

Planning Ahead



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Estate Planning – The Trustee’s Job When You’re Gone

Many people make the mistake of thinking that just because they have a Trust, nothing needs to be done when they die. But the truth is, whether you have a Will or a Trust or no estate plan at all, there is definitely work to be done to settle your affairs when you are gone.

First and foremost, a Trustee must do what the Trust says. That means the Trustee must read the Trust closely and if there is anything the Trustee does not understand, the Trustee should get the advice of a lawyer.

The Trustee must keep the Trust assets separate and only do things that benefit the beneficiaries. The Trustee cannot favor one beneficiary over another and the Trustee must avoid conflicts of interest with the beneficiaries. This is especially an issue when the Trustee is also a beneficiary. The Trustee must account for every penny of the Trust and be prepared to account and report to the beneficiaries.

If the Trust has become irrevocable, the Trustee has to give a notice to all the beneficiaries named in the Trust and to all the deceased person’s heirs, even those who aren’t named as beneficiaries in the Trust. The heirs and beneficiaries are all entitled to receive a copy of the Trust on request. If there is real property, the Trustee has to give a notice to the County Assessor. Notices to other state agencies may also be required.

The Trustee is responsible for attending to tax matters, including making sure final income tax returns are filed and taxes paid. For a large estate, a Federal Estate Tax Return may also be required.

The Trustee must inventory and value the Trust assets. When debts and taxes are paid, the Trustee can distribute the assets according to the instructions of the Trust. The Trust may require division of assets between shares or subtrusts that may continue into the future. The Trustee’s job continues until all the Trust assets have been distributed and the affairs of the Trust are completely settled.

It can be a lot of work to serve as Trustee, with significant responsibility. Ultimately it is the Trustee’s job to carry out your legacy of providing well for your intended beneficiaries.

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