FUNDING INSTRUCTIONS

Funding your Trust is the process of transferring assets into your Living Trust. Think of your Trust as an empty box or receptacle waiting to receive assets. A Trust may own virtually any type of asset that an individual owns. On your death or disability, any assets owned by the Trust or made payable to the Trust will be protected from probate proceedings. In this section, we will explain how to change the title on your assets you already own, how to take title to new assets you purchase in the future, and how to designate beneficiaries on certain assets now and in the future.

A Note on Your Living Trust and Probate

As stated above, any asset owned by your Trust or made payable to your Trust will avoid probate.

How To Put New Assets in the Name of Your Living Trust

Title to new assets should be taken in the formal name of your Trust as it is written in Article One of the Trust document.

General Instructions on the Transfer of Existing Assets

The funding instructions that follow will help you determine the best methods for transferring different types of property into your Trust. The mechanics of getting particular pieces of property into the Trust vary from one asset to the next. As you deal with buying, selling and conveying your Trust assets, you may wish to accomplish many of the funding tasks yourself. However, it is important that your funding be accomplished in a precise and legally correct way. Therefore, we caution you to contact us when you have questions or concerns about the transferring of an asset to or from your Trust.

Real Property

To transfer real property to your Trust, you may use a simple quit-claim deed or a warranty deed. Prepare the deed so that it transfers title from the way it is now held to your Trust under the title designation found in Article One. Care must be taken that the legal property description is entered exactly as it is on the current deed. Signatures must then be notarized.

After the deed is signed and notarized it should be recorded with the County Register of Deeds where the property is located. Michigan also requires that a property valuation affidavit be filed. The transfer should not affect your property taxes, and it is not subject to transfer tax.

When you acquire a new piece of property simply instruct your escrow officer to title the property in the name of your Trust.

Mortgage

A mortgage is a document that gives you a security interest in someone else's real estate. You are entitled to foreclose on the property in the event they default on the loan you made to them. It can easily be assigned to your Trust by preparing an Assignment of Mortgage. This document should be notarized and recorded like a transfer of real estate.

Land Contracts – Payable and Receivable

Your interest in a land contract can be conveyed to your Trust via an Assignment and possibly via a deed. If you have sold a property "on land contract," you still hold title to the property, subject to the land contract. Therefore, you'll need an assignment of land contract interest as well as a quit claim deed to convey your entire interest.

On the other hand, if you are purchasing property via a land contract, you'll simply need an assignment of your interest to the Trust.

Bank Accounts and CD's

The transfer of an existing checking or savings account, or one which is created in the future can be accomplished quite easily. Take a copy of your Certificate of Trust Existence and Authority to the new accounts department of your bank and request that the accounts be set up in the name of your Trust. You will then sign the new signature cards as Trustee.

If you have a Certificate of Deposit with the bank, you may have to wait until the account matures before transferring it into the Trust. Otherwise, interest penalties for early withdrawal may apply. Consult with your bank officer for the regulations on individual accounts.

Furniture, Jewelry, and Other Personal Property

Even your furniture and household effects may be transferred to your Trust. Remember that all assets transferred to the Trust are outside the jurisdiction of the probate court. These items can be placed in the Trust by use of a general statement, which declares that all of your personal items (whether owned now or acquired in the future) are transferred to your Trust.

Bearer Bonds

Bearer Bonds generally have no names inscribed on them to indicate ownership. They are negotiated by any individual having possession of them. To place them in your Trust, you should use a written assignment like the one described above.

Stocks and Bonds

For existing stocks and bonds, the transfer procedure can be somewhat time consuming. These problems can be reduced if you have a working relationship with a stockbroker who will agree to help you with the transfer. If a broker is not used, a letter to the transfer agent for the particular stock should be sent. An agent outside of the state of New York should be located because of the substantial transfer tax imposed by that state. Sometimes a telephone call directly to the corporate offices of the company may be helpful in eliminating the red tape of transfer. A waiting period of four to eight weeks is not uncommon in accomplishing the transfer.

A copy of the Certificate of Trust Existence and Authority should be sent along with your letter to the transfer agent. This will demonstrate to him or her that your Trust is valid and exists under the laws of your state.

It is a much easier task for stocks acquired in the future. You need only instruct your broker that title to the stocks should be taken in the name of your Trust. Your broker may also want a copy of the Certificate of Trust Existence and Authority for his or her records.

However, the entire process can be simplified by depositing your stocks in a brokerage account rather than holding the individual certificates. If a brokerage account or "street name" is used, the local brokerage firm would simply open an account in the name of your Trust. All transactions could then be handled without assigning certificates or having to produce a copy of the Trust on each purchase or sale of shares. We strongly recommend this method of stock ownership.

U.S. Savings Bonds

U.S. Savings Bonds are transferred into your Trust by completing Treasury Form PDF 1851. The form needs to be signed and dated with your signature guaranteed. The completed and signed form should be sent along with the savings bonds to the Federal Reserve Bank of Kansas City, P. O. Box 419449, Kansas City, Missouri 64141-6440.

Limited Partnership Interest

Like the transfer of stock, transferring an interest in a limited partnership can be a complicated and cumbersome affair. The actual Limited Partnership Certificate should be examined closely. These documents typically have one of three methods outlined for approving the transfer of an interest. The Certificate may require only the approval of the general partners; it may require the approval of all partners both limited and general; or it may provide that no approval of any partners is needed. Unfortunately, the final option is least common.

The best way to proceed in any of these three categories is to personally contact the general partners for guidance. We have found that mailing instructions without first contacting the general partners merely confuses the people running the partnership.

Once you have received directions from the general partners, a simple one-page transfer document should accomplish your goal of transferring the interest of the Trust.

Life Insurance

It is not recommended that you change the ownership of your life insurance policies to your Trust. However, changing the beneficiary designation to name your Trust as the sole beneficiary of your life insurance policies is recommended. You should consult with your life insurance agent to discuss making such a change, and the proper designation appears in Article One of your Trust.

Retirement Funds and Annuities

Tax deferred retirement funds (for example, 401(k) accounts, pension accounts, IRAs) typically carry a beneficiary designation similar to life insurance. However, the primary beneficiary should not necessarily be your trust. If you die leaving a surviving spouse, the survivor is permitted by the Internal Revenue Service to "roll over" the decedent's retirement funds and continue the tax deferral. Thus, we recommend that, where applicable, retirement funds designate your spouse as primary beneficiary. You should consult with us in determining how to name your contingent beneficiary(-ies).