

19. OFFICE PROCEDURES

Administrative Responsibility

Regardless of the size of the organization or the number of personnel involved, the requirements for operating an office are consistent. The responsibility of administration, from the initial visit to document execution, is to carry out the instructions of the donor/trustor/testator (client) and the direction of the governing document (trust, will, or gift annuity) and/or other documents that make up the estate plan.

The following procedures are intended to help accomplish that objective.

1. Donor Relations/Contact

A. The Request

In most cases, the names of persons interested in Planned Giving & Trust Services (PGTRS) are communicated to the department via letter, email, or telephone call. It is essential to retain all requests for information or assistance in the file documenting the initial request for service.

1) File letters received and sent with enclosures, email, telephone notes, memos etc. on “Communication” page of multi-partition file folder. Include complete date (day, month, and year) on all communication records.

2) Follow-up all requests with telephone call, email, or letter promptly (within 1-2 days).

3) Arrange appointment for home or office visit. Document appointment in file and send appointment confirmation.

B. Initial Visit—Information Interview

The activities of the field representative must be carefully directed by administration.

1) Consider dividing territories and assigning districts to field representatives in a multi-staff department.

2) Gather information using the appropriate forms approved by legal counsel such as gift plan application, Family Information Form, Estate Worksheet, or asset inventory.

4) Give written receipt for all original documents and asset documents received (deeds, checks, cash, stock certificates etc.). Retain copy of receipt for file.

5) Provide completed Family Information Form or Estate Worksheet to legal counsel to initiate attorney contact with potential donor and to determine services needed.

- 6) Create Memo of visit/interview noting time, date, location, issues discussed, decisions made, things-to-do for client and staff, and other pertinent visit information. File on Communication page in file folder.
 - 7) Initiate the appropriate Routing Checklist(s) (New Will, New Annuity, New Trust, Power of Attorney, etc.)
 - a. When an annuity is requested, complete the application form, obtain donor signatures, create annuity proposal, and provide appropriate disclosures. This may also be done by mail.
- C. Follow-up Visit. Detailed Information and Assets
- 1) Schedule a follow-up appointment as needed to further build the relationship with the potential donor and to begin/complete gathering information to facilitate creation of a gift plan or creation of estate planning documents by the attorney.
 - 2) Completion of irrevocable gift plans such as charitable remainder trusts may require multiple visits to develop the relationship, explore options, explain the plan, obtain executed documents etc.
- D. Client/Donor Contact. Plan regular trustor contact through personal visits, correspondence, email and telephone calls to maintain relationships and keep abreast of life changes. This can be a part of the regular periodic file review process required in Accreditation Standard 43.
2. File Management
- A. General. The Accreditation Standards require, “All files held in a fiduciary capacity are to be properly organized and subdivided.” A well organized filing system for the many important papers and documents such as correspondence, trust agreements, wills, insurance policies, conveyances, tax information, and notes saves time, assists in donor service and documents the gift/estate planning process. Such documentation is invaluable in the event of litigation and during the periodic examination by General Conference Auditing Service.
- Develop a file system distinct to each type of gift or estate plan (e.g. will only plan, revocable trust, gift annuity, charitable remainder trust etc.); however maintain uniformity in document location within the different file systems wherever possible. For example, place communication records (telephone notes, letters, email printout etc.) on the same page or under the same tab in each file, place governing document (will, trust, annuity agreement) in the same location etc. A uniform method makes it easier to find information when searching a file. It is appropriate to file the Will for persons with a revocable trust in the trust file in order to keep the basic estate plan documents together. Secure the file folder in a locked fireproof file or vault

Many departments use classification folders with multiple dividers. Sturdy dividers with fasteners on both sides permit you to store information under several subdivisions in a single folder. Fastening documents, notes, letters, etc. to a designated divider keeps the many pieces of paper in a specific place and helps prevent loss of records. Color coding file folders assist visual recognition of file types. (See sample file maps in Forms Appendix)



