Have as a Trustee?

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The most important thing to remember when you step in as Trustee is that these are not your assets. You are safeguarding them for others: for the settlor (if living) and for the beneficiaries, who will receive them after the settlor dies.

As a Trustee, you have certain responsibilities. For example:

- You must follow the instructions in the trust document.
- You cannot mix trust assets with your own. You must keep separate checking accounts and investments.
- You cannot use trust assets for your own benefit (unless the trust authorizes it).
- You must treat trust beneficiaries the same; you cannot favor one over another (unless the trust says you can).
- Trust assets must be invested in a prudent (conservative) manner, in a way that will result in reasonable growth with minimum risk.
- You are responsible for keeping accurate records, filing tax returns and reporting to the beneficiaries as the trust requires.

Do you have to do all of this yourself?

No, of course not. You can have professionals help you. You can hire an accountant to prepare tax returns and answer income tax questions. You will also need to consult with an attorney from time to time to help interpret the trust and answer legal questions. You may want investment counsel to provide portfolio management. However, as Trustee, you are ultimately responsible to the beneficiaries for prudent management of the trust assets.

What do you do when the settlor dies?

You will have essentially the same duties as an executor named in a will would have. But if all titles and beneficiary designations have been changed to the trust, the probate court will not be involved. That means you will be able to act on your schedule instead of the court's schedule.

The Trustee is responsible for seeing that everything is done properly and in a timely manner. You may be able to do much of this yourself, but an attorney, corporate Trustee and/or accountant can give you valuable guidance and assistance. Here's an overview of what needs to be done.

Inform the family of your position and offer to assist with the funeral. Read the trust document and look for specific instructions. Notify a Co-Trustee as soon as possible.

Make an appointment with an attorney to go over the trust document, trust assets and your responsibilities as soon as possible. Do not sell or distribute any assets before you meet with the attorney.

Before the meeting, make a preliminary list of the assets and their estimated values. You'll need exact values later, but this will help the attorney know if an estate tax return will need to be filed (due no later than 6 months after the settlor's death in Connecticut). If there is a surviving spouse or if the trust has a tax planning provision, the attorney may need to do some tax planning right away. The trust may also need its own tax identification number.

Collect all death benefits (social security, life insurance, retirement plans, associations) and put them in an interest bearing account until assets are distributed. If the surviving spouse or other beneficiary needs money to live on, you can probably make some partial distributions. But do not make any distributions until after you have determined there is enough money to pay all expenses, including taxes.

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Notify the bank, brokerage firm and others of the settlor's death and that you are now Trustee. They will probably want to see a certified death certificate (order at least 10), a certificate of trust and your personal identification.

To finalize the list of assets, you will need exact values as of the date of the settlor's death. Some assets will need to be appraised. An estate sale may need to be held to dispose of household goods and personal effects.

Keep careful records of final medical and funeral expenses, and file medical claims promptly. Keep a ledger of bills and income received. Contact an accountant and attorney to prepare final income and estate tax returns, if required. Verify and pay all bills and taxes. Make a final accounting of assets and bills paid, and give it to the beneficiaries.

If the assets are to be fully distributed, you will divide the cash and transfer titles according to the instructions in the trust. That's it...you're finished and the trust is dissolved.

If the assets are to stay in a trust (for minors, for a surviving spouse, for tax purposes or if the beneficiaries will receive their inheritances in installments), each trust will need a new tax identification number, and proper bookkeeping and reporting procedures will need to be established. You will continue then managing the assets and making distributions to the beneficiaries until the trust terminates. Consult an attorney if the trust leaves any doubt as to when the trust terminates.

Should you be paid for all this work?

Yes, Trustees are entitled to reasonable compensation for their services. The trust document may give guidelines on your compensation. Look at local corporate trustee fee schedules to help determine what you think would be reasonable compensation and make sure that the beneficiaries understand how you will charge. Beneficiaries hate surprises. Remember that you will have to pay income tax on the compensation you receive as Trustee.

What if the responsibilities are too much for you?

Consider hiring an attorney, bookkeeper, accountant or corporate Trustee to help you. For instance, a corporate Trustee can manage the investments and do all of the recordkeeping for a fee. If you feel you cannot handle any of the responsibilities due to work, family demands or any other reason, you can always resign and let the next successor Trustee step in. If no other successor Trustee has been named, or none is willing or able to serve, a probate court can always appoint a Trustee. No trust ever fails for want of a Trustee!

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