

ASSET TRANSFER INSTRUCTIONS

Preparing and completing a Family Trust is a two step process:

1. You must first sign the legal document creating the Trust, and
2. You must then transfer accounts to the name of your Family Trust. This process is called "funding" and is accomplished by identifying the Trustee(s) as the new owners of your property.

Both steps must be completed for your Trust to be fully effective. Any asset that remains titled outside of your Trust will be exposed to probate at death.

These instructions are meant to guide you through the process of asset transfers. There are specific transfers and account/policy changes to make to designate the Trustee(s) of your Trust as the new owner of the assets and real property you currently own individually or jointly with someone else.

At times the process of transferring assets can be frustrating. Hopefully, these asset transfer instructions will help simplify that process for you. Some of the following information may apply to you, while other provisions may not be currently applicable. Keep these instructions with your Family Trust packet as a reference for future use.

To assist you in correctly funding your Trust, we prepared personalized asset transfer letters to inform banks, brokerage companies, life insurance companies and other financial institutions that your assets be held in the name of the Trustee(s) of your Trust, or that the trustee of your Trust should be named as the Beneficiary of that account or policy.

There are five basic letters to help you make these changes:

1. Requests a change in ownership and beneficiary designation;
2. Requests a change in only the beneficiary designation;
3. Requests the addition of a "pay on death" beneficiary;
4. Deals specifically with tax qualified assets; and
5. Pertains to assets held in certificate form in your possession.

These letters serve to notify the institution that you wish to change the status of your account and/or policy. These letters start the transfer process, however each institution will provide you with their form to effectuate the transfer. Each institution's forms must be completed and signed before the transfer is complete.

Your Family Trust does not create any new tax situation for you at this time, and is identified by your social security number. Therefore, all 1099 and other tax reporting documents, including the 1040 tax form, stay the same as prior to signing your Trust. You will keep all of your individual and joint credits and deductions. At death, your Trust may need a separate tax ID number (see an attorney).

BANKS, BROKERAGE AND OTHER ACCOUNTS

Sign and deliver the letters that we have prepared for you for your bank and brokerage accounts. Each institution will give you a new signature card or customer agreement to sign. Some institutions require that your existing account number be closed and a new account be opened in the name of the trustees of your trust.

In regards to your bank accounts, you are ***not canceling*** your current account(s). You are merely signing a new signature card for the same account(s), but now as the Trustee(s) of your Trust. In this manner, there is no need to order new checks.

There are two general exceptions to this process and these accounts are handled in a different manner

1. **Main Checking Account** The IRS permits you to make annual gifts to whomever you choose without incurring a gift tax. These gifts *must* come from you as an individual. They cannot come directly from your Trust. Therefore, we recommend that you keep your main checking account(s) in your individual name(s). These account(s) will not go through the probate process if you direct the bank to add the Trustee(s) of your Trust as the "pay on death" beneficiary of the account.
2. **Credit Union Accounts** Because of the rules governing credit unions, it is likely that your Credit Union will not allow you to transfer ownership of a credit union account to your Trust. The reason is some credit unions are very strict in who can be members of that credit union. Your Trust authorizes not only yourselves, but others as successor Trustee(s). Not all of your successor Trustee(s) may be eligible to be members of the credit union. Each credit union interprets this differently. Therefore, you may find that some credit unions will allow you to change the ownership and the beneficiary designation into the Trust while others will not.

If your credit union does not allow you to change the ownership designation to the name of the Trustee(s) of your Trust, all credit unions seem to be uniform in allowing you to name the trustee as a payable on death beneficiary designation. If you find this to be true with your credit union, a payable on death beneficiary designation should prove adequate. Access to that account and your main checking account, which also has a payable on death designation, can be accomplished during your lifetime with the Durable Power Of Attorney as part of your estate plan.

PROMISSORY NOTES

If someone owes you money, and you have a promissory note that states the amount of the debt, the terms, and that the money is to be paid to you in your individual name, or in your joint names, then the process of transferring that promissory note is quite easy.