- B. Master File Folder. The master file folder should contain original documents such as deeds, contracts, notes, and worksheets. The file must be well organized and labeled so that information may be easily located.
- 1) File Summary or Synopsis. It is very helpful to summarize the pertinent information of each gift plan file (will, trust, gift annuity etc.) with a cover page or File Summary (See Accreditation Standard number 45 pertaining to trust files). Client contact information, gift plan details, trustee's responsibilities, committee action references etc. are thus made readily available. See sample File Summary Sheets in Forms Appendix.
 - 2) Burial Information. It is helpful to include trustor's/testator's burial plans in the file. Copies of burial plot deeds, funeral arrangements etc. can be included in the file as a part of general information on each testator/trustor.
- C. File Folder Organization. A variety of organizational schemes may be observed in PGTRS departments throughout the NAD. Consistency within an individual department is important to facilitate filing and retrieving documents and other information. The following are merely examples of file organization.
- 1) Color Tab System. This system features one file folder with fasteners to anchor pages into the folder. Various colored tabs designate certain categories of information. For example.
 - a. An orange tab labeled "CONVEYANCES" for all real property documents such as deeds, contracts, title policies, and fire insurance policies. (If there is more than one parcel of real estate, use numbers 1, 2, 3, etc. Identify the residence property as "1.")
 - b. A red tab labeled "LIFE INSURANCE" for life insurance policies, changes of beneficiary endorsements, etc.
 - c. A green tab labeled "SECURITIES" for photocopies of all securities, mutual fund statements, etc.
 - d. A blue tab labeled "NOTES" for original notes and assignments.
 - e. A white tab labeled "INCOME TAX" for the yearly fiduciary forms and other tax information.
 - f. A pink tab labeled "TRUST" for the original trust agreement with amendments, receipts of trust assets, or trust additions and withdrawals.
 - g. A yellow tab labeled "WILLS" for the trustor's original will or copies of it.

- h. A different colored tab labeled “MISCELLANEOUS” to identify titles, cemetery deeds, etc.
 - 2) A recommended, but optional, procedure is for the above documents to be kept on the **right** side of the trust folder. On the **left** side, keep the original worksheet, the request for a PGTRS interview, and all correspondence in chronological order with the most recent on top. When the folder is opened, the Summary Sheet should be the top document.
 - 3) Multi-folder System. This system uses two classification folders for a trust file. One colored folder is used for master documents (communication, trust and will, family data form etc.) and a second different colored folder is used for assets and accounting records (asset summary, tax reporting, real estate, securities, contingent assets). See sample file maps in Forms Appendix.
- D. Check-out System. It is important that the master file containing the original documents never be removed from the PGTRS office unless absolutely necessary. When working with a file in-house a “check-out” system should be used when removing the master file from the vault. There are various “file out” systems available to facilitate identifying the employee who has the file.
- If an individual document or record is removed from the file folder, place a memo or photo copy in its place to record its location and reason for removing it from the original file. For example, when a deed is sent for recording, keep a copy in the appropriate place in the file folder with a notation of the original deed’s location.
- E. The Travel File. It may be advisable to maintain a travel file for use when visiting the client outside the PGTRS office. Duplicate copies of the will or trust agreement, conveyances, and all documents important to home visitation may be included. Secure the travel file in an accessible location.
- F. Information Management and Retrieval. It is desirable that certain vital information such as names, addresses, telephone numbers, Social Security numbers, birth dates, trust ID numbers, asset information, and many other pieces of information be readily available to development and management personnel.
- 1) Larger offices may use a computerized data base to hold PGTRS Information. Client contact software may be adapted to serve PGTRS needs. A desktop Rolodex system, while decidedly “low-tech,” can function very effectively as well.
 - 2) Regardless of the system, keeping the information current is essential. Creating a record for a new donor/trustor should be part of the routine checklist procedure in setting up any new estate or gift plan. Establish a procedure for updating the department information system.

- G. **Tickler System.** Another important requirement for a well-run office is a reliable tickler system. It is impossible to remember all the many requests or transactions that are in process. A tickler system will solve these problems. The tickler can be computerized, a desktop sorter to hold checklists, or simply making entries on a day-at-a-glance calendar.



- 1) Determine what and when tasks need to be done and when these tasks are to be completed. Set up your tickler system so that the tasks will be recalled at the appropriate time.
- 2) Check the tickler system daily to see what tasks need to be reviewed. If the task has not been accomplished, action will be necessary. If the action has already been accomplished, establish the next review date.
- 3) Use the tickler system for all tasks that need to be called to your attention.

