



A Professional Corporation

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### INSTRUCTIONS FOR TRANSFERRING ASSETS TO TRUST

While we are providing you with these instructions for your use in transferring assets into your trust if you so desire, it is our understanding that you are taking complete responsibility for the transfer of assets to the trust unless we agree otherwise in writing.

Name to be used when titling assets in the name of the Trust:

**John E. Doe Revocable Trust U/D/T dated January 1, 2022**

Do not be concerned if you run into situations where institutions do not use the exact verbiage that we have recommended in the title. We have found that brokerage firms commonly use the designation "U/A" representing "Under Agreement" rather than "U/D/T", representing "Under Document of Trust". This is simply a change in style and has no adverse consequence to you. However, if the designation that they insist on using does not seem to be within the general parameters of what has been recommended, our office should be contacted for appropriate advice.

The purpose of the material in this outline is to specify the methods by which assets should be transferred to a Revocable Living Trust. The material included will relate to the most common types of assets which are held in the name of the trust, or where the trust should be considered to be named as the Beneficiary.

It is recommended that this instructional material be maintained for the transfer of existing property and when acquiring new property to ensure that the assets are acquired in the name of the trust or are subsequently transferred thereto in accordance with this information.

Above all, if there are any issues that presently are unresolved, be sure and contact our office.

ASSETS:

A. Personal Residence

If the documents have not already been provided, a copy of all existing deeds or mortgages and a copy of a recent tax bill on your home should be sent to us to provide the needed information for preparation of appropriate transfer documents for your signature. We believe it best that the original documents are not mailed, but prefer a copy be provided.

If there is indebtedness on your residence, the transferring of the asset to the trust will not create acceleration payments to any lending institution or private individual. Acceleration on any outstanding indebtedness on your personal residence by virtue of a transfer to a Revocable Living Trust is prohibited under federal law.

The transfer of a residence to a revocable trust may affect any available property exemptions available, but the procedure is different in each county. We recommend that you call your county auditor to review the status of your property exemptions to make sure the transfer to your trust did not affect the use of these exemptions and to determine whether it is necessary to re-file the exemptions. Property held in trust may not qualify for the following deductions: age, blind, all veteran's deductions. Check with your county Auditor Exemption Department to see if the non-qualified deduction can be applied to your excise tax.

B. Other Real Estate

As with a residence, please send us a copy of the deed, mortgage, and a recent tax bill so that we can prepare the appropriate transfer documents for your signature. We believe it best that the original deed is not mailed.

Unlike a residence, with other real property which is encumbered by any indebtedness (such as a mortgage or deed of trust), it will be necessary to contact any financial institution holding either a mortgage or deed of trust to obtain written permission for the transfer from you as an individual to you as a trustee. Past experience has dictated that this is not a practical problem. However, failure to obtain that prior approval could result in an acceleration of payments.

Even if you decide not to fully fund your trust, if you own real property in other states we highly recommend the property be transferred to your trust to avoid multiple probate administrations.

C. Bank Accounts

To transfer savings and checking accounts in banks or savings and loan associations, simply show the individual handling the accounts your existing passbook document along with

our instructional letter providing the name of the trust. Typically, you will find that the task of transferring this asset to the trust is quite simple.

If you have any other investment vehicles at a financial institution, the procedure should be the same as above. However, you should be careful to ascertain from the institution that the change from you as an individual to you as a trustee will in no way adversely affect the interest being paid on the investment. On occasion, it has been found that such a change may create some form of penalty. If such is the case, we would recommend that you wait until the certificate matures and at that time change it to the name of the trust to insure that there is no financial loss.

D. Publicly Traded Investments (Stocks, Bonds, Mutual Funds, Exchange Funds, etc.)

It will be necessary to work through your contact with regard to these assets. This could be your stockbroker, financial planner, transfer agent, or other institution from which the asset was purchased. Each of them have different requirements to make the transfer and will provide you with the proper forms. Generally a change of ownership form is required, although some require that a new account be established. If you hold actual certificates of ownership, you will be required to turn those certificates in.

