

# Instructions and Duties of a Testamentary Trustee

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## Commissioner of Accounts

The Commissioner of Accounts is an attorney at law. The Commissioner is NOT an employee of the Commonwealth of Virginia or the County of Loudoun. The Commissioner of Accounts is appointed by the Judges of the Circuit Court of the County of Loudoun, Virginia, pursuant to Virginia Code §64.2-1200.

**The expenses associated with staffing and maintaining an office and compensation to the Commissioner of Accounts for services are derived solely by the fees set by the Circuit Court of the County of Loudoun. The Office of the Commissioner of Accounts receives no funding from the court system or any branch of government.**

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The fees paid to the Clerk of the Circuit Court when the testamentary trustee qualifies to administer a trust are probate fees required by statute and are not fees for review and audit as set forth in the Fee Schedule, provided at the time of your qualification. The fees paid to the Commissioner of Accounts are separate from the fees paid to the Clerk of the Circuit Court.

**Before making final distribution of trust assets or filing the final account with the Commissioner, you should determine the final fees, costs, and assessments due to the Commissioner of Accounts.**

**It is extremely important that you read this instruction packet in its entirety before you begin administering the testamentary trust.**

## **Overview**

These instructions and duties were prepared by the Commissioner of Accounts of the County of Loudoun and by the Loudoun County Circuit Court Clerk's Probate Department to assist you in performing the general duties required of you as a Testamentary Trustee.

The term "Fiduciary" will be used in these instructions and will encompass and refer to a "testamentary trustee". Where appropriate, the use of any gender herein shall be deemed to be or include the other gender and the use of the singular shall be deemed to be or include the plural (and vice versa).

It is the duty of a Testamentary Trustee to be in full compliance with the legal requirements of all sections of the Code of Virginia that pertains to the administration of trusts. These instructions address only the most commonly asked procedural questions and are not to be considered as advice to a Testamentary Trustee concerning all the laws applicable to your duties. If you have any questions regarding your duties as Testamentary Trustee, you should consult with an attorney at law; or, if tax issues are involved, an attorney at law who specializes in tax issues, a certified public accountant, or any other competent tax authority.

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**\*For a Glossary of Common Probate Terms: visit [www.loudoun.gov/probate](http://www.loudoun.gov/probate)**

## General Information on Testamentary Trust Administration

### Taking Possession of Assets:

The Certificate of Qualification, which you received from the Probate Department, is your authority to take possession of trust assets.

### Identifying Assets:

The Testamentary Trustee should immediately determine the trust's personal property and real property:

**Identify all assets owned by the trust.** Personal property such as motor vehicles, bank accounts, brokerage firm accounts, stocks, bonds, notes, business interests, life insurance, annuities, retirement, etc. , and real property such as a house or land are typical assets.

**Determine whether real property** is owned solely by the trust.

**Note:** Checking account registers, bank statements, income tax returns, and other documents may assist you in identifying assets.

### Notice from the Virginia Department of the Treasury:

The Testamentary Trustees are advised to check with the Virginia Department of the Treasury's Division of unclaimed property division to see if the trust has a claim to property being held there. Information may be obtained through email at [www.vamoneysearch.org](http://www.vamoneysearch.org), or by calling 1-800-468-1088.

### Record Keeping/Supporting Documentation:

As Testamentary Trustee, you have an obligation to maintain a record of all receipts and disbursements of the trust funds. Be prepared to present supporting documentation to the Commissioner of Accounts during your administration of the trust. Below is a list which provides you with some of the records you should retain:

- All original invoices of bills paid
- Paid promissory notes
- Original banking and brokerage statements
- Canceled checks (bank generated check images) or copy of front of check
- Signed and notarized receipts from beneficiaries for each asset distributed
- Any additional items the Commissioner may require

## **Investment of Testamentary Trust Funds**

A Testamentary Trustee has the responsibility to invest the principal funds of the trust in excess over the amount reasonably necessary for working funds. If the Testamentary Trustee fails to invest these principal assets, the Testamentary Trustee can be assessed a surcharge equal to at least the interest rate payable on money market accounts during the accounting period. Any surcharge must be paid from the personal funds of the Testamentary Trustee.

