

CHECKLIST FOR A TRUSTEE

Checklist of duties for the person(s) named as trustee of a decedent's trust:

- Locate and read thoroughly the trust agreement to determine the grantor's expectations and purposes with regard to creating the trust. The named trustee should also review the decedent's Will to determine how it relates to the trust administration.
- Consult the decedent's attorney, accountant and/or other professional advisors to solicit their input, and consider engaging a qualified professional to provide advice in fulfilling your duties.
- You may need a "Declaration of Trust" or similar document to confirm your appointment as Trustee or successor Trustee and the facts giving rise to your appointment. This document is typically notarized and prepared in proper form for recordation.
- Ascertain the assets that will fall under the trustee's control and management. This requires review of all known asset information, including, but not limited to, bank statements, brokerage statements, life insurance policies, stock certificates, bond certificates, and business documentation. The trustee should review the decedent's past Forms 1040, noting in particular assets that have generated income for the decedent in the past (i.e., rental income, royalties, interest, dividends, capital gains, and business related income reported on K-1s).

This step may require the trustee to send letters to various account holders to determine if the holder is still holding an account for the decedent, and if so, how many accounts, how was the account titled, what was the account worth on the decedent's date of death, and what steps need to be taken to claim the account. The trustee should also look for and inventory the decedent's safe deposit box(es), tangible personal property and real estate.

- As assets are found and determined to be under the trustee's management, the trustee must secure the assets, preserving their value for the beneficiaries. This may include changing the locks on the decedent's home, contracting with insurance companies to make sure the real properties and vehicles are adequately covered, moving tangible personal property to more secure location(s), and working with account holders to decide if any of the decedent's investment funds should be liquidated to avoid a loss in the market.
- If the decedent owned a business or farm, the trustee should take all necessary steps to insure that the grantor's wishes regarding the business or farm are carried out (i.e., is the business to be appraised and liquidated using a

particular broker, is the business or farm to be operated under the direction of the trustee or another named person, etc.), and that the value of the asset is maintained for the beneficiaries.

The trustee also needs to determine what liabilities of the decedent remain outstanding and whether or not such liabilities are valid. To this end, the trustee should cancel the decedent's credit cards, and stop cell phone and cable/satellite service. The trustee should make a list of the decedent's last medical providers and make sure that the decedent's health insurance fully satisfies outstanding balances as appropriate.

The trustee also needs to contact providers who may owe the decedent a refund (i.e., long-term care and/or health insurance companies for premiums paid in advance, magazine subscriptions, and other pre-paid service providers).

The trustee should complete claim forms to obtain payment of life insurance policies that name the trust as the beneficiary. The trustee may need to complete claim forms for retirement accounts and annuities that name the trust as beneficiary.

If there is no estate administration, the trustee is responsible for filing the decedent's final income tax return for the year in which he or she died.

The trustee normally obtains a tax identification number for the trust, and the trustee will be responsible for filing all fiduciary income tax returns to report the income of the trust.

Again, if there is no estate administration, the trustee will be responsible for filing the decedent's federal estate tax return and/or Tennessee inheritance tax return. These returns are due nine (9) months after the date of death.

The trustee may also be responsible for filing gift tax returns for the decedent, if the decedent made taxable gifts prior to his death. Such a return may be required for gifts made by the decedent in years past for which the decedent did not file a return. This is sometimes the case where the decedent transferred her real property to her children at the death of her spouse years prior to the decedent's death.

After ascertaining that all of the decedent's assets are under the trustee's control, the trustee must manage those assets in the name of the trust, using the trust's tax identification number. This means that bank accounts, brokerage accounts and other investments are managed by the trustee in the name of the trust.

The trustee should keep meticulous records regarding the trust assets, noting receipt of income and other funds and payment of debts and expenses.

Unless the trust agreement says otherwise, the trustee must provide each beneficiary of the trust with a copy of the trust agreement, and the trustee may also need to provide an accounting to the beneficiaries, as the same is provided for in the trust agreement, or if silent, in the Tennessee Uniform Trust Code.

After all of the assets have been ascertained and brought under the trustee's control, after all of the decedent's debts have been satisfied, after all of the tax returns have been filed, and after all the administration expenses have been paid, the trustee can make distributions to the beneficiaries in accordance with the terms of the trust agreement. This may require the trustee to establish further trusts by obtaining tax identification numbers and opening accounts in the name of such further trusts or it may require the trustee to make distributions directly to the beneficiaries in kind or in cash, depending on the circumstances and the terms of the trust agreement.

When further trusts are created, it is a good idea to meet with the attorney, accountant and financial advisor for the trust to determine the tax effects of funding the trusts, the income tax basis and possible capital gains or losses on funding, the potential growth in the assets of the various trusts in the future, etc., before final funding decisions are made.

It is a wise idea to obtain receipts and releases from the beneficiaries at the time that distributions are made.

Unless the trustee handling the administration is also the trustee managing the testamentary trusts created under the trust agreement, the trustee's duties are complete once all of the trust assets have been distributed to the beneficiaries of the trust.