

Planning Ahead



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Estate Planning – Is Your Trust Funded?

One of the biggest mistakes people make with a Trust is failing to fund it. Your Trust is intended to do (at least) two things: carry out your wishes in case of incapacity or death and avoid probate after you die. But avoiding probate only happens when all your assets are held in the name of the Trust. “Funding” a Trust refers to the transfer of assets to the Trust. When all your assets are in the name of the Trust, the Trust is “funded”.

When your Trust is first set up, the estate planning attorney will likely make sure there is a deed recorded to transfer your home to the Trust. The attorney will also instruct you on transferring your bank and investment accounts to the Trust, something you can do yourself without incurring extra legal fees. But initial best of intentions often turns into procrastination and years can go by without you ever getting around to it. If a death occurs, the accounts outside the Trust might be subject to probate or other court involvement, defeating one of the primary goals of the Trust.

Or over the years, assets may change and you may not be thinking about your Trust when you buy a new home or open a new account. Escrow may be closing and in a rush you take title in your own name. Again if a death occurs, the new home or account may be subject to probate or the court, even though you have a well-drafted Trust intended to avoid probate.

Now is a good time to make a list of all your assets to be sure your accounts, investments, business interests and real property are all held in the name of the Trust. If an account is not in the name of the Trust (check to see how the account statement is addressed), you should request the necessary forms - many are easily available online. If your home or other real estate is not in the name of the Trust (check the Deed), call your estate planning attorney to prepare the necessary Trust transfer Deed.

When you’ve verified that your Trust is funded, you can rest easy knowing it will work as you intended.

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