**Time Requirement:** Principal funds must be invested **within four (4) months** from the time such funds come under the control of the Testamentary Trustee. (*Virginia Code §64.2-1501*)

**Acceptable Securities:** Funds may be invested in acceptable securities as set forth in *Virginia Code §64.2-1502*, or as permitted by the will.

**Standard of care for investments:** set out in **Virginia Code, Article 2 Uniform Prudent Investor Act, §64.2-781**, and is referred to as the “**prudent investor**” rule.

**Preserve the Value of the Assets:** The Testamentary Trustee is responsible for the care, preservation, and management of the trust’s assets to the best advantage of the Trust.

**Virginia Banks for Trust Accounts:** It is **strongly recommended** that banks located in Virginia be used for all trust accounts.

### **Notes:**

If the Testamentary Trustee fails to preserve the value of trust assets because of negligence or improper conduct of the Testamentary Trustee, the Testamentary Trustee is personally charged with the lost principal and interest thereon. (*Virginia Code §64.2-1415*)

**Trust assets and funds cannot be combined or commingled with the personal assets and funds of the Testamentary Trustee.** Trust assets and funds should be kept in separate accounts from the personal assets and funds of the Testamentary Trustee or a third party.

### **Taxes**

It is the responsibility of the Testamentary Trustee before settling the trust to determine whether all taxes due by the trust have been satisfied, including but not limited to:

- all probate taxes due to the Clerk of the Circuit Court
- Trust, federal and state taxes
- individual personal property tax and business taxes
- any other applicable taxes

### **Contact Information:**

State taxes: **Virginia Department of Taxation** - [www.tax.va.gov](http://www.tax.va.gov) - 804-367-8031

Federal taxes: **Internal Revenue Service** – [www.irs.gov](http://www.irs.gov) - 800-829-3676

## Inventory for Trust

You are required by law to file an inventory with the Commissioner of Accounts within **four (4) months** after the date you receive any trust assets. (*Virginia Code § 64.2-1300*).<sup>1</sup>

The Inventory is an itemized list of all the assets that are under your supervision and control as Testamentary Trustee.

You must report assets as they existed on the date of receipt, even though they have changed form or increased/decreased in value as of the date the inventory is prepared.

You may be required to provide documentation to support the value of the trust assets on date of receipt.

**Format: Use Form CC-1673.** The inventory must be signed by each Trustee. **The inventory must be typed or computer generated reproduction.** The original and one copy must be submitted together, with a copy of the Last Will and Testament.

**Filing Due Date: Four (4) months after date of qualification as Testamentary Trustee.**

Example:

Date of Qualification

May 1, 2004

Inventory Filing due Date

September 1, 2004

**If the Trust assets are not received during such four month period, the Commissioner of Accounts shall be notified by letter.**

If additional assets are discovered, or if you discover an error that increases the initial Inventory values by more than **\$25,000.00, an amended inventory** must be filed with the Commissioner of Accounts within four (4) months after discovery of the additional assets and/or the discrepancy. However, if the after discovered assets or errors increases the initial Inventory value by **less than \$25,000.00**, an amended inventory is **not required**; and the adjustment(s) can be made in the first accounting for the testamentary trust.

### Valuation of Assets:

**Personal Property** – use fair market value as of the date of the receipt or transfer, not the value when inventory is prepared. (*Use exact dollar and cents values; do not round off specific values.*)

**Real Property** – use local real estate assessed value or appraised value. (*Do not reduce gross value by outstanding mortgage, loan, lien, or other claim against the property.*)

Fair market value is normally “the price at which the property would change hands between a willing buyer and a willing seller in the retail market, with neither one being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.”

Reasonable expenses incurred in determining the values to place on trust assets, such as appraisals, are chargeable to the testamentary trust.

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<sup>1</sup> You may be able to request a waiver to the requirements of filing an inventory and accounting. Reference amended Virginia Code §64.2-1307.

## Fees, Costs, and Assessments:

The Inventory filing fee is due when you file your inventory with the Commissioner of Accounts Office. The computation of fees is based on the total value of Parts 1-4 on the Trust Inventory. Please see the Fee Schedule<sup>2</sup> for the appropriate filing fees.