To change the terms of the promissory note so that the Promisor is required to pay the money to your Trust, simply endorse the back of the note as follows:

"Pay to the order of the acting Trustee(s) of the "Your Name" Family Trust, dated _____.

STOCKS AND BONDS

If you own stocks and bonds and hold them in a brokerage account, follow the steps for "Banks and Other Accounts". Your broker will transfer your current account to a new account and will have you sign a new customer agreement as Trustee(s) of your Trust. Since your stocks and bonds are in "street name", the transfers occur easily and automatically.

If you hold the actual paper certificates in a safe place, such as your safety deposit box, you need to do the following:

1. Sign the letter of instruction for the stock or bond certificate in the presence of a stockbroker or a commercial bank officer, just as you would if you were going to sell it. Sign the W-9 form. Send the certificate and the W-9 form along with the letter of instruction to the transfer agent for that particular stock or bond. Both the letter of instruction and the certificate must be signature guaranteed by a bank or a brokerage firm. If you are sending these valuable assets in the mail, remember to insure them prior to mailing.
2. The transfer agent will re-issue a new certificate for you that is registered in the name of the trustees of your Trust.
3. If this leaves you feeling insecure, let us know. We work with certain brokers whom we trust who can assist you in making these transfers.

If you own U.S. Savings Bonds complete the form we prepared for you. Follow the instructions on the back of the form. Please note that your signature(s) must be guaranteed by a certifying officer at your bank.

LIFE INSURANCE

We provided letters that request a change of the beneficiary designation of your life insurance policies to the Trustee(s) of your Trust. You can choose to follow this instruction *or* you can name a specific beneficiary.

If you name a specific beneficiary and not the Trustee(s) of your Trust, be sure that you carefully read your insurance policy. Not all insurance policies are identical. Depending on the policy, naming a specific beneficiary may alter the distribution of your insurance money or have a negative impact on the estate planning goals that are reflected in your Will or Trust. Most companies follow two methods when a trust is not named as the beneficiary:

1. The first common method of distribution is to identify specific beneficiaries directly as the beneficiaries of your policy. The insurance company pays the benefit to all of those specific beneficiaries who survive. If one of the beneficiaries should fail to survive, then the insurance company will pay to just those who are then surviving. This acts to disinherit the descendants of any deceased beneficiary.
2. The second method of distribution is one in which the money will be distributed to all of the surviving beneficiaries in equal shares, but if a beneficiary should fail to survive the owner of the policy, then that beneficiary's share would be distributed in equal shares to the descendants of that deceased beneficiary.

Both methods are very common distribution provisions. Please do not assume that because one policy may state in a manner that matches your intentions that the next policy you purchase will distribute in the same manner.

One way which you can eliminate the variations in the distribution provisions, is to have the Trustee(s) of your Trust become the beneficiary of the insurance. In this manner, the insurance company will pay to your Trustee(s) and then the Trustee(s) are authorized through your Trust agreement to distribute according to the structure that you created. That structure can include payments to the descendants of any deceased child with payment made outright or you can have that money set aside along with other assets from which distribution is paid out over a period of years and at age appropriate times.

If you do not name the Trustee(s) of your Trust, that money goes outside of the structure of the Trust and statutory rules govern the management of the money. For example, if you name a direct beneficiary and that beneficiary is under the age of eighteen, that money is set-aside in a custodial account. That money, *no matter how large it may become*, must be distributed to that beneficiary when the beneficiary obtains the age of majority (age eighteen). If

this does not match your intentions, then have your insurance company pay to the order of your Trustee(s) who will then have the authority to manage through the structure created in that Trust agreement.

ANNUITIES

We have provided letters that change the beneficiary designation of your annuity policy(s) as follows:

1. If you are married, your spouse will be named the primary beneficiary, and the Trustee(s) of your Trust will be named the contingent beneficiary of your annuity policy(s).
2. If you are unmarried, the Trustee(s) of your Trust will be named the primary beneficiary of your annuity policy(s).
3. See also the discussion regarding *Retirement and Tax-Qualified Accounts*.

