

Trust Connection

Building Lasting Relationships for the Benefit of our Mutual Clients

TRUST NEWS AND INFORMATION FROM YOUR TRUST REPRESENTATIVE OFFICE

Welcome to *Trust Connection*,
a regular communication from
Valley National Trust Services.

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Choosing the Right Executor or Trustee

Selecting the right executor or trustee is a big decision facing everyone creating an estate plan. Putting some thoughtful consideration into the choice can make all the difference in the success or failure of the plan and how the beneficiaries feel about it. Choosing an executor or trustee is often not considered deeply enough, and here we will explore some of the key decision making factors.

Selecting the right executor or trustee to handle your life savings for the most precious people in your life is a big deal. All too often that selection is made with little regard, merely because they are deemed capable and with the notion that naming someone to be an executor or trustee is bestowing an honor upon them. We generally screen the person we choose to spend our life with more carefully than the person who will handle the fruits of that life together. Let's acknowledge that no qualifications are required to do the job, just a willingness to act. No licensing, no certifications, no educational requirements, no qualifications at all are required to serve as an executor or trustee. Yet would anyone consider those kinds of requirements if they were hiring for an actual job? One would hope so.

First consider the three categories of "applicants": individual, professional, corporate. Using these three categories we can then apply attributes to each group. There is no one right answer and each person must come to their own appropriate conclusion but hopefully with thoughtful consideration. There are two issues to address in that consideration: What they have to do, and When they have to do it.

Starting with What they have to do, let's consider three things.

1. It's a BIG job. Among other things a trustee or executor must:

• Inventory Assets	• Understand Tax law
• Value Assets	• File tax returns
• Maintain accurate records	• Previous income
• Communicate with beneficiaries	• Final year income
• Interpret complete and lengthy legal documents	• Understand effects of forms of property ownership
• Carry out terms of the document	• Fiduciary income
• Invest assets	• Gift tax
• Value assets	• Estate tax
• Maintain accurate records	• Consider both federal and state
• Report to court as required by law	• Understand state law
• Maintain double cash accounting	• Probate code
• Receive requests for distributions and make the decision	• Perform all tasks in an unbiased manner

2. It is EXPENSIVE to obtain these services a la carte. Imagine a child (charging nothing) having to go out and hire professionals to help them with many duties and responsibilities of managing the trust. Studies have shown that family members serving for "free" often end up spending more to do it themselves for "free" than they would have spent hiring a professional or corporate executor or trustee to handle the process start to finish or even to help with the process in an "agency" capacity.

3. It may "cost" in terms of potential tension among family members, around 3 things: time, money and relationship. Doing it right sometimes means not doing it as fast as some would like. Doing it right sometimes means hiring professional help which others might resent. And third, making tough decisions unfortunately means that someone feels the decisions aren't in their best interest, putting a family member in that role into a tough position: Do the "right thing" and upset people, or don't follow the decedent's wishes to maintain

harmony. Even following state law can be tension producing when it doesn't lean your way. Many a family has been divided over the tension between the other family members and the decision maker family members put in charge at a very emotion filled time, caught between the sadness of losing someone close to them and the analytical "what is my share?" We all love to think this isn't the case, but see it manifest itself repeatedly.

And that leads us to the second point, which is... WHEN they must do it. Consider this: Do you want to make your children do a big job, for free, at one of the low points of their lives; the loss of a dear, loved one? It isn't an issue of competence; trust officers are someone's children too, just not the children of the person who just passed away. Professional and corporate trustees and executors can be truly objective, following the decedent's wishes to the letter. There is no self-interest, and no conflicted emotions.

Here are a few considerations for each category of trustee or executor:

Corporate

- Regulatory Oversight - Chartered to act as a trust company by appropriate regulatory body
- Court Oversight - Held to the highest standards
- Internal Oversight - Clearly defined policies & procedures for consistent, accurate, professional execution
- Specialists - Dedicated full-time to the task
- Permanent & Consistent - No vacations, incapacity, or death

Professional

- Operate under their professional licenses, generally not chartered as a trust company
- Held to high standards due to the charging of fees and expertise
- May not have a policies and procedures manual
- Generally, only a part of the practice
- Subject to vacations, incapacity, or death

Individuals

- Act as an individual with no charter

- Held to the lowest standards in a legal action such as the “prudent person” rule
Generally no defined policies & procedures for consistent, accurate execution
- Generally, part-time at best and can be busy with family and a job
- Vacations, incapacity, or death is an issue

And one final set of considerations related to the roles of a trustee or executor: In general, one should lean toward a corporate or professional in the following circumstances:

- To avoid burdening family with a time-consuming and complex job at an emotional time
- When family members or spouses don’t get along
- When family has had financial troubles
- When more than one marriage is involved
- When a trust will last a long time

And one should lean toward an individual in the following circumstances:

- When a family business dominates assets and involved insiders are willing
- When assets aren’t significant
- When a close existing network of professionals is already in place
- When substantial “hand holding” is required

Your client’s decision is rarely easy, but hopefully these considerations give you some information to provide guidance as to which direction they should lean in selecting one of the most important roles in their life: Taking their life work and savings, then sharing it with those they care most about. So, ACTION STEP in your business: Ask each of your clients with a trust WHO have they named as successor trustee and WHY? Really LISTEN to the response and see if it FULLY considers WHAT must be done and WHEN it must be done. By the way 75 % of people have named family members in this capacity. If the client does opt for an individual, you can still approach the family member named and offer to act as “Agent for the Trustee,” a role in which we can do all the functional parts of the job with professional competence and let the family member call the shots on discretionary decisions.

Also watch for two particular situations if you are an INVESTMENT ADVISOR:

Did they name another corporate trustee in the role before they got to know you or knew that you offered trust services? If so, do they realize that you will be fired the minute the successor trustee comes into power? Is that what they desire?

Are they asking if YOU would act in that role? Rather than the standard “no I can’t do that” response, practice the response: “Sure. Many of my clients desire our involvement at this critical point. Here is how we do that in our practice. Our company uses National Advisors Trust Company, which provides the experienced staff and resources necessary, and I can act as the family contact and investment manager on the account.” Many clients desire the ongoing help of their financial advisor, yet do not realize the legal issues in acting in that role directly.

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