

WHEN TO USE THIS FORM

Use this form to request the non taxable transfer of part or all of your IRA to an IRA for your ex-spouse pursuant to a divorce or separation agreement.

Do not use this form to transfer assets from an IRA at another custodian to your IRA with Liberty Trust Company, Ltd. Use the Transfer Request form instead.

NO LEGAL OR TAX ADVICE

LIBERTY TRUST COMPANY, LTD. ("LTC") DOES NOT GIVE LEGAL OR TAX ADVICE. THE INFORMATION PROVIDED HEREIN IS FOR INFORMATION PURPOSES ONLY. NOTHING HEREIN SHOULD BE CONSTRUED AS, OR INTERPRETED TO BE, TAX OR LEGAL ADVICE. YOU SHOULD SEEK LEGAL AND/OR TAX ADVICE FROM COMPETENT LEGAL COUNSEL AND/OR A TAX PROFESSIONAL REGARDING ANY INFORMATION PROVIDED HEREIN.

INFORMATION ABOUT A TRANSFER INCIDENT TO DIVORCE

In general, any distribution from an IRA is taxable, that is, it must be included in the individual's gross income in accordance Section 72 of the Internal Revenue Code. However, Internal Revenue Code §408(d)(6), Transfer of Account Incident to Divorce, permits one spouse to transfer some or all of his/her IRA to an IRA of his/her spouse or former spouse under a divorce or separation instrument described in Internal Revenue Code §71(b)(2)(A), which defines a "divorce or separation instrument as "a decree of divorce or separate maintenance or written instrument incident to such decree." If the transfer is made in accordance with Internal Revenue Code §408(d)(6), the transfer is not taxable to either spouse or former spouse.

Who is taxed under a Transfer Incident to Divorce? Is it the Account Owner or the awarded spouse or former spouse?

Under a properly executed Transfer Incident to Divorce, neither the Account Owner nor the awarded spouse or former spouse is taxed.

What are the consequences of doing a transfer from the Account Owner's IRA to the former spouse's IRA if the decree does not order the Transfer?

- ◆ The "transfer" would be a distribution to the Account Owner
- ◆ The Account Owner (not the former spouse) would be taxed on the distribution
- ◆ The "transfer" to the former spouse's IRA would be treated as a contribution to his or her IRA and would be an excess contribution to the extent it exceeded the allowable annual contribution limit and would be subject to the 6% excise tax until it was removed from the IRA.

Our divorce decree stipulates that one half of my IRA is to be transferred to my former spouse's IRA in accordance with IRC 408(d)(6), but my former spouse does not have an IRA and does not want to establish one. If I request a distribution from my IRA and endorse the check over to him or her, is that the same as a Transfer Incident to Divorce? If not, how is it different?

No, it is not the same. A Transfer Incident to Divorce must be done by a Trustee-to-Trustee (or Custodian to Custodian) transfer directly from your IRA to your former spouse's IRA.

If a distribution were made to you and you endorse the check over to your spouse or former spouse,

- ◆ The distribution would be taxable to you (not your spouse)
- ◆ Your spouse or former spouse would not be able to roll the amount distributed to his or her own IRA.

Why can't I just have a distribution made to my spouse or former spouse?

If a distribution were made to your spouse from your IRA,

- ◆ The distribution would be taxable to you (not your spouse)
- ◆ Your spouse or former spouse would not be able to roll the amount distributed to his or her own IRA.

What information must I provide LTC in order to do a Transfer Incident to Divorce?

- ◆ A completed REQUEST FOR TRANSFER INCIDENT TO DIVORCE form
 - The REQUEST FOR TRANSFER INCIDENT TO DIVORCE must be signed by both the Account Owner and the awarded spouse or former spouse
 - The signatures must each bear a Notary or other signature guarantee.
 - The amounts of the assets and cash being transferred should reflect adjustments for investment earnings from the effective date of the split to actual date of transfer. **LTC WILL NOT PERFORM THIS CALCULATION.**
- ◆ A certified copy of the divorce decree ordering the Transfer Incident to Divorce. The decree must
 - Bear an original court certification indicating that the copy is authentic and that the decree is the final decree
 - Clearly state that a transfer is to be made from the Account Owner's IRA to an IRA for the awarded spouse or former spouse.
 - Clearly identify the Account Owner and Account number of the IRA from which the transfer is to be made
 - Clearly identify the assets and amount of cash that are to be transferred. If assets are being transferred in-kind, the number of shares or units must be clearly stated. If assets are being split as of a certain effective date, the decree must specify how investment earnings are to be calculated on the assets to be transferred.
- ◆ If the transfer is to be made to an IRA with LTC and the awarded spouse does not already have an IRA with LTC, he/she will need to complete an Account Application, Fee Agreement and pay all associated fees. A copy of a government issued photo ID should be included with application paperwork.
- ◆ If the transfer is to be made to an IRA with another custodian, LTC will need a transfer request form and letter of acceptance from the other custodian clearly stating that the former spouse has an IRA with the other custodian and that other custodian understands that this is a Transfer Incident to Divorce and that the other custodian will accept the transfer.