## Preparing Trust Inventory

### Part 1 - Trust assets excluding real estate under your supervision and control:

- Assets should be clearly identified, listed in reasonable detail, and valued as of the **date of receipt** (not the date the inventory is prepared).
- Group similar assets together; such as personal effects and household property.

**Example:**

Household furnishings	\$500.00
Grandfather Clock. Article One of Will	\$855.00

- List articles separately that have a value of more than \$500.00; such as a collection (stamps, coins, paintings, antiques, electronics or other collectibles).

**Example:**

Stamp Collection (appraised value)	\$1,500.00
Van Gogh Painting (appraised value)	\$3,900.00

- Motor vehicles, boats, and personal watercrafts should be listed by year, make and model.

**Example:**

2006 Ford Mustang Convertible	\$8,000.00
2008 Seadoo Personal Watercraft	\$2,200.00

- Checking, savings, and other accounts should include the institution's name, type of account, the last four digits of the account number, any accrued interest, and any maturity date.

**Example:**

XYZ Bank, Checking Account #3333	\$1,833.00
XYZ Bank, Certificate of Deposit Number 9909, 4.5 % interest Maturity Date – December 15, 2011	\$9,500.00

- Stock, mutual funds, partnerships, or limited liability companies, whether held in certificate form, book account form, or in a brokerage account, must be listed separately and include name, number of shares or percentage of ownership, price per share and value of percentage of ownership.

**Example:**

CCC Company, 200 shares, \$40 per share	\$8,000.00
GGG Mutual Fund, 1,000 shares, \$5 per share	\$5,000.00
WWW Brokerage Account Money Market Account	\$2,222.00

<sup>2</sup> The Fee schedule was given to you by the Clerk at the time of qualification as Trustee. Fee Schedule can also be found at [www.loudoun.gov/probate](http://www.loudoun.gov/probate).

- Bonds and promissory notes should be listed and each should include the issuer's name, face amount, interest rate, and maturity date for each item.

**Example:**

City Water Authority Bond 6.75% interest, maturity – October 2, 2014	\$8,000.00
Mary Smith, promissory note, face amount \$27,000.00, 7% interest, maturity date, November 1, 2014	\$27,000.00

- A Sole Proprietorship is not a separate entity but rather an accumulation of assets that a person uses in a business and should be listed as a heading with the various personal assets listed hereunder EXCEPT proprietorship real estate should be listed in Parts 3, 4, or 5.

**Example:**

OK Proprietorship office furnishings	\$3,995.00
2 HP notebook computers	\$2,125.00
2009 Chevrolet Malibu	\$7,800.00

**Note:** If, in unusual circumstances, there are assets for which there is no recognized market value, such as partnership interests, stock in closely held corporations, or legal claims against others, they may be valued at \$1.00 or an estimate of value on the inventory; however the accurate market value must be provided on the first accounting. If the change in market value is more than \$25,000.00, an amended inventory must be filed. (See page 6)

**Part 2. Trust real estate in Virginia over which you have a power of sale.**

- The Trustee should list all of the Virginia real estate, or partial interests in real estate, over which the Trustee has the power of sale.
- Power of sale may be by express grant in the will, incorporated in the will powers enumerated in *Virginia Code §64.2-105*, or by order of the court pursuant to *Virginia Code § 64.2-106*.
- Report each piece of real estate; include legal description, street address, and city or county in which the property is located.

**Example:**

222 Leesburg St. Leesburg, VA-Lot 1, Block B Assessed value	<b>\$349,000.00</b>
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**Part 3. Trust real estate in Virginia over which you do NOT have power of sale.**

- Real estate over which the Trustee has no power of sale.

**Example:**

111 Leesburg St. Leesburg, VA-Lot 1, Block B - devised Article Four, to John Doe Assessed value	<b>\$250,000.00</b>
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#### Part 4. Trust real estate located outside of Virginia.

- The Trustee should report all of the decedent's real estate or partial interest in real estate not situated in Virginia that are assets of the trust, whether or not the property is located in the United States.