- H. **File Review.** Accreditation standards require periodic review of each file to ascertain if all necessary documentation is in the file. Communicating with clients by mail or home visit as a part of the review enables staff to keep in touch and stay abreast of client needs. This is especially critical as clients advance in age.

- I. **Action Log.** Some departments find it useful to include a running narrative record to document work done in a file. Placing the Activity Log on top of the first “page” of the file folder keeps it readily available.

- J. **Date Stamp.** Stamping all incoming mail assists in documenting when items were received in the office. A department identifier can be included in the message to distinguish the PGTRS department from other departments in the office. A variety of date stamps are available for modest cost at office supply stores.



3. Document Preparation

A. Preparation of Estate and Gift Plan Documents. Trust accreditation and denominational policy requires all legal documents (trusts, wills, annuity agreements, powers of attorney etc.) be prepared in such a manner that a licensed attorney takes responsibility for the document.

- 1) Utilize appropriate routing checklist for gift plan created (trust, will, annuity, charitable remainder trust etc.).
- 2) Route needed information to the attorney for client interview, document preparation and further planning.
- 3) Review completed documents in office before contacting client for document signing.
- 4) Schedule visit with client to review plans and arrange for document execution.
- 5) Place executed documents in PGTRS file system
 - a. Original wills may be kept in organization files if requested by testator and organization policy allows. If testator retains the original, request a copy of signed document for file, especially if organization is named as executor.
 - b. Retain original executed trust document and funding documents (deed, contracts, insurance policies, etc.) if organization is trustee or at the trustor's request. If the organization is named as successor trustee retain document copies in the office file and discuss and/or arrange the process of obtaining original documents when assuming the role of successor trustee becomes necessary.
 - c. Retain original advanced directives if organization personnel is named agent or if requested by principal.
- 6) Send copies of executed documents to client.

Some organizations create an Estate Planning Notebook to hold client documents and other pertinent information about their Estate Plan. A notebook provides a centralized place for the client to keep documents and communication regarding their plan.

B. Execution of Documents

- 1) Vote authorization of acceptance of fiduciary duties (trustee, personal representative, attorney in fact) in the proper committee and record in the committee minutes (See Corporation Minutes in Chapter 4.). The governing committee action number and date may be recorded on the File Summary for ease of reference.
- 2) When the trust, will, or other gift plan and all supporting documents have been prepared, they should be properly signed, acknowledged, and witnessed as appropriate. Check local law regarding the necessity or desirability of

notarization. In some jurisdictions the execution of legal documents is considered the practice of law or custom/tradition may dictate the document execution process. Verify with legal counsel as to the document signing procedure.

3) All appropriate documents should be signed by the officers of the corporation and properly acknowledged.

C. Finalize and File Documents

1) Verify proper execution by reviewing document dates, signatures of grantor/testator/client, witnesses, and notary public if required.

2) Duplicate, as necessary, each document and place the original in the vault file folder and the copy in the travel file.

3) After all documents have been properly signed deliver personally, by mail or other shipper the appropriate copy to the client.

4) Complete appropriate checklist and place in document file.

4. Administration

A. Revocable Trusts

1) Obtain written investment instruction from grantor for all revocable trust investments, additions to trust and withdrawals from trust. Memorialize investment actions in governing committee/board minutes.

a. Addition of Assets to Trust. Have the trustor execute the Addition to Trust form which should then be acknowledged by the corporation and then placed in the file. Issue a receipt for cash, checks, and all original documents (deeds, insurance policies etc.) received from the grantor/Donor. Make appropriate entries in organization's trust accounting system. Use of an appropriate checklist is highly recommended.

b. Withdrawal of Assets from Trust. Obtain signed Asset Withdrawal instruction from grantor(s). Acknowledge withdrawal in Trust Management Committee minutes. Obtain proper authorization from corporation/Association board of Directors for officers to sign deeds and other required documents of conveyance. Adjust accounting records and file updated asset listing in trust file. Use of an appropriate checklist is highly recommended.

