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Estate Planning 201: Executor or Trustee Selection

Assume that you read our last quarterly newsletter on estate planning review¹, thought it made sense, called up your attorney for a meeting, and went through the painstaking process. During the meeting, you were asked, “Who would you like to be the executor of your will or successor trustee on your trust?” You turned to your spouse and he or she was already staring at you. Problem solved!

Or is it? The duties of an estate executor or (successor) trustee should be straightforward—to carry out the action items of a will or provisions of a trust. However, the executor often experiences tremendous stress and confusion, partly because they had no idea they were selected to serve in that capacity.

So, what should you consider when appointing an executor or a successor trustee to take over your role? Although the two are not necessarily identical in terms of responsibilities, the process of selection is similar. The goal of this article is to give you a starting point for your selection process.

TRUSTWORTHINESS

When choosing a person to deal with family matters, the integrity of such person is of paramount importance. The first thing that comes to mind should be whether you and your family can trust the person. Other considerations include how well the person knows you, your family, your business, and more importantly, your wishes.

FINANCIAL KNOWLEDGE AND RESPONSIBILITIES

Because the law or trust document requires the executor/trustee manage assets in what they believe to be your best interest—also known as “the fiduciary standard”—it is wise to find someone who has some basic knowledge of finance and is personally financially responsible.

ABILITY TO HANDLE COMPLEXITY

Most estates or trusts are comprised of bank accounts, real properties (real estate, vehicles, etc.), brokerage or retirement assets, insurance policies, and the like. Depending upon your circumstances, the complexity can be fairly high and can leave people feeling flustered. If your spouse is slated to take over, make sure there is ample communication and understanding of everything involving the trust/estate and the included assets.

PATIENCE AND PERSEVERANCE

Another important consideration is whether the executor will have the patience and perseverance necessary to deal with the sea of tasks associated with the estate or trust. These range from paying various bills, collecting assets, and filing tax returns to communicating with heirs, trust beneficiaries and attorneys. Several simple suggestions include:

1. make sure someone knows the existence of the will/trust;
2. let the executor/trustee know what tasks they are likely to be dealing with;

¹ For a copy of this letter please see our website <http://www.summaglobal.com> or contact us at 503.636.2022.



3. have your attorney create a list and indicate the order in which time-sensitive things should occur (“notify financial advisor” should be one of them); and
4. keep a backup copy with your will and one on file with your attorney or trusted advisor.

TEAMWORK AND PROFESSIONAL HELP

Whether your spouse will have the energy to handle all the issues while grieving is unknowable. Therefore, it is advisable to designate co-executors or co-trustees. This way, you can assemble a “team” that not only is trustworthy, but also has the expertise and resources to handle your estate or assets. For example, Uncle John is a capable accountant and a close family member. Pairing him up with your spouse as co-executors or co-trustees will make matters much easier. Of course, if your estate is very complex, involves extended families, or may last a long time, hiring a professional and independent executor such as a bank will minimize conflicts of interest, remove unnecessary tension among family members and ensure everything is done according to plan and regulations. It comes with a cost, but often it is worth it.

It is wise to grant your executor or trustee the power to hire outside professionals such as a CPA or financial advisor. Although the powers an executor can have are limited by the state law, many attorneys have a standard list of powers that they put in most wills. In a trust, the room for flexibility and customization is much greater.

This has been a very basic discussion on the topic of choosing executors and successor trustees. We hope that it will prompt you to spend some time thinking about your choices. We also urge you to have an open and honest discussion with all the parties involved, jot down a list of potential candidates, get to know them and tell them your thoughts. Make sure they are aware that being an executor/trustee is completely different than being an heir/beneficiary. Not everyone is willing to take on the level of responsibility required, and they have every right to turn down the appointment, so you should always have a couple back-up or contingent choices.

- Henry Yu, CFP®