

Trustee Considerations: The Decision Matters

One of the most important decisions one will make concerning a trust is who will serve as trustee. The trustee role is a major decision as it will impact the investment management, security, and potentially the preservation of the trust for generations.

With Federal and state laws relating to income, investment and estate taxes changing on a frequent basis, and as personal financial circumstances become more sophisticated, the value of professional fiduciary expertise is important for wealth preservation. Estate planning takes on a vital role within an overall financial strategy as wealth is accumulated. An effective way to secure a family legacy while providing a seamless transition of wealth to multiple generations is to establish trusts, which are drafted by an attorney and require the naming of a trustee to oversee all matters of the administration.

Family members, friends, or advisors (i.e., CPAs, attorneys, or financial advisors) are commonly called upon to serve as individual trustees. However, the knowledge and expertise required to administer a trust could test the limits of an individual's time and capabilities. With wealth and a legacy at risk, thoughtful consideration should be given to the person appointed to handle this responsibility.

For many families, a corporate trustee may be a practical choice to effectively administer a trust. Corporate trustees offer the proficiency, consideration, impartiality, and knowledge to oversee all aspects of administration as part of their focused daily responsibilities and can provide the level of expertise and attention needed to ensure that the wishes of the grantor are carried out. A corporate trustee is best positioned to stay informed of changes in the economic and legislative environment to potentially minimize any negative circumstances that may have an impact on the trust and offer insight to families of opportunities to maximize the positive aspects of their planning.

Weighing the Options: Corporate Trustee vs. Individual Trustee

While families tend to select those that they have a personal relationship with to conduct their affairs and finances, hiring a corporate trustee may be the wisest decision. Many people have a bias against corporate trustees believing that they are too slow or difficult to work with. These biases have developed through personal experience or hearing stories of trust companies that have lost track of how to best serve clients. Not all corporate trustees function in the same way. With more flexible trust laws in place and more choices for a corporate trustee, families can find a corporate trustee that brings objectivity, experience, and expertise at a time that is often wrought with emotion, anxiety, and grief. This influence is especially helpful if family relations are strained, or challenging family dynamics are involved. A corporate trustee will remain neutral in the face of family disputes. That is one of the reasons trust and estate professionals recommend appointing a corporate trustee.

Minimizing or avoiding fees altogether is frequently the main reason for naming a family member or family friend as trustee. However, individual trustees must often hire professionals to assist them in conducting their duties as trustee, which may remove any expected cost savings. Naming the right corporate trustee could very well provide families with an efficient and effective partner to ensure that proper administration of their long-range tax and estate planning goals are achieved.

- **Expertise**
The trustee selected will be responsible for the financial well-being of the trust estate. This includes investment of trust assets and properly overseeing tax obligations. Your trustee must feel comfortable making investment decisions or having the fiduciary oversight and deep knowledge of supervising an investment manager, weighing, and evaluating requests for distributions per the document, which sometimes means making challenging decisions. If your trustee is a relative or friend, they may not possess the investment expertise, legal expertise, or fortitude to deny a beneficiary's request that is outside the intent of the grantor.
- **Accountability**
Your trustee must be capable of maintaining accurate records, including accounting for the receipt and disbursement of income and principal from the trust. Recordkeeping systems exist for timely and accurate accounting of principal and income and regular account statements. The trustee must also prepare and file all tax returns to the appropriate taxing authorities.
- **Permanence**
A primary objective of establishing a trust is to prepare for the future. Individual trustees may become unavailable to serve their appointment due to health issues, age, death – or simply their unwillingness. This creates uncertainty and a lack of

continuity for the trust and the beneficiaries. Corporate trustees are not dependent on the availability and circumstances of one person; they do not die or become ill or incapacitated. A corporate trustee can provide peace of mind that your trust is being managed by professionals who are always available when you need them most.

- ***Objectivity***

The reality is, even in the perfect family, relationships can sometimes become strained. While your trust might be carefully written to provide clear instructions, it may be difficult for a child or friend to avoid disputes and act objectively. Even a trusted advisor may be seen by beneficiaries as favoring one beneficiary or the grantor that they are loyal to over another beneficiary. Corporate trustees will follow the instructions of the trust document objectively and faithfully. They are not subject to the pressure individual trustees often encounter when making sensitive or unpopular decisions among family members. Corporate fiduciaries have the training and experience needed to deal with these demanding situations and do not feel the pressure to acquiesce to an unreasonable beneficiary.

- ***Collaboration***

Corporate trustees have experienced personnel trained to evaluate difficult situations, mediate disputes between beneficiaries, and deliver unbiased solutions thoughtfully and in a professional, dispassionate manner. Informed opinions can be voiced, and decisions are made by knowledgeable and experienced professionals. Depending on the type of request, corporate trustees may routinely engage with trusted advisors such as accountants, legal counsel, financial advisors, and family members to weigh in on matters pertaining to the trust.

- ***Confidentiality***

Estate planning is inherently a delicate topic. Family relationships, financial status and other private matters are commonly involved. For many, confidentiality is especially important. The temptation of a trustee who is a relative or friend to discuss your private affairs may be too great. Inadvertent disclosures are also common with inexperienced trustees. You can be sure that a corporate trustee will keep your private matters confidential.

- ***Oversight***

Individual trustees are not regulated or accountable to anyone; nor are they held to the high standards that corporate trustees are subject to. Most individual trustees do not carry liability insurance and if a beneficiary brought litigation against them, they may not be able to pay the damages. Corporate trustees are regularly monitored and examined by independent auditors and the applicable state or federal banking regulators and are required to carry appropriate liability insurance to protect their clients in the event of loss of trust assets, wrongdoing, or litigation.

- ***Value***

Specialization in trust administration provides services in an efficient, cost-effective manner for a reasonable fee. Individual trustees often do not have the expertise or time needed to effectively manage the affairs of the trust; therefore, they must hire various professionals to assist them. This may include investment advisors, accountants, lawyers, and other agents. These are all functions that a corporate trustee performs every day for clients.

When family members are placed in the position of trustee, emotions, personal agendas, and family conflicts can influence them. They may face pressure from family members about the decisions they are required to make and duties they are directed to carry out as trustee. At times, family member trustees may have conflicts of interest with the grantor or beneficiaries that could influence their decisions and leave them subject to criticism and potential legal action.

A corporate trustee offers a range of services that can ensure a smooth trust administration process over time, helping meet the objectives of the grantor of the trust. Today's financial landscape includes potential obstacles that can make it challenging for individuals to determine the best path to meet the trust's financial objectives. As financial circumstances become more complex, the value of professional guidance becomes even more important. For these reasons, the role of trustee is best left to a corporate trustee with deep experience in administration and oversight.

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