



Instructions to the Successor Trustee(s)

To: Successor Trustee(s)
From: Grantor(s)

I/We, as the Trustmakers of this living trust, have provided you in our Estate Planning Portfolio a very simple and complete way of dealing with our assets and, when appropriate, transferring them to the named beneficiaries.

As the Successor Trustee(s) you have a wide range of powers and responsibilities which become effective upon our death or incapacity or whenever we wish to transfer management of the trust to you. These instructions are aimed at making your job as Successor Trustee(s) as easy as possible.

While Grantors Are Still Living

If you are taking over as the Trustee because I/We are unable or unwilling to continue to act as my/our own Trustee, the primary responsibilities you will have include the following:

1. **Review the terms of the Living Trust.** Note especially the provisions for taking care of my/our maintenance and support, which direct you to spend whatever is needed of the trust property to take care of me/us. Also review the provisions for Trustee's powers, so that you know the extent of what you as Trustee have the authority to do.
2. **Determine what assets are in the Trust.** You will be responsible for managing my/our financial affairs, at least to the extent of the property in our Trust, and the first step is to determine what that property consists of.
3. **Take care of my/our regular financial affairs.** You will be responsible for taking care of my/our day-to-day finances. This includes such things as paying the regular monthly bills for living expenses and other such expenses, and seeing that the income tax returns are prepared and filed when they are due.
4. **Review the investments.** The Trustee's responsibilities include overseeing any financial investments of trust property. Your duty is to



manage the trust property as a reasonable and prudent person would with his or her own property, with a view towards security rather than speculation.

After Grantor(s) Have Died

If you are taking over as Successor Trustee because I/We have died, we urge you to meet with my/our attorney as soon as possible to discuss the details of administering my/our Trust. The attorney will explain to you the various things which will need to be done. However, just to give you an idea of what is involved, these tasks will probably include the following:

1. **Review the Living Trust**, particularly the sections dealing with the beneficiaries, the distribution of the trust property, and the Trustee's powers. Determine if any of the assets are to be immediately distributed, or if they are to remain in the trust for later distribution to the beneficiaries.
2. **Order death certificate(s)**. Death certificates will probably be needed to obtain the proceeds of any life insurance policies and for other transfers. We recommend ordering three or four certified copies of the death certificate to begin with. These can be ordered from the funeral home or from the local county health department. As long as you as Successor Trustee have a copy of the living trust and a certified copy of the death certificate, you can manage the trust property just as I/We did while living.
3. **Check safe deposit box and checking account**. If I/We have a safe deposit box, it should be checked for any instructions I/We may have left for actions to be taken after death. It is also important to prepare an inventory of the contents of the box. You will need a copy of the death certificate, a copy of the living trust, and the safe deposit box key to gain access to the box. Funds may be needed immediately to pay funeral expenses, so make sure that there is enough money available in the trust checking account. You can gain access to this account with a copy of the death certificate and a copy of the trust.
4. **Notify all life insurance companies of the death**. This can be done by calling the local agent, if applicable, or writing the letter to the company's main office. Some companies require a certified copy of the death certificate, and some companies will accept a photocopy



of the death certificate or even a copy of the newspaper obituary notice.

5. **Prepare an inventory of all of the assets of the trust**, including their values at the date of death. This is necessary to determine a new cost basis for these assets in order to take advantage of the “step-up” in the basis (that is, the “cost”) of the assets. That will minimize the taxable gain when the assets are sold. It may be advisable to obtain a written valuation of one or more of the assets. It is recommended that you get a written opinion on the fair market value of any real estate in the trust. If the real estate has significant value, it is recommended that you obtain an appraisal from a qualified appraiser.
6. The market value of securities can be obtained by checking the newspaper for the day of death or by calling a stockbroker. Many brokers will provide these figures in writing, particularly if the trust has an account with them. The market value at the date of death becomes the new cost basis. The total value of all property in the trust (including property passing to the trust by virtue of the Wills) will determine whether it will be necessary to file federal and state estate tax returns.
7. **Make sure that all of the assets are held in the trust name**. If there are any assets which are not in the trust, be sure to discuss this with my/our attorney, who will be able to determine whether these assets will then require a probate court proceeding. It is recommended that the most recent federal and state income tax returns be reviewed, since they may provide a clue to assets which are not in the trust.
8. **Review business agreements**. Review any business agreements, contracts, stock certificates, partnership agreements, etc., to which I/We and/or my/our trust are parties. If the trust property includes a business interest, it will be important to document the value of this interest if either the estate is likely to be taxable or the business interest will be sold. To obtain this valuation, it is recommended that you hire a qualified appraiser of business interests or a CPA who is experienced at valuing businesses.



9. **If all or part of the living trust has become irrevocable because of the death**, it will be necessary to get a new Taxpayer Identification Number for that trust from the Internal Revenue Service. Use IRS Form SS-4 to get this number. If the trust thereafter has taxable income it may be necessary to file IRS Form 1041S as the trust's income tax return.
10. **Review and pay bills.** Review any bills or accounts which are claimed to be owed and pay the valid ones.
11. **File income tax returns and pay income taxes**, both for me/us and for the Trust. It will probably be necessary to file the final income tax return. The attorney and CPA can help determine this. In addition, if the trust has earned and/or retained income, it will probably be necessary to file federal and state income tax returns. If all of the trust income has been distributed to beneficiaries, then they are responsible for including this income on their own individual income tax returns. However, Form 1041S must still be filed annually until all trust assets are distributed.
12. **Collect all the credit cards and cancel them.**
13. **Distribute the personal effects.** Distribute any personal effects and household furnishings as provided in the will or living trust, including any written memorandum of instructions.
14. **Review the allocation and distribution of the remaining trust property.** Determine if any assets are to be retained in the living trust, sold or distributed, or converted to cash. Remember to ascertain if there are any outstanding debts or taxes to be paid first in order to determine the cash flow needs.
15. **Determine if a disclaimer is appropriate.** It may be appropriate for one or more of the beneficiaries to disclaim an interest in all or part of his or her share, so that the property will automatically pass to the next beneficiary in line. This absolutely must be done within nine (9) months after the date of death. The attorney will be able to assist you in determining whether any disclaimer is appropriate.
16. **Review investments.** Make sure that the current investments retained in the trust are appropriate for the income and growth



objectives of the trust, which will depend on the projected future needs of the trust. It is recommended that you review the investments at least quarterly to determine whether, as a prudent investor, some reinvestments are necessary.

17. **File federal estate tax Form 706.** This form will need to be filed only if the estate exceeds the Unified Credit amount. If it is necessary to file IRS Form 706, the attorney and the CPA will assist with this and let you know if any tax is due.
18. **Distribute the assets.** After all the bills and expenses of administering the Trust have been paid, the final step is to distribute the remaining trust property. Pay careful attention to the distribution and allocation of assets to insure that this is done in accordance with my/our wishes. It may be appropriate to sell some assets and distribute the cash to facilitate equal division among the heirs, provided this is in accordance with the trust. If it can be accomplished, it is recommended that any beneficiary who wishes to receive a distribution of property in kind, rather than a distribution of cash, be allowed to do so.

There will probably be many other tasks to be done in this post mortem administration of the Trust, many of which involve legal, financial, or tax issues. This is why we recommend that you work with the attorney and the other members of a planning team such as the CPA, insurance agent, and financial advisor. Because I/We have used the Revocable Living Trust as the center of the estate plan, your job as Successor Trustee will be much easier and quicker than if you had to act as the Personal Representative and probate the estate.

Thank you for being Successor Trustee.