

Instructions to Successor Trustees

WHAT TO DO WHEN SOMEONE DIES

I Initial Actions

- A. Locate copies of the decedent's estate planning documents, including any Trusts, Wills, Durable Power of Attorney for Health Care and/or Advance Health Care Directive. These documents will determine who has legal authority for the Trust and estate, and to direct the disposition of the decedent's remains.
- B. Arrange for the disposition of the decedent's remains in accordance with his or her written instructions (if any), and make any necessary funeral or memorial arrangements.
- C. Notify Social Security of the death. You should check with the mortuary, as it may also handle this notification.
- D. Notify Department of Motor Vehicles of the death and cancel the decedent's driver's license (see the DMV's guide, [Reporting a Death of a Family Member or Friend](#)).
- E. Order Certified Copies of the Death Certificate. It is better to order too many, rather than too few. We would recommend at least ten (10) certified copies.
- F. Put in forwarding instructions at the decedent's post office to have all mail forwarded to the Trustee's address.
- G. Safeguard and secure all real property and personal property, including any automobiles. We recommend that the locks on the decedent's house(s) be changed so that access can be limited.
- H. Identify all assets and liabilities. This will take some investigation which should include:
 - 1. Reviewing any financial records at the decedent's home and place of business.
 - 2. Reviewing the prior year's income tax return(s).
 - 3. Monitoring the decedent's mail for account statements or other indications of the existence of potential assets or liabilities.
 - 4. Review the decedent's bank statements for direct deposits which would indicate sources of income and direct debits which would indicate potential liabilities.
- I. Schedule an appointment or phone conference with the decedent's estate planning attorney, accountant and any other known financial advisors. First, they may have asset and/or liability information in their files. Second, you will need to determine if you want to retain their services to represent you as Successor Trustee.
- J. Obtain an employer identification number (EIN) for any Trusts which became irrevocable as a result of the decedent's death. The EIN can be obtained by your attorney or accountant.
- K. Send the Trustee Notification to all Trust beneficiaries and legal heirs in accordance with California Probate Code Section 16061.7.

II Inventory and Marshall All Assets

- A. Once you have received the Death Certificates, contact all account holders to arrange access to the decedent's accounts. The account holders will include:
1. Banks, brokerage firms, mutual fund companies, and any other financial institution where the decedent had an account or safe deposit box.
 2. Life insurance companies where the decedent owned life insurance, long term care insurance, and/or disability insurance.
 3. Current or past employers where the decedent may have had a pension or employment related life insurance.
 4. Credit card companies to cancel any credit cards. You should also determine if the credit card had a "rewards" program, such as airline miles or life insurance, and what action needs to be taken to collect those "rewards".
- Each account holder will have its own forms and requirements to obtain access to the accounts. These requirements will vary from account holder to account holder and will depend on how the account was titled. Some examples are:*
- a. For an account titled in the name of a Trust, the account holder will probably require a Certified Copy of the Death Certificate, a copy of the Trust, the Trust's EIN, and a Trust Certification form.
 - b. For an account titled jointly with another person, this account belongs to the surviving joint owner and not to the Trust or estate. The joint owner may need a Certified Copy of the Death Certificate to collect the account.
 - c. For an account (including an annuity or life insurance policy) titled in the decedent's name alone which has a beneficiary listed on the account, this account belongs to the beneficiary and not to the Trust or estate. The beneficiary will need a certified copy of the Death Certificate. In cases where the Trust is named as a beneficiary of the account, this account can be collected by the Successor Trustee. If the account is a retirement account (IRA, 401k, 403b, etc.) or an annuity, liquidation of the account will have income tax consequences to the beneficiary. Therefore, the beneficiary should consult a competent tax professional before liquidating any retirement account or annuity.
 - d. For an account in the decedent's name alone which does not have a beneficiary listed on the account, this account belongs to the decedent's estate. Depending on the value of all such accounts, as well as any other assets which may be in the decedent's name alone, a probate may be required if the value exceeds Two Hundred Eight Thousand Eight Hundred Fifty Dollars (\$208,850). If the value is less than Two Hundred Eight Thousand Eight Hundred Fifty Dollars (\$208,850), you may be able to collect the account(s) using a small estate affidavit. Your attorney can help you with a probate or a small estate affidavit, if needed.
- B. Prepare and file the documents to change title on all real property and automobiles to the name of the Successor Trustee. Your attorney can prepare and file these documents for you.
- C. Contact the decedent's insurance agent(s) to make sure that all liability policies (homeowners, auto, general liability, umbrella, etc.) have the Trust named as the insured.
- D. Determine the fair market value of all assets as of the decedent's date of death. This information is important for two reasons:
1. To determine if an Estate Tax Return is required; and
 2. To establish the new cost basis of the assets for the Trust and beneficiaries.

III Pay All Debts, Taxes and Administration Expenses

- A. Determine what income tax returns and estimated tax payments are required, and make sure they are timely filed, and the taxes paid. Your accountant can assist with this.
- B. Determine if a Federal Estate Tax Return or State Inheritance Tax Return is required and make sure they are timely filed and the taxes paid. Your attorney and/or accountant can assist with this.
- C. Pay any other outstanding debts of the decedent, along with any Trust administration expenses, including reimbursing anyone who advanced funds on behalf of the Trust and estate.
- D. Prepare an accounting for the Trust in accordance with California Probate Code Sections 16062 and 16063. Your attorney and/or accountant can assist with this.

IV Distribution of Trust Assets

Proceed with distribution of the Trust assets in accordance with the terms of the Trust. You will want to maintain a reserve of funds to cover any final expenses such as a final income tax return, and legal and accounting fees.

Note: These instructions are intended as a general guideline for some of the responsibilities of a Successor Trustee. They are not intended as a comprehensive list of all of the Trustee's duties and responsibilities.

Our office is available to assist Trustees with the administration of Trusts, even though our office did not draft the Trust document.