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QUALITY LEGAL SERVICES FOR A SECURE FUTURE

Duties of Serving as Successor Trustee

If you have a trust, you are probably the current and acting Trustee. If you are unable to serve as Trustee for any reason, the document will list a successor to serve in your place. Clients often nominate their spouse or a child as successor. The responsibility of serving as successor trustee are significant. Among them are:

- *Duty of good faith* - a trustee must administer the trust in accordance with its terms, and in good faith.
- *Duty of Loyalty* - as a fiduciary, the trustee must administer the trust solely in the interests of the beneficiaries.
- *Impartiality* - the trustee may not favor any one beneficiary over another, unless the trust so specifies.
- *Prudent Administration* - the trustee must administer the trust prudently, by considering the purpose and terms of the trust. The trustee must thus exercise reasonable care, skill and caution.
- *Trust Property* - the trustee must take control of and protect the trust property, which is part of the duty to prudently administer

the assets of the trust.

- *Record Keeping* - the trustee shall keep adequate records and shall not co-mingle trust assets with the trustee's own property.
- *Duty to Inform* - the trustee shall keep the qualified beneficiaries reasonably informed about the administration of the trust and promptly respond to a request for information.
- *Annual Report* - permissible distributees of income or principle, and any other beneficiaries who request it, shall be sent an annual report, among other things, of the trust property, liabilities, receipts and disbursements, along with the market value of the trust assets.
- *Tax Returns* - the trustee is also responsible for timely filing of all state and federal tax returns.

Because of the many responsibilities of a trustee, you will want to consider carefully whether the person appointed will have the desire, time and expertise to serve as a trustee. The professional investment advice and reasonable cost of a corporate trustee may be the better option for a successor trustee.



The Trustee has many responsibilities, and they should have the desire, time

Social Security Update: 2019

Social security beneficiaries will receive a 2.8% cost of living increase in their payments.

The employee combined social security and Medicare tax rate of 7.65% and the self-employed tax rate of 15.30% are unchanged from last year.

Those under full retirement age, may earn \$17,640 annually without seeing a reduction in their social security benefits. For each \$2 over that amount, \$1 in benefits is withheld.

The estimated average monthly social security benefits payable this year are \$1,461 for singles, and \$2,448 for couples.

Does an LLC protect me from Creditors?

Clients starting a business often want to know if operating as a limited liability company will protect them from creditors. The answer is yes and no.

Many people starting a new business are sole owners and operators. They have no employees and do everything for the business themselves. For these people, the LLC offers limited protection.

Here's why the LLC may not protect the owner-operator. Suppose our LLC owner is a plumber who does not properly connect a pipe and water floods the house.

The homeowner can sue both the LLC and the plumber personally. Why? Because the plumber was the one who did the work. You cannot shield yourself from your own negligence.

And this makes sense that you can always hold the person responsible for their own actions. If the plumber

decides to hire another plumber to work in his business, and that plumber is the one who improperly connects the pipe, resulting in flooding the house, then you can sue that plumber and the LLC. The owner could not be sued personally.

One of the first questions I ask clients considering a sole proprietorship is whether they will have employee that drives a vehicle. A plumber would need to drive to service calls. A secretary might drive to pick up supplies.

These people are acting on your behalf in the scope of employment and the owner is responsible for their actions. In this case, you would definitely want to have an LLC for liability protection of your personal assets.

There are many reasons why you might want to operate as an LLC in addition to the reasons mentioned here. Professional advisors can assist in deciding what is best for your situation.



LLCs provide liability protection in some areas but not in others.

Landlords Beware: Smoke Detectors Required

The fire code in the City of Springfield requires landlords to have functional smoke alarms in all rental properties. Other cities generally have ordinances as well, but this article concerns properties in the city of Springfield.

The National Fire Protection Association recommends the following placement of smoke alarms:

- Install smoke alarms inside each bedroom, outside each sleeping area and on every level of the home, including the basement.
- On levels without bedrooms, install alarms in the living room (or den or family room) or near the stairway to the upper level, or in both locations.
- Smoke alarms installed in the basement should be installed on the ceiling at the bottom of the stairs leading to the next level.

The city code requires the tenant to sign a statement (attached) affirming that at the time of the lease, there were smoke alarms in the apartment or house, and that they were functional.

The landlord is responsible for providing written information on how to maintain and test the alarms. This may be supplied either in the lease or with the Smoke Alarm Statement the tenant must sign. The tenant is actually supposed to be instructed on how to test the batteries.

The tenant must maintain fresh batteries in the units after the initial lease period, but it is recommended that landlords check them at least annually. The tenant is also required to notify the landlord in writing of any issues with the alarms.

Providing functioning smoke alarms can save lives and fulfill the landlord's legal obligation.



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