



City National

WEALTH MANAGEMENT

Selecting a Trustee for Your Trust or Estate

Choosing a trustee is one of the most important, and often difficult, decisions you will make during your estate planning process. While you may serve as trustee of your revocable trust during your lifetime, upon your death (or incapacity) your trust becomes irrevocable and a successor trustee must be appointed to act.

There are two basic types of trustees to choose from: an individual or a corporation. The following piece highlights the benefits of each to help you determine the best fit for you and your estate – the firsthand knowledge of an individual trustee, or the expertise, objectivity and permanence of a corporate trustee.

Trustee Responsibility

Whether you are appointing a trustee or accepting the role of trustee, understanding the many duties is critical. A trustee's primary responsibility is to interpret and administer a trust in accordance with the trust provisions as well as federal, state, and local laws. To fulfill this task, a trustee must:

- invest trust assets prudently
- distribute trust income and principal pursuant to the trust's direction
- prepare detailed accounting records
- file the appropriate state and federal tax returns
- pay the taxes for the trust

Each state also has trust laws that generally require a trustee to act loyally and impartially, avoid conflicts of interest, separate and preserve trust property while making that property productive, and defend the trust against actions and claims. These obligations may require measures such as procuring casualty and liability insurance, mitigating environmental hazards, and ensuring the trust's investment managers are following a reasonable investment policy.

These responsibilities require any designated trustee to possess, at a minimum, some knowledge of investments and general business practices, trust administration, and tax preparation and accounting. While not prerequisites to acting as a trustee, an individual lacking these skills must engage the appropriate professionals to assist the trustee in meeting his or her duties and obligations.

Trustee Liability

A trustee whose actions violate the terms of the trust document, or state fiduciary law, may be liable for resulting losses to the trust. It's important to note that while a trustee may delegate many of these responsibilities to professionals such as attorneys and investment advisors, that delegation does not relieve the trustee of his or her duty to monitor those professionals. Should the hired professionals fall short in fulfilling their responsibilities, a trustee may still be held personally liable if it's determined that he or she failed to properly oversee those professionals.

Selecting the Right Trustee

Selecting the trustee of your trust should be an informed decision based on careful reflection. There are two basic choices when considering who should be designated as trustee: an individual, or a corporation such as a bank or financial institution. You may also choose any number or combination of trustees from within these two areas.

INDIVIDUAL TRUSTEES

Understanding Original Intent

Not surprisingly, many individuals appoint a trustee with whom they have a personal relationship, shared values, and unwavering confidence that the trustee will act as they would when it comes to investment and discretionary decisions. To many, being appointed as a trustee of a friend or relative's trust may be considered an honor; however, it also comes with a heavy dose of fiduciary responsibility and potential liability.

Any individual, such as a family member, close personal friend, or even a trusted professional advisor (i.e., an attorney or accountant) can serve as a trustee if he or she is willing and competent.

Selecting an Effective Trustee

Individuals who are considering a trustee appointment should review the trust document with a qualified trust and estate attorney before agreeing to serve. Understanding the technical issues, liability and time involvement is critical and can help avoid any misunderstanding that could result in unforeseen financial and personal liability.

Firsthand Knowledge

A key benefit of appointing an individual trustee is the likelihood that the individual would have firsthand knowledge of your business and financial background, as well as any complex family dynamics. This can be helpful in understanding the intent of your estate – allowing the individual trustee to more easily determine what you would have done under certain circumstances. An individual trustee is also more likely to be aware of changing circumstances and family dynamics as he or she is typically well-known and trusted by you, your family and other potential trust

beneficiaries. As such, the individual may have personal influence over the family usually not present in a relationship with a corporate trustee.

Guarding Against Vacancies

When appointing an individual trustee, you should consider what would happen if he or she were unavailable due to vacation or illness at a time when a beneficiary requires trustee authority. To guard against a vacancy due to an individual's sickness, death, inability or unwillingness to serve, your trust document should name alternative successor trustees. While a court may appoint a trustee when no successor is designated, naming a trustee who can fulfill his or her responsibilities for the duration of the trust – a term which may last for multiple generations – may be a better solution.

CORPORATE TRUSTEES

Expertise, Objectivity and Continuity of Services

A corporate trustee represents the breadth of philosophies, standards and expertise of the full corporation. Trust professionals at a reputable firm will be able to offer you and your beneficiaries investment expertise, extensive knowledge of tax and accounting issues, and plentiful resources for the life of your trust or estate.

A Higher Standard of Care

Corporate trustees are held to a higher standard of care than an individual through state and federal regulatory supervision, internal audits, and compliance oversight.

An Objective and Impartial View

As there is no personal stake in the distribution of trust assets, nor personal ties to family members or trust beneficiaries, a corporate trustee is often in a better position to meet its duty of impartiality to all trust beneficiaries. Ensuring the involvement of an objective professional with outside experience and specific expertise is often a key factor in resolving unanticipated disputes.

Continuity of Services

In the event your trust advisor leaves, a reputable firm will waste no time in replacing that colleague with another of equal knowledge and expertise who will quickly learn the details of your trust. In the interim, the corporation could draw on the experience of remaining team members who are already intimately familiar with your trust.

Importantly, corporate trustees also provide a level of permanence that may evade an individual trustee, as the life of a financially-sound corporation will typically exceed that of an individual.

An Inclusive Fee Structure

When comparing the costs of a corporate trustee with an individual trustee, it's important to look at the services included in each fee. The expertise and services available through a bank or financial institution are generally included in the pricing structure of the corporate trustee's fees. When engaging an individual trustee, the trust will likely have to pay for the costs (in addition to the trustee fees) of engaging the proper professionals who will assist the trustee in investment management, legal matters, custody of trust assets, tax preparation, accounting services, etc. These additional expenses may actually result in higher overall administration fees when compared to the "one-stop shopping" services a corporate trustee may be in a position to provide.

CO-TRUSTEES

Balancing a Personal Touch with Professional Expertise

A hybrid solution is to designate two or more trustees to act at the same time, referred to as "co-trustees." Appointing co-trustees can be advantageous because each trustee may encompass different strengths, expertise, and familiarity with family dynamics. By using a combination of individual and corporate trustees, it is possible to leverage the high degree of professional skills offered by a corporate trustee with the personal connection of the individual trustee.

However, there are some challenges when appointing co-trustees. Since co-trustees generally must act in unanimity or majority rule (where three or more co-trustees are appointed), there must be consensus on all matters respecting the trust. In addition, each co-trustee is liable for the other's actions.

It's Your Legacy

You have likely worked a lifetime to secure the financial well-being of your family, as well as the continuity of wealth transfer from one generation to the next. Therefore, you should choose wisely when selecting the individual or corporation who will ultimately be responsible for carrying out your wishes. Determining the most qualified trustee or co-trustees may be the most essential decision you can make to ensure your legacy will be disposed of as you intended, and that your beneficiaries will be treated fairly and competently.

It's Easy to Appoint a Corporate Trustee

It is simple to name a corporation as trustee, successor trustee or co-trustee to your trust or estate. A well-drafted trust document will have provisions to name the succession of trustees you desire. In the event you currently have a trust in which you are the only trustee named, your attorney can draft an amendment naming a firm as corporate successor trustee.

City National should be listed as "City National Bank, a national banking association" on any documentation naming City National corporate trustee or co-trustee of your trust estate. For more information on naming City National as trustee or co-trustee, contact your Advisor or Trust Officer at **(800) 708-8881**.

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