Understanding Your Role as Successor Trustee

Next steps after the person who made the trust dies

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In short: Someone you know trusted you to finish their plan. When they died, you (the **successor trustee**) became the person in charge of their trust. Your job is to **protect what is in the trust, pay the final bills and taxes, and then give what is left to the people named in the trust**, exactly as the trust says. You do not have to do it all at once. A CPA can guide you through the financial side, and an attorney can help if legal questions come up. This guide walks you through the main steps.

First, take a breath. Nothing needs to be done in the first few days except caring for yourself and your family, making funeral plans, and keeping property safe. **Do not give anything away, sell anything, or pay old debts yet.** Talk to a CPA first. Many mistakes trustees make come from moving too fast, not too slow.

Words You Will Hear

Trust maker

The person who created the trust and has died. Legal papers call this person the **Settlor**.

Successor trustee

You. The person named in the trust to take over and manage it after the trust maker dies.

Beneficiaries

The people or charities who will receive something from the trust.

Your Next Steps

THE FIRST TWO WEEKS

1. **Talk to a CPA.** A CPA can help you with the trust's tax ID number, tax returns, records, and accounting. You may also need an attorney if you need legal help with the trust administration, such as a probate, court filings, or an opinion about paying creditors.
2. **Find the papers.** Look for the original trust and any amendments, the original Will, deeds, account statements, insurance policies, and recent tax returns. **If you have the original Will, Florida law requires it to be filed with the Clerk of Court within 10 days after you learn of the death.** You can file the original Will, along with a copy of the death certificate, with the Clerk of Court in the county where the person lived when they died, as shown on the death certificate. If you need additional help, contact an attorney.
3. **Order death certificates.** The funeral home can order them. Get about 8 to 10 certified copies. Most banks only need the version *without* the cause of death.
4. **Keep property safe.** Lock the home, keep the homeowner's and car insurance in force, and tell the insurance company the home is empty. Forward the mail to yourself. Do not let anyone remove items from the home until you know what the trust says.

TAKING CHARGE (FIRST MONTH)

5. **Sign your Acceptance of Trusteeship.** This is your written "yes" to the job. Sign it in front of a notary **before** you start acting as trustee.

6. **Sign a new Certificate of Trust.** This short form proves to banks and title companies that you are now the trustee, without showing them the private details of the trust. A copy is just as good as the original. *Template Acceptance of Trusteeship and Certificate of Trust forms are on our website.*

7. **Get a tax ID number for the trust.** After the death, the trust needs its own federal tax ID number (called an **EIN**). It can be requested free from the IRS online. Ask your attorney or CPA if you need help.

8. **Open a trust bank account.** Open it in the name of the trust, using the new tax ID. Move trust money into it. Pay trust bills only from this account, and **never mix trust money with your own.**

NOTICES (WITHIN 60 DAYS)

9. **Tell the beneficiaries.** Florida law requires the trustee to send a written notice to each qualified beneficiary within 60 days. The notice says that you accepted the job, that the trust exists, and what rights they have, including the right to ask for a copy of the trust. *A template **Notice to Beneficiaries** is on our website.* If you are not sure who must receive it, or a beneficiary is a minor, an attorney can help.

10. **File a Notice of Trust with the court.** Florida requires the trustee to file a short Notice of Trust with the court. *A template **Notice of Trust** is on our website.* You can file the Notice of Trust, along with the original Will and a copy of the death certificate, with the Clerk of Court in the county where the person lived when they died. If you need additional help, contact an attorney.

TAKING INVENTORY AND PAYING BILLS

11. **Make a list of everything.** List each asset and its value on the date of death (bank and investment statements, plus an appraisal of any real estate). These values matter for taxes later.

12. **Look for assets outside the trust.** Life insurance, retirement accounts (IRAs and 401(k)s), and accounts with a named beneficiary usually go straight to that person, not through the trust. Anything left in the trust maker's own name may need a short probate to move it into the trust. Tell your attorney about these assets.

