

THE ROLE OF A TRUSTEE



This handout is meant to briefly inform you about your role as trustee. While each trusteeship is unique, the checklist below will assist you as you begin to administer the trust. First check the trust document to see whether you are sharing the trusteeship with one or more co-trustees and whether there is more than one trust. If so, the trust document may indicate how certain responsibilities are divided among the trustees or trusts. Use the checklist below to manage your progress by checking off each item as you complete it. Feel free to contact our office if you have any questions or if we can further assist you in any way.

ITEMS TO BE COMPLETED:

Review the trust and Will—these are the primary documents that should guide your actions as trustee.

Make the funeral arrangements and order the Death Certificate. A funeral home may provide you with a Death Certificate. Otherwise, you may order the certificate from the vital records office in the county or state where the trustor died.

File the original Will within 30 days of the trustor's death with the Superior Court Clerk of the county of trustor's principal residence (required by California law even if no probate occurs).

Cancel Social Security, PERS, STRS or other sources of income the Decedent was receiving at the time of their death.

Cancel Decedent's credit cards and close the credit card accounts.

Cancel all medical insurance policies after all medical expense claims are paid.

- Submit a certified copy of the Death Certificate to the Director of Health Services in Sacramento if the decedent received Medi-Cal benefits.

Hire advisors such as Attorney, CPA, and investment or other advisors as necessary.

Create a calendar to notify you of important filing dates.

- A. File Decedent's final income tax returns (IRS Forms 1040 and 540) by April 15 and file annual trust tax returns (IRS Form 1041 and IRS Form 541).
 - Maintain accounting records as discussed below.
 - Keep the beneficiaries informed and provide them with accountings when appropriate.
- B. File estate tax return (IRS Form 706) within 9 months of the date of death (an extra 6 months extension is available) if the trust and non-trust assets, including pension plans and life insurance, exceed \$5.34 million (for 2014) before deducting debts, mortgages, etc.
 - NOTE: It may be favorable to use the alternative valuation date (6 months after date of death) if assets are likely to decrease in value but that alternate valuation date has prerequisite conditions and may not be an option in your particular case.

Create a separate bank account for the trust in trustee's name.
Do not commingle trust funds with any other funds, even if you believe you can keep clear records. You as trustee pay bills and disperse the trust's funds through this account, making the management and the annual required accountings of the trust funds easier and less costly. Additionally, you need to file for a Federal Identification Number as listed under the next item below.



File IRS Form SS-4 for a Federal Tax Identification Number and IRS Form 56 to send all tax correspondences to your address.

Identify and value:

Life insurance policies, annuities, pension plans or other assets with designated beneficiaries.

- File for death benefits payable to a designated beneficiary on pension plans if available.
- Provide a copy of the trust to the IRA custodian if the trust is named as a beneficiary.
 - ▶ If required minimum distributions were being paid to the decedent, ensure that the distribution for the year in which they died has been taken—Significant penalties may apply.

Cash, bank accounts, securities, real estate, investment accounts, vehicles, business interest, etc.

- Request written date of death values for stocks, bonds and mutual funds from the brokerage firm, mutual fund or appraisal provider.
- Review the investment portfolio with advisors to determine if immediate action is necessary.
- Cancel auto insurance after all vehicles are sold or transferred, and file paperwork on the ownership transfer with the California Department of Motor Vehicle (“DMV”). The DMV filing helps protect the decedent's estate and trust from future claims of liability.

All non-trust assets.

- Determine if the combined value of the non-trust assets in the Decedent's name is over \$150,000, in which case probate will be necessary. If the collective value of these assets is \$150,000 or less, see your attorney for a Small Estate Affidavit for proper post-death transfer of these assets.

All real property and business interests held in the trust.

- For each California piece of real property, file the following with the County Recorder's Office within 150 days from the date of death: (1) an Affidavit of Death of trustee with a copy of the Death Certificate, (2) a Preliminary Change of Ownership Report and, if applicable, (3) a Claim for Exclusion from Reassessment for Transfers Between Parents and Children.

Determine what ongoing bills need to be paid.

Take the necessary steps to secure the decedent's residence.

- Check the Will and trust to see if there are instructions for distributing personal property, furniture and furnishings.

Notify beneficiaries and heirs (required by law under Prob. Code § 16061.7).

- Advise beneficiaries of the general trust provisions affecting them and when you anticipate to make a distribution to them.
- NOTE: The trust may be challenged within 120 days after you provide Notice to the beneficiaries—if you have reason to suspect a possible challenge, hold off on distribution till that matter is resolved or 120 days pass without challenge. If the trustee gives no notice, the beneficiaries and heirs usually have up to four years to challenge, which unduly prolongs the trust administration.



Manage and administer the trust according to the trust terms and consistent with state law and the Uniform Prudent Investor Act requirements.

- Note that specific gift cash distributions not made within 1 year of the date of death accrue interest at 7% from the 1-year mark, unless the trust specifies a different interest rate or the funds are intended to remain in trust.

Terminate the trust once you have (1) paid all debts (including tax obligations), (2) made all distributions and (3) the IRS has approved such filings or the statute of limitations for the IRS to challenge has run.

In general, you as trustee must provide an accounting at least annually to each beneficiary to whom income or principal is required or authorized by the trust. A trust beneficiary may waive in writing the right to an account.

Do not be overwhelmed by the thought of administering the trust. With a little bit of time and the proper care and attention, you can smoothly and efficiently administer the trust. We would be happy to assist you and answer any questions you may have at any point in your trusteeship.

These materials were prepared by:

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