

## NEW PENNSYLVANIA TRUST LAW, NEW NOTICE OBLIGATIONS FOR TRUSTEES

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**O**n July 7, 2006 the Pennsylvania legislature changed the landscape of Pennsylvania trust law by enacting the Pennsylvania Uniform Trust Act ("Act"). The Act includes many provisions that update, clarify and codify the Pennsylvania law of trusts, taking much of the uncertainty out of the creation and administration of trusts. The Act also introduces a *new requirement* for Pennsylvania trustees. The Act requires trustees to advise the trust beneficiaries of the existence of a trust under certain circumstances.

Unlike a number of other states, Pennsylvania has never had a mandatory notice requirement. The creators of trusts ("settlers") often prefer that trustees not disclose the existence of the trust, for the beneficiaries' protection. On the other hand, without information, beneficiaries cannot ensure that their interests are preserved and the settlor's intent is carried out.

Therefore, in a nutshell, Pennsylvania law now requires the trustee to notify the *current beneficiaries* of the existence of the trust, the right to receive a copy of the trust, and the right to request an annual accounting of the trust, *within thirty (30) days of the death or incapacity of the settlor*. A current beneficiary is (i) any beneficiary who is 18 years of age or older, to whom the trustee must distribute income or principal currently, and (ii) any beneficiary who is 25 years of age or older, to whom the trustee may distribute income or principal currently.

Recognizing that many Pennsylvania trusts existed prior to the Act for which the settlor was already deceased or incapacitated ("existing trusts"), the Act provides a grace period for the initial notice for existing trusts. *The trustees of existing trusts have until November 6, 2008 to send notices to their current beneficiaries.*

The required notice is very simple. It must be in writing and include:

1. A statement of the existence of the trust;
2. The settlor's name;
3. The trustee's name and contact information;
4. A statement that the beneficiary has the right to request and receive a copy of the trust; and
5. A statement that the beneficiary has the right to request and receive an annual accounting of the trust.

Therefore, if you are the current beneficiary of an existing trust, you can expect to receive a notice from the trustee in the near future if you have not already received one. If you are the trustee of an existing trust, you must send notices to your current beneficiaries by November 6, 2008 if you have not already done so. If you are named as a trustee of a trust for which the settlor dies or becomes incapacitated, you will have thirty (30) days following the settlor's death or incapacity to provide notice to your current beneficiaries. If you are considering establishing a trust or are already the settlor of a trust, you should be aware of the trustees' obligation to notify the current beneficiaries of the trust after your death or incapacity.

*Please call us if you are a trustee who would like assistance with the required notices, or if we can be of any assistance with your estate or trust planning.*

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