**Example:**

000 Somewhere St. Orlando, FL, Lot 2, Block C, Assessed Value	<b>\$149,000.00</b>
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#### Account Summary for Testamentary Trust

The Testamentary Trustee is required by law to file a first accounting with the Commissioner of Accounts within four (4) months after the end of the calendar year in which the trust was funded. When applicable, second and subsequent accountings are due four (4) months after the end of the calendar year.

**Example #1: First Account:**

- **Date of Trust Assets received: May 1, 2010**
- Time period covered: May 1, 2010 through December 31, 2010
- **Account Summary Due Date: May 1, 2011**

**Example #2: Second and Subsequent Account:**

- **Ending date of last Account: December 31, 2010**
- Time period covered: January 1, 2011 through December 31, 2011 (**12 months**)
- **Account Summary Due Date: May 1, 2012 (4 months after the end of the calendar year)**

#### Submitting your Trust Account Summary Form

Use the "Account for Trust" form (CC-1684), available on the web at [www.loudoun.gov/probate](http://www.loudoun.gov/probate) , under 'forms'. The Account Summary form **must be signed by each Testamentary Trustee**. The Account must also be **typed or computer generated**, and a **signed original and one signed copy** must be submitted to the Commissioner of Accounts Office, along with the **appropriate filing fee**. See the fee schedule that the Clerk gave you at your qualification appointment for appropriate fees. or, you can find the fee schedule online at [www.loudoun.gov/probate](http://www.loudoun.gov/probate). Also, be sure to number each page in sequential order.

**You must provide original documentation to corroborate with all receipts and disbursements** on the accounting form, together with the original and one copy of the "Account for Trust" form. This documentation includes, but is not limited to, the following:

- Bank statements**
- Broker's statements**
- HUD-1 settlement statements**
- Billing statements or invoices for each disbursement**
- A copy of the canceled check, bank produced check image or a copy of the front and back Of a check for each disbursement**

### **Fees, Costs, and Assessments:**

Payment is due when you file your account summary with the Commissioner of Accounts Office. The computation of fees is based on the beginning assets from the Inventory plus receipts, gain on asset sales, and positive adjustments. If you are filing a second or subsequent account, fees are based on the fair market value of the assets at the beginning of the accounting period, plus receipts, gain on asset sales and positive adjustments. Please see the Fee Schedule<sup>3</sup> for the appropriate filing fees.

### **Preparing Trust Account Summary**

- You **MUST** prepare an itemized list for each figure set forth on the summary page and submit the same with the account summary.
- **Carrying Value** is the value established when the asset was acquired, that is, the value of an asset as reported on the inventory; or, the cost of a new asset on the date of purchase.
- **Current Market Value** is the value of an asset (fair market value) as of the end of the accounting period. **Note:** Some assets such as bank accounts, certificate of deposits, and money market funds will have the same carrying and market values.
- Testamentary Trustees who are charged with the duty of distributing income to one beneficiary, a lifetime beneficiary, but will eventually distribute the principal to another beneficiary, remainderman, must maintain principal and income receipts, disbursements and distributions separately so that the assets are correctly allocated to the lifetime beneficiary and/or the remainderman. Fees paid by the trust that benefit both the life tenant and remainderman (for example, fees paid to the Commissioner of Accounts) **MUST** be paid one-half from income disbursements and one-half from principal disbursements. Refer to the Uniform Principal and Income Act, *Virginia Code §64.2-1000 et seq.*

### **Line 1 Details for the Account Summary Form, Line 1– Beginning Assets:**

(Parts 1-4 of the Inventory). If filing a **first account**, prepare an itemized list detailing the beginning assets from Parts 1–4 of the Inventory, including the full description of each asset, its carrying value and market value as set forth on the Inventory. \*Such accounting should reflect whether receipts are income or principal.

If filing a **second or later account**: begin with the assets that equal the assets on hand at the end of the prior accounting period. Prepare an itemized list detailing the assets on hand at the end of the prior account period including the full description of each asset and the carrying value and market value as set forth on the prior Account.

