



Welcome to *Trust Connection*, our monthly newsletter highlighting Trust news and information. Each month we will feature timely articles of interest.

## About Us

At Halliday Private Trust, it is our mission to assist our clients in the process of providing solutions, specifically through a wide range of financial advice.

Since 1982, we have utilized a full spectrum of financial services to help our clients navigate every major hurdle in their financial lives. Because we are an independent financial services firm, we utilize an open architecture approach to locating the most suitable investment options for our clients.

Our role is to help clients make smart decisions about their money. We understand that each client has unique needs and requires personalized solutions based on their goals, objectives and concerns.

## How to Select the Right Executor or Trustee

Selecting the right executor or trustee is a big decision facing everyone creating an estate plan. Thoughtful consideration can make every difference in the success or failure of the plan and how the beneficiaries feel about it. This article will discuss some of the key decision making factors in choosing an executor or trustee.

Choosing the right executor or trustee to handle your life savings for the most precious people in your life is a big deal. While we generally screen the person we choose to spend our lives with very carefully, this is not always the case for the person we choose to be responsible for the fruits of that life together. All too often the selection is made with little regard. Moreover, no qualifications, licenses, or certifications are required to do the job, only a willingness to act.

Potential executors and trustees can be divided into three categories, individual, professional, and corporate, and attributes can be applied to each group. There is no one right answer, and each person must come to his or her own conclusion. There are two questions to answer when making the decision: What do trustees and executors have to do, and when do they have to do it?

Starting with "What do they have to do?," consider these three points:

1. It is a big job. A trustee or executor must do many things, including:
  - Inventory assets
  - Value assets
  - Maintain accurate records
  - Interpret complex and lengthy legal documents
  - Communicate with beneficiaries
  - Carry out terms of the document
  - Receive requests for distributions and make the decision
  - Invest assets
  - Report to court as required by law
  - Maintain double cash accounting
  - Understand effects of forms of property ownership
  - File tax returns
    - o Previous income
    - o Final year income
    - o Fiduciary income
    - o Gift tax

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- o Estate tax
- o Consider both federal and state
- Understand state law
  - o Probate code
  - o Trustees powers
  - o Tax law
- Perform all tasks in an unbiased manner

2. Studies have shown that family members serving for free often end up spending more to do it themselves than they would have spent hiring a professional, corporate executor, or trustee to handle the process from start to finish.

3. It may create tension among family members, typically around three things: time, money, and relationship. Doing it right sometimes means not doing it as fast as some would like and it sometimes means hiring professional help, which others might resent. And third, making tough decisions may mean that some family members feel the decisions aren't in their best interest. Should the executor do the right thing and upset people, or not follow the decedent's wishes to maintain harmony? Even following state law can be tension-producing when it doesn't lean your way. Many a family has been divided over the tension between family members and the decision maker at a very emotion-filled time, caught between the sadness of losing someone and the curiosity of "what is my share?" Unfortunately, this situation manifests itself repeatedly.

And that leads to the second question, which is, "When do they have to do it?" For example, do you want to make your children do this job at one of the low points of their lives, after the loss of a dear, loved one? It isn't an issue of competence; it's an issue of emotion.

Professional and corporate trustees and executors can be truly objective, following the decedent's wishes to the letter. There is no self-interest and no conflicted emotions. Here are a few considerations for each category of trustee or executor:

### Corporate

- Chartered to act as a trust company by appropriate regulatory body
- Held to the highest standards
- Clearly defined policies & procedures for consistent, accurate, professional execution
- Dedicated full-time to the task
- No vacations, incapacity, or death

### Professional

- Operate under their professional licenses, generally not chartered as a trust company
- Held to high standards due to the charging of fees and expertise
- May not have a policies and procedures manual
- Generally only a part of the practice
- Subject to vacations, incapacity, or death

### Individuals

- Act as an individual with no charter
- Held to the lowest standards in a legal action such as the "prudent person" rule
- Generally no defined policies and procedures for consistent, accurate execution
- Usually part-time at best and can be busy with family and a job
- Vacations, incapacity, or death is an issue

In general, one should lean toward a corporate or professional in the following circumstances:

- To avoid burdening family with a time-consuming and complex job at an emotional time
- When family members or spouses don't get along
- When family has had financial troubles

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with Halliday Private Trust.

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- When more than one marriage is involved
- When a trust will last a long time

And one should lean toward an individual in the following circumstances:

- When a family business dominates assets and involved insiders are willing
- When assets aren't significant
- When a close existing network of professionals is already in place
- When substantial "hand holding" is required

### *Summary*

The decision is rarely easy, but these considerations provide some guidance in selecting one of the most important roles in your life: Taking your life's work and sharing it with those you care most about.

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