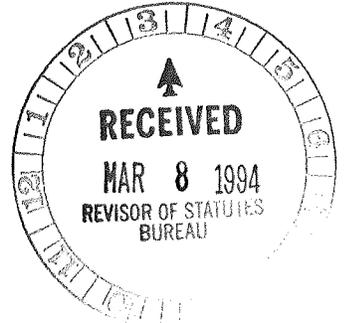


CR 93-213

CERTIFICATE

STATE OF WISCONSIN)
) ss.
DEPARTMENT OF TRANSPORTATION)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, CHARLES H. THOMPSON, Secretary of the Wisconsin Department of Transportation and custodian of the official records, do hereby certify that the rule, relating to **registration and titling of vehicles held by trusts**, was duly approved and adopted by this Department on March 8, 1994.

I further certify that this copy has been compared by me with the original on file in this Department and that the same is a true copy thereof, and of the whole of such original.



IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Transportation at 4802 Sheboygan Avenue, in the City of Madison, Wisconsin, this 8 day of **March**, 1994.

Charles H. Thompson
CHARLES H. THOMPSON
Secretary

IN THE MATTER OF an Order Adopting Rule **CREATING** ch. Trans 157 of the Wisconsin Administrative Code, relating to the registration and titling of vehicles held by trusts.

ORDER ADOPTING RULE

Analysis Prepared by the Wisconsin Department of Transportation

STATUTORY AUTHORITY: s. 85.16(1), Stats.

STATUTE INTERPRETED: ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15, and 342.18, Stats.

General Summary of Rule. This rule is to more clearly define the procedures for recording ownership of vehicles in the name of a trust. Current law and administrative rules do not adequately address the legal intricacies of motor vehicle transactions involving trusts. The rise in use of living and other trusts as testamentary devices has led to increased demand on the Department to process motor vehicle transactions involving trusts. This rule outlines streamlined procedures for processing trust transactions which will improve service to DMV trust customers and permit the Department to accommodate the increased demand for trust transaction processing without the need for additional staff.

Under the rule, trusts are treated as vehicle owners similar to a corporation or partnership vehicle owner. Vehicles are retitled when transferred to the trust. As the beneficiaries change over the life of the trust, the changes in beneficiaries are not treated as changes in ownership. Thus, retitling the vehicle will not be required as beneficiaries change.

The rule allows the Department to decrease its workload and to reduce the paperwork required of the trustee. Rather than the Department reviewing the trust device for each transaction, the rule allows trustees to verify the pertinent facts regarding the trust. Title is issued to the trustee upon presentation of the required transfer documents. Trust customers may transfer their vehicles with the proper application at their local Motor Vehicle Service Center immediately rather than waiting the several weeks required for central office processing.

The rule provides for the payment of the standard title fee for each transaction and for the standard registration fee with each transfer as well as a sales or use tax when applicable.

Fiscal Estimate. The Department has already experienced an increase in the number of title applications involving a trust as the owner of a vehicle and anticipates additional increases in trust transactions, as living trusts continue to be popular estate planning mechanisms. This rule will simplify the processing by the Department of trust applications and reduce backlogs within the Department. This rule will have no adverse fiscal effect on state or local governments.

Final Regulatory Flexibility Analysis. This rule will not adversely affect small businesses.

Copies of Rule. Copies of this rule are available without cost upon request from the Wisconsin Department of Transportation, Vehicle Records Section, P.O. Box 7911, 4802 Sheboygan Avenue, Room 233, Madison, Wisconsin, 53707-7911, telephone (608) 266-7059; or from the Office of General Counsel, P.O. Box 7910, Madison, Wisconsin 53707-7910, telephone (608) 266-8810.

Contact Person. Persons having questions about the rule may write or call Karen A. Baker, Wisconsin Department of Transportation, Vehicle Records Section, P.O. 7911, Madison, Wisconsin, 53707-7911, telephone (608) 266-7059. Legal questions may be addressed to John Sobotik, Assistant General Counsel, Wisconsin Department of Transportation, Office of General Counsel, P.O. Box 7910, Madison, Wisconsin 53707-7910, telephone (608) 266-8810.

TEXT OF RULE

Under the authority vested in the state of Wisconsin, department of transportation, by s. 85.16(1), Stats., the department of transportation hereby creates a rule interpreting ss. 340.01(42), 341.08, 341.10, 342.05, 342.06, 342.09, 342.10, 342.11, 342.15, and 342.18, Stats., relating to the titling of vehicles in the name of a trust.

SECTION 1. Chapter Trans 157 is created to read:

TITLING OF VEHICLES HELD BY TRUSTS

TRANS 157.01 PURPOSE AND SCOPE. The purpose of this chapter is to define the procedures for recording transfers of motor vehicles involving trusts.

TRANS 157.02 DEFINITIONS. The words and phrases defined in ss. 340.01 and 341.01, Stats., have the same meaning in this chapter unless a different definition is specifically provided. In this chapter:

- (1) "Beneficiary" means a person who has a beneficial interest in a trust.
- (2) "Letters of trust" means the written instrument which describes the trust property, the trustee and the beneficiary.

(3) "Person" has the same meaning as described in s. 990.04(26), Stats.

(4) "Principal trustee" means the trustee whose name or address was provided to the department by a trust for the purpose of conducting communications with the department.

(5) "Property" means an interest in real or personal property.

