
Why You Should (and Should Not) Appoint a Corporate Trustee

By Geoffrey N. Taylor

It is easy to visualize the situation. Mom and dad have passed away and the spendthrift kids' inheritance is subject to the whim of the big, bad corporate trustee. Decades of frustration, ill feelings, and significant expense ensue. It really should not have happened like this. Or should it have?

A revocable trust is used to avoid probate and control the disposition of assets after the grantor's passing.

A trustee is responsible for holding, managing, and distributing trust assets in accordance with the trust agreement. Typically, the trustee has the power to hire professionals to assist with those tasks.

A corporate trustee is a bank trust department or trust company that serves as trustee.

For many clients, selecting the trustee is the most difficult decision in estate planning.

Reasons To Appoint A Corporate Trustee

Corporate trustees are professionals at managing assets and with their vast resources they often produce better investment returns than a nonprofessional. They have experience with all kinds of assets, including everyday investments like stocks, bonds, and real estate, and more uncommon investments like closely held businesses, oil and gas interests, mineral properties, international investments, and collectibles. Banks and trust companies are "built" to serve as trustees and can discharge the full range of trustee duties, including preparing accountings and filing tax returns.

A corporate trustee will follow your trust instructions objectively, something family members are often unable to do because they may be too busy with their own

affairs or may not get along with other family members. Even though bank and trust company employees are human too, they won't be as affected by emotion as an individual related to the family. If there is a fear the corporate trustee may be unresponsive, the trust agreement can give the beneficiaries the power to replace it with another corporate trustee.

A corporate trustee "will always be there" and can manage a trust for generations. This characteristic makes them ideal trustees of "last resort" if the grantor nevertheless has a preference for individual trustees.

How To Evaluate A Corporate Trustee

The best way to evaluate corporate trustees is to talk with several of them and ask a lot of questions. It's even better to speak with multiple people at a particular institution.

You should ask questions about how long they have been in business, the experience level of their employees, how many and the average size of trusts they manage, their fees, their investment returns, and other services they provide. Their responses can give you a sense of how responsive they will be to the beneficiaries' needs.

Reasons To Appoint A Family Member As Trustee

Notwithstanding the advantages of corporate trustees, most people choose family members to serve as trustees. In my experience, there are two main reasons – fees and familiarity.

Clients generally expect family members won't charge a fee for serving as trustee, even though trustees are entitled to reasonable compensation. Fees for corporate trustees generally are based on the value of the trust assets and normally range from 1% to 2.5% per year. They sometimes have a minimum annual fee, which may quickly deplete the assets of a small trust and a termination fee when the trust terminates or the trustee is removed.

While banks don't die, their employees change jobs. If the grantor likes trust officer Lois Lane at Metropolis Bank because he believes she will adhere to the trust terms and treat the beneficiaries fairly, there is no guarantee the beneficiaries will feel the same way. There is also no guarantee Ms. Lane will be

around after the grantor's passing. Further, Ms. Lane's replacement may be someone with weak interpersonal skills who is unwilling to listen and be responsive to the beneficiaries' questions and needs.

While some clients won't consider a corporate trustee because of fees, perceived family harmony, or a desire for the trustee to have a personal relationship with the beneficiaries, some clients' family situations lend themselves to, or even require, the presence of a corporate trustee. Maddin Hauser attorneys know each client's situation is unique and requires a thorough analysis of all issues involved. If you are unsure about a choice of trustee, **call us and we can advise you.**