

Trust Administration Checklist

A.Step One: Prepare for the First Meeting

- 1. First Telephone Call
- 2. Review the estate planning documents
 - a. Review the trust instrument
 - 1. General dispositive provision
 - 2. Powers of appointment
 - 3. Prorata or nonprorata distribution
 - 4. Disclaimers
 - 5. Estate tax clause
 - 6. Administrative trust clause
 - 7. Allocation of principal and income
 - 8. Prudent investor clause
 - 9. Reporting and accounting clause
 - 10. Trustee provisions
 - 11. S corporation issues
 - 12. Generation-skipping transfer (GST) tax issues
 - 13. Power to divide trust
 - 14. Payment of interest
 - 15. Gift provisions
 - 16. Disqualified persons
 - 17. Ambiguities and drafting errors
 - 18. Asset schedule
 - b. Pour-over Will
 - c. Review other documents
- 3. Prepare summary of estate planning documents

B. Step Two: First Meeting with Client (Successor Trustee)

- 1. Identify the client and be aware of ethical issues
- 2. Complete the new client information sheet
- 3. Educate client about trust administration
- 4. Summarize the trust and distribution process
- 5. Collect asset information
 - a. Review title to assets
 - 1. Assets in trust
 - 2. Assets outside the trust subject to distribution by will
 - 3. Assets outside the trust not subject to distribution by will
 - b. Determine whether legal action is required to collect assets into trust.
 - c. Estimate value of assets
 - d. Discuss need for appraisals
 - e. Identify need for investment advice and make referral to broker
 - f. Identify dividend reinvestment accounts
 - g. Identify out-of-state real property
 - h. Identify depreciating or wasting assets
 - i. Identify assets subject to special regulatory or contractual controls
 - j. Identify safe deposit boxes and arrange for inventory
 - k. Discuss insurance coverage
 - l. Identify assets subject to options, escrows, or foreclosures
 - m. Identify hazardous waste problems
 - n. Have client sign authorization forms

- 6. Collect liability information
 - a. Determine nature and amount of outstanding liabilities
 - b. Identify potential creditors and outstanding lawsuits
 - c. Discuss liability of trust for decedent's debts
 - d. Discuss optional creditor's claim procedure
 - e. Consider 1-year statute of limitations
- 7. Collect beneficiary information
- 8. Review document list
- 9. Discuss fiduciary duties
 - a. Source of trustee powers
 - b. Standard of trust management
 - c. Fiduciary relationship
 - d. Discuss optional creditor's claim procedure
 - e. Anticommingling rule
 - f. Duty to defend the trust
 - g. Nondelegation of trustee powers
- 10. Send Probate Code §16061.7 notice to beneficiaries and heirs
- 11. Reporting and accounting requirement
 - a. Duty to keep beneficiaries informed
 - b. Mandatory accounting requirements for trusts established after July 1, 1987
 - c. Contents of account
 - d. Accounting on request of any beneficiary
 - e. Waivers
 - f. Recommend voluntary accounting even when not required
 - g. Consider obtaining court approval of accounting

- 12. Recordkeeping
- 13. Principal and income law
- 14. Discuss trust checking account and trust transactions
 - a. Advise client to open trust checking account
 - b. Determine whether administrative expenses already paid and arrange for reimbursement
 - c. Present client with list of administrative expenses
- 15. Discuss estate tax issues
 - a. Consider need to file IRS Form 706 and state estate tax returns or extensions
 - b. Consider filing Form 706 even when not required
 - c. Consider need for and timing of extension to file and/or pay taxes
 - d. Discuss alternate valuation
 - e. Discuss special tax elections that might be available
 - f. Identify property for possible prior property transfer credit
 - g. Review prior gifts
 - h. Identify assets includable although not otherwise inventoried
 - i. Determine need for state estate tax returns in states other than state of domicile
 - j. Consider GST issues

- k. Consider disclaimer planning
 - i. To reduce or eliminate marital gift to fully use unified credit
 - ii. To create a marital deduction
 - iii. To perfect or increase charitable deduction gift
 - iv. To avoid general powers of appointment
 - v. To skip a generation
 - vi. To qualify stock redemption under IRC §303
 - vii. To eliminate nonqualified heirs to qualify for IRC §2032A
 - viii. To avoid multiple administrations and unnecessary estate taxes
 - iv. To terminate a trust
 - v. To avoid income taxes
 - vi. To accelerate estate tax to qualify for PTC credit
- l. Consider need to coordinate with insurance trust for payment of estate taxes
- 16. Discuss income tax issues
 - a. Allocate responsibility for decedent's personal returns and fiduciary returns
 - b. Determine what returns need to be filed
 - c. Explain basis step-up