2) Cash. Small amounts of cash can be held in a trust checking account maintained for all revocable trusts as long as each trust's interest in the common account is accounted for separately in the organization's accounting system. Funds must not be co-mingled with organization assets held in a non-fiduciary capacity. Keep large cash deposits productive in interest bearing accounts.

- 3) Real Estate. Transfer real estate into the trust by grant or warranty deed subject to local counsel. Generally, additions of real estate to the trust should be properly recorded in county land records where the property is located.
 - a. Initiate Real Estate Information form. Perform environmental due diligence before accepting property into title whether by purchase, outright gift, in trust, life estate reserved etc. Obtain cost basis of the real estate. Basis can be included in Family Information Form or the trustor may execute a Statement of Value (See Forms Appendix.
 - b. Initiate the appropriate real estate acceptance checklist to guide you through the approval and conveyance process.
 - c. If conveyance is into a revocable trust consult legal counsel to determine if recording the deed will negatively effect the grantor's homestead exemption or other benefit. If a problem is created then discuss with counsel and the trustor the possibility of using an unrecorded deed. Obtain a Hold Harmless Agreement (Forms Appendix) from the trustor if deed is to be unrecorded.
 - d. Request legal counsel to prepare the appropriate deed.
 - e. Proofread the deed and verify legal description
 - f. File a copy of the original conveyance to the grantor with the new warranty deed into trust.
 - g. Initiate the Recording Deeds and Assignments Checklist when the signed, dated, and notarized deed is returned.
 - h. Where possible, when the conference corporation serves as trustee for real estate, the corporation should be listed as an additional insured on the trustor's fire and liability insurance policies, even when the deed is unrecorded. The trustor can arrange the proper policy endorsement with the insurer. When the trustor will not, or cannot, name the corporation as an additional insured, obtain a signed Hold Harmless Agreement (Forms Appendix). If the trustor does not have (or does not desire to obtain) insurance on real estate, the trustor should sign a Hold Harmless Agreement (Forms Appendix). Review the trustor's policy on their primary residence to determine if vacant land is included as insured property.
 - i. Review property insurance coverage at least every three years (preferable annually) to determine that the insurance coverage is adequate. The trustor should be contacted for verification and the appropriate Hold Harmless Agreement obtained based on the current circumstances.
 - j. The file should also contain Hazardous Waste Questionnaires and Checklists (Forms Appendix), or any other forms approved by legal counsel, for each piece of real estate.
 - k. Document annual payment of taxes for trust property. The trustor can complete a statement, submit a receipt or in some jurisdictions property tax records are available online.
 - l. Adjust trust accounting records at least annually to reflect amount of any mortgages or other liabilities associated with trust property.

4) Life Insurance Policies. Include life insurance death benefits in the asset inventory of the Family Information Form/Estate Worksheet as a part of the client's net worth statement. Record company name, policy type and number in data form. Assist the grantor in obtaining and completing beneficiary change forms from the company so that the trust is properly designated as beneficiary or owner of the policy according to the grantor's desire. Some insurance companies require the policy to be returned for endorsement. Change of Beneficiary information is typically available in the policy or on the company's web site. Forms may also be available on line. Record a beneficiary designation in the account system at a nominal value of \$1.00. File documentation in the contingent asset section of the trust file.

5) Bank Accounts. Often the grantor/trustor will desire their personal bank accounts pay on their death to the trust. Generally the bank will require the grantor/ trustor sign new account ownership forms at the bank. Some banks will not name a beneficiary on a checking account, although a POD beneficiary is often readily added to savings accounts. Some financial institutions use trustee accounts where the account owner holds the account "In trust For" the beneficiary (ITF or Totten Trust Accounts). The financial institution will have its own policy and procedure for each type of account. Typically a copy of pertinent portions of the trust is required for the financial institution file. Arrange with financial institutions for a trustee account or payable on death account with the corporation, as trustee of the respective trust as beneficiary. Designation of a beneficiary does not place the asset in trust. Place financial institution documentation of POD or beneficiary intent in the contingent asset section of the trust file. List each contingent asset in organization accounting records at a nominal value of \$1.00.