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<sup>3</sup> The Fee schedule was given to you by the Clerk at the time of qualification as Trustee. Fee Schedule can also be found at [www.loudoun.gov/probate](http://www.loudoun.gov/probate).

The total of the beginning assets is entered on Account Summary Form, Line #1.

**Line 2 Details for the Account Summary Form, Line 2 – Principal Receipts:**

Generally, principal receipts are capital gains and additional principal received from the Trust Grantor/Estate. Itemize chronologically all principal receipts received during the account period, include the date received and the origin of receipt.

The total of the principal receipts is entered on Account Summary Form, Line # 2.

**Line 3 Details for the Account Summary Form, Line 3 – Income Receipts:**

Generally income is interest, dividends, rental income, received from the trust assets. Itemize chronologically each income receipts received during the accounting period. Include date received and the origin of the receipt. For example, show each quarterly dividend from XYZ stock rather than a lump sum for the year.

**Example (for line #3-previous page):**

ABC Bank Checking Account	
3-1-09 - ABC Bank, interest	\$ 8.50
3-5-09 Virginia Natural Gas, refund	\$ 30.00
4-1-09 ABC Bank, interest	\$ 8.50
5-9-09 Internal Revenue Service, 2009 tax refund	\$1,200.00
<b>Total:</b>	<b>\$1,247.00</b>

**Example:**

ABC Brokerage Account	
3-1-09 ABC MM Account, interest	\$100.00
3-5-09 AB Inc., dividend	\$ 25.00
<b>Total</b>	<b>\$125.00</b>

**Total Income Receipts - \$1,247.00 + 125.00 = \$1,372.00**

The total of the income receipts is entered on Account Summary Form, Line # 3.

**Line 4 Details for the Account Summary Form, Line 4 – Gains on Asset Sales:**

For securities sold for a value higher than that reflected on the beginning assets, show date of sale, name of security, total number of shares held, total number of shares sold, total carrying value, gross sales price, and net gain.

**Example:**

3-1-09 ABC Corporation, 300 shares	
--Carrying value	\$14,388.53
--Sold 300 Shares	\$15,327.38
<b>NET GAIN:</b>	<b>\$938.85</b>

**Example:**

3-1-09 ABC Corporation, 300 Shares	
--Carrying Value	\$14,388.53
--Sold 60 Shares	\$ 3,000.00

\*Computations:  $(\$14,388.53 \div 300 = \$47.96)$  price per share  
 $(\$47.96 \times 60 = \$2,877.60)$  carrying value of 60 shares  
 $(\$3,000.00 - \$2,877.60 = \$122.40)$   
 $[\$14,388.53 - \$2,877.60 = \$11,510.93]$  Value of remaining shares

<b>NET GAIN:</b>	<b>\$ 122.40</b>
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\*Note: 240 shares remaining of ABC Corp with remaining carrying value of \$11,510.93

For **real property sold**, show date of sale, property description, to whom sold, total carrying value, gross sales price, and net gain. \*All reductions from the gross sale price as shown on the settlement statement should be listed in the accounting on line 7 of the Account Summary Form.

**Example:**

Lot 1, Block B, 201 Blue St., Leesburg, VA	
<b>SOLD</b> to John Doe on 3/1/09	
--Carrying Value	\$85,000.00
--Gross Sales Price	\$95,000.00
<b>NET GAIN:</b>	<b>\$10,000.00</b>

For **miscellaneous items sold**, show date of sale, description, to whom sold, total carrying value, gross sales price, and net gain.

**Example:**

2006 Ford Mustang Convertible	
<b>SOLD</b> to Mary Smith on 3/10/09	
--Carrying Value	\$8,000.00
--Gross Sales Price	\$9,500.00
<b>NET GAIN:</b>	<b>\$1,500.00</b>

The total of the net gains is entered on Account Summary Form, Line # 4.

**Line 5 Details for the Account Summary Form, Line 5– Adjustments:**

Itemize any additional after-discovered assets under \$25,000.00.

**Example:**

3/1/09 Savings Bond	
1 U.S. Savings Bond, Serial #22222222	
Face amount \$500.00, maturity – May 1, 2020	
<b>Date of Death Value - \$475.00</b>	
<b>Net Adjustment</b>	<b>\$475.00</b>

Itemize corrections to assets previously reported incorrectly.

