

# Private Trust



## Executor and Trustee Services Guide



**Waterhouse**

Wealth of Experience

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*Thank you for your interest in  
TD Waterhouse Private Trust*

## *People and Expertise You Can Trust*

*TD Waterhouse Private Trust<sup>1</sup>, through The Canada Trust Company, has been providing Executor and Trustee services for over one hundred and twenty years. Our experienced Estate and Trust Specialists work with skill, empathy and professionalism, and have a comprehensive understanding of the many complex issues that affect estates and trusts.*

*We have developed this Guide to serve as a practical overview of things that need to be done by an Executor or Co-Executor and the personal matters that need to be addressed. It is also a summary of the many ways TD Waterhouse Private Trust can be of assistance.*

*We encourage you to call on us when you need additional information or assistance. We would be pleased to meet with beneficiaries, Co-Executors or Co-Trustees to discuss how we can best work together to settle an estate or manage a trust with care and understanding.*



# *The Role of Estate and Trust Specialists*

Settling an estate or managing a trust can be a challenging and complex task. For beneficiaries, Co-Executors and Co-Trustees, it can be an emotional time made more difficult by the financial, tax reporting and administration requirements that are involved.

At these times, having experienced specialists to properly administer an estate or trust, and help meet the needs of the beneficiaries in a timely and accurate manner, can provide peace of mind to all involved.

Private Trust Estate and Trust Specialists bring a unique blend of personal and professional skills to the settlement of estates and management of trusts.

## **Our Estate and Trust Specialists are committed to –**

- paying personal attention to the needs of beneficiaries, Co-Executors and Co-Trustees
- providing advice to help guide wise decisions
- protecting assets and helping ensure investments are prudently managed
- helping ensure that the directions in a Will are carried out
- settling estates in a timely and efficient manner
- helping ensure that trusts achieve the goals established in the trust document
- acting in the best interests of the beneficiaries
- maintaining timely and regular communication and contact with the beneficiaries

## **Our expertise includes –**

- over 120 years of experience in dealing with complex estate and trust issues
- genuine interest in fulfilling the needs of beneficiaries, Co-Executors and Co-Trustees
- impartiality
- access to resources to help ensure the timely settlement of estates
- in-depth knowledge and expertise in estate administration and taxation issues, trusts and asset management

We provide knowledgeable advice that can help save valuable time and money when it comes to decisions that need to be made for complex estates. And, most importantly, we can bring all the resources of TD Bank Financial Group<sup>2</sup> to bear on the administration of the estate.

## **Our specialists can assist with any of the following services –**

- Listing and valuation of assets
- Physical custody and safekeeping of assets and documents
- Protection of assets
- Settlement of outstanding liabilities
- Cash management (collecting income from assets and handling disbursements)
- Communication with beneficiaries
- Management of property
- Tax reporting and filing
- Complete accounting and recordkeeping
- Preparation of estate accounting in formats acceptable to provincial courts
- Securities re-registration
- Distribution of assets to beneficiaries
- Closing statement to beneficiaries

As corporate Executor, we handle all of the duties that come with being an Executor. If we act as Co-Executor, we work with the named Co-Executor(s) and will assume responsibility for the many administrative duties. The individual Co-Executor(s) (perhaps a family member or friend) will receive the benefit of our experience and administrative skills, while sharing in decision-making, and providing personal insight, direction and advice.

## **How much do these services cost?**

Our fees are determined according to guidelines established by the courts in most provinces. The same guidelines apply to private Executors. In part, the costs may depend on the estate's complexity and the amount of time required. Our fees are payable by the estate and may be partially tax-deductible.

Our knowledge in setting up and administering trusts can help preserve the trust's assets for the future, taking advantage of tax planning opportunities. As Trustee or Co-Trustee, our goal is to help ensure the trust meets its goals and balances the interests and needs of all beneficiaries, while maintaining a long-term perspective.

There are two ways a trust can be created. A person may establish a trust while alive, or his/her Will could create a testamentary trust. In either case, the trust's purpose and goals should be clearly set out in the trust document so that they can be understood by all concerned.

**Typically, trusts are established to achieve at least one of these objectives –**

- provide income to a spouse, or other family member, for life
- provide for support or education of a beneficiary
- respond to beneficiaries' changing financial needs over time
- retain a beneficiary's share of the estate in trust until a certain future date
- preserve and protect family capital or assets
- provide ongoing support for a favourite charity
- provide for a beneficiary with a special need

Trusts generally postpone the immediate distribution of property and often set conditions that must be met before the property is distributed. Because trusts may extend for years – even decades – it is important that the Trustee be carefully selected and that the purpose and goals of the trust be clearly documented and understood.