Financial institutions are much more familiar with self administered trusts and more readily cooperate in the naming of the trust as beneficiary or, more commonly, as the owner of the account. The bank will often require a copy of pertinent portions of the trust be retained in their file. The self administered trust is generally carried on the organization's accounting records at a nominal value if the organization is named as successor trustee.

6) Notes Receivable. All notes placed in trust must be assigned to the corporation as trustee.

- a. Promissory Notes. Request attorney prepare an assignment of promissory notes to the trust for grantor's signature.
 - i) When notes are paid off, the security must be released. If a third party holds the security, he/she should be notified that the note has been paid off and instructed to release the security.
 - ii) Unsecured notes may be difficult or impossible to collect when the trust matures. The trustee must be ready to pursue all available avenues in collection. In most cases it will be best to leave such assets outside of trust and rely on the probate process to collect or write off a note receivable.

b. Union Revolving Fund Notes. Many Seventh-day Adventists place funds in the Union Revolving Fund because they want the money to be actively working for the church. Many Union Revolving Funds are subject to securities regulations in its state of domicile. Consequently, the respective Union Revolving Fund's policies and its state regulations may or may not permit assignment of an existing note to the trust. In this case it may be advisable for the grantor to withdraw the funds from the Revolving Fund and then deposit cash into the trust. The trustee in turn would invest trust cash, at the grantor's written instruction, in the Union Revolving Fund and title the note in the name of the trust or trustee for the trust. The Union Revolving Fund manager or the Fund prospectus can provide guidance on how to title assets into trust.

- i) If the trust is listed as owner of a Revolving Fund asset periodic interest or dividend payments may accumulate in the Revolving Fund or be paid to the trustee who in turn sends the income payment to the appropriate beneficiary. Obtain written investment instructions from the grantor.
- ii) The annual tax reporting from the Union Revolving Fund is made to the trustee and reconciled to the trustee's accounting records. The grantor receives an explanatory schedule of trust income and expense and reports the income on his/her personal income tax return. See Chapter 22, Tax Reporting.

7) Securities. Publicly traded stocks may be held in certificate or in electronic form.

a. Certificated securities can be re-titled into the name of the trustee for the trust by properly executing a stock power and submitting the certificate and stock power to the company for certificate reissue. Generally it is advisable to execute a stock power separately from the certificate. The grantor must have his or her signature on the stock power "Medallion Guaranteed" by a bank or qualified securities company representative. If the certificates are to be mailed to the trustee, the certificates should be mailed separately from the stock power. Consult with the company investor services office or broker to verify procedure. See Forms Appendix.

NADWP S 85 20.10 states, "Self custody of securities is not allowed.

- a. For accounts managed on a separate account basis, controlling committees must select a recognized custodian (or through agreement with a sub-custodian) who:
 - 1) Maintains possession of securities owned by the controlling committee;
 - 2) Settles brokerage transactions, and provides monthly detail of such transactions;
 - 3) Collects dividend and interest payments;
 - 4) Redeems maturing securities;
 - 5) Effects delivery following purchases and sales;

- 6) Provides timely exception reporting;
- 7) Handles corporate actions;
- 8) Provides performance measurement and risk assessment;
- 9) Provides transaction cost management;
- 10) Performs regular accounting of all assets owned, purchased, or sold, as well as movement of assets into and out of controlling committee accounts;
- 11) Independently prices all marketable securities on a daily basis;
- 12) On a monthly basis produces an audited statement detailing all positions held as well as all transactions that occurred during the month;
- 13) Independently marks to market all securities and pooled funds on at least a monthly basis;
- 14) Performs monthly valuations on a trade date, fully accrued basis;
- 15) Provides a report on controls in accordance with International Standards on Assurance Engagements 3402 (or in the United States, Statement on Standards for Attestation Engagements No. 16) on an annual basis;
- 16) Does not commingle the controlling committee assets with any other assets;
- 17) Is separately organized and regulated from all broker-dealers;
- 18) Is financially sound;
- 19) Is registered with the proper regulatory authorities and in good standing.”

