



LOUISIANA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF MOTOR VEHICLES

Section: IV Motor Vehicle Registration Requirements **Effective:** 05/01/1986
Number: 100.00 **Revised:** 08/26/1996

TRANSACTIONS INVOLVING TRUSTS

POLICY:

*From time to time, the Department will be called upon to register a motor vehicle in the name of a Titling, Vehicle, Origination or Living Trust. See attached titling trust diagram. Occasionally the department will be called upon to title or register a vehicle after transfer from a trust to another individual, corporation, or other legal entity.

*Vehicles that are titled in the name of a "Titling, Origination or Vehicle Trust" must present a separate lease exemption certificate for each trust in order to qualify for tax exemption. See Section IV, Policy/Procedure Statement 49.1.

To have a basic understanding of the trust transaction, it is necessary to define a few terms as follows:

1. A "trust" is defined by R.S. 9:1731 as follows: "... the relationship resulting from the transfer of title to property to a person to be administered by him as a fiduciary for the benefit of another."
2. "Settlor" - this is a person (or persons) who creates a trust. Cf. R.S. 9:1761.
3. "Trustee" - this is the person who administers the day to day activities of the trust, and who must sign for transfers of property to and from the trust once created. Cf. R.S. 9:1781.

When presented with papers indicating the transfer of a motor vehicle to or from a trust, two essential questions must be decided by the Office of Motor Vehicles:

1. Is the documentation sufficient to show a transfer of ownership from a legal entity to the trust or from the trust to a legal entity if appropriate? (A legal entity is a natural person, corporation, partnership, trust, etc.)
2. Is the transfer taxable?

DOCUMENTS NECESSARY TO SHOW TRANSFER OF OWNERSHIP

1. Trust must be presented to the Office of Motor Vehicles for review and verification of facts. MVO will notate on the DPSMV 1799 that trust was verified and the date of the trust. Original document will then be returned to the applicant.
2. The DPSMV 1799 must be properly filled out showing the name of the trust, type of trust, and must be signed by the trustee on behalf of the trust when a vehicle is transferred into the name of a trust. On those plates that may be transferred, the transfer fee will be collected. Non-transferable plates, such as automobile plates, must be issued a new plate with appropriate fees charged. See Section IV, Policy/Procedure Statement #38.0 for further instructions.
3. The title must be properly signed over from the previous registered owner of the trust.
4. The written instrument indicating transfer of ownership to or from the trust must be presented, whether or not it is in the trust document. The instrument is to specifically describe, in detail, the vehicle that is the subject of the transfer.
5. If the transfer of vehicle to or from the trust purports is a donation, it must be in proper form and notarized. Donations to pre-existing trusts are valid only if a notarized affidavit indicates the

trustee's acceptance in writing. Cf. R.S. 9:1932. The donee's acceptance need be in no particular form as long as it is in writing and signed by the trustee, showing acceptance on behalf of the trust, as long as it is clear what property is being donated.

Testamentary trust (created by will) and effective only upon the death of the testator (will maker) should be handled under Section IV, Policy/Procedure Statement #18.0 with regard to successions and heirships, with the understanding that the testamentary trust must be disclosed in the form of a certified copy from the court after probate or with proper court authorization as appropriate, and with the trustee signing on behalf of the trust, any forms required.

TAX CONSEQUENCES OF THE TRANSFER

The transfer is sales taxable, based on the fair market value of the motor vehicle, unless:

1. it can be established that the alleged taxable transfer is in fact a donation, in which case no tax is owing; OR
2. the transfer is in fact in the nature of an exchange (swap for equivalent value).

If the transaction cannot be proven to be a donation or exchange (keeping in mind that proof must be in writing and by the appropriate form as described above with regard to donations), the transfer will be conclusively presumed to be a taxable transfer.

TITLING TRUST DIAGRAM

| | | | | |
|-------------|---|--|---------|--------------------------------|
| | | | Dealers | |
| | | | | Leases and Leased Vehicles (1) |
| Beneficiary | 100% Beneficial Interest of Titling Trust Assests (2) | | Trustee | |

(1) The Titling Trust will be the legal owner of the Leased Vehicle and the Leases.

(2) Evidences right to receive proceeds from the Leased Vehicles and Leases but does not represent an ownership interest in the Leased Vehicles and Leases.