**As Trustee or Co-Trustee, we can provide planning, creation, ongoing administration and/or investment management services for –**

- Foundations and charitable trusts
- Testamentary trusts
- Living (*inter vivos*) trusts
- Trusts for disabled beneficiaries
- Insurance trusts

# Duties of an Executor



## *Preliminary Steps in Settling an Estate*

- Locate Will and review to determine whether there are any special funeral directions.
- Meet with the family.
- Assist in making funeral arrangements, if necessary.
- Ascertain whereabouts of beneficiaries.
- Determine immediate cash requirements of beneficiaries.
- Obtain funeral director's statement of death or apply for provincial death certificate.
- List contents of safety deposit box.
- Arrange for safe custody of valuables.
- If deceased lived in a rental property, terminate lease or arrange sublet.
- Determine entitlement to and apply for Canada Pension Plan Death Benefits, Survivor's Benefits and Orphan's Benefits.
- Notify Health and Welfare to cancel Old Age Security cheques and Canada Pension Plan payments.
- Notify previous employer and determine any Survivor Pension benefits or insurance proceeds.
- Cancel driver's licence, magazine and newspaper subscriptions, cable television, club memberships and telephone, and request refunds, if applicable.
- Cancel health insurance coverage.
- Confirm outstanding balances and cancel credit cards.
- Request Canada Post to re-route deceased's mail, if necessary.
- Complete or cancel any outstanding securities trade orders.
- Ascertain assets and liabilities by writing to financial institutions, insurance companies, brokers, employers, and RSP/RIF Trustees.
- Obtain prior years' tax returns. Prepare and file any T1 returns for previous years.
- Locate and obtain title documents for real property, mortgages, share certificates, bonds, debentures, and Guaranteed Investment Certificates.
- Arrange valuations of real estate, securities, personal property and automobiles.

## *Preliminary Steps (continued)*

- Review adequacy of insurance coverage and alter, if necessary.
- Arrange for a review of the investment portfolio.
- Consult with an estate lawyer regarding probate procedures, notice to beneficiaries and all other preliminary administrative matters.
- Provide a copy of the Will to each beneficiary.
- Open an estate bank account.
- Redirect all securities income to the estate account.
- Prepare an inventory of all assets and liabilities of the estate.
- Establish reporting, communication process and frequency.
- Apply for grant of probate or administration.
- Review Will and determine the division of estate assets. Consult with beneficiaries regarding form of distribution (distribution in cash or in kind), where appropriate.
- Review with an estates specialist any time periods or restrictions imposed on distribution of estate, e.g. family law considerations or claims/litigation.
- Report to beneficiaries on progress of administration.
- Arrange for publication of Advertisement for Creditors prior to distribution of estate assets.
- Ask estate lawyer to register probate on title to real estate, if necessary.
- Close safety deposit box and take possession of contents.
- Complete all documentation required to transfer securities.
- Close bank accounts and transfer balance to estate bank account. If joint accounts, with right of survivorship, provide financial institution with death certificate and request transfer to surviving joint tenant.
- Settle all claims and debts.
- Initiate re-registration and transfer of securities, or arrange for sale of securities if converting to cash.

## *Preliminary Steps (continued)*

- Arrange for disposal/transfer of personal effects to beneficiaries and obtain receipts.
- Pay legacies to beneficiaries and obtain receipts.
- Prepare and file necessary estate tax returns for foreign assets, if any.
- Prepare and file Terminal T1 Tax Return and other returns with the Canada Revenue Agency and request Tax Clearance Certificate.
- Arrange rollover or transfer of RSP/RIF proceeds.
- If Will provides for outright distribution, transfer assets or funds to beneficiaries. Retain sufficient funds as a reserve for income taxes, administration expenses and any outstanding accounts.
- If Will provides for trusts, set up testamentary trusts and arrange for ongoing review of the investments, and ongoing compliance with the rest of the terms of the trust, e.g. payment of income.
- Arrange for delivery of securities to beneficiaries, if distribution in kind.
- Prepare and file T3 Trust Information Return.
- Obtain Goods and Services Tax Clearance.
- Prepare accounts for passing or approval by beneficiaries, if required.
- Calculate Executor's compensation.
- After obtaining approval from the beneficiaries or the Court, charge Executor's compensation, maintain holdback/reserve pending receipt of necessary tax clearance certificates, and distribute any remaining funds or deliver assets.
- Ensure Tax Clearance Certificate received.
- Write to beneficiaries with final report on all aspects of administration.

