



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.

The Role of a Trustee – Responsibilities and Liabilities

The roles and responsibilities of a trustee are the same regardless if he or she is a family member or a hired professional. It is important to understand these responsibilities in order to decide whether to use an individual trustee or a corporate trustee to administer the trust.

Who Will Serve As Trustee?

It is not required that an individual accept the role of trustee – he or she may decline the responsibilities. Another option is to use a corporate trustee. Corporate trustees are experts at administering trusts. One can also choose to modify the acceptance and add a co-trustee, such as a corporate trustee. An individual who is contemplating whether or not to become a trustee should carefully consider if he or she has the time, knowledge, expertise and resources to commit to the role, as well as if the proper safeguards are in place for the liability involved.

Reading and Understanding the Trust Document

A trust is a legal document of instructions, created by the settlor, that dictates what he or she wants to happen, when, how and on what conditions, for whom, and with respect to what funds. Because it is a legal document, words in the law may have specific meanings that need to be understood by the trustee.

Inventory the Assets

It is the job of the trustee to marshal the assets, safeguard them, keep records and invest them appropriately. Consider whether an individual trustee has the resources to properly manage the assets. A corporate trustee does have the experience and expertise to manage the full range of assets in a trust.

Communicate with the Beneficiaries

Beneficiaries have the right to understand what their rights are under the trust. They have the right to statements and accountings, a copy of the trust (or at least the portion that pertains to their interests), even if they are future beneficiaries of the trust. An individual trustee may not have the knowledge and time to clearly communicate terms of the trust and answer beneficiaries' questions. A corporate trustee has the resources and skills to manage those communications.

Invest the Funds

A trustee is responsible for keeping the assets productive, appropriate to the requirements of the trust, sensitive to the income, gift, estate, and generation-skipping tax issues that may affect the trust.

A LOCAL TRUST SOLUTION

Distribute the Funds

Trusts may have automatic distributions (e.g. pay all income annually, or give one-third of the assets to the beneficiary when he or she turns 35 years old), or discretionary distributions (e.g. pay a certain amount, or all, of the trust funds to the beneficiary as needed for his/her health, education, maintenance, and support as determined by the trustee). In discretionary distributions, trustees should keep records of what was distributed and why because these questions might be asked by future beneficiaries.

File Tax Returns

A trust, not unlike a person, owns assets and earns income on those assets; therefore the trustee must file all appropriate tax returns, both federal and state. In some cases the trustee may also be responsible for filing the estate tax return if one is required or advisable. Consider whether this is something an individual trustee has the expertise to manage. If not, a corporate trustee may be the best solution.

Be Loyal

Many acceptable activities and fair business practices in our day-to-day world may be prohibited for a trust. Purchasing from or selling assets to the trust, even at fair market value, or being partial to one beneficiary over another, can be an issue. The trustee must also balance the tax implications of the investments with the various beneficiaries, keep transparent records and communicate as needed with beneficiaries. A trustee needs to have the skills, time and experience to fully administer all aspects of the trust.

Termination of the Trust

In the future when the trust ends, the trustee will manage the distribution of all the remaining assets in accordance with the trust document and file all of the appropriate tax returns. In cases of court-created trusts and trusts created by a will, court reporting may also be required. A corporate trustee has the resources and expertise to manage termination of the trust, something an individual may not be qualified to handle.

Conclusion

Being a trustee is an important job with many responsibilities. Because of the fiduciary responsibilities and legal knowledge required to administer a trust, many individuals are unable to successfully carry out this role. When thinking about naming or becoming an individual trustee, make sure to learn all of the responsibilities and liabilities, and consider the powerful benefits of a corporate trustee.

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