(LIBERTY TRUST COMPANY ACCOUNT NUMBER)

FOR PROCESSING, RETURN TO: IPS ♦ 8226 Douglas Avenue ♦ Suite 520 ♦ Dallas, Texas 75225-5927 ♦ 800-473-1977 ♦ 855-739-1987 FAX

1	ACCOUNT OWNER INFORMATION																		
Type of Account: <input type="checkbox"/> Traditional <input type="checkbox"/> Roth <input type="checkbox"/> SEP <input type="checkbox"/> Simple		Soc. Sec. Number:																	
Legal Name:		Daytime Phone:																	
Date of Birth:		Email Address:																	
2	AWARDED SPOUSE INFORMATION																		
Legal Name of Awarded Spouse:		Soc. Sec. Number of Awarded Spouse:																	
Date of Birth of Awarded Spouse::		Daytime Phone:																	
3	INSTRUCTIONS FOR TRANSFER TO AWARDED SPOUSE'S IRA																		
<p>A. <input type="checkbox"/> Transfer to an IRA with Liberty Trust Company, Ltd.</p> <p style="margin-left: 20px;"><input type="checkbox"/> This is an existing IRA of the awarded spouse. Account Number _____</p> <p style="margin-left: 20px;"><input type="checkbox"/> This is a new IRA of the awarded spouse.</p> <p style="margin-left: 40px;">(The awarded spouse must complete an Account Application & Fee Agreement.)</p> <p>B. <input type="checkbox"/> Transfer to an IRA with another custodian or trustee</p> <p style="margin-left: 20px;">The Awarded Spouse must provide Liberty Trust Company with a signed transfer request and letter of acceptance from the other custodian.</p> <p style="margin-left: 20px;">Name of other custodian: _____</p> <p style="margin-left: 20px;">Account Number at other Custodian: _____</p>																			
4	MANNER OF TRANSFER																		
<p>Make the transfer from my account in the following manner:</p> <p><input type="checkbox"/> \$ _____ from the cash in my account</p> <p><input type="checkbox"/> The assets listed below as an in-kind transfer</p>																			
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;"><u>Asset Name (to be transferred In-Kind)</u></th> <th style="width: 10%;"><u>Units</u></th> <th style="width: 15%;"><u>Unit Price</u></th> <th style="width: 25%;"><u>Market Value</u></th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td><td> </td></tr> </tbody> </table>				<u>Asset Name (to be transferred In-Kind)</u>	<u>Units</u>	<u>Unit Price</u>	<u>Market Value</u>												
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<p>Fees will be paid by: <input type="checkbox"/> Account Owner <input type="checkbox"/> Awarded Spouse <input type="checkbox"/> Split between both accounts</p>																			

4 MANNER OF TRANSFER (CONTINUED)

IMPORTANT INFORMATION REGARDING IN-KIND TRANSFERS: Please be aware that an in-kind transfer may take longer to complete than a cash transfer. If an in-kind transfer is being made, you will need to identify the assets to be transferred above. Additional forms will be required to transfer ownership to your spouse or former from the IRA. We (Liberty Trust Company) will charge a re-registration fee for the in-kind transfer. In addition, there may be fees charged by third parties, such as the investment sponsor, escrow agent or transfer agent.

5 SIGNATURE OF ACCOUNT OWNER

I acknowledge that I understand the rules and conditions regarding a Transfer Incident to Divorce and I certify that the transfer of assets listed above qualifies as a Transfer Incident to Divorce. I acknowledge that neither IRA Plus Southwest, LLC nor Liberty Trust Company, Ltd. has provided me with legal or tax advice and that I have not relied on any information provided by IRA Plus Southwest, LLC or Liberty Trust Company, Ltd. in my decision to authorize this Transfer. I further acknowledge that I have I consulted with legal counsel and/or my tax advisor with regard to this Transfer. I further agree and acknowledge that I am solely responsible for complying with the divorce decree and for determining the proper shares/units of assets and cash to be transferred from my IRA and for any consequences resulting from this Transfer, including taxes and penalties owed and I agree to indemnify and hold Liberty Trust Company, Ltd. and IRA Plus Southwest, LLC harmless from any resulting liabilities.

I HEREBY AUTHORIZE Liberty Trust Company, Ltd. to deliver my cash and/or assets as noted above.

Notary or other Signature Guarantee

Signature: **X** _____

Date: **X** _____

6 SIGNATURE OF AWARDED SPOUSE

I acknowledge that I understand the rules and conditions regarding a Transfer Incident to Divorce and I certify that the transfer of assets listed above qualifies as a Transfer Incident to Divorce. I acknowledge that neither IRA Plus Southwest, LLC nor Liberty Trust Company, Ltd. has provided me with legal or tax advice and that I have not relied on any information provided by IRA Plus Southwest, LLC or Liberty Trust Company, Ltd. in my decision to authorize this Transfer. I further acknowledge that I have I consulted with legal counsel and/or my tax advisor with regard to this Transfer. I further agree and acknowledge that I am solely responsible for complying with the divorce decree and for determining the proper shares/units of assets and cash to be transferred to my IRA and for any consequences resulting from this Transfer, including taxes and penalties owed and I agree to indemnify and hold Liberty Trust Company, Ltd. and IRA Plus Southwest, LLC harmless from any resulting liabilities.

I HEREBY AGREE that the transfer of the cash and/or assets is in accordance with the divorce decree and agree to the transfer of the cash and/or assets as noted above.

Notary or other Signature Guarantee

Signature: **X** _____

Date: **X** _____