**Example:**

3/1/09 CCC Company Value Correction	
CCC Company, 200 shares	
Reported on Inventory \$40/per share	\$8,000.00
Date of death value was \$30/per share	\$6,000.00
<b>Net decrease in value</b>	<b>-\$2,000.00</b>

Itemize mergers and name changes of securities.

**Example:**

4/8/09 Merger and Name Change	
Bell Atlantic Corp., 100 shares	[\$3,000.00]
Merger and exchange of shares, Verizon Communications, 100 shares	[\$3,000.00]
<b>No change in Value</b>	<b>\$0.00</b>

Itemize acquisition of additional principal assets.

**Example:**

4/9/09 Dominion Stock purchase	
Dominion Resources Inc., purchase 50 shares @\$45.00	\$2,250.00
Commission	\$50.00
<b>Acquisition or Carrying Value</b>	<b>\$2,200.00</b>
<b>Transfer of funds from cash to stock, no change in Value</b>	<b>\$-50.00</b>

Itemize shares acquired from reinvested dividends.

**Example:**

5-2-09 Reinvested dividends	
MFS Multi-St. Mun Bd Tr.	
200.15 shares @ \$11.25	\$2,251.68

An account will be returned as improper if it reflects a forced adjustment.

**The total of the net adjustments is entered on the Accounts Summary Form, Line #5.**

**Note: Each purchase of shares by dividend reinvestment should be separately stated.**

**Line 6 Details for the Account Summary Form, Line 6 – Totals of Line #'s 1,2,3,4, & 5:**

The total of lines 1-5 should be entered on line 6 and Line #6 must equal the Total on Line #13.

**Line 7 Details for the Account Summary Form, Line 7 - Principal Disbursements:**

Itemize chronologically each disbursement by date, check number, payee, and purpose of disbursement, including any expense for sale of real property as reflected on HUD-1 settlement statement.

**Line 8 Details for the Account Summary Form, Line 8– Income Disbursements:**

Itemize chronologically each disbursement by date, check number, payee, and purpose of disbursement, including any expense for sale of real property as reflected on HUD-1 settlement statement.

**Note:** A canceled check, bank produced check image or a copy of the front and back of the check **AND** signed invoice or receipt *from each* payee must be provided for each disbursement and must be organized chronologically by account.

**If a reimbursement** is made to the Trustee or another person for expenses paid on behalf of the trust, **you must provide an invoice or receipt from said expense and the third party's canceled check or credit card statement verifying payment.**

**Line 9 Details for the Account Summary Form, Line 9 - Losses on Asset Sales:**

For **securities**, show date of sale, name of security, total number of shares, total number of shares sold, total carrying value, gross sales price, and net loss.

**Example: (securities)**

3-1-09 ABC Corporation - sale 60 shrs	
--Carrying Value 60 shares @ \$47.96 per share	\$2,877.20
--Sold 60 Shares – gross proceeds	\$2,500.00
Net Loss	-\$377.60

**\*Note: 240 shares remaining of ABC Corporation with remaining carrying value of \$11,510.93.**

**\*Computations:**      **\$14,388.53 carrying value ÷ 300 shares = \$47.96) price per share**  
**\$47.96 x 60 shares sold= \$2877.60 carrying value of 60 shares**  
**\$2,877.60-\$2,500.00 sale proceeds = \$377.60 loss**  
**\$14,388.53 - \$2,877.60=\$11,510.93 = value of remaining shares**

For **real property sold**, show the date of sale, property description, to whom sold, total carrying value, gross sales price, and net loss.

**Example:**

15 East Market St. Leesburg, VA, sold to John Doe on 3/15/09	
--Carrying Value	\$85,000.00
--Gross Sales Price	\$80,000.00
<b>NET LOSS:</b>	<b>\$5,000.00</b>

For **miscellaneous items sold**, show date of sale, description, to whom sold, total carrying value, gross sales price, and net loss.

