

Trust Funding Guide

Congratulations on Creating Your Trust!

You've taken an important step towards securing your financial future. Creating a Trust does not end when you sign the document. The next step is to transfer your assets to the Trust. The process of transferring assets to the Trust is known as funding the Trust. This guide will give you a brief overview of the process of funding your Trust. Here's a few things we'll cover in this guide:

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A few things to remember:

This guide is a helpful starting point for the basics of funding the Trust. It is not intended to cover every possible situation and it would be impossible to do so.

Your particular assets may have other requirements that this guide does not cover. For example, some partnerships require you to give notice to other partners before making any transfers. Such a requirement might apply only to your partnership and not to all partnerships, so it may not be mentioned in this guide.

Some of the details for funding your Trust may change over time. For example, if the Trustee changes, that would likely affect how you would title assets held in the Trust. This guide is intended to be a useful reference, but it is not legal advice and you may have specific issues not covered in this guide. You should consult an attorney if you have specific questions.

How to Title Assets

Funding the Trust means transferring assets to the Trustee of the Trust.

This is generally done by transferring assets to:

Trustee Name, as Trustee of the Trust Name

If you have multiple trustees, that would look like:

Trustee One Name and Trustee Two Name, as Trustees of the Trust Name

Taxpayer Identification Number

Your Trust is designed to be a “Grantor Trust,” which is essentially ignored for tax purposes. Assets held in a Grantor Trust are still treated like the trust creator owns them for tax purposes. That generally means there’s no difference in income tax reporting and everything is reported just as it was before the Grantor Trust was created.

A Grantor Trust uses the social security number of the trust creator as the taxpayer identification number for the Trust. For a joint Trust, either spouse’s social security number can be used (though it’s best to be consistent and always use the same number).

Personal Property and Assets without Deeds or Titles

Most assets do not have formal titles or deeds. This includes things like clothing, furniture, jewelry, electronics, etc. While there is no formal title, it is still important to transfer these assets to the Trust. This is usually easily done by signing a general transfer document stating that the property is now owned by the Trustee of the Trust. Just keep this document with the Trust records.

The transfer document should list the assets you are transferring to the Trust. It’s good to be specific, but you can use broad categories (“furniture,” “clothing,” and “jewelry”) without listing every item in those categories. If you have any assets that are specifically listed in the Trust (such as an item marked as a gift) or assets that are particularly valuable, it might be worth listing those items individually, rather than relying on a broad category.

Sample language for a bill of transfer document is included in the appendix of this document. You can adapt this language to fit your needs. Once the transfer document is signed, just keep it with the Trust records.

Bank Accounts and Other Financial Accounts

Most bank accounts and financial accounts can be transferred to your Trust. Each bank has its own process, so check with your bank for information on its policies. Here are the general steps:

1. Contact your bank to see what is required to transfer your accounts to the Trust. Your bank should provide any necessary forms.
2. Complete and return any forms to your bank. Some banks ask you to complete a “Certificate of Trust” form to provide some details about the Trust, but some banks require a complete copy of the Trust.

3. Have the bank change the title to the Trustee of the Trust, as described in the “How to Title Assets” section above. Most banks can change the ownership to the Trust and keep the same account numbers, but some banks may require new account numbers.

Real Estate

Transferring real estate to your Trust typically requires signing a deed to transfer your interest in the property to the Trust and then recording that deed with the county.

The process varies a little by state and each county can set its own requirements for how to format a deed, how to record a deed, and whether any other paperwork must be filed with the deed. Your county recorder should be able to provide more information on these requirements and can often provide a blank deed template. Most states recognize several types of deeds, but “Quit Claim Deeds” or “Trust Transfer Deeds” are most commonly used to transfer property to a trust.

Here are the general steps:

1. Check with your county recorder for any specific requirements for deeds. The county recorder should be able to detail any formatting requirements (or provide a template) and explain any other paperwork that may be required with a deed.
2. Complete the deed by listing the Trustee of the Trust, as described in the “How to Title Assets” section above, as the grantee (the person who receives the property). A copy of the prior deed may be helpful and may also be obtained from the county recorder.
3. Complete any other paperwork required for your county. Additional paperwork is often required to identify the beneficiary of the Trust. While you are living, you are the beneficiary of your Trust.
4. Record the deed and file any other paperwork with the county recorder. Deeds may be recorded in person at the county recorder’s office or by sending the original deed by mail. Your county recorder can provide more guidance.

A quick note about mortgages and deeds of trust:

Many mortgages and deeds of trust include a “due-on-sale” clause saying the entire balance is due immediately if the property is transferred. Federal and state laws say that these due-on-sale clauses are not triggered by the transfer of most residential real estate to most trusts.

This may also be relevant if you refinance your mortgage. Many lenders require you to take the property out of the Trust to refinance, but then allow you to put the property back in the Trust after the refinancing is complete. It’s an unnecessary complication, but something many lenders do require.

