Selecting the Right Trustee

While an individual trustee may be more familiar with family dynamics, including insight into the intent behind the trust, relying on a corporate trustee has significant advantages:

- Professional trust administration and investment experience.
- Objective decision making based on the terms of the trust and applicable trust law.
- Service that won't be interrupted by disability or death as can be the case with individual trustees.
- Staff experienced in helping beneficiaries understand how their trusts affect them.

Individuals include trusts in their estate plans for a variety of reasons: to take advantage of the privacy and tax savings trusts can afford, to help protect family assets, or simply to free their families from the complexity and expense that probate can entail. Whatever the reason for including a trust in an estate plan, the trust creator, known as the "settlor," must address the critical question of who to name as trustee. Some settlors are comfortable naming an individual trustee, but others choose a corporate trustee. Which to choose for your trust will depend on a number of factors.

Why Choose an Individual Trustee?

Settlors generally choose individual trustees because of their familiarity with the family dynamics and a belief that individual trustees will cost less than a corporate trustee. While familiarity with the family can add context to the trustee role, close ties can also strain family relations when tough decisions need to be made. There is a real danger that an individual trustee can be swayed by their connection to certain family members. As to cost, even if individual trustees do not charge the trust a fee for services, they will likely need to seek professional investment advice to properly manage the trust, which will result in costs the trust must cover.

Why Choose a Corporate Trustee?

Corporate trustees bring to the table broad experience in managing trusts. Their corporate knowledge typically includes a deep "bench" of investment and trust administration professionals. They can advise trust beneficiaries as well as ensure that the trust is administered consistently in accordance with the trust's terms as well as with applicable laws. And corporate trustees are better able to remain objective and impartial when it comes to decisions regarding the trust and its beneficiaries. A corporate trustee isn't subject to the same family biases that can influence an individual trustee. Finally, while an individual trustee can die or become disabled, a corporate trustee brings a more stable governance to the trustee role.

Although there are clear differences between corporate and individual trustees, settlors should consider the purpose for using trusts in their planning as well as the expected size of the trust and types of assets to be held in trust before deciding on a trustee.

Purpose of the Trust

The reason for including a trust in an estate plan will go a long way in helping the settlor decide whether an individual trustee can manage the trust or whether the expertise of a corporate trustee would be better. For instance, if a settlor's primary purpose is to protect the trust assets from claims by outside parties or from being squandered by the trust's beneficiaries, a corporate trustee's professional experience can enhance the trust's ability to protect assets. An individual trustee may not fully appreciate the impact their decisions could have on the protection afforded the trust assets. Similarly, an experienced corporate trustee is more likely than an individual trustee to properly administer trusts with tax-sensitive provisions.

Size of the Trust and the Nature of the Trust Assets

The expected size of the trust and types of assets that will be held in the trust may also dictate the need for a corporate trustee. Individuals can adequately administer smaller trusts, especially ones not intended to be in existence for long. But the larger the value of a trust's assets, the longer it is expected to exist, and the more complicated the assets become, the more a corporate trustee's experience and stability can benefit the trust and its beneficiaries.

Best of Both Worlds

Although a corporate trustee's objectivity can be its greatest asset, it can also affect trust decisions that require a more personal, family-oriented voice. For this reason, estate planning attorneys may suggest naming an individual as co-trustee or as an advisor to the corporate trustee.

Then, the corporate trustee largely continues the day-to-day administration and management of the trust. Meanwhile, the individual advisor can be empowered to advise or direct the trustee regarding certain aspects of the trust. For instance, an advisor can be given specific power to direct a trustee regarding a special trust asset such as family farmland or closely held business interests or to help the corporate trustee decide on distributions from the trust for certain beneficiaries.

Selecting the proper trustee is a weighty decision. Unfortunately, there is no uniform answer to the best candidate to serve as trustee of a particular trust. The professionals at Baird Trust welcome the opportunity to discuss with you how we might help you and your heirs by serving as trustee in your estate plan.

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