

Trust Connection

Building Lasting Relationships for the Benefit of our Mutual Clients

TRUST NEWS AND INFORMATION FROM YOUR TRUST REPRESENTATIVE OFFICE

Welcome to **Trust Connection**, a regular communication from Valley National Trust Services. The Trust Representative Office model provides a framework for cohesively connecting all of the client's key advisors: the Estate Planning Professional, the Financial Advisor and National Advisors Trust. Instead of encountering obstacles when working together, our "team approach" provides a solid trustee and investment management solution for clients' complex financial situations. As a Trust Representative Office of National Advisors Trust, we represent the largest federally-chartered trust company created by Registered Investment Advisors (RIAs). Our trust service model is built on the strength of the local support and responsiveness provided by you—the local estate planning professional, Valley National Advisors—the local and trusted investment advisor and National Advisors Trust serving as the trust administrator. This combined expertise allows us to excel in the services we provide delivering the best possible outcomes for our mutual clients.

Negate Probate: Settling an Estate Using a Trust

Probate is a hassle in many states, so trusts give us an alternative, more private manner in which to distribute the assets of a decedent. Here, we will take a chronological walk through of the estate settlement process and the critical elements of state law and document language that need to be addressed. Estates are all controlled by state law yet the fundamental responsibilities are universal.

Probate is not necessarily a bad thing and may even be sought after for some people, in certain states, and with respect to some assets; but in general avoiding probate ensures more privacy, costs less and is faster than estate settlement through probate.

Let's be clear, this is not a choice at settlement, it is a choice in planning. Using a trust versus a will as your primary dispositive instrument is not just a matter of writing the document; it is an issue of how your assets are titled at the time of death. Generally, wills handle assets in your individual name and trusts handle assets titled in the name of the trust. There are a number of other forms of ownership, such as joint tenancy, or assets on which you can name a beneficiary that also pass probate free, passing neither through your will nor your trust. The titling of your assets must be properly coordinated with your plan.

So, assuming we have chosen trust as our vehicle of choice, had one drafted by an experienced estate planning attorney and properly funded the trust by titling the desired assets in the trust, let's examine what happens at death. Trusts are a form of private settlement, as opposed to wills and the probate process which is a form of public settlement, so the first distinction is the lack of a court hearing to "prove" the will to be valid. A trust should be created and funded during life so it is already valid and operating, which enables the settlement of the estate to begin right away and without formalities required by probate laws like contacting all of the people who would receive a share if there was no will. These steps in probate can slow down the process and cause unnecessary family friction when there are heirs who are not beneficiaries. In a trust only the parties to the trust are notified and there is no public hearing. The trustee, or successor trustee when the trustee is the one who passed away (typical in a revocable trust that

becomes irrevocable at death), must consider the acceptance of the role. Being named does not make you the trustee, it effectively nominates you as the trustee. The trustee should quickly assess the documents, assets, and people involved and determine that they can properly fulfill the trustee function.

Once accepted, the trustee can begin right away explaining the document to the family and helping them to understand the steps and timing of the estate settlement. There is no set timeframe, but assuming the trust terminates at death and distributes all assets, as in the case of a will, one can expect it will take at least six months and, depending on size and complexity, a year or two is not unusual. The team of professionals involved should be defined and roles clarified so there are no misunderstandings. There can be complex legal work and decisions, there are always tax matters to address, and of course the assets including real estate and investments need to be managed.

Creating a full inventory of the assets is the first step. Next is identifying and getting the date of death values of every asset owned by the trust. Just think of everything that you own, where it is, do you have a centralized up to date list of account numbers and locations, or do you just know? Now imagine that you are no longer with us and what someone walking into that scene would experience having to piece together the full picture. Often family members can be helpful as well as professional advisors, but this can be a big job. Investment accounts, bank accounts, real estate, retirement plans (although they generally pass to a named beneficiary, likewise with life insurance and annuities), business ownership even personal property, as well as debts and credit cards balances. The trustee must create a complete picture of the assets and liabilities of the deceased so that they can address the debts then figure out the net worth at death available to distribute after estate taxes are considered. The trustee must keep detailed records, provide statements to the beneficiaries and use an unusual form of accounting to do so.

Once the assets are gathered the trustee must consider two forms of taxation. Every estate or trust is treated as a taxpayer, just like you and I, and so it must file an annual income tax return. In addition, the decedent would have at least their final income tax return to file for income earned until death. Estate taxes affect a very small percentage of the population, but the trustee must determine whether the decedent's net worth at death exceeds that number and, if so, file an estate tax return. The trust document should provide special language to determine the source of those taxes, whether from the residue of the estate or proportionate from each beneficiaries' share. There are many tax elections that should be considered that may reduce the income or estate tax burden. Tax professionals can be of great value here. There are even choices the beneficiaries can make such as whether to accept their inheritance. In some cases the beneficiary might disclaim their interest in favor of the next named beneficiary in the trust, often their children.

During this estate settlement period the trustee must also comply with all applicable laws, state and federal, that pertain to the custody, recordkeeping, taxation, accounting, and investment of the assets subject to administration. No one said it was an easy job, but just imagine having to check in with the court every time you wanted to take another step in the administration. Professional trustees deal with these matters every day and have all of the systems and checklists in place to make sure things are done right and done efficiently. Keep in mind that anything not done correctly is the personal responsibility of the trustee.

We have discussed seven areas to address in settling an estate: Review and acceptance, setting expectations, the roles of the team involved, marshalling and managing the assets, handling the income and estate tax reporting, complying with the law, and carrying out the document terms notably distributing the assets to the desired beneficiaries. Using a trust makes the process more efficient, and more private.

In summary, in settling an estate using a trust, the complexity of the assets and legal and tax compliance still exist, yet avoiding the direct court supervision and public scrutiny that can exist in the probate process of many states. Private settlement allows the important and challenging work of estate settlement to begin rapidly and proceed undeterred by court oversight. Discuss with your clients whether trust settlement may be the appropriate choice for them and their families.

We Want To Hear From You!

Valley National Trust Services invites you to take advantage of our many avenues of marketing and communication, within the Lehigh Valley and nationally, by:

- Submitting an article for an upcoming issue of Trust Connection
- Presenting joint seminars on Estate Planning and using trusts
- Joining us for a live discussion on “Your Financial Choices”, a weekly radio program airing on *WDIY 88.1 FM—Lehigh Valley Community Public Radio*

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About Our Firm

Valley National Financial Advisors is an independent one-stop financial services group of companies that offer personalized, comprehensive and coordinated financial services. Established in 1985, Valley National has developed a reputation for innovation, financial strength, and quality. Our financial professionals are experts in delivering financial needs-analysis, wealth accumulation, risk management and planning instruction and counsel in a professional, useful manner. Valley National Advisers works within a planning structure that has as its single goal the best interests of each client. Each financial recommendation is based on personal interviews, data gathering, document review, and a thorough understanding of the client's financial goals. With a complete planning process, advisor recommendations are made with an understanding of the “big picture.” We see a greater need for trusts with today's ever-changing estate tax environment and family dynamics. With National Advisors Trust Company, you stay involved and your client's benefit from low trustee fees. Contact us for more information on how we can support you in business succession planning or trust services.



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