SUCCESSOR TRUSTEE GUIDE

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You have been named as a **successor trustee**.

- **Trustor(s)** (also called Grantor or Settlor) is the person(s) who created the trust, and they usually manage it first as the initial Trustee(s).

- **The Successor Trustee** (You) typically remains inactive until the original Trustee(s) resigns, becomes incapacitated, or passes away.

When you do take over, the role centers on being an organized, fair, and honest administrator -keeping accurate records and acting strictly in the interest of the beneficiaries rather than oneself.

Part 1: Common Questions & The Basics

What is a trust?

Think of a trust as a container that holds assets. It does not automatically end when the Trustor(s) passes away; it continues to exist until its assets have been fully distributed out under the terms of the document.

Why are assets placed in a trust?

A trust allows an alternate manager to seamlessly step in and handle assets during a Trustor's incapacity without court intervention. After the Trustor(s) passes away, a trust manages distributions to beneficiaries (including managing shares for minors or young adults), allows those trust-held assets to avoid the public probate court process, and provides a framework to manage assets, distributions, and potential contests.

How do I know if an asset is "in" the trust?

Only assets that have been legally retitled to the trust, or made payable to the trust upon death, are controlled by the trustee.

- **Titled Assets:** Real estate deeds, bank accounts, and investment portfolios explicitly name the trust as the owner. Example: Titled assets should show the owner as "John Doe and Sally Doe, Trustees of the JS Doe Family Living Trust dated January 8, 2008."
- **Outside Assets:** IRAs, 401(k)s, and annuities are almost always held outside the trust for tax reasons. A Trustor's business interests may also remain outside the trust unless a specific assignment of interest was executed to transfer that authority.

How do Taxes and Tax IDs work?

- **While Trustor(s) is living**: The trust is revocable, and its tax ID is simply the Trustor's Social Security Number. No separate tax filings are required.

- **After the Trustors pass away:** The trust generally becomes irrevocable and can no longer use a deceased person's Social Security Number. It must obtain its own Tax ID—an Employer Identification Number (EIN)—from the IRS to conduct business.

Part 2: Core Fiduciary Duties of a Trustee

Under Arizona law, a trustee acts in a fiduciary capacity and is expected to manage trust property with care, honesty, and loyalty to the beneficiaries. If the trust document does not address a specific situation, an attorney can help explain the applicable rules and procedures. General trustee practices include:

- **Following the Document:** The written trust agreement is your primary rulebook.

- **Acting with Care:** Trustees managing financial assets are generally expected to avoid undue risk, consistent with Arizona's prudent-investor standards. Performance is judged by conduct and reasonableness rather than market fluctuations.

- **Keeping Trust Property Separate:** Trust assets are kept strictly segregated from the trustee's personal funds. Combining trust money with personal money is inconsistent with a trustee's duties.

- **Duty of Loyalty:** Trust assets must be managed for the benefit of the beneficiaries, except to the extent the trust document explicitly authorizes trustee compensation or expense reimbursement.

- **Settling Expenses Before Distributing:** Administrative expenses, debts, final taxes, and valid creditor claims are commonly identified and provided for before making final distributions to beneficiaries. Distributing funds prematurely can create problems if a valid claim arises afterward.

- **Signing Administratively:** To clarify that you are acting on behalf of the entity rather than personal capacity, it is standard practice to sign documents with your title. *Example: "John Smith, Trustee."*

- **Hiring Professional Help:** Trustees commonly engage accountants, financial advisors, CPAs, or attorneys to assist with administration. The trust document typically authorizes these professional fees to be paid directly out of the trust assets.

- **Resignation:** A successor trustee who is unable or unwilling to continue serving can usually resign by following the procedures outlined in the trust. Additional successors are typically named; if none remain, a corporate trustee can often be appointed.

Part 3: Handling a Trustor's Incapacity or Resignation

During an incapacity phase, the successor trustee manages the trust assets for the care and benefit of the living Trustor(s) - not safeguarding funds for the future heirs. If the original trustee recovers, the successor trustee steps down and becomes inactive again.

Common First Steps

- **Confirm Quality Care:** Ensure the Trustor is safe and receiving appropriate medical care.

- **Deliver Healthcare Directives:** Provide copies of healthcare powers of attorney and living wills to the primary physicians and medical facilities.

