

Trustees: These are your responsibilities

Unlike an executor, whose responsibilities always arise from a Will, the role of trustee can result from being named in either a trust indenture or a Will.

It is difficult to provide a complete listing of trustee responsibilities as they are linked to the governing document; however, the following will help trustees understand what is expected of them:

- Review the governing document (i.e. the trust indenture or the Will)
- Develop and maintain a collaborative relationship with co-trustees, if applicable
- Administer the trust and exercise discretionary power according to the terms of the governing document
- Collect income and make investments *
- Evaluate assets and determine when encroachments on capital and/or income are necessary
- Maintain impartiality and balance the interests of the various beneficiaries
- Protect assets (insure property, safeguard valuables and protect business interests, if applicable)
- Prepare an initial asset/liability statement, keep complete and accurate accounting records, send asset/liability statements to beneficiaries, and if necessary, to the Public Guardian & Trustee and send a final report to beneficiaries
- Settle disputes amongst beneficiaries
- Initiate or continue legal actions
- File all income tax returns
- Obtain CRA Final Clearance Certificate
- Ensure final distribution of trust assets according to the governing document

The responsibilities of a trustee are many and varied. The more complex a trust's holdings, the more important it is to have an experienced trustee who will be able to avoid potentially costly and short-sighted mistakes.

Certain trusts may be in existence for a long period of time, e.g. a trust for children where the funds will not be released until they've reached adulthood. The long-term, on-going management and administration of trusts may require a significant time commitment, difficult decisions, and a heavy administrative load.



A trustee may be personally liable for errors arising from the sale, investment or encroachment of trust assets, a failure to file income tax returns or properly distribute the assets. The trustee is still ultimately responsible for all decisions.

** Trustees should be aware of the investment authority granted in the governing document and, if applicable, be familiar with the Trustee Act for the jurisdiction of the trust before developing an investment policy statement for the trust. Equally important is documenting the rationale behind the strategy, and retaining evidence underlying the investment decisions, particularly if the trustee is acting under the "prudent investor rule". Trustees may be held accountable to beneficiaries, even years in the future, if the investment strategy they employed was not successful.*

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