REAL PROPERTY and REAL PROPERTY INSURANCE

Your interest in real property can come in several different forms. We prepared the correct document(s) needed to transfer your present property interests. Review and proceed with the following steps according to how you currently own your property:

If you are purchasing through a Land Sale Contract:

Our office prepared an "Assignment of Land Sale Contract" for your signature. Depending on the contract terms it may be necessary to obtain the Seller's consent before recording the assignment. Once written approval is received, record the assignment in the county where the property is located and pay the appropriate recording fee. Provide the seller with a copy of the assignment and any other supporting information the seller requires as a condition of consent. You should physically attach the original Assignment to the original contract and keep it in a safe place. When the property is fully paid, make sure that the deed transferring ownership identifies the trustee(s) of your trust as the title owner(s).

If you own the property subject to a Mortgage or Deed of Trust:

Our office prepared a "Bargain and Sale Deed" or "Warranty Deed" for your signature. Depending on the terms of the Mortgage or Trust Deed, it may be necessary to obtain the lender's consent before recording the deed. Once written approval is received, record the deed in the county where the property is located and pay the appropriate recording fee. Provide your lender with a copy of the deed and any other supporting information the Lender requires as a condition of consent. Keep the consent and recorded deed in a safe place.

If you own the property outright:

Our office prepared a "Bargain and Sale Deed" or "Warranty Deed" for your signature. Record the deed in the county where the property is located and pay the appropriate recording fee. Keep it in a safe place with your Trust Documents.

If you Sell the property on a "Cash-out" Basis:

In a cash-out sale, there is no real estate interest to put into your Trust. You may want to consult with your advisors to ensure that funds from the sale will be properly transferred to the trustees of your Trust.

If you are Selling the real estate by Land Sale Contract:

Our office prepared a "Bargain and Sale Deed and Assignment of Land Sale Contract" for your signature. Record the deed in the county where the property is located and pay the appropriate recording fee. Send a copy of the

recorded deed to the purchaser and physically attach this new deed to the original land sale contract. Keep it in a safe place.

If you Sell the property using a Mortgage:

Our office has prepared an "Assignment of Mortgage" for your signature. Record the assignment in the county where the property is located and pay the appropriate recording fee. Send a copy of the assignment to the borrower. Keep the assignment in a safe place with your Trust Documents.

If you Sell the property using a Trust Deed:

Our office prepared an "Assignment of the Beneficial Interest In Trust Deed" for your signature. Procedures required to assign your interest will vary depending upon who was used as an escrow, whether they provide collections services, in addition to the collections account number, and who currently holds the original documents. In these circumstances it is best to work closely with our office to make sure that the individual requirements of the property escrow company are satisfied so that the assignment is considered complete. Record the assignment in the county where the property is located and pay the appropriate recording fee. Keep the assignment in a safe place.

If your property is located out of state:

Our office can prepare the necessary Deed form used in that state to properly transfer the property. There may be out-of-state transfer forms for you to complete that must accompany the deeds when recording. Our office will be happy to assist you in completing these forms.

After the appropriate Deed(s) and/or Assignment(s) have been recorded it is necessary to notify your insurance carrier of the transfer. We have prepared a letter to deliver to your insurance carrier.

VEHICLES AND VEHICLE CASUALTY INSURANCE

We recommend that you do NOT transfer vehicles or other Department of Motor Vehicles to your trust. If you do, make sure that the trustees of your trust are listed as additional insureds on your property casualty insurance policy.

RETIREMENT AND TAX-QUALIFIED ACCOUNTS

You have several options with regard to your retirement accounts. Depending on the option you choose, that choice will likely trigger various income tax as well as inheritance tax consequences.

DO NOT change the ownership of the account.

You need to consider, with the help of your advisors, the effect of changing the beneficiary designation of your tax-qualified accounts. Congress allows an individual to receive special tax-qualified status for money that is set-aside in a specific manner. This special tax qualified status is that money can grow tax deferred. Starting at age 70-1/2, you have to begin to withdraw that money.

