

THE C & D NEWSLETTER



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TRANSFERRING ASSETS TO YOUR TRUST

Most people are aware that one of the major benefits of establishing a trust is that a trust avoids the expense and delay of probate. Unfortunately, too many people establish a trust, and then defeat one of the major reasons for having the trust by failing to transfer all of their assets into the trust. Probate proceedings can only be avoided if all of the assets of the deceased have been placed in the trust.

For this reason, when meeting with your estate planning professional it is important to list all of your assets (both real property and personal property), and how title to such assets is held. Then, appropriate documentation to transfer the asset into the trust can be prepared.

- In order to transfer real property to a trust, the owner of record needs to record a quitclaim deed to the property to the trust. If title is held as community property, both spouses need to sign the quitclaim deed.

- In order to transfer ownership of a bank account to the trust, it is usually necessary to provide the bank with a copy of the trust, or a memorandum of trust so that the bank can verify the name of the trust, the name of the trustee, and that the trust has the capacity to own the bank account. As part of the transfer of ownership, new checks should be prepared for checking accounts and a new passbook for savings accounts, all in the name of the trust.

- To transfer ownership of shares of stock, it is necessary to return the original stock certificate to the company and have the company cancel the old stock certificate and issue a new one in the name of the trust.

Both Limited and General Partnership interests also need to be held in the name of the trust. In order to effectuate this transfer, an assignment of the partnership interest needs to be prepared, as well as an amendment to the partnership agreement prepared reflecting the change of ownership then documents need to be executed by the general partners.

After the trust is in existence, it is important to remember that all newly acquired assets are to be held in the name of the trust.

If all assets are properly transferred into trust, the trust document will determine the disposition of each asset, and probate will be avoided.

This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.