- **Establish Authority:** Obtain a formal note of incapacity from the attending physician(s), or a written note of resignation from the original trustee. Banks and financial institutions will require this documentation alongside the trust binder to grant you account access.

Administrative Steps

- **Locate the Binder**: Gather the trust agreement, asset inventories, property deeds, financial statements, and advisor contact lists located in the estate planning binder.

- **Review Insurance:** Review the Trustor's insurance coverage, including health, disability, and long-term care policies.

- **Apply for Benefits:** Coordinate with employers, Social Security, private insurance carriers, or Veterans Affairs to apply for any available disability or medical benefits.

- **Pay Recurring Bills:** Identify regular utilities, mortgages, and obligations, tracking due dates, medical expenses, and keeping property taxes current.

Part 4: Handling the Administration After Death

When the last Trustor passes away, the successor trustee winds down the estate, acting similarly to an executor of a will. If the assets were properly funded into the trust or utilize designated beneficiaries, probate court is typically avoided, allowing administration to proceed at a measured pace. The role ends once the trust is fully distributed and the accounting is complete.

How Long Does Trust Administration Take?

Many people expect a trust to be completely settled and distributed within a few weeks. In reality, a standard trust administration often takes several months, and can frequently take a year or longer depending on the complexity of the estate.

Factors that commonly extend the administration timeline include listing and selling real estate, tax return preparation, collecting life insurance proceeds, beneficiary disputes, ongoing business interests, resolving creditor claims, and obtaining professional asset valuations.

How Soon Can Distributions Be Made?

New trustees are often pressured by family members to distribute money immediately after a death. Before making distributions, trustees commonly identify trust assets, determine outstanding debts and taxes, gather valuations, and ensure sufficient reserves remain available for administration expenses. Waiting is often part of prudent administration rather than a sign that something is wrong.

Step 1: Immediate Practical Actions

- **Order Death Certificates**: Order enough certified copies from the vital records office of the state where the death occurred (in Arizona: https://www.azdhs.gov/licensing/vital-records/). Financial institutions, insurance companies, and recorders will each require a certified copy.

- **Secure Tangible Property:** Ensure real estate properties are locked, vehicles are parked, and valuable personal items are secured. Contact the Trustor's insurance agent to confirm that property and casualty policies remain active.

- **Read the Documents:** Thoroughly review the trust agreement and any associated instructions. Note that a financial power of attorney expires automatically at death; from this point forward, your authority flows strictly from the trust document (and the will for any non-trust assets). If probate is needed for assets left outside the trust, identify the named personal representative.

Step 2: Formal Notices & Tax Setup

Beneficiary Notice: Arizona law contains notice requirements for successor trustees, including notice to the qualified beneficiaries after accepting the trusteeship—generally within 60 days under A.R.S. § 14-10813. The notice typically provides the trustee's contact information and notes the beneficiaries' right to request a copy of the trust and receive annual accountings. A trustee with questions about notice requirements should consult an attorney.

Retirement Account Deadlines: If the trust contains specialized IRA conduit or accumulation provisions, institutions have strict, time-sensitive tax deadlines regarding inherited retirement accounts. Contacting the financial institution or a qualified financial advisor promptly is a standard safeguard.

Apply for a Trust EIN: Visit IRS.gov to apply for the trust's new Tax ID.

- *Consumer Alert:** This application is completely free on the official IRS website. Avoid third-party internet services that charge $79 or more to submit this exact same form.

- **Availability:** The online system is open Monday–Friday, 7 a.m. to 10 p.m. Eastern, and issues the number immediately. Print and save multiple copies of the CP 575 confirmation letter.

- **Application Details:** Select Estate/Trust, then Irrevocable Trust. The "responsible party" is the successor trustee (using your own SSN), and the "funded date" is the Trustor's date of death.

Timing Nuance: An EIN is never obtained during an incapacity phase because the trust remains revocable. For a joint trust, an EIN is typically needed only after the second spouse passes away. However, if the trust language dictates that the estate splits into sub-trusts upon the first death (such as Survivor's, Bypass, or Marital trusts), certain arrangements may require additional EINs. A CPA or attorney can help determine exactly what is required.

Step 3: Managing Title, Accounts, and Liabilities

Real Estate Title: Trustees commonly record an Affidavit of Successor Trustee with the County Recorder in the county where the real estate sits to document the change in trustee authority within the public chain of title. The homeowner's insurance carrier is also typically notified of the death and change of trustee.

