



Settling an Estate With a Living Trust

Now What?

An estate planner eventually hears the bad news - a client has died. The surviving spouse, or the adult children will want to know, "What do we do now?". Fortunately, settling an estate with a Living Trust is not an extremely difficult process. If the Trust has been fully funded, there is no immediate urgency. This doesn't mean that there is nothing to do, but most of the Living Trust's operations will continue unaffected. Following is an outline of the procedures to follow in a typical A-B Living Trust for a Married Couple.

When The First Trustor Dies

When the first spouse dies, the surviving spouse is able to continue business as usual. The Trust accounts, properties, and assets are now under the full control of the remaining spouse. Before a death, both Trustors made decisions without hesitation. Now the surviving spouse has the power to make all decisions.

Procedures To Follow

Contact the Social Security Office

Submit a death certificate and determine if there are any benefits that are due to the spouse or family.

Contact the Former Employer and Union

Once again provide a death certificate and request information concerning the deceased and determine any benefits that might be due the family.

If the Deceased was in the Military

Contact the branch of the service, and request their help to ascertain any residual benefits to the spouse or family members.

Insurance Companies

Check the policies to make sure they are still in force. A death certificate is required when filing a claim. Request appropriate forms for a death claim. If there were any health or auto insurance policies, cancel them and request a return of the unused premium.

Check the Safe Deposit Box

There may be assets or instructions left there.

Check the Names on The Credit Cards

Destroy cards with the deceased name.

Obtain Written Valuations on Assets

It is absolutely necessary to obtain a written valuation of all assets at the time of death. This is done for two reasons. First, the assets are now going to be divided one-half to the Marital Trust (the A Trust), and one-half to the Family Trust (the B Trust). But before you can know "how much" goes to the A and "how much" to the B, you have to know the value of the assets.

The second reason to value the assets in the trust is to determine a new cost basis for these assets and to take advantage of stepped-up valuation. This minimizes any taxable gain if the assets are sold. The written valuation provides a valid and documented justification of the asset's current market value if you ever have to defend the cost basis to the IRS.

Divide Assets Between The Marital (A) Trust and The Family (B) Trust

Once the property has been valued, the decedent's share of joint and separate property should be identified and placed in the Family Trust. The surviving spouse's share of joint property and the surviving spouse's separate property should be placed in the Marital Trust. It is important to understand that dividing the assets is actually a division "*of value*". One-half of the asset *value* of the joint property is allocated to each Trust. If the house was joint property, then one-half of the value of the house is allocated to each Trust. The Trustee may decide to put the *entire* house in either Trust. This is fine, as long as you put an equal value of joint assets into the other Trust. If you think of the dollar value of the house, instead of the house itself, as what is being placed into the Family Trust, then the apportionment of assets into the Marital and Family Trusts is much easier to understand.

File the Proper IRS Forms

When the first spouse dies, the B trust (Family Trust) becomes irrevocable. The Family Trust must now obtain it's own tax ID #. This is obtained by submitting an SS-4 to the IRS to obtain a Federal Employers Identification Number (FEIN).

The Family Trust must file its own tax form each year. The form is a 1041. It is essentially an "informational return" because the income from any assets allocated to the Family Trust will be distributed to the surviving spouse. Those distributions are reported on a Schedule K-1 and will be claimed on the surviving spouses tax return.

A final tax form (1040, 1040-EZ, etc.) must be filed for the decedent, as well as the surviving spouse's tax return.

When The Surviving Trustor Dies

The procedures in this section will be carried out by the Successor Trustee. The successor Trustee should realize that they are a FIDUCIARY in the eyes of the law and they must follow the instructions of the Trust exactly.

Here is an outline of the procedures the successor trustees should follow in settling the estate.

Get current appraisals of all assets. The need to get current valuations on the assets is in order to know how much has to be distributed to each beneficiary.

Get several copies of the death certificates. You will need copies of death certificates for BOTH Trustors.

Determine all Life Insurance death benefits and Pensions. Filing death claims with the insurance companies is an important part of settling the estate.

Notify credit unions, banks, unions, employers, investment firms, creditors, and government agencies of the death, and request any forms that you might need to file.

File and pay any State inheritance taxes that may be due. Most states do not have a separate inheritance tax, but some states do.

Transfer any non-trust assets into the trust. If there are any non-Trust assets to be transferred to the Trust, and if the value of those assets are below the allowable maximum of your State, the assets may be moved to the trust without going through probate.

Make sure any estate taxes that are due are paid. You need to determine if there are any federal estate taxes owed

Distribute the trust assets to the beneficiaries. Distribution instructions are found in the trust package. The actual mechanics of distributing the assets to the heirs is the same as funding the trust, only in reverse. For example, distributing money from a bank account would require going to the bank with the trust document and death certificates. The successor trustee shows that they are named as trustee when the trustors die, they present the death certificates, and have the bank either give them checks in the beneficiaries names, or transfer the account to the beneficiaries name. If real estate is involved, the successor trustee should file a new Quit Claim Deed. If the property is to be divided equally among a number of beneficiaries, three for example, then the trustee would file a Quit Claim giving "an undivided 1/3 share each to Beneficiary #1, #2, and #3."

When the assets of the Trust have all been distributed and there is nothing left, the job of the successor trustee is done. However, if there is a minor child, or assets are to be held over a period of time, the Trust will continue to function as long as there are assets in it.

As you can see, settling an estate with a Living Trust will require some work by the Trustees. However, some people have found it to be too confusing or time-consuming and seek assistance. Here are a few options to assist you.

- A book titled “How To Settle Your Living Trust : How You Can Settle a Living Trust Swiftly, Easily, and Safely” by Henry Abts may help. Lengthy, but informative.
- An attorney knowledgeable in Living Trusts will be able to assist you; however, it may be expensive. One of our members recently paid a \$6000 legal fee to an attorney to probate an estate with NO assets.
- As a benefit of your continued membership in Heritage America, you are eligible to receive the services of one of our most experienced representatives, Jim Seifrid, to assist you with settling a Living Trust estate.

Jim Seifrid has helped hundreds of Heritage America members with their estate planning needs, and has settled many Living Trust estates over the years. Heritage America has made special arrangements with Mr. Seifrid to offer his complete services to you for a fee of \$995.

For more information regarding the Living Trust settlement services offered through Heritage America, please call us toll-free at 1-800-487-8780.

<p>Heritage America 11022 Southwest Hwy Palos Hills, Illinois 60465</p> <p>(708) 974-3232 (708) 974-3294 fax</p> <p>We're on the Web!!! Visit us at: www.HeritageAmerica.com</p>	<p>TO:</p>
---	------------