**Example:**

2006 Ford Mustang sold to Mary Smith on 3/10/09	
--Carrying Value	\$8,000.00
--Gross Sales Price	\$7,500.00
<b>NET LOSS:</b>	<b>\$500.00</b>

Total Loss for securities, real property sold, and miscellaneous items: \$5,877.60  
**The total of all the net losses is entered on Account Summary Form, Line #9.**

**Line 10 Details for the Account Summary Form, Line 10– Principal Distributions:**

Itemize chronologically all distributions by date and include check number, description of distribution and payee.

**Example:**

Beneficiary – Sally J. Doe	
8/31/10 – Check #110 - 50% residual beneficiary	\$25,000.00
<b>TOTAL</b>	<b>\$ 25,000.00</b>

**The total value of the principal distributions is entered on Account Summary Form, Line #10.**

**Line 11 Details for the Account Summary Form, Line 11 – Income Distributions:**

Itemize chronologically all distributions by date and include check number, description of distribution and payee. (See above example)

The total value of the income distributions is entered on Account Summary Form, Line #11.

**Line 12 Details for the Account Summary Form, Line 12 – Assets on Hand**

Itemize each asset remaining on hand at its carrying value and its market value.

**Example:**

ABC Bank	Carrying Value	Market Value
Checking Acct. #1111	\$25,200.00	\$25,200.00
XYZ Brokerage MM Acct.#2222	\$75,800.00	\$75,800.00
Doll Collection	\$3,500.00	\$3,500.00
ABC Corporation, 240 shares @ 47.96	\$11,510.93	\$9,998.40
CCC Company, 200 shares @ 30.00	\$6,000.00	\$7,000.00
Dominion Resources, 100 shares @ 23.15	\$2,315.00	\$3,400.00
Verizon Communications, 100 shares @ 30.00	\$3,000.00	\$4,000.00
<b>TOTAL VALUES</b>	<b>\$127,325.93</b>	<b>\$128,898.40</b>

The total value of the carrying value and the market value of assets is entered on Account Summary Form, Line #12.

**Line 13 Details for the Account Summary Form, Line 13 – Total**

The total dollar amount of lines numbered 7-12 must be entered on line 13 of the Account Summary Form. **AND** this total **MUST** equal the total listed on **line #6** of the same Account Summary Form. Each total must be to the penny (rounding is not acceptable).

You will be required to provide verification of the existence of each asset; that is, original bank statements, (reconciled to agree with your ending account balance), original broker’s statements, copies of K-1 forms, copies of notes, titles to cars and watercraft.

The Commissioner of Accounts may further require a statement from a disinterested third party certifying the existence and location of jewelry and furnishing; and, may require the Trustee to exhibit before him/her the original stock certificates, notes, titles, etc.

**Before filing the Account for Trust Form, be sure to do the following:**

- Date and sign page 1 (**ALL Trustees** are required to sign)
- Write a check payable to Commissioner of Accounts for the appropriate Account filing fee<sup>4</sup>
- Be sure to number each page in sequential order
- Make at least two (2) signed copies of the Account Summary Form, 1 for your records, and 1 for the Commissioner of Accounts Office.

**When ready to file, mail ALL of the items listed below:**

- An original complete and executed Account Summary Form together with an itemized list for each figure on the Summary Form and stated supporting documents.
- One signed copy of the completed Account Summary Form together with an itemized list for each figure on the Summary Form.
- Payment for the Account Filing Fee (see fee schedule)
- Mail to: Commissioner of Accounts, 4 Cornwall St. N.E. Leesburg, VA 20176

<sup>4</sup> The Fee schedule was given to you by the Clerk at the time of qualification as Trustee. Fee Schedule can also be found at [www.loudoun.gov/probate](http://www.loudoun.gov/probate).

