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Trust Administration vs. Independent Trustee

Trust Administration involves managing trust assets, including record-keeping, asset management, tax filings, distributions to beneficiaries, and legal compliance. Professional assistance from attorneys, accountants, independent trustees, or financial advisors is often necessary.

Independent Trustee plays a crucial role in trust administration, ensuring that the trust is managed in the best interests of the beneficiaries. They must not be a beneficiary or related to other trustees or beneficiaries and must fulfil fiduciary duties, maintain accurate records, and ensure legal compliance. Since 2017, the Chief Master of the High Court has mandated the appointment of an independent trustee for all new family business trusts being registered.

Conclusion

FICA requires anyone who creates or manages trusts for clients, including independent trustees, to register as accountable institutions. They must also have policies and procedures in place to prevent money laundering and terrorist financing.

Amendments to the TPCA now require keeping registers of the beneficial owners of trusts. Trustees must keep up-to-date records of who the beneficial owners are and the accountable institutions they work with. Not following these rules can lead to serious penalties.

SARS requires all trusts, even inactive ones, to be registered and submit annual returns. Trustees must provide detailed information about the beneficial owners, which will be checked against records held by the Master.

Trust administration involves taking care of the trust's assets, keeping records, managing assets, filing taxes, making distributions to beneficiaries, and following legal requirements. The professional staff at Royce Steyl White Inc. can assist in this being done correctly. Do not assume your trusted adviser handles this for you.

An independent trustee, who is not a beneficiary or related to other trustees or beneficiaries, is important for managing a trust. They act in the best interests of the beneficiaries, manage and distribute trust assets according to the trust deed, fulfil fiduciary duties, keep accurate records, communicate with beneficiaries, and ensure compliance with laws and regulations. Make sure your independent trustee meets these new compliance requirements.

South Africa's trust laws have evolved to enhance beneficial ownership transparency.

Compliance with FICA and TPCA is mandatory for those involved in trust creation and administration.

Despite the increased obligations, Royce Steyl White Inc. is positioned to ensure that your trust is and remains compliant.

RSW provides legal assistance to both trusts and trustees and by working in conjunction with our extended network we can assist you with all your trust-related needs.

Do not hesitate to contact us on info@rswlaw.co.za to find out more about how we can help you.



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