13. **Pay bills carefully.** It is fine to keep paying ongoing costs, like utilities, insurance, property taxes, and the mortgage, from the trust account. **Talk to your attorney before paying credit cards, medical bills, or other old debts.** Florida has special rules for creditors, and paying the wrong bill first can make you responsible.

14. **Handle the taxes.** A CPA will usually prepare the trust maker's final personal income tax return and, if the trust earns $600 or more in a year, a trust income tax return (Form 1041). Florida has no estate tax, and the federal estate tax only applies to very large estates. If the trust maker was married, ask your CPA whether an estate tax return should still be filed to save the unused tax exemption for the surviving spouse.

FINISHING THE JOB

15. **Give out what is left, exactly as the trust says.** Wait until the bills and taxes are paid and you have kept a reserve for final costs. Some shares may stay in trust for a time (for example, for a young beneficiary). Get a signed receipt from each beneficiary.

16. **Give a final accounting and close the trust.** Show the beneficiaries what came in, what went out, and who received what. Then close the trust bank account and file the final tax returns.

> **A special word about the home.** If the trust maker owned a Florida home they lived in and left a spouse or a minor child, special Florida homestead rules may change who receives the home, even if the trust says otherwise. **Talk to your attorney before you sell, rent, or give away the home.**

Your Duties as Trustee

Be loyal

Act only for the beneficiaries, not for yourself. Do not buy trust property, borrow from the trust, or use it for your own benefit.

Be fair

Treat every beneficiary the way the trust says, even if you are a beneficiary too.

Keep good records

Save every receipt and statement. Write down every dollar that comes in or goes out of the trust.

Keep people informed

Answer beneficiaries' reasonable questions and send the notices and reports the law requires.

Be careful with money

Invest and protect trust property the way a careful person would. It is fine to hire a financial advisor.

Get help when you need it

You may hire a lawyer, CPA, or appraiser, and the trust can pay their reasonable fees.

Common Questions

Do I have to be the trustee? No. You can say no. If you are not sure, do not sign anything or handle any trust property until you decide. Acting as trustee can count as saying yes. An attorney can help you decide.

Am I personally responsible for the trust maker's debts? Generally, no. Debts are paid from the trust, not your own pocket, as long as you follow the rules. That is why it is important to check with your attorney before paying old bills or giving anything out.

Can I be paid for my time? Yes. Florida law allows a trustee to receive reasonable pay unless the trust says otherwise. Many family trustees choose not to take pay. Either way, keep track of your time and any costs you pay yourself.

Does the trust mean there is no probate? Usually, for everything that was in the trust. Assets left only in the trust maker's name may still need a short probate. Your attorney can tell you if any is needed.

Can I sell the house or the car? Usually yes. The title company will ask for your Certificate of Trust and a death certificate. Read the homestead note above first, and talk to your attorney before you list a home.

How long will this take? A simple trust often takes six months to a year. It can take longer if there is a house to sell, a tax return to file, or shares that stay in trust.

What if a beneficiary is upset with me? Keep calm, keep good records, and share information openly. Most problems come from people not knowing what is going on. If things get difficult, talk to your attorney.

Good to Know: What to Bring to Your First CPA Meeting

- ☐ The original trust and any amendments
- ☐ The original Will (if you have it)
- ☐ A certified death certificate
- ☐ Recent bank and investment statements
- ☐ Deeds to any real estate
- ☐ Life insurance and retirement account statements
- ☐ Car titles
- ☐ The trust maker's last two tax returns
- ☐ A list of monthly bills and debts
- ☐ Names and addresses of all beneficiaries

Getting help. Mazenko Law Firm does not typically provide trust administration services and provides them only if you have signed a fee agreement with the firm for those services. Otherwise, Mazenko Law Firm does not provide any trust administration services, legal advice, or legal opinions. For tax and accounting help, contact a CPA. If you need legal help with the trust administration, such as a probate, a court filing, or an opinion about paying creditors, contact an attorney of your choice. Template Acceptance of Trusteeship, Certificate of Trust, Notice to Beneficiaries, and Notice of Trust forms are available at www.mazenkolaw.com for you to use if you choose.

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