While these policies were designed to apply to organizationally owned securities, it may be prudent to determine in consultation with the organization’s investment manager, legal counsel and the respective grantor to determine the best method to hold securities in trust. Include the method of holding securities in the grantor’s written investment direction.

b. Electronically owned (“street account”) securities are transferred through the Depository Trust Company (DTC). The DTC transfer is

started when the donor's agent or broker receives written instructions from the client. Following the written instructions, the agent initiates the DTC transfer. The DTC may be made to an account titled in the name of the trustee for the specific trust at either the same brokerage firm or a different firm. Generally the effective date of transfer is the date when the transferor gives up "dominion and control" of the securities. With a DTC transfer to the same brokerage firm, the effective date of transfer is the date of transfer into the account of the trust. This transfer can be directed and take place the same day if an account for the trust has been previously established. With a DTC transfer to a different brokerage firm the transfer date has not been definitively determined in statute or regulations. Since transferring the stock into a revocable trust has no tax consequences, the trustee may determine the date of transfer according to its own policy.

c. Savings Bonds. Generally, a reissue of savings bonds will result in recognition of the accumulated interest as taxable income. Any resultant tax will be payable in the taxable year in which the bond is finally redeemed or in the taxable year of final maturity. In Rev.Rul. 58-2, the IRS held that transfer of Savings Bonds by the owner to his own revocable trust would not result in immediate taxation. However, the transfer to a revocable trust with a third party trustee may result in immediate assignment of income to the transferor. It is generally best tax wise for Savings Bonds to transfer at death directly from the Savings Bond owner to charity rather than through a revocable trust.

8) Deeds of Trust, Mortgages, Vendor's Interests, and Contracts. Have legal counsel prepare assignments or conveyance documents to the trust.

Caution. It is advisable not to assign purchase contracts into the trust, in order to avoid acceptance of the liability attached to purchase contracts.

9) Trust Revocation and Amendment

a. Revocable trusts. Generally, a trust is revocable if someone possesses the right to revoke, the unlimited right to withdraw property, or possesses a general power of appointment over the trust property. Depending on state law unless the terms of a trust expressly provide that the trust is irrevocable, the grantor may revoke or amend the trust. Some revocable trusts contain a provision reserving the right to revoke personally to the grantor only during a period of competency. The power to revoke would therefore not be available to an attorney in fact. In some jurisdictions the grantor's conservator or, if no conservator has been appointed, the grantor's guardian may exercise a grantor's powers with respect to revocation, amendment, or distribution of trust property with the approval of the court. A revocable trust may also contain a provision deeming the trust irrevocable on the death of the first grantor.

- i) Depending on state law the grantor may revoke or amend a revocable trust by substantially complying with a method provided in the terms of the trust or in a number of alternate ways.
 - a) Executing a later will or codicil that expressly refers to the trust or specifically devises property that would otherwise have passed according to the terms of the trust
 - b) By intent if the trust has no title to property and no means of funding at the grantor's death, or
 - c) By creating a formal amendment executed to the same degree as the original document
 - d) Any other method manifesting clear and convincing evidence of the grantor's intent.
 - ii) When revocation is requested, it may be prudent to discreetly determine the reason for the revocation, the grantor's mental competence, and if the grantor is acting under duress.
 - iii) Summary of revocation procedures
 - a) Obtain a written revocation notice/request signed by all competent grantor's and file it form with the original trust document.
 - b) Prepare adequate documentation for all parties.
 - c) Return the assets promptly with a full accounting as of the date of revocation. Keep copies of all documents pertaining to returned assets in the file. Obtain receipts for all assets returned to the donor.
 - d) Real estate should usually be returned by Quitclaim Deed or Special Warranty Deed.
 - e) If a duplicate original trust agreement exists, request it from the grantor, stamp it "Revoked," and return it to the trustee's file.
 - f) Follow a comprehensive Trust Revocation Checklist (See Checklist Appendix).
- b. Irrevocable trusts. Depending on state law an irrevocable trust may be rescinded when the donor has been induced to create it under circumstances of fraud, mental incapacity, undue influence, or mistake. Rescission may require court action. Notice to all interested parties, one of which may be the state Attorney General, may also be required. State law may permit non-judicial termination in certain situations and will direct how the trust assets are distributed. Consult qualified legal counsel.
- 10) Reporting to Beneficiaries. it is important that beneficiaries receive regular and periodic information about their trust account. Accreditation Standard 20 requires reports to the trustor, which list all trust assets, be issued at least annually and include both a Statement of Trust Assets and a Statement of Trust Income/Activity. At least one report should be a composite report, reflecting total assets held in the trust, and all income activity for the year. Monthly or quarterly may be provided as well.

