

Funding Your Trust

One of the main reasons you established a revocable living trust was to avoid probate. However, simply signing the trust is not enough. The trust only manages what it owns. ***Unless you properly fund your trust, probate will not be avoided.*** The following instructions will guide you as you transfer assets into your trust and avoid making this critical mistake. Please be aware you cannot fund your trust until it is signed.

1. What does it mean to “fund” the trust?

“Funding” the trust simply means transferring assets into the trust. Depending on the type of asset, this is generally accomplished in one of two ways: 1) changing ownership of the assets from your individual name(s) to the trust; or 2) naming the trust as the beneficiary on an asset so it will be directed to the trust upon your death.

2. Why is funding so important?

Your trust will only manage and distribute what it owns. Thus, only assets owned by the trust will avoid probate. Assets must be intentionally and methodically placed into the trust.

3. Is funding the trust difficult?

No, the funding process is not difficult. However, it will take some time. Don’t let procrastination get the best of you! The good news is that the time you spend now making sure your trust is properly funded will make it easier for your heirs upon your death.

4. What language should I use when funding the trust?

When naming the trust as the owner or beneficiary on an asset, use the following language: [First Trustee name] and [Second Trustee name – if joint] as trustee(s) of the [Name of Trust] dated [date trust was originally signed]. Be sure to consult the trust document to see exactly how the names of the trustees are listed, as well as the name of the trust. *Example: John A. Doe and Mary A. Doe as trustees of the John A. and Mary A. Doe Trust dated January 1, 2020.*

5. Should the trust be named as the primary or secondary beneficiary?

When naming the trust as a beneficiary on an asset, **married couples** should name their spouse as the primary beneficiary and the trust as the secondary/contingent beneficiary. **Single persons** should name the trust as the primary beneficiary.

6. What if I forget an asset?

You should have signed a pour-over will as part of your trust package. If an asset is forgotten, it will go through the probate process to be directed by your will into your trust. Remember, one of the main reasons to have a trust is to avoid probate, so you do not want to primarily rely on the pour-over will to fund your trust.

7. What is a Certificate of Trust?

In the funding process, a financial institution may ask to see proof of your trust. Usually they will accept a Certificate of Trust, which is a short synopsis of the trust, containing only the information that pertains to the financial institution while keeping other provisions private, such as the distribution of your estate.

8. What is the tax identification number of the trust?

Your social security number serves as the tax identification number for the trust during your lifetime. If you have a joint trust, use the social security number of the person listed first in the name of the trust. You will not need to file a separate tax return for the trust while either Settlor is still living.

Listed below are several common assets and how they are generally handled in the funding process. The list is not exhaustive. If you have questions, please contact FM Financial. Much of the work of funding your trust can be done with ease via email, telephone, or internet. You may also make a personal trip to your various financial institutions.

Bank Accounts

Change the ownership of savings and checking accounts to the trust. Your bank may have their own forms for you to complete, or may even have you close your current account and open a new trust account. This is fairly routine. You do NOT need to put the name of the trust on your checks, but you may. If your bank allows savings or checking account to have a POD (pay on death) or TOD (transfer on death) option, it is acceptable for you to name the trust as a beneficiary instead of changing the ownership (see #8 above).

Certificates of Deposit

Change the ownership of certificates of deposit to the trust. If a change in ownership is considered to be a premature surrender of the certificate with penalties, just wait until the certificate matures and change ownership at that time.

Safe Deposit Box

It is helpful to have your trust listed as the owner of the safe deposit box. This will allow your successor trustee to have access to the box when needed.

Securities

Publicly traded stocks, mutual funds, and brokerage accounts should be owned by the trust. If you do online trading through a personal account, there is likely a "change of ownership" form on the website. If you work through a broker, contact them for assistance. If you hold stocks in certificate form (including closely-held stock), please contact FM Financial for further helpful instructions.

Retirement Accounts

IMPORTANT NOTE: Retirement accounts must be handled with care when you have a trust due to tax issues. In some cases it is advantageous to name the trust as primary or contingent beneficiary. In other cases, it is a disadvantage to do so. **We highly recommend consulting with your financial adviser or income tax preparer to determine which is more advantageous in your specific situation.** FM Financial is available to be part of the conversation. In any case, you should NOT change the ownership of the account to your trust. This will incur a penalty.

If you and your professional advisers agree it is in your best interest to name the trust as a beneficiary on your retirement assets, the custodian of those assets will likely have their own form for you to use (see #5 above). If you choose to name a specific person(s) as the beneficiary rather than the trust, please keep in mind the provisions of the trust will not apply to these assets, including any children's trusts, special needs trusts, or charitable gifts based on a percentage of your trust assets.

Life Insurance

It is recommended that you change the beneficiary of life insurance policies to the trust (see #5 above). Ownership of the policy can remain as is.

Real Estate

Ownership of real estate will need to be changed to the trust by using a deed. It is strongly recommended that the deed be prepared by an attorney. The deed will need to be recorded with the county recorder where the property is located (in person or via mail). There may be additional forms to fill out for this transfer. Your property taxes should NOT be uncapped by this transfer. If you have a mortgage on the real estate, let the mortgage company know the property is now owned by your trust. This should not cause any problems. If you have title insurance or homeowner's insurance on the property, make sure the trust is listed as an insured party.

Savings Bonds

Most savings bonds are now owned electronically. Use your account through Treasury Direct to have these bonds reissued in the name of the trust. If you still own paper savings bonds, use form PDF 1851 (<https://treasurydirect.gov/sav1851.pdf>).

Tangible Personal Property

“Tangible personal property” is loosely defined as your household goods that are not specifically used in a business. Tangible personal property is usually assigned to the trust when it is created, often on an accompanying exhibit. If you have insurance on your household goods, particularly those of greater worth (jewelry, artwork, etc.) you should advise your insurance agent so the trust can be shown as an additional insured party.

Automobiles, Mobile Homes, Motor Homes, Boats, Etc.

In general, items for which you have a Certificate of Title should have the ownership changed to the trust. This can usually be accomplished with the state office that issues titles. They will likely have forms to be completed, and there will probably be a charge for the service. Be sure to inform your insurance carrier that ownership has been changed to the trust. An exception would be items that have depreciated greatly in value, such as an older car, boat, trailer, etc.) These can often pass to a spouse or heir quite easily outside of the probate process if they are of minimal value (the amount varies by state, so you will need to inquire as to your particular state limit).