## SUMMARY OF GUIDELINES FOR FIDUCIARY COMPENSATION

### COMMISSIONER OF ACCOUNTS, CIRCUIT COURT FOR COUNTY OF LOUDOUN, VIRGINIA EFFECTIVE JULY 1, 2017

*If you have any questions regarding fiduciary compensation,  
please contact the office of the Commissioner of Accounts  
at 4 Cornwall Street, NE, Leesburg, Virginia 20176 (703-777-5300)*

**\*\*BEFORE YOU TAKE A FEE\*\***

#### FIDUCIARY COMPENSATION for TRUSTEES

##### Fee Schedule Guideline\*

###### Principal Fee (Taken Annually)

1% of first \$500,000 (.01)

¾ of 1% of next \$500,000 (.0075)

½ of 1% of \$1,000,000 through \$9,999,999 (.005)

Over \$10,000,000 – by agreement with the Commissioner (consultation required)

**\*The Commissioner of Accounts may deviate from these guidelines on a case-by-case basis if necessary to assure that each fiduciary receives “reasonable compensation” for services provided (Virginia Code § 64.2-1208 (A)).**

- Compensation is allowed on an annual basis, based on the fair market value of the trust assets (i.e., principal and undistributed income) at the beginning of the accounting period. If the accounting period is less than one (1) full year, compensation must be pro-rated.
- The fee schedule will be superseded if the trust, or will by reference, sets forth an alternative fiduciary compensation (*Virginia Code §64.2-1208(B)*).
- Fees paid to an attorney, accountant, or other professional employed to perform duties that could and should be performed by the fiduciary, will be deducted from the stated compensation. “Reasonable fees” paid to attorneys, accountants, or other professionals for services reasonably necessary for the proper administration of the trust, that only a professional could provide, i.e. litigation, preparing tax returns, will not be deducted from the fiduciary’s compensation.

##### SUCCESSOR FIDUCIARIES FOR TRUSTS

Where a fiduciary is succeeded by another, the annual fiduciary fee shall be pro-rated.

##### CO-FIDUCIARIES FOR TRUSTS

One fee will be divided equally among the co-fiduciaries. The co-fiduciaries may agree among themselves on a different division.



## **Bond**

When you qualified as Testamentary Trustee before the Clerk, you signed the required bond to guarantee that you would perform the legal duties required of a testamentary trustee. The dollar amount of your bond and whether your bond was secured or unsecured was determined by the Clerk at the time of your signing of the bond. If the value of the assets in the trust becomes greater than the dollar amount on your bond, you will be required to post a new bond. If there is a decrease in the value of the assets in the trust, you may file a motion with the Clerk to reduce the dollar amount on the bond.

## **Penalties**

*The Code of Virginia provides for certain penalties if a Trustee does not properly file the required documents with the Commissioner of Accounts in a timely manner. See Fee Schedule provided at the time of your qualification. **Any penalties are to be paid from the Trustee's personal assets and NOT from the assets of the trust.***

## **Late Fee**

For failure to file an inventory, accounting or supporting documentation within the time required by law, the Trustee will be assessed a late filing fee. **Trustees who fail to settle their accounts in a timely manner shall forfeit their compensation unless good cause can be shown for their delay.**

## **Summons**

If the Trustee fails to respond to letters from the Commissioner of Accounts regarding the filing of an inventory or accounting; or fails to provide appropriate supporting documentation, a summons will be issued and served upon the Trustee by the Sheriff. Upon service, the Trustee has thirty (30) days in which to submit the required information to the Commissioner of Accounts.

## **Court Appearance**

If a summons deadline is not met, the Commissioner of Accounts will report the delinquency to the Court and will request that a Show Cause Order be entered against the Trustee. After the Court issues a Show Cause Order, the Trustee will be required to appear in the Circuit of Loudoun County and explain to the Judge why he/she has not complied with the law. The Court may revoke the Trustee's powers, and may also impose a fine not to exceed \$500.00 or, if the Trustee is found in contempt of court, he or she may be dealt with accordingly.

In accordance with Virginia Code §64.2-1216 any Trustee who is a practicing attorney at law and fails to respond to a summons shall be reported to the Virginia State Bar.

**Any fees or fines incurred because of delinquency must be paid by the Trustee, individually and personally, and cannot be paid from the trust assets.**

## **Change of Address**

Please report any change of address or phone number to the Clerk's Probate Department and the Commissioner of Accounts within thirty (30) days of the date of the change in residency. **Any Trustee who fails to inform the Clerk and the Commissioner of Accounts shall be subject to a civil penalty of \$50.00. Virginia Code § 64.2-1409.**