

Properly fund your living trust to shield assets from probate

May 24, 2016

Many people set up a revocable, or “living,” trust to shield assets from probate and take advantage of other benefits (such as privacy and confidentiality). For the trust to work, you must transfer assets to it that would otherwise go through probate — a process known as “funding” the trust. Most people fund their trusts around the time they sign the trust documents.

Once your estate plan is complete, however, it’s easy to overlook the need to transfer later-acquired assets to your trust. If you don’t transfer them, those assets may be subject to probate and will be outside the trust’s control.

How to transfer assets

Procedures for transferring assets to a trust vary depending on the asset type:

- To transfer real estate, you must execute and record a deed conveying title to the trust.
- Transferring bank and brokerage accounts typically involves providing forms or letters of instruction to the institution holding the accounts.
- Interests in closely held businesses usually require a simple assignment or stock power.
- Tangible personal property may require an assignment or bill of sale.

Assets that shouldn’t be transferred

Be aware that certain assets *shouldn’t* be transferred to a living trust, such as IRAs and qualified retirement plan accounts. These are “nonprobate” assets, so avoiding probate isn’t an issue, and transferring them to a trust is considered a taxable withdrawal.

Instead, you can name an individual as beneficiary. Or, if you don’t want an individual to have complete control over the account, you can name a trust as beneficiary.

Reap the full benefits

Avoiding probate is an important estate planning objective for many taxpayers because, in certain states, probate can be costly and time consuming, and its public nature raises privacy concerns. A living trust can also be used to manage your assets if you become incapacitated.

To ensure that your living trust is properly funded so you can reap the full benefits, contact us any time you acquire a major asset.

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