E. Privately Held Investments (Corporations, Partnerships, LLCs, etc.)

The transfer of privately held security instruments, such as stocks and bonds in a privately held corporation, or partnership or LLC interests, can be accomplished simply by having new certificates of ownership prepared in the name of the trust and surrendering the prior certificates. This does not require a permit from a state agency, nor does it have any type of adverse tax consequence. In the event that the secretary of the entity has any problems with this transfer, please have the individual contact our office.

Please note Section P below regarding the impact of Buy-Sell Agreements and Loan Agreements.

F. Automobiles and Other Vehicles

Automobiles can be transferred to the trust through the Department of Motor Vehicles. As with all activities at the DMV, your success will depend on the DMV employee you are working with.

In the event that you own a boat, airplane, mobile home or some type of other vehicle, the best course of action is to provide our office with a copy of the title document to ensure that the appropriate state office is contacted in changing the ownership name from its present form to the trust form. Depending on the type of the vehicle, the licensing and ownership documents may vary greatly.

G. Promissory Notes and Deeds of Trust

Where there is an asset interest in either a promissory note or some other type of debt instrument, you should send a photocopy of the debt instrument along with any security documents, such a deed of trust or a mortgage, to our office so that an appropriate transfer can be made with the documents normally required under state law. In the case where there is either a mortgage document or deed of trust, it may also require a filing with the county recorder.

H. Stock Options

Stock Options are contractual items which must be treated in accordance with the terms of the contract. If your company has a department which handles your options, they will likely be able to advise you on whether or not you can transfer the options to your trust and if doing so would have any consequences. If you do not have anyone to ask, or if you were not confident in their knowledge, please provide us with a copy of the option contract.

I. Oil, Gas, and Mineral Rights

Oil, gas and mineral rights are often the most troublesome of assets to transfer to a Revocable Living Trust. The reason for this is that, depending on the location or depending on how the assets came into existence, they may be treated either as an interest in real estate or an interest in personal property. Only through an examination of the documents of title is it possible to determine the exact method by which such right should be transferred to the trust. Accordingly, a copy of the document of title should be sent to our office for review and appropriate preparation of the necessary assignment document, which document would correctly reflect the jurisdiction in which the interest is located as well as the form in which it must take after it is determined whether the interest is in the form of real estate, in the form of personal property, or in a mixture of the two.

If the rights being transferred are a producing property, the operator should be provided with a copy of the conveying documents so future royalty payments can be made payable to the trust.

J. Personal Property and Collectibles

At any time, we can transfer all personal property including furniture, furnishings, and personal effects to your trust with a signed, notarized document. If your personal property has

significant value, this will be important to do. This will normally cover most assets of a personal nature. However, if there is within the family a collectible asset of significant value such as a coin collection, unusual art, and so forth, it may be appropriate to make a specific assignment to the trust. The issue is to make sure that there is clear identification of an asset that has unusual value. Therefore, it would be helpful that interests which you may have in collectibles are either described in detail in writing and/or a discussion be held with our office to ensure that a thorough analysis of what options are available so appropriate recommendations can be made.

K. Life Insurance

If you choose to name the trust as owner and/or beneficiary of existing or future life insurance policies, you will need to contact your insurance company or agent to ask for change of beneficiary and/or change of ownership forms. Unless we discussed a different designation, the ownership and beneficiary designation should read as noted on the first page of this memo. Please make sure that you name the trust as the appropriate beneficiary. Often, the trust is named the contingent or secondary beneficiary, rather than the primary beneficiary.

L. IRAs, Pension Plans, Other Qualified Plans

If you choose to name the trust the beneficiary of your retirement plan, you will need to contact your plan administrator for change of beneficiary forms. Unless we discussed a different designation, the beneficiary designation should read as noted on the first page of this memo. Please make sure that you name the trust as the appropriate beneficiary. Often, the trust is named the contingent, or secondary beneficiary, rather than the primary beneficiary.

