B. JOFFRION CONSULTING, LLC
BUSINESS STRUCTURING & TAX COUNSEL

Transferring Real Estate into Your Company

Recording the deed takes an afternoon. The mortgage, the title policy, the tax bill, and the insurance each have their own opinion about it.

You formed a company to hold your rental. The property is still in your name. Everyone agrees the deed should change, and the deed is the easy part. What trips people up is everything attached to the property that was written with you, personally, as the owner: the loan, the title insurance, the homeowner's policy, the property tax exemption, the leases.

A transfer is finished when the deed, the money, the insurance, and the leases all name the company.

What the Transfer Gets You

Liability containment. A tenant injured on the property generally has a claim against the company that owns it, not against your house, your savings, or your other properties. That protection depends on you treating the company as separate: its own bank account, its own leases, its own insurance.

Clean records. Rent and expenses run through one account, which makes the books, the tax return, and an eventual sale simpler.

It does not protect you from your own negligence, from a loan you personally guaranteed, or from your personal creditors reaching your ownership of the company.

Before You Sign the Deed

The company should exist and be in good standing in its formation state, and registered in the state where the property sits if that is a different state. An out-of-state company that owns rental property usually has to register there.

Check with me or a CPA before transferring. The tax section below explains why. Some transfers are tax-neutral. Some are not, and a few cannot be undone cheaply.

The Deed

Retitle with a quitclaim deed. I recommend a $10 quitclaim deed from deedsonly.com. The $10 is the nominal consideration recited on the deed, not what the service costs. Give them the company's name exactly as it appears on the state record.

A quitclaim conveys whatever interest you have, with no warranty of title. Between you and your own company, that is usually fine. It is also why the title insurance question below matters.

Record the deed in the county where the property sits. Some counties require a transfer declaration or tax form with it.

The Mortgage

Most residential mortgages contain a due-on-sale clause: transfer the property without the lender's consent, and the lender may demand the full balance.

- **The federal exception does not cover LLCs.** The Garn-St Germain Act bars lenders from enforcing due-on-sale clauses for certain transfers of residential property with fewer than five units, including a transfer into a revocable trust where the borrower remains a beneficiary and occupant. A transfer to an LLC or a corporation is not on that list.
- **Lenders often do not call the loan, but they can.** As long as payments arrive on time, many lenders never act. That is a lender's choice, not your right, and it tends to change when interest rates rise.
- **Ask first, in writing.** Some lenders will consent to a transfer to a borrower-owned company, sometimes with you remaining personally liable. If the lender says no, the choices are to refinance into the company's name, usually on commercial terms, or to leave the property in your name for now and rely on insurance.

Title Insurance

Your owner's title policy insured you. Whether it continues to protect your company after a transfer depends on the policy form and the relationship between you and the company. The standard owner's policy forms in use since 2006 generally continue coverage for a grantee that the named insured wholly owns, and the 2021 form extends that to affiliated entities. Older forms may not, some policies are modified by state rules or endorsements, and coverage can still turn on the details of the transfer. Call the title insurer that issued your owner's policy before you record the deed and ask whether coverage continues, whether an endorsement is available, or whether the company needs a new policy.

Transfer Taxes, Fees, and Reassessment

- **Transfer taxes and documentary fees vary by state and county.** Some charge nothing. Some charge a percentage of the value, or of the debt the property carries. Many exempt a transfer to an entity you wholly own, but the exemption usually has to be claimed on the deed or an accompanying form.
- **Property tax reassessment.** In some states, a change in ownership resets the assessed value to current market value. Some of those states exclude transfers where your proportional ownership stays the same, but only if the exclusion is claimed correctly. Check the county assessor's rules before you record.
- **Homestead exemption.** If you live in the property, a homestead exemption or a residential tax rate may depend on an individual owning it. Moving it into a company can end both.

Insurance

Make the company the named insured on the property policy. A policy that names you, insuring a property the company owns, invites a dispute over who had an insurable interest when a claim comes in.

If the property is a rental, confirm the policy is a landlord or dwelling-fire policy, not a homeowner's policy. Ask whether you can be added to the company's liability coverage, and consider an umbrella policy sized to the risk. Insurance pays claims. The company only limits where they land.

Leases and Rent

- **Assign existing leases to the company** and notify tenants in writing of the new landlord and where to pay.
- **Sign new leases in the company's name,** by you as its authorized signer, stating your capacity.
- **Rent goes into the company's account.** Property expenses come out of it. Security deposits move to the company and are held as your state's law requires.
- **Update utilities, the HOA, the property manager, and the tax bill address.**

Privacy

The deed is a public record. Anyone can see that you transferred the property to the company, and the prior deed with your name stays on file. If you guarantee a loan for the company, that connects you as well. A company can keep your name off future records; it cannot erase the chain of title.

The Tax Side

- **Into a single-member LLC.** If you are the only owner and the LLC is disregarded for tax purposes, the transfer is generally not a taxable event. For income tax purposes you still own the property: same basis, same depreciation schedule, same return.
- **Into a company with more than one owner.** Contributing property to an LLC taxed as a partnership is usually tax-free when made, but debt on the property, contributions by co-owners, and later distributions can create taxable income. Get it reviewed before the deed is signed.
- **A former or current residence.** The exclusion of gain on the sale of a home (up to $250,000, or $500,000 for married couples filing jointly) turns on ownership and use. A single-member disregarded LLC generally does not disturb it. A transfer to a multi-member LLC or a corporation can. If the property was ever your home, check before transferring.
- **Into a corporation.** See the next section.

What about a Corporation?

Transferring real estate into a corporation is easy to do and hard to undo. Getting appreciated property back out of a corporation is generally a taxable event, whether the corporation is an S corporation or a C corporation. In a C corporation, rental income and any gain on sale are taxed at the corporate level and again when paid out to you. For those reasons, real estate is generally held outside a C corporation, often in an LLC, and leased to the operating business if the business uses it. If your property is already inside a corporation, do not move it out before reviewing the tax cost.

When to Wait

If the lender will not consent and refinancing makes no sense, if the transfer would trigger reassessment or a large transfer tax, or if the property is your home and the exemptions matter more than the liability exposure, the right answer may be to leave title where it is for now. Carry strong liability coverage, including an umbrella, and revisit when the loan is refinanced or paid off.

Checklist

- Company formed, in good standing, and registered in the property's state.
- Tax effect checked with me or a CPA.
- Lender's written position on the transfer.
- Title insurer's answer on continuing coverage.
- Transfer tax, reassessment, and homestead rules checked.
- Quitclaim deed signed and recorded, with any required exemption claimed.
- Insurance in the company's name.
- Leases assigned, tenants notified, rent going to the company's account.

Related reading at bjoffrionconsult.com/blog: "Can you move a mortgaged property into your LLC?" and "Selling a home your LLC owns: does the exclusion survive?"

If You Want This Answered for Your Property

Titling Assets into an Entity — from $400. Written, step-by-step instructions for moving the property into your company in the right order: deed, lender, title insurer, insurance, leases, and accounts.

Real Estate Holding Structure Review — from $1,200. Whether your properties belong in one company, several, or none, how each should be taxed, and what the structure does and does not protect against.

The fee for a consultation is credited in full toward any written work you commission within 30 days.

Full service list and current pricing: www.bjoffrionconsult.com/services

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