- B. Power of Attorney
- 1) The appointment/nomination of a denominational employee as an attorney in fact (POA agent), who is named as a result of his/her employment, is to be approved by the governing board or appropriate committee.
 - a. In many cases the active exercise of the power of attorney is not needed for many months or even years, thus the power of attorney lies "dormant" or unused, even though it may be completely valid.
 - b. Obtain governing board/committee authorization to actively exercise powers granted at the time such exercise becomes necessary.
 - 2) Obtain authorization by the governing board or committee for all significant acts such as the disposition of major assets.
 - a. Record all actions in the governing committee's official minutes.
 - b. A copy of the action may be kept in the file or a notation of action number may be entered on the file summary sheet to make locating the information easier.
 - 3) Account for all assets and liabilities under the active control of the attorney-in-fact and all financial transactions affecting those assets and liabilities in a formal trust and estate accounting system.
 - a. While it is generally preferable that this record be incorporated in the respective entity's regular accounting system, this is not required. Commonly available software packages such as Quicken, QuickBooks, MS Money, or Probate Plus may be utilized.
 - b. Generally accepted supporting documentation such as asset ownership documents, statements, receipts, bank statements, reconciliation records, and canceled checks documenting each transaction should be kept in an organized manner such that an adequate audit trail is apparent.
 - c. Access to these records shall be available to the organization's officers and auditor's at all reasonable times.
 - 4) An agent's authority is generally limited to those acts expressly conferred in the power. This especially applies to making of gifts to individuals or charity. A person who wishes the power of attorney agent to make outright lifetime gifts to family or charity or to create lifetime deferred gifts to charity after he or she becomes incapacitated must specifically grant this power.
5. Summary of Activities at the death of a trustor
- A. Introduction. After someone dies or becomes incapacitated the trustee or successor trustee of a self administered trust has obligations regarding administering the trust. These duties are very important and should be followed with utmost care. Major duties include notice, accounting, inventory, appraisal, creating sub-trusts, filing a variety of tax reports and winding up decedent's affairs. A summary of an executor or personal representative's duties for a probate estate may be found in Chapters 20 and 21 of this Manual.

Generally some tasks need immediate attention and others involve ongoing administration. Perhaps the first thing to do is to initiate a comprehensive checklist to guide you through the process.

- B. Tasks Requiring Immediate Attention upon the Death of a Grantor.
- 1) Document trustor's death with a certified copy of the death certificate at the earliest possible opportunity
 - 2) Notification to Beneficiaries. The trustee is first required to notify all heirs and trust beneficiaries of the grantor's death and the existence of the trust. If the beneficiaries request it, the trustee must send them a copy of the trust.
 - 3) Inventory and Appraisal. The trustee must prepare an inventory of all of the decedent's assets and determine their fair market value as of the date of the decedent's death. The value of cash-type investments and marketable securities can be easily determined. However, with certain types of property (jewelry, artwork, and real estate) it is often advisable to hire a professional appraiser. An appraisal of the trust assets is often necessary for the following reasons.
 - a. To assist in determining the amount of any estate tax owing upon the decedent's estate
 - b. To assist in determining the cost basis in the trust assets, in the event that the assets are later sold for a capital gain
 - c. To assist in determining how to allocate the decedent's assets among the various trusts and/or beneficiaries that may have arisen as a result of the decedent's death.
 - 4) Set Up Trust Checking Account and Record-Keeping System. In addition to preparing an inventory of all assets owned by the decedent, a trustee should immediately set up an account for the irrevocable trust in the organization's accounting system and begin properly accounting for all trust receipts and disbursements
 - 5) Payment of Claims and Administration Expenses. Trustees are typically empowered to pay routine administration expenses out of the trust estate.
 - a. Taxes, accountant and attorney fees, and expenses related to the maintenance of trust property
 - b. Decedent's final expenses as directed by the trust document and other just and payable debts incurred during the decedent's lifetime for which the trust property may be liable.
 - i) Consult with legal counsel
 - ii) Obtain court instruction if necessary
 - iii) Obtain authorization from Trust Management Committee
 - c. Some jurisdictions may provide an elective procedure to shorten the period in which the decedent's creditors may bring claims against the trust property. This procedure generally requires publication of a notice of the decedent's death, as well as notifying all known creditors by mail. This is similar to the manner in which creditor claims are handled in a probate proceeding.

