

Selecting a Trustee



TRUSTEE RESPONSIBILITY

Whether you are appointing a trustee or accepting the role of trustee, understanding the many duties is critical. A trustee's primary responsibility is to interpret and administer a trust in accordance with the trust provisions as well as federal, state and local laws. To fulfill this task, a trustee must:

- Invest trust assets prudently
- Distribute trust income and principal pursuant to the trust's direction
- Prepare detailed accounting records
- File the appropriate state and federal tax returns
- Pay the taxes for the trust

SELECTING THE RIGHT TRUSTEE

There are two basic choices when considering who should be designated as trustee: an individual, or a corporation such as a bank or financial institution. You may also choose any number or combination of trustees from within these two areas.

Selecting an Effective Trustee

Individuals who are considering a trustee appointment should review the trust document with a qualified trust and estate attorney before agreeing to serve. Understanding the technical issues, liability and time involvement is critical and can help avoid any misunderstanding that could result in unforeseen financial and personal liability.



INDIVIDUAL TRUSTEES

Understanding Original Intent

Many individuals appoint a trustee with whom they have a personal relationship, shared values and unwavering confidence that the trustee will act in their best interest. To many, being appointed as a trustee of a friend or relative's trust may be considered an honor; however, it comes with fiduciary responsibility and potential liability.

Any individual, such as a family member, close personal friend or a trusted professional advisor (e.g., an attorney or accountant) can serve as a trustee if he or she is willing and competent.

Firsthand Knowledge

A key benefit of appointing an individual trustee is the likelihood that the individual would have firsthand knowledge of your business and financial background, as well as any complex family dynamics. This can be helpful in understanding the intent of your estate — allowing the individual trustee to better determine what you would have done under certain circumstances. An individual trustee is also more likely to be aware of changing circumstances and family dynamics as he or she is typically known and trusted by you, your family and other potential trust beneficiaries. As such, the individual may have personal influence over the family usually not present in a relationship with a corporate trustee.

Guarding Against Vacancies

To guard against a vacancy due to an individual's sickness, death, inability or unwillingness to serve, your trust document should name alternative successor trustees. While a court may appoint a trustee when no successor is designated, naming a trustee who can fulfill his or her responsibilities for the duration of the trust — a term which may last for multiple generations — may be a better solution.

CORPORATE TRUSTEES

Expertise, Objectivity and Continuity of Services

A corporate trustee represents the breadth of philosophies, standards and expertise of the full corporation. Trust professionals will be able to offer you and your beneficiaries investment expertise, extensive knowledge of tax and accounting issues, and plentiful resources for the life of your trust or estate.

A Higher Standard of Care

Corporate trustees are held to a higher standard of care than an individual through state and federal regulatory supervision, internal audits and compliance oversight.



An Objective and Impartial View

As there is no personal stake in the distribution of trust assets, nor personal ties to family members or trust beneficiaries, a corporate trustee is often in a better position to meet its duty of impartiality to all trust beneficiaries. Ensuring the involvement of an objective professional with outside experience and specific expertise is often a key factor in resolving unanticipated disputes.

Continuity of Services

In the event your trust advisor leaves, a reputable firm will waste no time in replacing that colleague with another of equal knowledge and expertise who will quickly learn the details of your trust. In the interim, the corporation could draw on the experience of remaining team members who are already intimately familiar with your trust.

Importantly, corporate trustees also provide a level of permanence that may evade an individual trustee, as the life of a financially sound corporation will typically exceed that of an individual.

An Inclusive Fee Structure

When engaging an individual trustee, the trust will likely have to pay for the costs (in addition to the trustee fees) of engaging the proper professionals who will assist the trustee in investment management, legal matters, custody of trust assets, tax preparation, accounting services, etc. These additional expenses may actually result in higher overall administration fees when compared a trustee who's fee may include some of these services so as to reduce additional cost(s).

CO-TRUSTEES

Balancing a Personal Touch with Professional Expertise

A hybrid solution is to designate two or more trustees to act at the same time, referred to as "co-trustees." Appointing co-trustees can be advantageous because each trustee may encompass different strengths, expertise and familiarity with family dynamics. By using a combination of individual and corporate trustees, it is possible to leverage the high degree of professional skills offered by a corporate trustee with the personal connection of the individual trustee.

However, there are some challenges when appointing co-trustees. Since co-trustees generally must act in unanimity or majority rule (where three or more co-trustees are appointed), there must be consensus on all matters respecting the trust. In addition, each co-trustee is liable for the other's actions.

You have likely worked a lifetime to secure the financial well-being of your family, as well as the continuity of wealth transfer from one generation to the next. Therefore, you should choose wisely when selecting the individual or corporation who will ultimately be responsible for carrying out your wishes. Determining the most qualified trustee or co-trustees may be the most essential decision you can make to ensure your legacy will be disposed of as you intended, and that your beneficiaries will be treated fairly and competently.

Appointing a Corporate Trustee

It is simple to name a corporate trustee, successor trustee or co-trustee to your trust or estate. A well-drafted trust document will have provisions to name the succession of trustees you desire. In the event you currently have a trust in which you are the only trustee named, your attorney can draft an amendment naming a firm as corporate successor trustee.



IMPORTANT INFORMATION

This document is for general information and education only. It is not meant to provide specific tax guidance. The information in this document was compiled by the staff of City National Bank (City National) from data and sources believed to be reliable, but City National makes no representation as to the accuracy or completeness of the information.

The opinions expressed, together with any estimates or projections given, constitute the judgment of the author as of the date of the presentation. City National has no obligation to update, modify, or amend this document or otherwise notify you in the event any information stated, opinion expressed, matter discussed, estimate, or projection changes or is determined to be inaccurate.

City National Bank, its managed affiliates and subsidiaries, as a matter of policy, do not give tax, accounting, regulatory, or legal advice. Rules in the areas of law, tax, and accounting are subject to change and open to varying interpretations. Any strategies discussed in this document were not intended to be used, and cannot be used for the purpose of avoiding any tax penalties that may be imposed. You should consult with your other advisors on the tax, accounting and legal implications of actions you may take based on any strategies or information presented taking into account your own particular circumstances.

This presentation (or any portion thereof) may not be reproduced, distributed, or further published by any person without the written consent of City National. Professional trustee services are offered to City National Rochdale clients by City National Bank which may serve as trustee.

City National Rochdale, LLC is an SEC-registered investment adviser and wholly-owned subsidiary of City National Bank. Registration as an investment adviser does not imply any level of skill or expertise. City National Bank is a subsidiary of the Royal Bank of Canada.