When you set up a revocable living trust, you will need to name a trustee to manage the assets in your trust. You will also need to name one or more successor trustees who can step in and manage your trust when the trustee is no longer able or willing to serve.

What does a trustee do?

A trustee basically does what you do right now with your finances, following the instructions in your trust—collects income, pays bills and taxes, saves and invests for the future, buys and sells assets, provides for your loved ones, keeps accurate records, and generally keeps things organized and in good order.

Who can be my trustee?

With a living trust, you can be your own trustee, which is what many people choose to do. (With an irrevocable trust, you typically cannot be the trustee.) If you are the trustee of your trust, you continue to manage your assets and financial affairs for as long as you desire and are able. If you are married, you and your spouse can be co-trustees. This way, if something happens to one of you, the other can continue to handle your financial affairs without interruption or court involvement.

However, you don't have to be your own trustee. You can name someone else to be your trustee or to be co-trustee with you. Some people choose an adult child or a trusted friend. Others like having the experience and investment management skills of a corporate trustee (bank or trust company; more on those later).

One advantage of having a co-trustee is that someone would already be involved and familiar with your trust when something happens to you. This would eliminate the time a successor would have to spend to become knowledgeable about your trust, your assets, your beneficiaries and the personalities involved.

If you name someone else as your trustee or co-trustee, you still keep control. You can change your mind (and your trustee or co-trustee) at any time.

What does a successor trustee do?

Even if you and your spouse are co-trustees, eventually you will both die, and you may both become physically or mentally incapacitated before then. So, whether you are married or single, you need to have a "back-up," someone who can step in for you as trustee.

Successor trustees have a lot of responsibility and should be chosen carefully. If you (and your co-trustee) become incapacitated, your successor will step in and take full control for you—paying bills, making financial decisions, even selling or refinancing assets to provide for your care. Your successor will be able to do anything you could with your trust assets, as long as it does not conflict with the instructions in your trust document.

When you die, your successor acts just like an executor would for a will—takes an inventory of your assets, pays your final bills, sells assets if necessary, has your final tax returns prepared, and distributes your assets according to the instructions in your trust.

One of the main benefits of a living trust is that your successor trustee will be acting without court supervision, which is why your affairs can be handled more efficiently. But this also means it will be up to your successor to keep things moving. If needed, your attorney, trust officer and/or CPA can help guide your successor, so it isn't necessary for this person to know exactly what to do and when. You do, however, need to name someone who is responsible and conscientious.

Who can be my successor trustee?

Successor trustees can be individuals (trusted friend, adult children) and/or a corporate trustee. If you choose an individual, you should name more than one in case your first choice is unable to act. They should be people you know and trust, and who will also respect your wishes.

When considering your candidates, keep in mind the type and amount of assets in your trust, and the complexity of the provisions in your trust document. For example, if you plan to keep assets in your trust for a minor or special needs beneficiary, your successor would have more responsibilities for a longer period of time than if your assets will be distributed all at once after you die.

Consider their qualifications, including financial/business experience and time available due to their own family/career demands. Taking over as trustee for someone can take a substantial amount of time and requires a certain amount of business sense—and an innocent error could negate your careful planning and cost your beneficiaries thousands of dollars. Also consider the personalities of all involved—is this the best person for the job? Be sure to ask, in advance, if they would be willing to serve.

Should I name all of my children?

Some people name all of their adult children as *co-successor* trustees because they don't want to offend any who are excluded. Depending on how many children you have, where they live and their personalities, this may or may not be a good idea. You don't want your affairs run by a cumbersome committee that can't agree on anything!

An alternative is to name all of your adult children as successors, but list them in order of who you think will do the best job. Only your first choice, then, would be your successor. If he/she is unable or unwilling to serve at that time, the second would step in, and so on down your list.

As much as you love your children and would like to think they will be caring and unselfish once you are gone, this is the time to be realistic. If they really do not get along, or if there could be jealousies involved, you and your family will probably be better off if you name a corporate trustee as your successor. Their fee is a small price to pay if it keeps peace in your family.

How can I know my trust will be followed?

Most trust documents state that when someone steps in and becomes trustee for you, he/she must keep the beneficiaries and other successor trustees informed of all actions. That puts a lot of checks on the trustee's decisions.

