



Irrevocable Life Insurance Trust Checklist

Transferring an Existing Policy or Purchasing a New Policy

The following checklist is intended to help understand the steps used when the insured transfers an existing policy into the trust or the trustee of the trust applies for a new policy.

STEPS	ACTION REQUIRED	PARTY TO COMPLETE	TRANSFERRING EXISTING POLICY	PURCHASING NEW POLICY
1	Consider submission of a medical inquiry application (do not collect premium) prior to setting up the trust to verify insurability.	Financial professional		●
2	Select a trustee.	Insured	●	●
3	Draft and execute trust and retain signed originals in file.	Attorney, insured and trustee	●	●
4	Using IRS Form SS-4, obtain a federal tax identification number for the trust.	Attorney	●	●
5	Open a non-interest bearing bank account in the name of: "(Name of trustee), for the name of trust) dated (Date of trust)."	Trustee	●	●
6	Gift cash to trust.	Insured	●	●
7	Send written notice (Crummey Notice) to beneficiaries regarding withdrawal powers, if applicable.	Trustee	●	●
8	After receiving carrier offer, submit formal application with owner and beneficiary names as "(Name of trustee), trustee for the (Name of trust) dated (Date of trust)."	Trustee		●
9	Where transferring an existing policy, obtain valuation from insurance company (for a gift this would be IRS Form 712) for each policy transferred. Give to attorney.	Financial professional	●	
10	Transfer existing policy to trust with new owner and beneficiary as "(Name of trustee), trustee for the (Name of trust) dated (Date of trust)". Copies of the trust and insurance policy should be retained by trustee. Change address for premium notification to trustee's address.	Insured, Financial professional and attorney	●	
11	Annually, pay premium and send written notice to beneficiaries regarding withdrawal powers, if applicable.	Trustee	●	●



Medical Inquiry

Where a trust has not yet been established it is possible to begin the medical underwriting process with the insurance carrier by submitting what is often referred to as a “trial application.” The purpose is to verify insurability. Premium should not be collected at this point. Since premiums are not collected the insured will not have coverage, but this is necessary to avoid estate inclusion.

Draft Trust Agreement

Trusts are complex legal documents which must be drafted by an attorney.

Trustee Selection

Care should be taken when selecting a trustee. Factors to consider include:

- The trustee may be an individual or a corporation authorized to exercise trust powers (such as a bank or trust company).
- The insurance company will usually not permit the insurance producer be the trustee.
- The insured must not be the trustee if the objective is to avoid having the life insurance included in the insured’s estate.
- Neither insureds should be the trustee if the policy is a second-to-die contract. A spouse of an insured may be a trustee on an individual life policy.
- The trustee and the personal representative of the estate should not be the same person because conflicts may arise upon death.

Special efforts should be made to make sure the trustee is aware of the Crummey withdrawal requirements and that they are aware of their fiduciary responsibilities.

Some of the responsibilities of the trustee regarding the insurance policies in the trust include:

- Notifying the beneficiaries of the contributions (“Crummey” withdrawal notices), if applicable
- Paying the premiums
- Managing and accounting for trust funds
- Periodic review of insurance policies

Acquire Trust’s Federal Tax Identification Number

The attorney or trustee may obtain the federal employer identification number for the trust by filing Form SS-4.

The insurance company will usually want the federal tax identification number assigned to the trust. The trustee should use the number in opening any trust bank account. The trustee should use this number on any required fiduciary income tax return for the trust for any year.

Establish Trust Bank Account

The trustees must open a bank account in the name of the trust. Normally, the account should be non-interest bearing without charges (so that a trust tax return is not required).

The account should contain enough funds to permit the account to remain open (without excessive bank charges) between premium due dates.

Formal Policy Application

The trustee, not the insured, should apply for the policy. ***The trustee of the trust should be listed as the owner and beneficiary of the policy.*** If there are multiple trustees, all trustees must sign the application unless terms of the trust agreement or state law specifies otherwise.

If the insured applies for the policy and later gifts it to the trust, the death proceeds will be included in his/her estate if he/she dies within three years of the transfer.

Many insurance companies will require the trustee sign a trustee statement or provide a copy of the executed trust agreement. The trust federal tax identification number should be used when completing the tax certification portion of the application.

All premium notices and other correspondence relating to the policy should be sent to the trustee of the trust.



Transfer of an Existing Policy

Your licensed financial professional will have forms that the insured can use to transfer ownership of the policy to the trust.

Before making the transfer, it should be determined whether the transfer will have any gift tax consequences. The attorney will need to know the value of the policy and the history of the insured's prior taxable gifts (if any) to determine the gift tax consequences. Your licensed financial professional can obtain the policy value from the service office of the insurance company.

If the transfer of the policy to the trust is structured as a gift, the insured must live three years after the date of the transfer to prevent the policy from being included in the insured's taxable estate.

Gifts to the Trust

The grantor(s) should gift cash to the trust to allow the trustee to pay the policy premiums and administrative costs.

The gift to the trust should be by check payable to the trustee and should be made far enough in advance of the premium due date to enable notice to the beneficiaries.

If the spouse is a beneficiary of the trust (single life policies only), then each gift to the trust must come from an account that is in the insured's name, not an account held jointly with the spouse. If the spouse is a beneficiary, the spouse should not make a gift to the trust. In community property states, the grantor should gift cash that is his/her separate property to the trust.

Gift Tax Return: An annual gift tax return (Form 709) must be filed for each year in which the following occurs:

- Annual gifts to the trust are not covered by withdrawal rights of beneficiaries (i.e., the gifts exceed such rights).

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- The insured's gifts, when aggregated with other gifts from the insured to the same beneficiaries during the calendar year, exceed the annual gift tax exclusion, (\$15,000 per donor in 2020, indexed).
- The insured and his/her spouse are electing to "split gifts" for gift tax purposes, thereby increasing the amount that can be gifted to the trust without gift tax consequences.

If a gift tax return is required, it must be filed by April 15 of the following year.

Crummey Withdrawal Notices

For each cash contribution to the trust the ***beneficiaries must be notified of their right to withdraw the cash contribution when the objective is to have the gift qualify for the gift tax annual exclusion.*** The trustee should send out written notices to the beneficiaries (or their guardians) apprising them of their withdrawal rights.

- Regular written notices should be given to the beneficiaries.
- Notices should be sent in duplicate. The beneficiaries or their guardians should sign both copies, keep one and return the other to the trustee.
- The trustee should keep records of all notices to substantiate that they were given.

Although it is highly unlikely, if a beneficiary exercises a withdrawal right, the trustee must distribute an amount from the trust equal to the amount properly demanded.

Trustee's Payment of Premium

The trustee should pay premiums due on policies owned by the trust from the trust bank account. ***Premium payments made from gifted funds should normally not be made before the expiration of the beneficiaries' Crummey withdrawal period.*** However, if any trust-owned policies are being paid by the client's employer on a group term policy, those premiums may be paid directly to the insurance company.