As always, there are some exceptions, so it’s a good idea to contact your lender before the transfer to request written confirmation that the transfer will not violate any terms of the mortgage or deed of trust.

A quick note about insurance policies

Most insurance policies related to real estate (fire, casualty, liability) automatically cover property transferred to a Trust. However, it's still a good idea to check with your insurers about your policies and see if any additional endorsements or updates are needed in connection with the transfer.

Business Interests

Business interests come in many forms and there's no single way to transfer a business interest to a Trust. The process can vary and the business records can specify a specific process or specific steps that are required. Checking the business records for any specific requirements is a great place to start.

Partnerships and LLCs

Transferring partnership or LLC interests can be relatively easy if there are no additional requirements in the business records.

1. Interests in partnerships and LLCs are typically transferred by signing an Assignment of Interest stating that you are transferring the interest to the Trust. Be sure to give a copy to the other partners or LLC members.
2. Check the partnership agreement or LLC operating agreement to see if there are any other restrictions or requirements for transfers.
3. Be sure the partnership or LLC updates its records to reflect the Trust as the new owner of the interest, as described in the "How to Title Assets" section above.

Corporations

For corporate stock, transfers are generally easy if there are no additional requirements or restrictions.

1. Check the corporate records to see if there are any restrictions or requirements for transfers.
2. Contact the Secretary of the corporation to update the ownership records and issue new stock certificates. The Secretary may ask you to complete an Assignment of Stock or complete some other paperwork.
3. Have the Secretary update ownership records and issue new stock certificates to reflect the Trust as the new owner of the interest, as described in the "How to Title Assets" section above.

Sole Proprietorships

For sole proprietorships, there is no separate legal entity to transfer to the corporation. A sole proprietorship is just you doing business on your own without a formal entity. Since there's no entity, there's nothing to transfer to the Trust. However, you may want to check that you have transferred any assets or equipment that you use for your business.

Life Insurance

It's generally not necessary to transfer the ownership of life insurance policies to a trust. Instead, the focus is more often on where the proceeds go (rather than who owns the policy).

Typically, life insurance policies let you designate where the proceeds go by completing a "Beneficiary Designation." You can have the proceeds go directly to someone (such as a spouse or child) or have the proceeds go to the Trust. One advantage of having the proceed paid to the Trust is the proceeds would be controlled by the terms of the Trust instead of paid out directly to the beneficiaries. This can be particularly beneficial if the beneficiaries are younger children.

The decision is yours, though one common approach is to name your spouse as the beneficiary and then name the Trust as the alternate beneficiary.

Each carrier has its own Beneficiary Designation forms, so you should contact your life insurance carrier for more information and request any forms required to update your beneficiary designation.

Retirement Plans

It's generally not necessary to transfer the ownership of a retirement plan to a trust. In fact, transferring ownership can have negative tax effects. Instead, the focus is more often on where the proceeds go.

Rather than changing the ownership of the retirement plan, you can typically designate a beneficiary to receive the proceeds at your death. As with life insurance, a common consideration is whether you want the proceeds paid directly or whether you want the proceeds to go to the Trust where you have more control on when and how the proceeds are distributed.

A common approach is to name your spouse as the primary beneficiary and then name the Trust as the alternate beneficiary. Your tax advisor should be able to help determine the best option for you and your particular tax circumstances.

Each plan administrator has its own Beneficiary Designation forms, so you should contact your plan administrator for more information and request any forms required to update your beneficiary designation.

Future Steps

Once your Trust is funded, you'll still need to keep this process in mind for any major asset changes. If you purchase a new house, you might be able to take the title directly in the name of the Trust, helping skip a few of the steps mentioned here. If you open a new bank account, you might be able to open it directly in the name of the Trust. Keeping this in mind helps make sure your Trust stays funded and that the terms of your Trust continue to apply to your assets.

It's a good idea to revisit your plan after any major life changes, such as births, deaths, or changes in marital status. Even if you haven't had any life changes, it's a good idea to revisit every few years to see if any updates are needed. You can always return to TrustandWill.com to check on your plan and see if any updates are needed. You can also reach out to us with any questions and we'll be glad to help.

Bill of Transfer

I YOUR NAME, transfer to TRUST NAME
as Trustee of the TRUST NAME, all of my interest in all of my assets,
including personal property, real property, cash or equivalents, financial assets, bank accounts, stocks,
bonds, securities, business interests, vehicles, jewelry, clothing, and equipment.

This includes all property of a personal, household, or recreational nature, including furniture and
furnishings, appliances and electronic equipment, musical instruments, china, silver, crystal, books,
papers, photographs, videos, digital copies of any media, artwork, private memberships, frequent flyer
miles and patronage benefit accounts, and any other tangible personal property, together with any
insurance on any personal property.

This does not apply to any interests in retirement plans or life insurance plans and does not apply to any
assets held outside of the United States.

Signature

Date