If you have served as an executor of an estate before and are now being asked to administer a trust—or vice versa—it is helpful to understand the similarities and differences between the processes. Trust administration is often less complex than estate administration, but that depends entirely on the terms of the trust.

In both situations, administration is a sensitive and critical task, and mistakes can be very costly. It is never a bad idea to consult an attorney if you have questions about what to do, as well as what to avoid.

Estate Administration

The process of administering an estate usually involves the dreaded “P” word—probate. The court will need to authorize you to act on behalf of the estate, even if you were named executor in the will. Once you’ve filed the appropriate petitions and had the court approve the will or determine that the estate will proceed intestate, then you need to start inventorying the estate.

While it is helpful to think of the estate as all the property owned by the deceased person at the time of their death, that is not strictly accurate. Some property will never become part of the estate because it will pass by other legal means. Accounts with beneficiary clauses will pass to the beneficiaries without going into the estate. In addition, property owned jointly with a right of survivorship will become the property of the other owner or owners, and the deceased person’s ownership share will not be part of the estate. Property in a trust is also not part of the estate.

Depending on the type of probate process you are using, you may need to file a detailed inventory with the court. You will also need to notify heirs, beneficiaries, and creditors according to legal requirements. Then the bills of the estate are settled in order of legal priority, tax returns are filed, and the remaining assets are distributed to heirs or beneficiaries. At the end, the estate administrator files a final accounting with the probate court.

Trust Administration

Trust administration of a revocable living trust involves many of the same actions as estate administration. The primary differences involve court supervision. Generally, a trust document does not need to be reviewed by the court the way a will must be proven. A trustee does not need to apply for the court to gain authority to manage and distribute trust assets. However, financial institutions and other organizations are likely to want to see a copy of the trust document or a certification of trust.

The trustee will need to pay debts owed by the deceased person and pay taxes before distributing trust assets to beneficiaries. If the trustee will continue to manage a trust, such as a subtrust for a beneficiary who is a minor, then the trustee will have ongoing fiduciary duties to manage the property in a way that serves the best interests of the beneficiary. The trustee will also need to follow requirements for recordkeeping and distribution. The terms of the trusts may set specific guidelines for distribution, and in some cases, distribution must follow strict rules to avoid negative consequences.

The Nordhaus Firm Helps with Trust and Estate Administration

Executors and trustees who make mistakes can be held personally liable by creditors, beneficiaries, and others. If you are not completely confident about managing tasks on your own, it is wise to consult an experienced attorney for guidance.

At The Nordhaus Firm, we can answer your questions and guide you in administrative duties, or we can take on duties on your behalf. Just schedule a consultation to learn more about how we can help.