- 6) Tax Matters. Various tax matters must be dealt with at an early stage.
 - a. Estate tax returns must generally be filed within nine months after the decedent's death if the decedent's taxable estate exceeds the federal estate tax exemption amount.
 - b. The decedent's final state and federal income tax returns must also be prepared.
 - c. Obtain taxpayer identification number from www.IRS.gov
 - d. If the decedent owned an interest in any real estate, in some jurisdictions it may be necessary to notify the county assessor within a certain time period following the date of death

- 7) Allocation of Trust Assets to Beneficiaries or Sub-Trusts.
 - a. Trust assets must frequently be allocated among various sub-trusts of the decedent's living trust.
 - b. Also, the trust instrument may call for certain assets to be immediately transferred to the beneficiaries of the trust or final distribution if no sub-trusts are established. This involves changing title to the trust assets by executing instruments of conveyance, such as deeds or bills of sale.

- 8) Transfer of Non-Trust Assets. If the decedent owned any assets such as jointly-held property, retirement plans or Totten Trust accounts, title to the above assets may need to be changed to the trust or liquidated and proceeds deposited into organization's trust checking account.
 - a. Investigate how best to roll over or liquidate IRA or other qualified plans if the trust is a named beneficiary
 - b. Apply for any life insurance, annuity or other pay on death benefits owned by the decedent.

- C. Ongoing Administrative Tasks of a Continuing trust
 - 1) Provide periodic accounting (at least annual) to Beneficiaries
 - a. Information about trust income, expenses, gains and losses
 - b. Inventory of all trust assets, including their fair market value and tax basis.
 - c. Supplementary schedule of financial activity such as sales of trust property, liabilities of the trust, distributions to the trust beneficiaries etc.
 - 2) Income Tax Returns of trust. In general, any irrevocable trust earning at least \$600 in gross income in any taxable year must file a federal fiduciary income tax return (Form 1041) for that year.
 - a. State fiduciary income tax returns may also be required.
 - b. Trust tax returns are due on April 15 (plus any extension) of the following year
 - c. Failure to ensure that the required returns are filed could cause the trustee to be personally liable for penalties and interest.
 - d. See Tax Reporting Chapter 22 for additional information.

3) Managing Trust Investments. A trustee is given broad discretion over the choice of investments of trust assets.

- a. Manage the trust assets in a reasonably prudent manner
- b. Appropriately diversify the trust investments
- c. Manage the trust so as not to unduly favor either the income or principal beneficiaries
- d. Under no duty to grow trust assets
- e. Must keep assets productive, but protect from loss
- f. See Chapter 10 for additional information

D. Final Tasks

1) Disbursements to Beneficiaries. A trustee is required to make distributions of income and/or principal to the trust beneficiaries in accordance with the terms of the trust instrument.

- a. May include interim distributions
- b. Final distributions
- c. Provide final accounting to beneficiaries
- d. Obtain signed receipts for all assets distributed to beneficiaries
- e. Obtain Trust Management Committee or governing board authorization for each distribution and file closure.

2) Professional Consultants and Fees. A trustee is generally permitted to hire outside consultants (attorneys, accountants, bookkeepers, investment consultants) as is reasonably necessary to assist him or her in administering the trust.

- a. The fees for these consultants are generally paid out of the trust assets as administration expenses.
- b. Denominational organizations typically do not charge trustee fees since they generally receive a portion of the distribution. It is appropriate for administrative costs to be charged to the trust. See NAD Working Policy S 40 30 and 32 for additional information pertaining to denominational employees serving as fiduciary and the charging of fees.

3) File final fiduciary income tax returns

- a. Final 1041, K-1 to beneficiary
- b. Final 1041-A if charitable distribution made