M. Annuities

Like life insurance and qualified retirement plans, annuities are contractual payment arrangements. Contact your broker, financial planner, or other institution the annuity was purchased from for the transfer forms. The transfer of an annuity from your own name to your trust will not result in tax recognition, but you need to check to determine if transferring the annuity will result in any penalties or additional fees.

N. Miscellaneous Assets

Other assets may exist which should be transferred to the trust. In such a circumstance, if there is a document of title, it is recommended that the copy of the document of title be provided to our office so that a thorough analysis can be made. Please contact us regarding other assets.

OTHER INFORMATION:

O. Copies of the Trust

On occasion, an institution will request a copy of the Trust Agreement. If you do not mind them seeing the dispositive terms of the trust, and you trust their discretion, there should be no problem allowing them to make a copy. If you do not want to them to see the terms of the trust, they will typically accept a copy of the first page of the trust and the signature page. On occasion, they may request a certification of the trust. If this is requested, please contact our office for that certification.

P. Treatment of Debts

The only transfers which are to be made to the trust are interests which are owned in assets. Debt that has been incurred is not transferred to the trust, unless required by the lender.

Q. Outside Agreements

You need to be sure that the transfer of assets from your name into the trust's name will not violate any other agreements you have already entered into. The most common agreements to consider are:

1. Pledge or Security Agreements. If you have pledged any assets as security for any debt, make sure that the transfer of that property to the trust does not violate any terms of that agreement.

2. Buy-Sell Agreements. Buy-sell agreements (also called stock redemption agreements or cross purchase agreements) are typically entered into by the members of a closely held corporation or other entity to prevent the transfer of interests to outside parties. Many of these agreements specifically allow for transfers to your own revocable trust, however, most do not. Be sure to review your buy-sell agreement before making the transfer of the associated assets.

3. Pre-Nuptial Agreements. If you entered into a pre-nuptial or post-nuptial agreement, your ability to transfer assets may be restricted by that agreement.

4. Divorce or Separation Agreements. If you entered into a divorce or separation agreement, or if a court issued an order upon your divorce or separation, it may contain a limitation on your right to transfer certain assets.

5. Entity Creation Documents. Partnership Agreements, LLC Agreements, Articles of Incorporation, and By-Laws may all contain limitations on transfer much like the buy-sell agreement noted above.

6. Leases. If you are the lessee of any property, you will need to make sure that the transfer of assets to the trust will not violate the terms of the lease. For instance, a corporate lease for real property often contains a clause that the lease is violated if more than 50% of the corporate stock changes hands. Technically, the transfer to your revocable trust violates these provisions and you will need the lessor's permission for the transfer.

R. Community Property

If you moved into this state after living in a community property state, some of your property may be owned as community property, even though we do not live in a community property state. Prior to transferring any assets into the trust which might be community property, please contact us to determine the proper move.

S. Tax Status

Though the trust is a separate legal entity, it is a "grantor trust" and is completely ignored for income tax purposes. This means that the trust will hold accounts using your Social Security Number; it does not need a separate tax identification number. If any institution says you need a separate tax identification number, please show them this paragraph and ask them to contact us. The trust will not have to file a separate income tax return. Its earnings will be on your 1040. Transferring stock in an S-Corporation to the trust will not result in a termination of the S-Corporation status.

T. Insurance

If any of the above assets transferred are covered by insurance policies, you should contact your agent to notify them of the change and make sure that nothing will need to be changed with your policies.

U. Institutional Demands

On rare occasions, it has been found that some institutions, because of peculiarities in their charter documents, may require a minor modification in the Trust Agreement to accommodate their individual rules. If such is the case, please request that they give you and/or our office, in writing, the verbiage that they require. From that information, if the language is reasonable, an appropriate Amendment can be prepared to ensure that the asset can be transferred to the trust.