



Agent for Trustee Services

By **Richard P. Trumpler, TEP**,
Chief Operating Officer, New York Private Trust Company

An individual's decision to accept appointment as a trustee is often the result of an emotional tie of loyalty, kinship or friendship with the trust's creator.

That acceptance, however, imposes an extraordinary responsibility which may last for several decades. Individuals undertaking these services soon realize that they also have very concrete, legal duties, not only to the current beneficiaries of the trust, but also to future generations of a family who may not even be born. Their close relationship with the trust's creator is not a shield against allegations of negligence or impropriety by other parties to the trust with whom they may have no other relationship. Service as a trustee may require an individual to:

- Manage the trust assets in a manner that serves the interests of current and future beneficiaries, because of the split interest that a trust creates
- Manage a variety of assets, such as real estate, family businesses or heirlooms that require specialized expertise
- Properly account for trust holdings by tracking assets that constitute the principal of the trust and assets that constitute the income of a trust
- Ensure the trust's proper payment of state and federal taxes
- Decide how to distribute the trust's income
- Decide whether beneficiaries have the right to ask for a distribution of any portion of a trust's principal and, if beneficiaries have such a right, decide how to evaluate their requests for such distributions
- Hire advisors and other vendors, such as custodians and investment managers to assist the trustee with their duties

In addition, whenever a trustee takes any action, or refuses to take any action, they must properly document the reason for their action or inaction and preserve that

documentation for decades so that their decision can withstand any potential court challenges by current or future beneficiaries.

New York Private Trust Company can help trustees who find themselves overwhelmed by the tasks associated with trust administration by providing professional assistance with those tasks while allowing the trustee to fulfill the promise of faithful, personal service that may have been made to an old friend or relative who is no longer around.

A trustee or co-trustees can appoint New York Private Trust Company as their agent to:

- custody trust assets
- hire appropriate accounting, tax, legal or investment professionals
- maintain appropriate records
- create appropriate processes to document the exercise of a trustee's discretion and protect the trustee from personal liability to beneficiaries who allege an improper exercise of discretion
- suggest techniques to resolve disputes with or among beneficiaries

In summary, our services allow individual trustees to fulfill their promise of stewardship by allowing them to exercise their judgment about a trust's administration in a manner consistent with the wishes of the trust's creator while allowing a professional fiduciary to provide an institutional infrastructure for that administration to protect the trustee from making unintentional mistakes and incurring personal liability.

Please give Kevin Batterton a call at 212-850-4055 if you are worried about the responsibilities and liability that you face as a trustee. We can help.