

Overlooked Duties of a Successor Trustee



The responsibility of a successor trustee is more nuanced than just being the family member or friend of the grantor. They are responsible for administering and settling a trust after the grantor passes, becomes incapacitated, or unable to make decisions. Specific duties are detailed by the grantor of the trust but there are a few common key responsibilities.

- 1. Review the Trust:** Review the trustee's powers and the sections dealing with the distribution of the trust property to the beneficiaries. Identify the various individuals associated with the trust.
- 2. Attempt to Locate Will:** Contact the attorney's office to try to obtain a copy of the will. Ask for any Codicils. Look for later Wills or letters of instruction that may have been left by the decedent. Knowing who acts as the Executor or Personal Representative could prove to be helpful in the transferring of assets from Estate to Trust.
- 3. Obtain Death Certificate(s):** Death certificates will be needed to file death claims for any life insurance benefits and other transfers. We recommend ordering several certified copies of the death certificate.
- 4. Notify Post Office of Change of Address:** Cancel newspapers, magazine subscriptions, and start gathering statements to help determine assets. Cancel any unnecessary services such as cable, phone, internet, cell, phone, etc.
- 5. Contact Attorney:** Need to have them prepare a Certificate of Incumbency/Formal Acceptance and a 90-day Notice to Creditors for both the decedent and the trust.
- 6. Prepare an Inventory of all the Assets of the Trust:** All assets will need to be valued as of date of death. This may be necessary to determine a new cost basis for these assets in order to take advantage of the "step-up" in the basis (that is, the "cost") of the assets.
- 7. Verify all Assets are Held in the Trust Name:** If there are any assets that are not titled in the trust, discuss this with an attorney, who will be able to determine whether that assets will be probated.
- 8. Secure Home/Property(ies):** Visit property or if in another state, hire agent to secure the property and all its contents. Need to change all locks on doors, gates, etc. If rental property is under lease, contact tenant to inform them of the change of Trustee and the new address to send rents.
- 9. Vehicle(s):** Obtain title for distribution per trust or sale. After either distribution or sale, cancel auto insurance.

10. **Obtain a Market Value of Securities:** The total value of all property in the trust will determine whether it will be necessary to file federal and state estate tax returns.
11. **Check for Safety Deposit Box:** If there is a safe deposit box, it should be checked for any instructions that may have been left for actions to be taken after death. It is also important to prepare an inventory of the contents in the safe deposit box.
12. **Bank Account(s):** Re-register bank accounts under new Trustee. Funds may be needed immediately to pay funeral expenses, so make sure that there is enough money available.
13. **Check for evidence of Storage Unit(s):** If there are any storage units, they need to be inventoried and the items need to be appraised.
14. **Notify Life Insurance Companies of the Death of the Insured:** Request the beneficiary packet, complete the paperwork and provide the necessary information to process the claim.
15. **Promissory Note(s):** Collect and review copy of note. Need to obtain payor information to contact them and inform them of new Trustee and where to send future payments.
16. **Review Business Agreement(s):** Review any business agreements, contracts, stock certificates, partnership agreements, etc., to which the grantor or the trust are parties. If the trust property includes a business interest, document the value of this interest if either the estate is likely to be taxable or the business interest will be sold. To obtain this valuation, hire a qualified appraiser of business interests or a CPA experienced in business valuations.
17. **Obtain Appraisals:** Get appraisals for artwork, collectibles, antiques, cars, boats, RVs, etc. Check to see if any of these items are to be distributed as a specific bequest. If not and no beneficiary wants them, liquidate.
18. **Review Investments:** Ensure the current investments retained in the trust are appropriate for the income and growth objectives of the trust.
19. **Identify and Locate Beneficiary(ies):** If there is no contact information readily available, track down beneficiary(ies) by hiring an outside service. Beneficiary(ies) will need to sign and return a W-9(s) will be provided to the CPA for preparation of K-1(s).
20. **Credit Cards:** Collect all cards, cancel and destroy.
21. **Review and Pay Bills:** Pay all permissible expenses and household furnishings per the governing document.

- 22. Distribute the Personal Effects:** Distribute any personal effects and household furnishing per the governing document.
- 23. Animals:** Need to locate, secure and follow provisions for disposition of pets.
- 24. Contact CPA:** Obtain past returns. If CPA is unknown, hire new CPA and request transcript of past returns from the IRS.
- 25. When a Revocable Trust Becomes Irrevocable Due to Death:** It will be necessary to get a new Taxpayer Identification Number from the Internal Revenue Service. Complete an IRS Form SS-4.
- 26. File Income Tax Returns and Pay Income Taxes:** When applicable, work with grantor's CPA to ensure final tax return is filled. In addition, file federal and state fiduciary income tax returns.
- 27. File Federal Estate Tax Form 706:** Consult with CPA and attorney to see if applicable. This form will need to be filled when the estate exceeds the applicable exclusion amount. Form 706 is also done to transfer any unused exclusion amounts to a surviving spouse.
- 28. Determine if GST Exemption is Applicable:** Consult with the CPA.
- 29. Distribute the Assets:** Following the terms of the trust document. Begin distributing assets to beneficiary(ies).

There will probably be many other tasks to be done in this post-mortem administration of the trust, many of which involve legal, financial, or tax issues. Much of the various administration issues depend upon asset structure, tax issues and whether or not any litigation issues arise.