- d. Determine whether to use administrative trust
 - i. Terminate trust approach
 - ii. Administrative trust approach
 - iii. Factors in deciding
- e. Is the trust simple or complex?
- f. Accumulation of income permitted
- g. Trusts must report on calendar-year basis
- h. Discuss income tax brackets for trusts
- i. Consider timing of distributions (65-day rule)
- j. Discuss need to issue IRS Form 1099s
- k. Personal exemption
- l. Quarterly estimates for trust
- m. S Corporation
- n. Passive loss deduction
- o. Income tax consequences of funding bequests
 - i. Nonprorata distributions from trust
 - ii. Types of bequests and tax consequences
- p. Discuss trust income during administration period
- q. Have client sign IRS Form SS-4 to obtain TIN for administrative trust
- 17. Discuss real property tax issues
 - a. Determine whether “change of ownership” occurs for property tax issues
 - b. Determine whether parent-child exclusion available
 - i. Calculate and allocate the exclusion
 - ii. Application to ongoing trusts
 - iii. Determine time for filing parent-child exclusion application

- 18. Discuss trustee compensation and time records
- 19. Preliminary liquidity analysis
- 20. Discuss fees, costs, retainer, and fee agreement

C. Step Three: Actions Following First Meeting

- 1. New case set up
 - a. Set up new trust administration file
 - b. Prepare and mail fee agreement
 - c. Prepare joint representation agreement (applies only if there are co-trustees)
 - d. Apply for TIN if using administrative trust
- 2. Calendar critical dates
 - a. Lodge pour-over will with county clerk (30 days from death)
 - b. Notification to beneficiaries (60 days from death)
 - c. Disclaimer deadline (9 months from death)
 - d. Form 706 and state returns (in CA: Controller's Office Form ET—1) (9 months from death)
 - e. Date of Form 706 extension, if any
 - f. Alternate valuation date (6 months from death)
 - g. IRS Form 709 (gift tax returns) (April 15th)
 - h. Decedent's final personal returns (April 15th)
 - i. Fiduciary income tax returns (April 15th, if calendar year; 15th day of 4th month after fiscal year end if fiscal year)
 - j. Preliminary Change of Ownership Statement (150 days from death)
 - k. Property tax installments (December 10th and April 10th)
 - l. Survival requirements under instrument
 - m. 65-day election
 - n. Partnership basis election (IRC §663(b))

- o. Federal/state payroll tax reporting
- p. S corporation election (within 2 months and 16 days of transfer)
- q. Medi-Cal notice (90 days from death)
- r. Probate Code §13100 affidavit (40 days from death)
- s. Option, escrow, or buy-sell dates
- t. First trust accounting due (1 year from death)
- u. Statue(s) of limitation on decedent's cause(s) of action
- v. Creditor claim period (if opt in) (4 months from date of first publication)
- w. Statute of limitations on claims against decedent (1 year from death)
- x. Last day to contest trust (12-0 days from date Probate Code §16061.7 notice is received, or up to 60 days later if trust copy not sent originally)
- y. Deadline for noncitizen spouse to transfer or irrevocable assign assets to QDOT (due date for filing Form 706, including extensions)
- z. Deadline for noncitizen spouse to become citizen, if not creating QDOT (due date for filing Form 706, including extensions)
- aa. Beneficiaries take decedent's minimum required distribution if decedent has passed RBD (12/31 in the year of decedent's death)
- bb. Determine beneficiaries of retirement plan or IRA (9/30 in year after year of decedent's death)
- cc. Deadline for dividing retirement plan or IRA into separate accounts (12/31 in the year after year of decedent's death)

- dd. If trust is named as beneficiary of retirement plan or IRA, send list of trust beneficiaries and a copy of the actual trust instrument to plan administrator or fiduciary (10/31 in year after year of death of decedent)
- 3. Lodge pour-over will with county clerk and obtain certified copy
- 4. Prepare and send Medi-Cal notice
- 5. Prepare certification of trust and affidavit of death
- 6. Prepare and file PCOR form
- 7. Collect asset and liability information
 - a. Prepare preliminary inventory and mail to client with sample asset list
 - b. Prepare and send letters to financial institutions
 - c. Prepare and send letters to insurance companies
 - d. Order deeds from title company for all real property
 - e. Order appraisals for all parcels of real property
 - f. Order appraisals for tangible personal property
 - g. Order appraisals for intangible personal property
 - h. Order appraisals for business interests
 - i. prepare and send letters re: retirement benefits
 - j. Enter data into asset allocation spreadsheet and fiduciary accounting program
- 8. Prepare forms for creditor claim procedure
- 9. Record certification of trust in each county where real property located
- 10. Prepare and send IRS Form 4506 requesting copies of gift tax returns
- 11. Prepare and send information letters to beneficiaries
- 12. Prepare and send trust administration memo