The rate at which you must withdraw the money, starting at age 70-1/2, depends on how you have set up the account beneficiary designations. The IRS allows you to name a spouse or someone else, typically a family member, as an additional beneficiary. The IRS requires that you withdraw the money from the account at a certain rate depending upon your age and life expectancy. If you name your spouse as the beneficiary, your spouse can roll the asset over into a new account of his/her own. At your death the IRS applies a different timetable from which you have to withdraw all the money, because the IRS takes into account the lifespan of your spouse.

In a similar manner, if you identify another family member such as a child, the IRS will take into account the lifespan of the younger beneficiary and modify the payout terms. This has an effect of being able to postpone the ultimate day in which deferred income taxes must be paid on that account.

When you change the beneficiary designation of your retirement or other tax qualified accounts to the Trustee(s) of your Trust, the IRS recalculates the payout period. It is possible have the IRS to review the Trust document to determine who should receive the benefits, which beneficiary(s) might ultimately be and what their statistical life spans might ultimately be, but there are limitations as to the effectiveness of that action. It is generally the position of the IRS that if you name the beneficiary as your Trust, the Trust has no life span and all of the deferred income taxes will have to be paid immediately and the balance of the asset will be distributed as you directed in your Trust.

It is for this reason, if you are married; you want to ensure that you have named your spouse as the primary beneficiary of the account, so that the maximum amount can be retained in that account for your spouse, should your spouse survive. In that manner, your spouse can determine the best rate to have the money withdrawn.

By naming the Trustee(s) of your Trust as the contingent beneficiary of a tax qualified account, there will be the negative income tax consequence of not being able to postpone the final day of paying deferred taxes. It does allow the assets held in those accounts to be identified and distributed in a lump sum to the beneficiary(s) that you have named in your Trust. This would operate in the same manner if you named your children as the beneficiary(s) of your retirement or other tax qualified accounts and they choose to take the money out rather than having it pay out over an extended number of years.

There is an exception however to naming the trust as beneficiary of tax-qualified accounts that avoids some of the negative income tax consequences when a trust is a direct beneficiary. If your trust agreement includes "conduit" or "accumulation" trust provisions, it is possible to name the trustees of your trust as beneficiary of these accounts and the trust can continue the "stretch-out" payments but without having to pay all of the income tax at once. The trust can limit access to the accounts by the beneficiary thereby protecting the accounts. These provisions are complex and should be created with the collaboration of your financial planner, accountant and attorney.

If you have done tax planning in your Trust, you will still want to designate your spouse as the primary beneficiary of your retirement dollars. However, as a surviving spouse, you want to evaluate whether or not you should be accepting those retirement dollars and transferring them into your own tax-qualified accounts. By accepting the distribution, it may unnecessarily raise the survivor's estate to a higher tax bracket. The surviving spouse needs to consider a "Qualified Disclaimer", even though that will result in taxes being assessed immediately. The income tax consequence of the disclaimer may be significantly less costly than the inheritance tax consequence of failing to disclaim.

Naming the Trustee(s) of your Trust allows you to have retirement or other tax qualified money placed into any separate Trust that you may want to create within your Family Trust for the benefit of family members. For example, if you set up an ongoing account for minor children and you want the ultimate distribution to occur over a period of years ending with a final distribution when the child attains a certain age, then it is better to have your retirement dollars payable to this separate Trust within your Family Trust. In that manner, all of the assets that you own can be consolidated and managed in the structure created in the trust document.

If you do not name the Trustee(s) of your Trust, then the rules governing the retirement funds will direct the distribution that may be counterproductive to the distribution articulated in your trust agreement.

WHEN YOU BUY THINGS OR OPEN NEW ACCOUNTS

Once your Trust is in place, except for checking accounts, credit union accounts, tax-qualified assets and DMV-titled assets, all new accounts you open or new asset that you purchase should be opened or titled in the **name of the Trustees of your Family Trust**. Some companies will want to know the date on which the Trust was signed. During your lifetime your social security number acts as the tax ID number for your Trust.

If you have any questions about the process of making asset transfers, please call us. If you meet with a bank officer, agent, broker or other person who is not familiar with the operation and administration of a Trust, have that person call us directly. We are here to provide service to you and those you refer to us.