

# Trustee Duties



The Trustee role is an important one which comes with many tasks and responsibilities. In carrying out their tasks, Trustees must be sure to act in accordance with the trust deed and with the fiduciary duties imposed on them both by the trust's terms and under the law.

These duties include the requirement to act in good faith, avoid conflicts of interest, and to act in the best interests of the beneficiaries. A Trustee should not make decisions which favour their interests over the interests of the beneficiaries, nor should a Trustee make decisions which favour the interests of some beneficiaries over the interests of others. There are some exceptions to this duty to maintain an even hand where the trust deed specifically allows the Trustee to treat the beneficiaries unequally.

Trustees must also act diligently to protect the trust's assets. This may mean ensuring that assets are properly invested, managed, and/or secured, depending on the nature of the assets themselves. Trustees also have an obligation to maintain thorough records of their administration of the trust and to provide routine reporting of the trust's value, assets, and transactions to all beneficiaries.

Trustees can face conflict with beneficiaries due to differing expectations, communication breakdowns or disagreements over the trust management and administration. Trustees can also find themselves accountable for tax filings and evolving obligations.

The following checklist is intended to be a guide to help anyone facing the responsibilities and duties of a Trustee.

Whether you are currently acting as a Trustee or are considering establishing a trust for which you will need to appoint one or more Trustees, Solus Trust can help. We understand that not everyone has the time, knowledge or appetite to take on all the tasks to ensure the efficient and accurate administration of a trust.

Please reach out to your Financial/Investment Advisor if you would like to learn more information on Solus Trust or to meet with one of our estate and trust specialists.

## Initial steps

- Review Trust document
- Create notarial copies
- Confirm the powers and obligations
- Confirm ongoing and/or discretionary distributions
- Ascertain and accept all trust assets
- Confirm trust beneficiaries and establish communications

### Managing Trust Assets

- Invest trust assets in accordance with the trust terms and applicable legislation
- Conduct due diligence on any unusual trust assets
- Ensure trust assets are secure and protected
- Insure trust assets if applicable
- Retain professionals as needed to properly invest and manage trust assets
- Establish an investment strategy appropriate to the trust
- Review trust asset management and investment strategy regularly to make any necessary changes

### Beneficiaries and Distributions

- Advise beneficiaries as to their entitlements under the trust as required
- Provide qualifying beneficiaries with a copy of the trust deed
- Respond to beneficiary requests for discretionary distributions

### Accounting and Taxes

- Maintain accounting of trust assets and transactions
- Ensure to maintain separate accounting of capital and income assets
- Ensure to maintain separate accounting of capital and income distributions
- Respond to all beneficiary requests and record any discretionary decisions
- Provide routine accounting to beneficiaries as appropriate
- File annual trust tax return
- Provide accountant with all necessary documents to file trust tax returns
- Provide T3 slips to beneficiaries as applicable
- Work with accountant to minimize trust taxes and develop a tax strategy

### Additional Tasks

- Coordinate retirement, replacement or appointment of trustees
- If permitted, amend trust as needed for tax purposes
- Amalgamate or divide trusts
- Corporate restructuring

## Wind up

- Determine when and how the trust can be terminated
- Obtain court order, consent of beneficiaries, and/or resolution of the trustees as required
- Review remaining assets and liabilities and prepare distribution scheme
- Make final distribution
- Pass final accounting
- Prepare final tax returns
- Apply for tax clearance certificate
- Obtain final liability releases from beneficiaries

AN AFFILIATE OF **RAYMOND JAMES**

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