

HOW DO I CHOOSE AN EXECUTOR & TRUSTEE?

Everyone knows that it is important to make a proper will and to keep it current. As part of this process, an important question that you must ask yourself is, “how do I choose and executor and trustee?” This is an important decision and one that must be made with care.

Many people believe that any friend or relative they might choose can do the job. That may be the case, however, all too often horror stories one hears about mismanaged estates prove to be all too true.

One should not under estimate the weight of an executor’s burden. When an estate has any significant assets, the task of settlement can prove to be overwhelming for anyone who lacks the time, experience and specialized knowledge required to properly carry out the duties of an executor.

The ideal executor would be a combination of detective, bill collector, investment analyst, bookkeeper, property manager, business executive, tax specialist, corresponding secretary and financial counselor. Few people combine all of these skills.

The detective work may involve both the search for estate assets and key people, such as long lost relatives or witnesses to the will. An estates representative must locate and safeguard all assets, pay valid creditors claims and collect all debts owed to the estate.

From an investment standpoint the executors’ primary task is to preserve the value of the estate. In many cases, securities may need to be sold to raise funds for cash bequests, expenses and taxes. The executor must decide which securities to retain, which to sell and the timing of the sales. Along with those decisions there is a tremendous amount of paperwork. Careful records must be kept of all transactions, all income received by the estate, and all disbursements.

An executor must file final income tax returns for the deceased as well as returns reporting the estate income. State and Federal tax returns may also be required. In addition, an estate tax return must be filed with the IRS when an estate exceeds the current exclusion amount of \$1 million dollars. Even if no taxes are due because of assets left to the surviving spouse or to charity, accurate tax valuations are essential.

With all of these responsibilities it is often unfair to place the burden solely on the shoulders of the spouse, relative or friend. A recommended alternative is to name a corporate executor. Your will can designate a bank trust department to settle your estate. If you feel that participation of a family member or another individual is essential, perhaps because of that individual’s insights into your beneficiaries’ needs or special knowledge of your business and financial matters, you may name that person as a co-executor. Using a corporate executor makes good sense for a number of reasons:

✍ An individual executor may move away, become ill or incapacitated or perhaps

pre-decease you.

- ✍ Professionals at a bank trust department are trained and experienced in handling estates. They will not be learning the job at your family's expense.
- ✍ A bank trust department will prove to be helpful to your family but they will never play favorites.
- ✍ Fees for estate settlement generally are comparable to what an inexperienced individual would receive.

An estate ends when an executor completes distribution of the estate's assets and provides a final accounting to the probate court. A trust created under an estate begins when funds to be held in a trust are distributed to the trustee and the trust ends only after it has run its course. Many individuals will include a trust designed to minimize estate taxes or to provide for the spouse or children in their will. They may also include a charitable trust to benefit a charity of their choice. Depending on the age of the beneficiaries of the trust or the type of trust created, the trust might last for many decades. Charitable trusts may last into perpetuity.

Because experienced investment judgment and knowledge plus the ability to serve for a long period of time if needed are such important characteristics for a trustee, most people understand the advantages of naming a bank trust department as trustee.