Also, a trust is a binding legal contract and trustees are fiduciaries. As such, they have a legal duty to follow your trust instructions and to act in a prudent manner at all times for the benefit of the trust beneficiaries. If an acting trustee were to abuse his/her fiduciary duties (see the back of this brochure), he/she could be held legally liable.

What is a corporate trustee? What do they do?

A corporate trustee is a bank trust department or a trust company that specializes in managing trusts. They can manage your trust for you now, and/or after you die or become incapacitated, according to your instructions. They can buy, sell and invest assets, handle required paperwork and tax reporting, maintain accurate records, and distribute income and assets as your trust directs.

When would I use one?

You may have no one you can trust to take care of your financial affairs for you. You may be elderly, widowed and/or in declining health, and have no children or other trusted relatives living nearby who have the time and/or ability to manage your assets for you.

Or you may not have the time, desire or experience to manage your assets. Maybe you want to travel, don't want to worry about your investments or simply feel that a professional would do a better job than you. Maybe you have (or expect to) come into some money from selling a business or other assets, or from an inheritance or lottery.

A corporate trustee can also be a good choice if you plan to keep assets in trust for your beneficiaries. These may include minors, a loved one with special needs, or one who may need help managing finances when something happens to you. Assets kept in a trust are protected from a beneficiary's irresponsible spending, creditors, divorce, bankruptcy and predators who may have undue influence.

What are the benefits of using one?

■ **Experience.** Corporate trustees are in the business of managing trusts. They are familiar with all kinds of trusts, tax planning strategies, and responsibilities of a trustee.

■ **Professional Asset Management.** Generally speaking, a professional who has more time, resources and experience can achieve better results than an individual.

■ **Regulation.** They are regulated by both state and federal agencies. Also, most courts consider them to be experts and expect a higher degree of performance from them than from an individual.

■ **Reliability.** They won't become ill or die, go on vacation, move away, or be distracted by personal concerns or emotions as an individual might.

■ **Objectivity.** They will follow your trust instructions objectively and unemotionally. A family member may find this difficult to do, especially if he/she is also a beneficiary of your trust.

Are there any disadvantages of using one?

Some beneficiaries, especially those who want their money now instead of when the trust states, have found them to be inflexible and a bit distant. If you are concerned about this, you can name a family member or close friend to act with them. Also, with mergers and acquisitions, the corporate trustee you select now could become different in the future. Trust officers also move around. You may want to let your beneficiaries change from one corporate

Fiduciary Duties of a Trustee

- You must follow the instructions in the trust document.
- You cannot mix trust assets with your own. You will need to keep separate checking accounts and investments.
- Trust assets cannot be used for your own benefit.
- You must treat all beneficiaries the same. You cannot favor one over another.
- Trust assets must be invested in a prudent (conservative) manner, in a way that will result in reasonable growth with minimum risk.
- You are responsible for keeping accurate records, filing tax returns, and reporting to the beneficiaries as the trust requires.

trustee to another if they all become dissatisfied, or add a trust protector who can change the corporate trustee.

How much does a corporate trustee charge?

All trustees, even family members, are entitled to receive reasonable compensation if the trust provides for it. Most corporate trustees base their fees on the value and type of trust assets they are managing and the services you want. They begin to charge a fee only when they start to act as trustee, so if you name one as successor trustee, they won't charge you until they step in at your incapacity or death. Considering their experience, qualifications and services, many people find their fees to be quite reasonable.

Should everyone use a corporate trustee?

No, of course not. If you have a modest estate and your trust is fairly simple, you will probably be just fine being your own trustee and having a capable family member as your successor. But a corporate trustee can be a wise choice for many people, especially if your estate is larger, assets will remain in your trust for your beneficiaries, or you don't know whom to name as your successor.

This information is from the bestselling book, *Understanding Living Trusts®* by Vickie Schumacher. It is available from Amazon and most bookstores.

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Understanding

CHOOSING YOUR TRUSTEES

WHAT YOU NEED TO KNOW ABOUT NAMING RELATIVES, FRIENDS AND/OR A CORPORATE TRUSTEE IN YOUR LIVING TRUST

Your information here

Name
Title
Firm/Company Name
Street Address
City, State, Zip
Phone: 123-456-7890
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