

Funding Your Revocable Living Trust

Many people have established living trusts in an effort to avoid probate administration, reduce death taxes, or provide management of assets for minor children.



A great number of these trusts are completely unfunded. In other words, title to the person's assets has never been transferred into the name of the trust. In order to avoid probate, the assets must be in the trust (the trust must be the legal owner of the assets) at the time the estate owner dies. Individuals who have established living trusts should periodically check the title of their assets to verify that they are held in the trust name.

- Savings and loan and bank accounts can be easily changed into the trust name by the institution.
- Real estate is generally transferred into the trust name by having an attorney prepare a new deed.
- Promissory notes and deeds of trust can be assigned to the trust.
- Personal effects, furniture, furnishings, clothing, jewelry and items that have no certificate of ownership can be transferred with a deed of gift or assignment of personal property.
- A stockbroker can assist you in transferring your securities.
- Certificates of limited partnership should be examined for instructions and requirements for making the transfer.
- Closely held corporation stock must be changed into the trustee's name. If there is a buy-sell agreement, it must be reviewed for any prohibition against this type of transfer. Also, if the corporation is either an S corporation or a professional corporation, special rules must be followed.
- General partnership interests can be put into the trust if the partnership agreement permits such transfers.
- Sole proprietorships require a bill of sale or an assignment of interest, which includes the goodwill of the business.
- Life insurance proceeds made payable to the living trust will be managed for the benefit of your heirs along with the other assets in the trust until such time as they are to be distributed.
- Qualified plan benefits and IRAs should be paid to the surviving spouse, if living; otherwise they may be paid to the living trust. Retirement benefits paid to a living trust will be subject to faster payout requirements unless the trust is also qualified as a designated beneficiary trust.

Note: Check with an attorney concerning all transfers to your trust. The transfer of various assets after death with an affidavit may be permitted.