(6) "Settlor" means a person who directly or indirectly creates a living or testamentary trust or adds property to an existing trust.

(7) "Trust" means an express living or testamentary, private or charitable trust in property which arises as a result of a manifestation of intention to create it.

(8) "Trustee" means a person holding in trust title to or holding in trust a power over property. "Trustee" includes an original, added or successor trustee.

TRANS 157.03 TRUSTS MAY REGISTER AND OBTAIN TITLE TO VEHICLES.

(1) The department may, upon proper application, title or register a vehicle in the name of a trust.

(2) The department may truncate or abbreviate the name of the trust as shown on the vehicle title and department's registration records in order to meet the requirements of the department's computer database of vehicle records.

Note: The current database restricts names to 60 alpha-numeric characters or less.

TRANS 157.04 TRANSFER OF OWNERSHIP. (1) The transfer of a vehicle to or from a trust is a transfer of ownership requiring an application for vehicle title.

NOTE: s. 342.15(1)(a), Stats.

(2) A change of trustee or beneficiary of a trust is not a transfer of ownership of any motor vehicles which are property of the trust.

(3) Upon a change of the principal trustee's name or address, the principal trustee shall notify the department of the address change within 10 days as required by s. 341.335 (1), Stats.

TRANS 157.05 APPLICATION FOR CERTIFICATE OF TITLE FOR TRUST.

(1) An application for a certificate of title for a vehicle being transferred to or from a trust shall be made on forms specified by the department, shall include all information required by s. 342.06(1), Stats., and shall include a trustee's affidavit for certificate of title.

NOTE: Forms MV1, Application for Title/Registration, Odometer Disclosure Statement, and MV2790, Trustee's Affidavit for Certificate Title, can be ordered from Document Sales, 202 S. Thornton Ave., Madison, WI 53704 or (608) 266-3358 or obtained at a motor vehicle services center. In cases involving the sale of titled vehicles, the Odometer Disclosure Statement on the reverse side of the certificate of title should be used.

(2) A trustee's affidavit for certificate of title shall contain the following information:

(a) A description of the vehicle including the vehicle identification number, year, make, model body style, vehicle type and gross weight.

(b) The name of the trust.

(c) The trust's federal tax identification number, if any.

(d) The name of the settlor of the trust.

(e) An indication of whether the trust was created by letters of trust, a will, or some other device.

(f) The date the trust was created.

(g) The names and addresses of all trustees, and a designation of one trustee as the principal trustee.

(h) An affirmation that:

1. The trust is valid and in existence.

2. The trustee signing the form is a duly appointed trustee of the trust.

3. The trustee has authority to buy, sell and register motor vehicles which are the property of the trust.

4. The trustee's actions with respect to the transactions are for the benefit of the beneficiaries of the trust.

5. The trustee understands the penalties for providing false information on an application for certificate of title.

(i) The signatures of all trustees required by the trust to transfer ownership of the vehicle witnessed by a department employe or duly notarized.

(END OF RULE TEXT)

Effective Date: This rule shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2)(intro.), Stats.

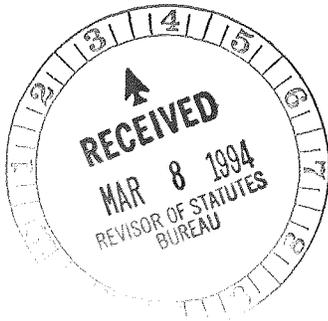
Signed at Madison, Wisconsin this 8 day of March, 1994.

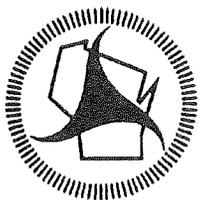
Charles H. Thompson

Charles H. Thompson

Secretary

Wisconsin Department of Transportation





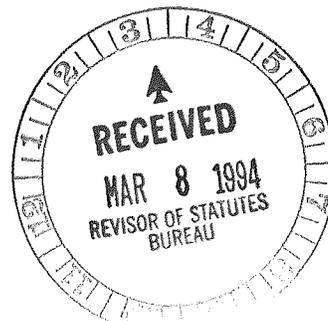
Wisconsin Department of Transportation

Tommy G. Thompson
Governor

Charles H. Thompson
Secretary

OFFICE OF GENERAL COUNSEL
P. O. Box 7910
Madison, WI 53707-7910

March 8, 1994



Mr. Gary Poulson
Deputy Revisor of Statutes
131 West Wilson Street, Suite 800
Madison, Wisconsin 53703

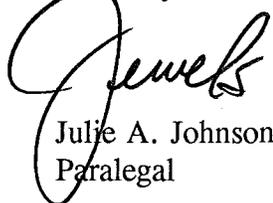
RE: **CLEARINGHOUSE RULE 93-213**

In the Matter of the Adoption of **TRANS 157**, Wisconsin Administrative Code, relating to the **registration and titling of vehicles held by trusts.**

Dear Mr. Poulson:

Enclosed for filing, pursuant to s. 227.20, Wis. Stats., is a certified copy of **CR 93-213**, an administrative rule relating to the above-mentioned matter. This rule is submitted by the Wisconsin Department of Transportation.

Sincerely,


Julie A. Johnson
Paralegal

Enclosures

cc: Tom Walker
Dorothy Kapke
Jim McDonnell
Roger Cross
Karen Baker