- 13. Prepare letter of instructions to brokers
- 14. Deliver stock certificates to broker
- 15. Prepare CPA designation form
- 16. Communicate with out-of-state counsel for ancillary proceedings
- 17. Prepare and file parent-child exclusion application
- 18. Determine need to start court proceedings and prepare petitions
- 19. Prepare documents to collect nontrust assets
- 20. Corporate review and housekeeping for closely held corporation
- 21. Communicate with CPA
- 22. Cancel decedent's credit cards and contact national credit reporting agencies to close decedent's credit profile

D. Step Four: Second Meeting with Client (and CPA)

- 1. Verify trust checking account established
- 2. Review client's recordkeeping
- 3. Discuss progress on collection and appraisal of assets
- 4. Discuss possible sales of assets
 - a. Determine need for liquidity
 - b. Consider preference for cash versus in-kind distributions
 - c. Review trustee's authority to sell
 - d. Consider tax consequences of sale
 - e. Discuss method of sale
 - f. Watch for conflict of interest
 - g. Consider obtaining court approval

- 5. Consider preliminary distributions
 - a. Consider income tax effects
 - b. Beware of disproportionate preliminary distributions
- 6. Prepare and send letter to CPA confirming allocation of responsibilities

E. Step Five: Final Distribution

- 1. Finalize asset collection
- 2. Finalize fiduciary accounting schedules
- 3. Determine administration expenses incurred
- 4. Decide whether to take administration expenses on Form 706 or IRS Form 1041
- 5. Finalize and file Form 706/state tax returns
- 6. Draft trustee's final account and report
- 7. Determine whether court approval of accounting appropriate
- 8. Consider timing of distribution
- 9. Consider income tax effects
- 10. Analyze available assets
- 11. Determine whether distribution will be pro rata or non-pro-rata
- 12. Determine whether any distributions carry earned income or interest
- 13. Determine amount of reserve
- 14. Determine amount of trustee's fees
- 15. Select allocation (distribution) date
- 16. Update values of assets and amounts of liabilities as of distribution date
- 17. Prepare asset allocation spreadsheet
- 18. Prepare written schedule of assets for ongoing trusts

- 19. Obtain TINs for ongoing trusts
- 20. Prepare certificates of trust for ongoing trusts
- 21. Prepare diagram of distribution
- 22. Send drafts of spreadsheet, asset schedules, and diagram to client and CPA
- 23. Consider review of distribution plan by beneficiaries
- 24. Consider court approval of distribution plan
- 25. Obtain trustee's and CPA's approval of distribution plan
- 26. Prepare transfer documents for funding distributions
 - a. □ Written instructions to trustee re title to bank accounts
 - b. □ Deeds, etc.
 - c. □ Assumption of mortgages
 - d. □ Assignments of lease
 - e. □ Assignments of notes and deeds of trust
 - f. □ Prepare and file UCC-2 statements
 - g. □ Cancel old and issue new stock certificates for closely held corporations
 - h. □ Assignments of partnership interests
 - i. □ Assignments of unsecured promissory notes
 - j. □ Letters to makers on notes advising of assignments
 - k. □ Assignments of assets of sole proprietorship
 - l. □ Assignments of personal property
 - m. □ Forms to complete transfer of mobilehomes
 - n. □ Stock powers, affidavit of domicile, and letter of instructions for stock transfers
 - o. □ Letters to transfer agents or deliver certificates to broker for transfer

- p. Letters of instructions to broker to transfer securities accounts
- q. letters of instructions to mutual fund companies for transfer of accounts
- r. Transfer forms for Treasury notes and bonds
- s. Letters and forms for transferring United States Savings Bonds
- t. Complete transfers of vehicles (cars, boats, airplanes)
- u. Miscellaneous assignments for other assets
- 27. Prepare waivers of accounting if no formal accounting
- 28. Prepare beneficiary receipts
- 29. Mail accounting, distribution checks/documents, and receipts by certified mail/return receipt requested
- 30. Prepare letter of instructions to client re administration of ongoing trusts
- 31. Prepare letter to CPA re ongoing trusts and allocation of responsibility
- 32. Send closing packet and termination-of-engagement letter to client
- 33. Send client-satisfaction survey form to trustee