
TRUSTS – STEP BY STEP

When analyzing a trust document, using process of elimination may help.

1. Did the applicant reserve a life estate (or have a life estate reserved for them by someone else) on the deed when the property was transferred to the trust?
 - Yes, stop here. The applicant meets the ownership requirement for the exemption program and you do not need to go any further.
 - No, go to step 2.
2. Is the trust revocable?
 - Yes, go to Step 3.
 - No, go to Step 4.
3. Revocable - Is the applicant the “settlor” or “creator” of the trust?
 - Yes, go to Step 5.
 - No, stop here because the applicant does not qualify.
4. Irrevocable – Is the applicant the “settlor” or “creator” of the trust?
 - Yes, go to Step 5.
 - No, go to Step 6.
5. Revocable or Irrevocable - has the applicant granted to himself/herself a beneficiary interest in the residence that lasts for at least his/her lifetime?
 - Yes, the applicant meets the ownership qualification.
 - No, the applicant does not qualify.
6. Irrevocable – Is the applicant the beneficiary and has the applicant been granted the beneficial interest in the principal residence portion of the trust for at least his/her lifetime?
 - Yes, the ownership requirement is met.
 - No, the applicant does not meet the ownership requirement.

There will still be times when you find it difficult to determine whether there is a “beneficial interest in the residence” and whether that interest lasts for at least the period of the applicant’s lifetime.

Remember, if you have trouble making a determination, you have resources. You can contact your county legal resources or you can ask for help from the Department of Revenue. Following are some examples of actual trust language that may help.

IMPORTANT: Usually, trusts are not recorded and your records reflect ownership by the trust – or by the trustee/agent on behalf of the trust. That means that you should keep a copy of the appropriate pages from the trust in your files to show why you granted an exemption to someone who is not reflected as the property owner on your records.