

HOW TO FUND YOUR TRUST

In order to gain all of the benefits derived from your Revocable Living Trust, it is important to properly title your assets in the name of your trust. This titling process is called “funding.” Funding links your assets to your trust. The primary purpose of funding your trust is to avoid probate. Assets in your own name at the time of your death will require probate. Assets in the name of your trust at the time of your death will bypass probate.

If we have agreed in writing that I will handle the initial funding of your trust at my hourly rate of \$225.00 (or an agreed upon flat rate), I will need documentation related to the assets that should be transferred to your trust. I will specify, based on your particular circumstances, what documentation I will need.

In **Section One** below I provide a list of various types of assets. You can use this list as a checklist to make sure you remember to provide me the necessary information for all of your assets. If you will be doing your own funding, you can use the following list of assets as a guide. In **Section Two** I provide guidance on how to perform the funding yourself. In **Section Three** I include some miscellaneous points to consider when funding your trust.

I. Section One

- ♦ Savings, checking and money market account statements
- ♦ CD account statements
- ♦ Investment account statements:
 - *Annuities*
 - *Mutual funds*
 - *Portfolio accounts*
 - *Stock and/or bond certificates you hold*
 - *Traditional Individual Retirement Accounts*
 - *Roth Individual Retirement Accounts*
- ♦ Savings bonds
- ♦ Education savings accounts
- ♦ Life, disability and long-term care insurance policies
- ♦ Employee benefit statements
- ♦ Deeds to real estate
- ♦ Real estate mortgages
- ♦ Title Insurance policies for real estate

- ♦ Property tax bills for each parcel of real estate
- ♦ Homeowner's insurance policy or last bill
- ♦ Cemetery plot information
- ♦ Titles to boats and recreation vehicles (*original titles needed*)
- ♦ Partnership or business interests
- ♦ Judgments and notes
- ♦ Safe deposit box information
- ♦ Country club memberships
- ♦ Stock and commodity exchange memberships

II. Section Two

Funding your trust involves changing the ownership of your assets to your trust. Here is an example of how assets should be titled to accomplish the change of ownership:

**[First Name, Last Name], as trustee, or [his] [her] successors
in trust of the [First Name, Last Name] Revocable Trust,
dated [month, day, year].**

Many of your assets, including tangible personal property, do not have account numbers and titles associated with them. A Bill of Sale is used to transfer the ownership of your tangible personal property to your trust. The Bill of Sale will be prepared and given to you along with the first drafts of your trust, will, powers of attorney and living will. You will execute the Bill of Sale on the day of the signing ceremony.

Following are notes to consider for each of the assets listed above in **Section One**, as well as some unusual assets not listed:

♦ **Individual Retirement Accounts (IRA and Roth IRA).** Because of the income tax ramifications of selecting a retirement plan beneficiary, it would be better for you to name individuals as your primary beneficiaries. The contingent beneficiary of your IRA should be your trust. *It is critical that you NOT make your trust the owner of your retirement plan during your lifetime.*

♦ **Closely Held Stock.** Closely held stock should be titled in the name of your trust. This can be accomplished by signing the back of your certificates and having the corporation issue a new certificate in the name of the trust. Since the trust will be the owner of all of the stock, you only need to have the corporation issue one certificate for the total number of shares that were previously held by you.

♦ **Registered Stocks and Bonds.** You normally purchase these through a broker. In some cases, certificates are issued and held by you, and in other cases they are held in a street account. When purchased and held by you, the stocks or bonds should be titled in the name of your trust. When using a street account, you title the account in the name of your trust.

♦ **Real Estate.** Real estate should be titled in the name of your trust (except for husbands and wives in Illinois). When you wish to sell the real estate, you may sign a deed to the purchaser as trustee. For all of your out-of-state real estate, you should use an attorney who is licensed in that particular state to make the transfer of the property. The attorney should use the appropriate deed to transfer the property directly into the name of your trust.

♦ **Property and Homeowner's Insurance.** After you transfer your real property to your trust, you should contact your local agent for your homeowner's insurance company to determine any requirements necessary to continue liability and property coverage on the real property titled in your trust.

♦ **Lease Agreements.** The lease under which you are the lessor should be assigned to your trust using an Assignment of Lease. You should notify the lessee in writing that all future rental checks should be made payable directly to your trust, not to you individually.

♦ **Life Insurance.** The primary beneficiary of any insurance proceeds should be payable to your trust.

♦ **Cemetery Plots.** You should transfer your cemetery plot to your trust. This is typically done through executing an Assignment of Burial Plots & Mausoleum. The director of the cemetery should receive a copy of this Assignment.

