NAVIGATING THE MAZE OF TRUST ADMINISTRATION

Trust administration is a necessary process that occurs after the death of either one or both settlors. To protect the successor trustees, there are many things that must be done to ensure proper administration. Fortunately, working with an attorney for trust administration is a straightforward process that will give the successor trustees a great peace of mind throughout the administration.

Trust administration begins with a required probate code notice to all trust beneficiaries and heirs of the settlors. **California Probate Code Section 16061.7** states that such notice must be sent within 60 days of the death of a settlor and allows the recipient of the notice to request a copy of the trust. After receiving the mailed notice, the recipient has 120 days from the date of mailing to file a trust contest. If no contest is filed within a 120 days, then the notice recipient may forfeit their right to file a contest. But if no notice is mailed, the statute of limitations in which a trust contest could be filed is much greater, and could be up to at least four years.
As part of the initial trust administration process, your attorney will also ask you to provide him or her with the decedent's original will so it may be lodged with the court. California law requires that a decedent's will be lodged with the court for safekeeping, even if no probate is going to be opened.

There are four major areas of concern through which the successor trustee must travel. They are, in chronological order, as follows:

1. Directing yourself to a competent attorney specializing in Tax and Trust;
2. Listing and acquiring appraisals of **all** of the decedent's assets. Community property and separate property. (Note, NOT separate property of the successor trustee);
3. The Federal Estate Tax Return (IRS Form 706);
4. Funding the Trusts. This is the bottom line of what Trusts are all about.

The appraisals must be done accurately and honestly. As assets fall into different categories the modus of appraisal varies, also. For example:

1. For bank accounts and stocks and bonds the date of death figure including any accrued interest from the last statement is necessary. Call banks and brokers for the exact vestment of the accounts and the account numbers which are required.

2. For all real estate a licensed appraiser must be hired to do a date-of-death or six-months-later appraisal. He or she will charge according to size, zoning and location of the property. You have your choice of the higher or lower appraisal ("D" Day or six months later). That is an individual matter based upon your need or wish to sell or hold property among other things.

3. For automobiles, a Blue Book date-of-death appraisal is required. Most banks have a copy of an up-to-date Blue Book.

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4. For art collections or any collection of value if over $3,000.00 a licensed appraiser is required.

5. For household furnishings you may inventory and do it yourself or you may have a licensed appraiser.

6. For significant jewelry and antiques, a licensed appraiser.

7. To complete the picture of assets you must itemize all "D" day debts. This is tedious and includes everything you can think of such as gas bill, electric bill, credit card bills, telephone, medical, cable TV, etc. In addition, all funeral expenses and eventually all estate expenses such as attorney and accountant fees. In other words all the unpaid bills outstanding on the exact date of death and all estate expenses. Get a nice little notebook and plan on a few months to get this done. You cannot move on to your next destination without it.

Federal Estate Tax Return (IRS Form 706)

The 706 form is your next destination. "The 706" is a term that may well overwhelm you with paranoia no matter how accurate and honest, sincere and willing you may be to share all your family secrets with the IRS. The "706" is a very intimidating 33 page form that must be filed nine months to the day following the date of death. (You may/should get a six month's extension.) Your attorney and CPA will keep you on track and see that it is correctly filled in. Do not fail to file it on time!

Final Destination- Funding the Trust

You cannot (should not) fund the Trusts until you have filed the 706. Or at least have come to your final set of figures. The Family Trust *per se* ceases to exist at the moment of death of the first of the original Trustees to die. The Trust then "trifurcates" into separate Trusts which will probably be the Bypass Trust (exemption or non-taxed gift to your heirs), the QTIP or Qualified Terminal Interest Property Trust (which is now an irrevocable Trust representing the decedent) and the Survivor's Trust which continues to be revocable or amendable. From now on each separate irrevocable Trust will require a separate Income Tax filing every year. They must be properly funded in accordance with the intentions and exact wording of the Trust and in a manner that will please the IRS and convince them beyond a scintilla of doubt that you have accurately divided the assets with scrupulous fairness. This is the real bottom line of what Trusts are all about. Unless every asset is completely liquidated making trust funding a five minute exercise with a calculator, you are face to face with a new dilemma.

Your attorney and his or her, or your, CPA should work together with you on making these decisions and properly recording the assets into the different Trusts. Then one day a letter will come saying it has all been approved by the IRS and you can finally relax.

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