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Responsibilities and liabilities regarding the financial welfare of trust beneficiaries

The trustee's role must be taken seriously. The trustee accepts personal responsibility and legal liability for the financial welfare of trust beneficiaries. The job can involve years of effort, coordination with lawyers and accountants, and detailed record keeping.

If you are naming an individual to serve as your trustee, or if someone has asked you to serve as trustee, you should consider carefully:

- The related responsibilities
- The prospective trustee's qualifications and willingness to serve
- Whether the trust could benefit from the services of a professional trustee or co-trustee like Northern Trust

Following is a representative, though by no means comprehensive, summary of what is expected of a trustee. Depending upon the terms and holdings of the trust, the trustee will assume many or all of these responsibilities.

Legal Obligations

- Assumes legal responsibility for the proper administration of the trust
- Investigates claims against the trust and opposes invalid claims in court
- Seeks legal counsel when needed

Accounting and Administration

- Establishes bookkeeping procedures
- Inventories and changes titles of assets
- Pays bills
- Performs ongoing accounting
- Submits records for independent audit

Investment Management

- Develops appropriate strategy to protect the interests of the grantor and beneficiaries
- Reviews assets regularly for quality and performance
- Makes timely and thoughtful adjustments to the portfolio
- Schedules transactions to minimize taxation
- Arranges for daily investment of cash
- Provides regular portfolio summaries

Securities Custody

- Promptly collects all assets and related income
- Tracks dividend notices, bond calls, and maturities
- Acts upon stock warrants and subscription rights
- Maintains detailed records of all assets and transactions

Tax-Related Responsibilities

- Documents asset acquisition dates, cost bases, and adjustments
- Keeps records of taxable income
- Files annual trust tax returns
- Furnishes information for beneficiary tax returns

Duties to Beneficiaries

- Communicates regularly
- Makes income payments
- Distributes principal with discretion
- Provides detailed account statements

Real Estate

- Arranges for the security, insurance, and maintenance of personal residences and other real estate
- Investigates the status of taxes, assessments, and liabilities against the property

- Obtains appraisals, titles, deeds, and abstracts
- Facilitates transfer of property to beneficiaries or new owners

If the real estate is income-producing, the trustee also:

- Secures management and accounting services
- Certifies compliance with all applicable regulations, including those for environmental protection and accommodations for the disabled

Appropriate Management of Diverse Assets

Virtually any type of asset can be placed in trust—and every type must be managed differently. The trustee must provide appropriate management for all trust holdings, from the commonplace to the unusual.

Conventional Financial Assets

Cash, securities, options, commodities, debts owed to the grantor, insurance and employee benefit proceeds, deferred compensation, and other commonly held assets fall into this category.

Unique Financial Assets

Copyrights, patent rights, royalties, mineral rights, partnership interests, farm or ranch holdings, oil and gas interests, and other unique assets require specialized management by the trustee.

Business Interests

The trustee must provide management, valuation, and consulting services for any business interests held in trust. If the business is to be sold, the trustee must see that this is carried out under the most favorable terms possible.

Personal Property

The trustee must appraise the value and preserve the security of all assets held in trust until their distribution or sale. This may include family heirlooms, household furnishings, vehicles, collectibles, jewelry, and other possessions.

Estate Settlement

- Makes sure that the requirements of the courts and taxing authorities are met
- Prepares federal estate tax, final income tax, gift tax, and generation-skipping tax returns as required
- Investigates and discharges obligations to creditors
- Determines final distributions in keeping with the trust agreement
- Arranges final transfer of assets

How to Find out More

Northern Trust would be glad answer your questions about the responsibilities and liabilities of the trustee, as well as the resources that we extend as trustee or co-trustee.

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