Financial Access: Banks, brokerages, and title companies usually request a formal Certification of Trust (A.R.S. § 14-11013) along with a certified death certificate and your government ID. This document certifies your authority without exposing the private distribution terms of the full trust.

Open a Trust Bank Account: Trustees commonly open a checking account in the name of the trust using the new EIN. Incoming trust funds are deposited into this account, and trust expenses are paid from it. Keeping trust funds separate helps simplify accounting and administration.

Collect Payouts: Gather payouts from life insurance policies, IRAs, 401(k)s, and annuities. Where individuals are named as beneficiaries, funds pay out directly to them outside the trust. Where the trust is explicitly named as the beneficiary, the funds must be collected into a newly opened trust bank account (under the new EIN) to be managed by you.

Handle Debts: Identify outstanding credit cards, medical bills, and mortgages. Debts are generally responsibilities of the deceased person's estate or trust, not the trustee personally. If real estate is being sold, mortgages do not necessarily need to be paid off immediately; regular payments, insurance, and property taxes simply continue until the closing date.

Digital Assets: Secure password managers, email access, and cryptocurrency keys (crypto can be permanently lost without the keys). Close or memorialize social media accounts and cancel recurring digital subscriptions. Arizona's digital-assets law provides authority to access these accounts, but the login credentials are still needed.

Step 4: Taxes & Winding Down

Trust administration commonly involves two distinctly different types of tax filings:

1. **Final Form 1040:** This is the Trustor's personal income tax return covering their income from January 1 up to their exact date of death, typically due April 15 of the following year.

2. **Form 1041:** This is the trust's fiduciary income tax return, tracking any income earned by assets remaining inside the trust from the date of death forward. The filing deadlines depend on whether a calendar or fiscal tax year is selected. A CPA familiar with trust taxation can prepare these.

What Records Should I Keep?

Good recordkeeping is one of the most reliable ways a trustee answers beneficiary questions and supports their final accountings. It is standard practice to retain physical or digital copies of bank/brokerage statements, closing statements from property sales, invoices, bills, receipts, tax returns, insurance documents, formal beneficiary correspondence, and copies of checks or distributions.

Part 5: Accounting, Distribution & Closing

- **Prepare an Accounting:** Provide an annual written accounting to the beneficiaries and co-trustees. A standard accounting inventories all trust assets and values (with formal appraisals where needed and insurance coverage), lists all account balances, paid debts, claims and actions taken, administrative disbursements (distinguishing principal from income), and notes any trustee compensation calculations.

- **Personal Property Division:** To divide non-titled personal items (jewelry, furniture, family heirlooms), a common administrative approach is to allow beneficiaries to take turns selecting items or ranking their preferences. Formal appraisals are often utilized for high-value items, estate sales, or state and federal tax purposes.

- **Age Restrictions**: If the trust holds shares for young beneficiaries until a certain age, the trustee continues to manage those funds, making distributions for health, education, maintenance, and support as permitted by the trust terms.

- **Distributions & Receipts:** Prior to sending final inheritance checks, trustees commonly present beneficiaries with a closure document. By signing, the beneficiary acknowledges receipt of their distribution, approves the final accounting, and agrees to refund proportional assets if a valid, unforeseen trust expense or tax debt emerges after the trust is closed.

Important Retirement Account Notice

If the Trust receives an IRA, 401(k), 403(b), or other retirement account for the benefit of a beneficiary who may have a disability or chronic illness, prompt attention may be required.

- **Consult Qualified Advisors Promptly:** Contact a qualified tax attorney, CPA, or other professional experienced in inherited retirement account administration as soon as practicable after the Trustor's death.
- **Review Applicable Deadlines:** Federal law may require trust, beneficiary, disability, chronic illness, or other documentation to be provided to the plan administrator or account custodian within specified time periods, including deadlines that may occur as early as October 31 of the calendar year following the year of death.
- **Maintain Complete Records:** Keep a permanent and organized file containing all relevant medical certifications, governmental disability determinations, Social Security award letters, correspondence, and proof of any submissions made to plan administrators or custodians.
- **Monitor Professional Assistance:** Professional advisors may assist with these matters; however, the Trustee should maintain oversight of the process and confirm that all required documentation has been timely submitted.

Note: Failure to satisfy applicable requirements or deadlines may adversely affect the income tax treatment of inherited retirement benefits payable to the Trust or a beneficiary's share.

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