

SUCCESSOR TRUSTEE'S CHECKLIST

Remember, the Trust was set up to give the Trustee the power to act without seeking legal assistance. The checklist below will give the Trustee a general overview of their responsibilities.

The Trustee must first notify "Qualified Trust Beneficiaries" of the Trust existence, the identity of the Trustmaker, and of the right to request a copy of the terms of the Trust that describe or affect the Trust beneficiary's interest. The notice must also identify the court in which the Trust is registered, if any. **The State of Michigan does not require that the Trust be registered.** The Trustee must provide this notice within 63 days after the Trustee acquires knowledge of the creation of an irrevocable Trust, or the date the Trustee acquires knowledge that a formally revocable Trust has become irrevocable. A Trust typically becomes irrevocable at the death of the Trust creator or incapacity of the Trust creator.

THINGS TO DO RIGHT AWAY:

1. Notify the funeral home.
 - (a) See that any burial instructions left by the decedent are carried out.
 - (b) Typically, the funeral home will assist in posting an obituary in the local newspaper. The funeral home will also notify the social security office to stop benefits and to obtain any death benefit. The funeral home will arrange for several copies of the death certificate. Eight to ten is not too many in most cases.
 - (c) Determine if there are any Veteran or government agencies, besides Social Security, that need to be contacted.
 - (d) Contact all major credit card reporting companies and notify them of the death. www.annualcreditreport.com
 - (e) Notify any former employers to stop or transfer any pension benefits and determine if there is any company paid life insurance.
2. Arrange for the care of any pets.
3. Notify the Personal Representative and any Co-Trustee named, other than yourself.
4. Notify the decedent's attorney, friends, family members, employer or employees, CPA and advisor of the death.
5. Notify the decedent's landlord, if any, and the suppliers of telephone service (land line and cell), cable and utilities.
6. Notify the post office of the death and arrange for the collection of the decedent's mail or transfer the mail delivery to the Trustee's address.
7. Go through the decedent's records and files to locate all assets and accounts. Determine what digital accounts need to be accessed. You will need to put a request in writing to the "digital custodian", provide a copy of the death certificate and a copy of the document appointing you as Trustee.

8. Publish notice to creditors in the newspaper in the county in which the decedent lived at the time of death. This starts a four month statute of limitation for future claims for any unknown debts and protects the Trustee if debts are not posted well after the Trust is administered.
9. Change the locks on the home. (This prevents those with keys from taking things from the home).
10. Notify the home and auto insurance company to update the coverage.

THINGS TO DO AS SOON AS TIME PERMITS:

1. Locate the original Trust and/or original Will of the decedent. The originals were given to the client at signing; our office retains a computer copy or pdf only.
2. Locate the deeds to all real property owned by the decedent. If the deeds cannot be located, a copy of the last recorded deed can be located at the Register of Deeds in the county where the property is located. Also determine if any of the real estate is subject to any mortgages, land contracts or loans so the property does not go into foreclosure.
3. Locate all insurance policies and contact each company and request the paperwork to make claim for any death benefits
4. Determine any and all debts owed to the decedent and make arrangement to collect these debts.
5. If necessary, decide which assets will be sold to arrange for any such sales (estate sale, sale of autos or sale of real estate).

IN-DEPTH ADMINISTRATIVE DUTIES

1. Upon the death of the Trustmaker, the Trustee shall keep the "Qualified Trust Beneficiaries" reasonably informed about the administration of the Trust and of the material facts necessary for them to protect their interest. Unless unreasonable under the circumstances, a Trustee shall promptly respond to a Trust beneficiary's request for information related to the administration of the Trust.
 - (a) A Trustee shall prepare a report identifying the Trust property, investments, liabilities, receipts, and disbursements, including the source and amount of the Trustee's compensation, a listing of the Trust property and, if feasible, their respective market values. In addition, the report must include disclosure related to the Trustee's compensation for investment advisory or management services. The Trustee shall send the report at least annually and at the termination of the Trust.
 - (b) No particular format or formality is required for a report, unless a court specifies its content and presentation. A statement of account shall be delivered as practicable after the closing of the accounting period or upon termination of the Trust.
 - (c) Any beneficiary receiving a specific gift and not a percentage or portion of the Trust shall not receive an inventory or accounting, except as it pertains to the specific gift.

