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This is an outline of the most frequently experienced procedures and documents in an administration of a revocable living trust where the grantor has died and the successor trustee is taking office to wind up the affairs of the trust. This outline has been prepared primarily to assist clients acting as the successor trustee. This outline may be submitted in its general format or it may be modified to speak to specific issues in a particular case.

This outline assumes that the trust instrument was executed with the formalities required of a revocable living trust and that it has as a companion document a “pour-over” will which is self-proved.

In order to assist the successor trustee, this outline makes reference to the people who are primarily responsible for taking the action or preparing the document. “ST” means Successor Trustee. “BENE” means the successor beneficiaries of the trust. “Bill” means Bill Ryan and Ryan and Marks Attorneys, LLP. “CPA” means the tax accountant or advisor for the ST. “Clerk” means Clerk of the Circuit Court, Probate Department. “Court” means the Circuit Judge who is in charge of the probate cases.

It should be noted that the revocable living trust is frequently sold by touting its ability to avoid probate, which leaves the implication that it is a mere snap with almost no work. However, there are at least two qualifications to that rule. First, the grantor, the one who established the trust, had to transfer assets into their name as trustee. If not, a probate action may be necessary to transfer the asset back into the name of the ST. Second, even if the use of the probate court has been avoided, there are substantial post-death administration issues which have to be addressed in order to discharge the duties of a ST.

If it becomes apparent that a probate action will be needed to transfer an asset back to the ST, the action may be a summary administration, a shorter form of probate, or a full administration. Either way, an outline of the process is available in that event.

1. Engagement Letter. **Bill**
2. Invoice #1 with contract of employment. **Bill**

3. Certified Copy of Death Certificate. Also, Certified Copy of Death Certificate for any named **BENE** who died before the grantor. **ST**

4. Original Trust Agreement. **ST**

5. Original Pour-Over Will. **ST**

6. Notice to Beneficiaries. **Bill and ST**

7. Notice to Medicaid. **Bill**

8. Taxes. **ST and CPA**

11.1 Prior 1040's or unpaid taxes due?

11.2 Year of death 1040 and taxes due?

11.3 Year of death or later years 1041 and taxes due?

11.4 Planning for handling of IRA's or other tax deferred accounts.

11.5 Planning for taxes on earned income during post-death administration, including reporting of sales of any assets and payment of income taxes on the sales.

11.6 Real and tangible personal property taxes for trust assets?

11.7 Sales and use tax returns and taxes due?

11.8 Federal 706 and federal and Florida estate taxes due?

11.9 Budgeting for payment of taxes.

11.10 Budgeting for payment of CPA fees and costs.

9. Research into Assets. **ST and Bill**

9.1 Florida Homestead Real Property. The sale of a homestead out of a trust raises a host of issues indirectly addressed by various sections of this outline. It is recommended that the possible sale of a homestead be discussed as soon as possible.

9.2 Florida Non-Homestead Real Property.

9.3 Real Property Outside of Florida.

9.4 Tangible personal property (autos, furniture and furnishings, personal effects, etc.)

9.5 Intangible personal property. Depository accounts, brokerage accounts, stocks and bonds, IRA or 401k or other tax deferred accounts, annuities, life insurance policies, cash, etc.

9.6 List of assets thought not to be subject to the trust and possibly subject to probate.

9.7 List of assets thought to be subject to the trust.

9.8 Evaluation of assets after receiving tax advice from CPA. **ST and CPA**

10. Gathering of Assets.

10.1 Opening of depository accounts, if needed. **ST**

10.2 Analyzing the management or sale of assets. **ST and CPA and Bill**

11. Creditors. **Bill and ST**

11.1 Filing of notice of trust with Clerk. **Bill**

11.2 Diligent search to identify creditors, if any. **ST**

11.3 Service of notice on known creditors, if necessary. **Bill**

11.4 Handling filed claims if any. **Bill and ST**

11.5 Payment of creditors, if any. **Bill and ST**

12. Affidavit of No Estate Tax Due (DR-312). **Bill and ST and CPA**

13. Inventory (with date of death values). **ST and Bill and CPA. If there has been a co-trustee or a prior trustee other than the grantor, they will need to be involved.**

14. Accounting. **ST and Bill and any other trustee who served before the ST**

15. Plan of Distribution. **ST and Bill**

16. Distribution of Assets. **ST and Bill**

17. Receipt, Waiver, and Consent by **BENE. Bill and BENE.**

18. Termination of Trust. **Bill and ST**

19. Continuation of Trust. **Bill and ST**

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