♦ **Aircraft.** To transfer your airplane to your trust, you should execute an Assignment of Aircraft, and forward it and the certificate of registration to the Federal Aviation Administration for issuance of a new certificate in the name of your trust.

♦ **Boats.** To transfer your small boat that is registered with the State, you need to complete the back of your registration certificate showing transfer to your trust and forward it to the state agency for issuance of a new registration certificate. In addition to the registration certificate, a number of documents are required to transfer a vessel to the owner's trust, including the following:

1. Original Certificate of Documentation.
2. An original and one copy of a notarized Bill of Sale transferring the vessel to your trust.
3. Declaration of Citizenship.
4. Application for Documentation or for Surrender, Replacement, or Re-documentation.
5. Trust Information Sheet.

If you have an outstanding lien on the boat, you will also need a Consent of Mortgagee. You may obtain all of these form documents from the regional office of the United States Coast Guard. Once you have completed these documents, you must send them with a cover letter and processing fee to the regional office of the United States Coast Guard.

♦ **Sole Proprietorship.** You need to transfer to your trust the business you own as a sole proprietorship. You can accomplish this through an Assignment. Assets the business acquires after the initial transfer of assets can be transferred into the name of your trust by Assignment as they are purchased or you can title them in the name of the trust at the time of purchase. When all of a sole proprietorship's assets are held in the name of your trust, the sole proprietorship must do business in the name of the trust.

♦ **Partnership Interests.** *General Partnership:* Make sure there is no restriction in the partnership agreement on transferring your partnership interest to your trust. You need only complete an Assignment of General Partnership Interest. You should provide a completed Assignment to the managing general partner. *Limited Partnership:* Transfer of your limited partnership interest is accomplished the same way as a general partnership interest. You need only execute an Assignment of Limited Partnership Interest.

♦ **Promissory Notes.** You should transfer promissory notes that you hold to your trust by executing an Assignment of Promissory Note. Notify the obligors in writing and advise them to make all future checks payable to your trust, not to you individually.

♦ **Bank Accounts.** Checking accounts, savings accounts, money market accounts, and time certificates of deposits should be titled in the name of your trust. The institution will provide you with signature cards to be signed by all of the current trustees. Re-titling your checking account has no effect on the name you wish to have printed on your checks. It only affects the institution's records.

♦ **Safe Deposit Box.** Typically, the right to the use of a safe deposit box is created in the form of a rental agreement between a financial institution and a customer. You can transfer your safe deposit box by assigning the rights under the existing rental agreement to your trust or by having the trust itself, through you and your co-trustees, enter into a new rental agreement with your bank. It is also a good idea for you to allow a successor trustee the authority to access the box so that if you or your co-trustee should become incapacitated or even deceased, the successor trustee can get into the box.

♦ **Savings Bonds.** The Federal government requires the use of Form PD 1851 for transferring U.S. Savings Bonds. The back of the form has complete instructions. After you have filled out the form, your signature must be "guaranteed" (medallion stamp) by an officer at your banking institution, and forwarded along with the bonds to: The Bureau of Public Debt, 200 Third Street, Parkersburg, West Virginia 26101.

♦ **Livestock.** Since your livestock carries a brand, you will want to transfer the ownership of the brand to your trust by executing an Assignment of Livestock Brand.

♦ **Farm Equipment.** Farm equipment that does not have registered titles can be transferred to your trust by executing a Bill of Sale.

♦ **Royalty Interests, Copyrights, Trademarks, and Licenses.** These intangible personal property interests are transferred to your trust by executing an Assignment. You should file notice of the transfer of registration with the federal authorities and the state in which the interest was originally registered.

♦ **Judgments.** An interest in a legal judgment is considered an interest in personal property and can be transferred to your trust by an Assignment of Judgment. A copy of the original judgment should be attached to the Assignment.

III. Section Three

♦ **Income Tax Ramifications.** Your revocable trust is a grantor trust as described in Internal Revenue Code Section 671 and Regulations Section 1.671-4. Therefore, your trust is not required to file a separate Form 1041. You will report all income and expenses on your own Form 1040. Under Internal Revenue Code Regulation Section 301.6109-1(a)(2), the federal identification number for a grantor trust is the same as the grantor's social security number. Anyone who requests the federal identification number of your trust should be provided with your social security number.

♦ **Asset Protection.** Contrary to what many lay people think, putting your assets in a self-settled, revocable trust does not protect those assets from lawsuits. A traditional revocable living trust is not an asset protection tool for the trust-maker.