(d) The Trustee's annual accounting, including fees and expenses reflected in it, shall be binding on any person to whom it is sent and that person's successors unless a written objection is received by the Trustee within 90 days after receipt of the accounting by the beneficiary. *If an objection is not received within 90 days, then the beneficiary has been deemed to have approved the accounting.* A living parent, guardian or other person having physical custody of the beneficiary may act for a minor or legally disabled beneficiary in approving or disapproving the accountings. The Trustee is also authorized to file an accounting with a court of competent jurisdiction at any time. Reasonable attorneys' fees and expenses related to this judicial proceeding may be charged against the Trust.

2. **Collection of Decedent's Benefits:** The successor Trustee should collect all benefits for the decedent. These benefits may include disability payments, retirement or disability income, fringe benefits from an employer, funeral and death benefits from social security, Veteran's Administration, employment agreements, medical expenses from group insurance, group life and disability income benefits, and workers compensation claims.
3. **Appraisal:** An appraisal of assets that do not have an easily determined fair market value (such as valuable personal property, real estate that will not be sold or a business) may be necessary to determine the new cost basis. This should be reviewed when a single person dies, when one spouse dies or when the surviving spouse dies.
4. **Creditors:** Whether or not a probate estate is opened, the estate is primarily liable for decedent's debts. If no probate estate is opened, the Trustee will need to publish Notice (see "Things to do Right Away" #8). The Trust document requires that the Trustee pay the outstanding debts and liabilities of the decedent. Therefore, as Trustee, you must investigate the amount and validity of all claims against the estate, and when appropriate, pay the debts of the decedent.
5. **Estate Taxes:** A Federal Estate Tax Return may be required upon the death of an individual. The amount an individual can pass tax free at the time of death changes each year and you will need to consult with the CPA for this amount.
6. **Tax Matters:** As a Trustee, you should consider the following items and take action to make certain each item is properly addressed.
 - a. Apply for a tax identification number for the Trust. The SS-4 form can be obtained and/or filled out online or it can be completed by the CPA.
 - b. Prepare the decedent's final income tax return or seek the assistance of a CPA. The decedent's final income tax return, absent an extension, is due on April 15 of the year after the death.
 - c. Determine whether the decedent made estimated income tax payments and whether they should be continued.
 - d. If the decedent owned real property, be sure that real property taxes are paid before the due dates.

- e. With the help of the CPA, determine the amount of cash that will be needed to pay all property tax, income tax and final expenses.
7. **Safe Deposit Box:** Inventory the contents and distribute the contents as directed by the Trust document.
8. **Decedent's Business:** If the decedent owned a business, steps must be taken to preserve and protect the enterprise. Continuation or liquidation is an issue which must be addressed immediately and appropriate steps taken after this determination is made. Contact the corporate attorney that handled the corporate books.
9. **Insurance:** When acting in the capacity of a Trustee, you are responsible for the maintenance of the Trust assets. Therefore, you must review the decedent's automobile and homeowner's insurance to insure coverage continues until assets are distributed. In addition, determine if any life insurance existed and collect the proceeds of the policy.
10. **Lawsuits:** Determine if there are any actions pending on behalf of the decedent. Also determine if the decedent's estate has an action for wrongful death of the decedent.
11. **Cash Needs:** It is a good idea when acting as a successor Trustee to estimate the cash needs of the Trust at the time of death of the Trustmaker. This will enable you to take action in order to obtain the cash needed to pay the obligations of the decedent and any obligations of the Trust which arise in the near future. Some typical obligations include household bills (utilities, phone, cable), funeral expenses, property tax and income tax liabilities and a reserve for miscellaneous and general expenses.

SUMMARY

As you can see, there is a great deal of work required when serving as a successor Trustee. After reviewing this article, should you need further assistance, contact Danielle Streed at the Law office of Danielle Streed & Associates, PLLC at (269) 276-0055.