**Note:** Estate administration practice and requirements may vary by province or territory. The information in this checklist is for informational purposes and is not exhaustive. It is intended only as a guide to assist in administering an estate and should not be considered as income tax or legal advice.

## **Executor and Trustee Services**

### **Alternate Executor and Trustee**

When two people (usually spouses) name each other as Executor and Trustee, we can be named to act as Alternate Executor and Trustee when the surviving spouse dies, or is unwilling to fulfill his/her obligations. If circumstances change, naming us as an Alternate Executor and Trustee may provide peace of mind, knowing that a qualified professional will settle the estate or manage the trust.

### **Agent for Executor and Trustee**

An Executor and Trustee can name Private Trust as his/her Agent, which allows us to provide them with any administrative assistance they need in distributing assets, ensuring investments are managed and dealing with tax matters. The Executor and Trustee retains responsibility for all estate and trust decisions, while enjoying savings of time and worry.

## **Investment Management**

To help you meet your financial objectives, or those of the estates and trusts you establish with us, we would be pleased to introduce you to some of the wealth management experts at TD Bank Financial Group, such as TD Waterhouse Private Investment Counsel<sup>3</sup>, who offer customized investment strategies that can be tailored to your specific needs. You will receive the personal attention and professional service of your own accredited Portfolio Manager, and you will also benefit from the expertise of our highly regarded Investment Managers.

- Personal investment management
- Estates or trusts investment management
- Investment recordkeeping
- Market and performance information through newsletters
- Private funds and segregated portfolios

## *Other Services Available*

### **Tax Services** (Individual, Deceased and Trust)

- Tax analysis and planning
- Preparation and filing of tax returns for the estate and/or trust

### **Business Advisory Services**

- Consultation on private business holdings in estates or trusts
- Business succession planning counselling
- Assistance with planning and management of private business reorganizations
- Assistance with valuation
- Assistance with interim management, prior to succession or sale
- Wind-up, liquidation and sale of business and holding companies

**We would be pleased to help you determine exactly which services you require.  
Please contact a Private Trust Estate and Trust Specialist.**



# Glossary

**Beneficiary** – a person (or organization or charity) who receives a benefit under a Will or Trust

**Capital gain** – profit realized on the sale of an asset or the profit deemed to be realized as if the asset had been sold at the time of the owner’s death

**Codicil** – a formal amendment that modifies the terms of a Will

**Estate** – the sum total of a person’s assets

**Executor** – the person or trust company appointed in a Will to control and protect the estate’s assets, pay off any debts and distribute property as directed by the Will

**Guardian** – the person or persons appointed in a Will or by the Court to have custody of minor children or their assets

**Inter vivos trust (living trust)** – a trust created by a trust deed to take effect during the lifetime of the creator of the trust

**Intestate** – dying without a Will or the person who dies without a Will

**Issue** – descendants of a person, including not only children but grandchildren, great-grandchildren and more remote descendants

**Personal property** – all property except for real estate and buildings; also known as “personalty” (as opposed to “real property” or “realty”)

**Personal representative** – the individual administering an estate, whether an Executor or administrator

**Probate** – the official confirmation of a Will by the Courts, confirming the Executor’s legal authority

**Real property** – land and buildings; also known as “real estate” or “realty”

**Residuary beneficiary** – the beneficiary to whom the residue of the estate is left

**Residue** – that portion of an estate remaining after all debts, taxes and expenses have been paid, and all specific bequests and specific devises have been made

**Specific bequest** – a gift under a Will of a specific item of personal property or a specific amount of cash

**Specific devise** – a gift under a Will of a specific parcel of real property

**Testator or Testatrix** – the person who makes the Will

**Testamentary trust** – a trust created by a Will

**Trustee** – one who manages property or money for another

**Will** – the legal statement of a person’s wishes concerning the disposal of their property after death



Contact us to arrange a meeting  
with a Private Trust Estate  
and Trust Specialist.

We have offices across Canada.  
For the location nearest you,  
call 1-866-858-0133,  
visit [www.tdwaterhouse.ca](http://www.tdwaterhouse.ca)  
or ask at any  
TD Canada Trust branch.



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