

What does being a trustee involve?

What is involved?

So, you have been asked to be a trustee and might be wondering just what this means.

For many people, being a trustee is a way of helping a friend or relative and demonstrates the esteem in which they hold you. However, it is important that you understand exactly what your duties and responsibilities will be. After all, you will be responsible for money that has been set aside for someone else, and you will be tasked with managing that money and obeying the rules of the trust as well as trust law. Let's take it step by step see what you need to consider.

Exactly what is a trust?

A trust is simply a way to " earmark " money in order that it can benefit a person or group of people – often this will be because that person is unable to manage the money for themselves.

Examples of this might be:

- To provide for a family member with a permanent disability
- To help pay for care fees
- To earmark money for a child until that child reaches a certain age when they will hopefully have the maturity to deal with an inheritance. This could be say, upon reaching 18 years of age or even older.

Many people don't realise is that the trust does not own the assets within that trust, as all money within the trust is legally owned by the trustees. However the money within the trust can only be used in accordance with the legal rules set out by the trust and NOT simply for the benefit of the trustees.

So, what exactly is a trustee?

We all like to help, and being asked to act as a trustee is an honour – however, you should only undertake this position if you are sure that you can deal with the responsibility of doing so.

Trustees are responsible for managing money or assets for the benefit of others, and, unless the trust rules say you can, you, as a trustee will not be able to benefit from the trust yourself.

The trust rules will stipulate what you can and can't do – perhaps the money must be used for a child's future education, in which case it cannot be used for anything else.

The trust may be set up as a "discretionary trust" which will give you wider powers to make decisions on how the money is used – Perhaps the trust has been set up to benefit a number of young children or grandchildren, if so you and any other trustees can use trust money to benefit any of the children in a way that you deem fit.

Trustees and taxation responsibilities?

Yes, as a trustee you will have certain taxation responsibilities and, depending on the type of trust, you may have to deal with liabilities for Income Tax, Capital Gains Tax and Inheritance Tax. Do bear in mind that trust tax rates and reliefs are different to those of individuals. Indeed just like an individual, you and the other trustees have to report details to the HMRC and ensure that any tax levied is paid. There is plenty of advice available for trustees on the gov.uk website

What if something goes wrong?

In reality all you have to do is act in the interests of the person who the trust has been set up for and undertake your "fiduciary duties". But it has to be mentioned that if you do abuse your powers or are negligent in your approach you can be taken to court to face the consequences!

If you make rash financial decisions that are outside of your remit and lose money for the trust, you as a trustee can be held responsible, but as mentioned above, if you have acted in accordance with the rules of the trust and acted in best interest then you should have no personal liability.

Cont

What to consider if you are asked to be a trustee

You need to think carefully about whether it's right for you. Here are a few things that you should consider.

- Being asked to be a trustee shows that someone close to you is putting their faith in you to do the best for the beneficiaries of the trust.
- It's a responsibility and it will take up some of your time, just how much time it will involve depends upon the complexity and size of the trust. As a trustee, you would normally not be paid or receive any benefit yourself, and you will be totally focussed on carrying out your duties as a trustee for the benefit of someone else.
- It can be a long term commitment. Some trusts have a finite ending, perhaps when a child or children reach the age of 18 when it has been dictated that they will receive the inheritance from the trust. Others, believe it or not could go on for up to 125 years! So depending upon the type of trust you could be a trustee for decades.

Talk it through

If you are unsure about accepting the responsible position of a trustee the best thing to do is have a proper discussion with the person setting up the trust. This will help to establish just how much work will be involved, if it is likely to be a very long term commitment, if there will be other trustees involved and if the person thinks it really important that you take up this role. You may be just one of a number of people that they are considering for this role, so if you are unable to commit to the time and responsibilities you should not be afraid to decline the opportunity. However if you do choose to become a trustee, especially to help in a family situation, it can be a very rewarding role. And of course it is always worth seeking professional advice before committing to the role of trustee.



Please contact us

01892 612500 or 0800 668 1898 (Freephone)

info@avtrinity.com www.avtrinity.com



“Intelligent Independent Financial Advice”

All information has been prepared with care to ensure accuracy and is based upon our understanding of legislation and HMRC practice, which can be subject to change. This is intended to provide information only and should not be considered as advice.