



The Peninsula Center
for Estate and Lifelong Planning
Attorneys and Counselors at Law

461 McLAWS CIRCLE, SUITE 2
WILLIAMSBURG, VIRGINIA 23185
Telephone: (757) 969-1900
Facsimile: (757) 969-1903
www.tpcestate.com

**So, You are Named Successor Trustee,
Is it an Honor or a Responsibility?**

You are named as Successor Trustee in a loved one's Trust. This is both an honor and a responsibility. Of course, it is an honor because you have been chosen to carry out the final wishes of the decedent with respect to the management and distribution of his or her lifelong legacy. It is a responsibility because the actions you make can have serious legal and tax consequences for both you and the trust beneficiaries.

As Successor Trustee, when the initial Trustee (usually the "grantor" or owner of the Trust) dies, you become Trustee. As Trustee, it is your responsibility to administer the Trust. In other words, you must gather all the assets, manage them, and distribute them according to the Trust's terms. In doing so, you have many decisions to make. When will you make distributions to subtrusts or beneficiaries? Are any estate taxes owed? Are any income taxes owed by the Grantor or the Trust itself? If the Trust directs you to create subtrusts, which assets should you put in which subtrust? What valuation date do you use, the date the grantor died or the date you are funding the subtrust? These choices could have income and estate tax consequences for the beneficiaries of the Trust for years to come. Some of these answers may be found in the Trust itself, others in state law, and others are simply decisions you must make based on the nature of the Trust Assets.

Answers to some of these questions may seem deceptively simple. For example, how should you invest the assets? Depending on the terms of the trust and state law, you may have different duties. Let's say you simply leave the assets the way they were invested before the initial Trustee died and there is a sharp decline in the market. Does the Trust indemnify you for this, or are you responsible to the beneficiaries for loss in value caused by the market decline? Does the Trust require you to adhere to the Uniform Prudent Investor Act?

The answer to each of these questions varies depending upon the unique circumstances of your case, state and federal law, and the provisions of the Trust you are administering. While it is typically easier and less expensive to administer a Trust than to administer a probate estate under a Will, you will still need professional advice to complete the Trust Administration process. Consulting a qualified estate planning attorney helps prevent errors in Trust administration – errors which could cost the Trust and its beneficiaries increased taxes and forgone opportunities, which in turn could make you liable to the beneficiaries for any loss or damage they or the Trust sustain.

Take a couple weeks to grieve. But then, act quickly. There are deadlines for tax and other filings and the clock is ticking. We are here to help.