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|  | **Checklist Questions** | **Response or** **Modification Required** |
|  | **Basic Trust Provisions and Requirements** |  |
|  | Date trust was established. If before 1993 or 2000 different rules may apply. |  |
|  | What benefits is Beneficiary receiving? (circle all that apply) Different rules apply if not receiving SSI. | SSI, Medicaid, SSDI, Medicare, Section 8/housing, VA, Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
|  | Whose money is being used to fund trust? Should be from Beneficiary. Watch out for commingling. |  |
|  | Is there an annuity paying into trust? Okay if it is, just make sure trust is payee, not Beneficiary directly. |  |
|  | Are there IRAs funding the trust? If so, owner is named correctly or is there a court ordered irrevocable assignment of payments? |  |
|  | Are all other monthly funding arrangements properly irrevocably assigned to trust? If not irrevocably assigned then is a countable income/resource. |  |
|  | Will there be any future funding of trust? If so, make sure not done after age 65. |  |
|  | How old was Beneficiary when established? Must have been under age 65. |  |
|  | How old is Beneficiary now? Make sure if close to age 65 may require different public benefits. |  |
|  | What is beneficiary’s disability? Must meet SSA definition even if not receiving SSI or SSDI. |  |
|  | **Establishment Procedure** |  |
|  | Who established trust? (circle one) | Parent, Grandparent, Legal Guardian, or Court |
|  | If parent or grandparent, was proper “Seed Trust” procedure followed? Parent or Grandparent put a small amount of own money into trust before Beneficiary funded it. |  |
|  | If Seed Trust approach was utilized, did whomever put Beneficiary’s money into trust have legal authority to do so? If Beneficiary lacks capacity, someone must have legal authority (court order, conservator/guardian) to transfer Beneficiary’s money into trust. |  |
|  | If court, make sure trust not signed, executed, funded or established prior to petition to court? SSA takes position that court cannot “authorize” a pre-existing trust so make sure court order is clear that court is establishing or requires the establishment of trust.  |  |
|  | **Trust Management Team** |  |
|  | Review court order to see if there are other legal requirements of trust that may not be in document |  |
|  | Who is Trustee? Make sure that trustee is qualified to serve. |  |
|  | What are provisions for replacing Trustee? Are successors listed? Is there procedure to replace without court involvement? |  |
|  | Does anyone have right to remove or replace Trustee? With or without cause? |  |
|  | Are there provisions for a Trust Protector or Trust Advisory Committee? |  |
|  | See if provision exists in trust that someone on management team have expertise with public benefits and SNT administration? If not, consider adding in provision to hire an expert to assist. |  |
|  | **Sole Benefit & Distribution Standard** |  |
|  | What article(s) of trust describes “sole benefit” requirement? SSA very strict and will disqualify trusts that authorize any type of disbursement |  |
|  | What type of distribution standard? (circle one) Always prefer Discretionary standard because allows payment for food or shelter for someone on SSI. | Discretionary or Supplemental |
|  | Is there mention of the word “support” or “maintenance” in trust document? Rule is that Beneficiary cannot have right to force distribution for own support or maintenance. If it is authorized in document, Beneficiary may have right to “force” distribution. |  |
|  | Are there any required distributions to be made from SNT? If so, is it limited to only distributions that are exempt from being counted for public benefit eligibility purposes. If not, will cause eligibility issues. |  |
|  | Are there any descriptions of authorized disbursements that may cause problems for SSA? SSA has a shifting (and uncertain) list of things it may decide disqualify a trust. For example, paying for gifts for family or travel companions may be an issue. |  |
|  | Does trust compel distribution to pre-pay for funeral because under SSA rules, priority for Medicaid payback over funeral expenses. |  |
|  | **Termination and Payback Requirement** |  |
|  | What article(s) in the trust describe payback requirement? It is best if the payback language in trust document tracks the statute perfectly. |  |
|  | What priority of payments is stated in trust on its termination? If allows for payment of debts or funeral expenses prior to payback SSA will disqualify trust. |  |
|  | Does payback include payment to All States? If not, SSA will disqualify trust as SNT. Make sure no State has priority of payment over any other State. |  |
|  | Does trust limit Payback to time only after establishment of trust? If so, SSA will disqualify trust. |  |
|  | Does trust have spendthrift provision? |  |
|  | Does State recognize spendthrift provision? Check your State POMS Regional Counsel Precedent opinions because SSA has described its understanding of your State’s spendthrift protection. |  |
|  | Does trust have early termination provision? If so, does early termination provision require payback first and then only allows funds to go to Beneficiary? If not, SSA will disqualify trust. |  |
|  | Does trust give Beneficiary a testamentary power of appointment? If so, make sure it is a Limited (or Special) power of appointment and not a General Power of Appointment. |  |
|  | List out remainder beneficiaries. Make sure these are the correct people or entities that Beneficiary wishes to leave assets on death. |  |
|  | **Trust Protection Provisions** |  |
|  | What are Trustee’s responsibilities to Account and Report to Beneficiary or Beneficiary’s Legal Representative? |  |
|  | Are there any legal limitations or exculpatory provisions that limit Trustee’s liability? If so, what are they? |  |
|  | Are trust’s grantor tax provisions clearly stated? |  |