



MAZENKO LAW FIRM

Wills, Trusts, and Probate

We cannot overemphasize the importance of having a fully funded Revocable Living Trust. An unfunded or partially funded Revocable Living Trust does not avoid probate. These instructions will provide you with general guidance for you to fund your Revocable Living Trust. We cannot fund your Trust for you, you must do so yourself.

FUNDING INSTRUCTIONS FOR A REVOCABLE LIVING TRUST

To fund a trust with most assets, you can simply change the beneficiary of the asset to name your Revocable Living Trust (“RLT”) as the beneficiary of the account. For some accounts, you will name individual beneficiaries. For other accounts, you will name your RLT as the beneficiary or you will make ownership changes to change the title from your name as an individual to your name as a Trustee of your RLT.

Your financial advisor, accountant, broker, or life insurance agent may need to help you make ownership or beneficiary changes. You should consult with your tax professional regarding any tax implications for changes you make to your assets.

These instructions will give you general knowledge of how to fund your trust, but they cannot comprehensively address every type of transfer. Please email Attorney Mazenko any specific questions you have regarding funding your RLT.

Using a Certificate of Trust to Fund a Revocable Living Trust

Your estate plan includes a “Certificate of Trust”. Some institutions have their own certification forms for you to fill out. If the institution you are dealing with does not have a form, provide them with a copy of your Certification of Trust form. Your Certification of Trust provides only the information that the persons you deal with the need to see *without* disclosing confidential details.

Your Tax Identification Number

As long as you are acting as Trustee of your RLT, you will use your SSN# for your RLT. You do not need obtain a separate tax identification number for your RLT or to file a separate trust tax return.

How to Fund a Revocable Living Trust with Investment Accounts

If you hold publicly traded stocks and bonds already in brokerage or investment accounts, contact your brokers or custodians and direct them to change the title of the accounts to the name of your trust. If the institution makes it too difficult to retitle your accounts, you can name your RLT as the beneficiary of the account as an alternative.

How to Fund a Revocable Living Trust with Stocks and Bonds Not Held in Investment Accounts

If you possess original stock or bond certificates, there are two ways to transfer the certificates to your trust. First, you can open a brokerage or investment account in the name of your Trust and deposit your original certificates in the account. You may later have your broker deliver the certificates to you made out in the name of the trust if you wish. Your future account statements titled in the name of your RLT will prove your ownership of the transferred stock or bonds. Secondly, you can work directly with the transfer agent for the stock or bond and direct the agent to reissue your stock with your RLT named as the new owner.

Funding your Revocable Living Trust with Stock Options

Transferring or assigning stock options requires a careful analysis of the tax and legal issues. We recommend you ask your tax professional and your stock plan administrator about your choices in assigning your interests to your RLT.

Funding your Revocable Living Trust with Retirement Plans

The general rule is that you should never transfer the ownership of a qualified retirement or pension plan or individual retirement account to your RLT. Instead, if you have pre-retirement death benefits under such a plan, generally, we recommend you choose from among your spouse, children, or partner as primary and contingent beneficiaries. You have many tradeoffs to consider in naming your beneficiaries—tradeoffs that affect your required minimum distributions and the taxation of your benefits after your death. Please feel free to reach out to your tax professional to discuss the issues and solutions for designating your retirement plan beneficiaries to best match your unique goals.

How to Fund a Revocable Living Trust with Life Insurance Policies and Annuities

If you decide to name your RLT as the beneficiary of a policy, here are several points you should consider. Your policy beneficiary designation, not your Will and RLT, controls the disposition of the policy benefits. If you have minor children, or disabled beneficiaries, consider designating your RLT as the beneficiary of your life insurance policies so the policy proceeds will be governed by the RLT. To do so, we recommend you advise your insurance agent you want your RLT to be the beneficiary of the policy. Your agent will make the change for you or provide you with the beneficiary designation form for you to complete. Be sure to obtain a letter from your insurance company confirming the change of beneficiaries in your insurance policy or annuity records. Keep that letter with your estate planning documents.

Fund a Revocable Living Trust with Mortgage, Notes, and Other Receivables

If you loaned money to anyone, you should assign your interest as lender to your RLT by a written document and notify your debtor of the assignment. Work with a business attorney to prepare assignment documents for each interest.

Funding your Revocable Living Trust with Partnership Interest

If there are no restrictions in your general partnership agreement, your interest in the general partnership should be transferred through a written assignment of interest signed by you and acknowledged by your partners. Work with a business attorney to prepare partnership assignment documents.

Fund a Revocable Living Trust with Corporate Business or Professional Interests

If your business is a corporation, you must cancel shares held in your name and reissue them in your name as the Trustee of your RLT. If your business is a limited liability company, have your business attorney draft assignment documents to assign your interest to your RLT.

Funding your Revocable Living Trust with Sole Proprietorship Business Interests

A sole proprietorship is a business entity owned by one person and not registered with the secretary of state. Ownership of a sole proprietorship can be transferred to a RLT with a written assignment of interest. Have your business attorney prepare those documents for you.

Fund a Revocable Living Trust with Oil, Gas, and Mineral Interests

The method of transferring interests in oil, minerals, and gas depends on whether you own or lease the interests. Generally, if you own the interests, record a deed that titles your interests to your RLT. If your interest is a lease, assign your rights as a lessee to your RLT by a written assignment. Have your business attorney prepare those documents for you.

How to Fund a Trust with Real Estate

Transferring your real property to your trust will require attention to ownership and tax issues based on the nature of the current title to the property. Ultimately, the transfer will require preparing, executing, and recording new deeds for each property. This should be done through a real estate attorney licensed to practice law in each state where you own real property. Attorney Mazenko can only prepare deeds for real property owned in the state of Florida.