

Personal Representative and Trustee

As part of your Will, you will name someone to be your Personal Representative (Executor). As part of your Trust, you will name a Trustee (or Trustees). These are important positions of responsibility to you and to your beneficiaries. Although often deemed an honor, these positions can be demanding and time consuming, so give careful thought to your choices. These roles can require interaction with accountants, attorneys, financial advisors, and other professionals.

Personal Representative

Probate is the legal process of administering the estate of a deceased person (the testator) under the terms of a will. The court decides the legal validity of the will and grants its approval to the Personal Representative (PR). The result of this process will grant the PR Letters Testamentary which is a legal instrument that may be enforced by the PR in the law courts if necessary. The role of the PR is to resolve the estate and to distribute the assets of the estate to the beneficiaries in accordance with the instructions in the Will. Exceptions to probateable assets are assets held in a Trust, IRA's, 401(k)'s, accounts designated as POD (Pay on Death), TOD (Transfer on Death), assets titled in joint name, annuities and life insurance, as all of these have specific beneficiary terms.

The PR is responsible for filing the decedent's final federal and state income tax returns and possibly an estate tax return. If the estate will remain open for a period of time, a new tax ID number will be needed and future tax returns will be necessary.

Trustee

The Grantor of a Trust is the person who created the Trust and put the assets into the Trust. Typically he or she will be the Trustee while able. Upon death or disability, the Successor Trustee, who has been designated in the Trust document, will assume the duties and responsibilities of the Trustee. Upon the death of the Grantor, the Trustee should move quickly to get a new tax ID number if the Trust was previously a revocable Trust, as the Trust is now irrevocable and operates as a new legal entity. In accordance with the Trust terms, accounts and other assets will need to be re-titled in the name of the now irrevocable Trust.

The Trust usually has specific terms that apply upon the Grantor's death regarding payment of final expenses, income and estate tax obligations, disposition of assets to beneficiaries and possibly the establishment of ongoing trusts to serve stated purposes. These ongoing trusts will require their own tax ID's.

The Trustee is not responsible for oversight of assets not in the Trust, unless he/she is also the Personal Representative. The Trustee should work closely with the PR of the Will however to assure there are adequate assets to pay bills and in other matters regarding settling the estate. The



terms of the Will may also direct certain assets to “pour over” into the Trust, so they can be apportioned to beneficiaries as outlined in the Trust.

Assets held in the revocable Trust, upon the death of the Grantor, receive a “step up” in cost basis to the market value of the assets at the time of death. Some types of Trusts do not receive a step up so consult an attorney if there is any doubt.

The Trust may contain requirements about the ongoing investment of Trust assets so consult your Financial Advisor about any limitations.

Documents required by institutions holding Trust assets may require some of the following documents: Death Certificate, Trustee Certification of Investment Powers, Associated Person form, Affidavit of Domicile, and Inheritance Tax Waivers, if applicable to your state.