THE LAW OFFICE OF MATTHEW J. TULLER

Family Legacy Protection Planner

HOW TO AVOID SENDING YOUR ASSETS AND LOVED ONES INTO PROBATE COURT

Over the years, we've discovered that many people make a BIG mistake, catapulting their assets and loved ones right into the court system. Most of our clients want to avoid probate because it has a reputation for being expensive, time consuming, stressful - and public, meaning anyone anywhere can see who got what and how to contact them. Beneficiaries may become victims to nosey neighbors, predators, and unscrupulous "charities."

Q: What's the one mistake that causes all these problems?

A: An unfunded trust.

In this issue you will learn:

- What it means to fund your trust
- What happens to assets left out of your trust
- Which assets should, and should not, be funded into your trust
- How funding your trust will ensure your final wishes are carried out and save your loved ones valuable time, money, and the frustration of going to court – while preserving privacy

What Does it Mean to Fund Your Trust?

Funding a trust is simply the process of transferring assets from your name into the name of your trust. Often, beneficiary designations are changed to your trust as well.

Funding is accomplished in three ways:

1. Changing the title of the asset from your individual name (or joint names if you're married) to the name of your trust – for example, from Jane Smith to Jane Smith, Trustee of the Jane Smith Living Trust dated January 1, 2016.
2. Assigning your interest in an asset without a title (such as artwork, jewelry, collectibles or antiques) to your trust.

3. Changing the primary or contingent beneficiary of the asset to your trust. Think life insurance, retirement accounts, and annuities.

Planning Tip: Put together a list of your assets, their values, and locations, then start funding the most valuable ones and work your way down. Keep plugging away until your trust is fully funded. Our office can help.

What Happens to Assets Left Out of Your Trust?

For many people, avoiding probate court is a main reason they set up a revocable living trust in the first place. Unfortunately, you are not “done” when the trust documents are signed. If you don’t take the next step to fund, probate court is guaranteed.

WARNING: If your trust is left unfunded, you will send your family and assets into probate court.

Which Assets Should, and Should Not, Be Funded Into Your Trust?

In general, you will probably want to fund the following assets into your trust:

- Real estate – homes, rental properties, vacant land and timeshares
- Bank and credit union accounts – checking, savings, CDs
- Safe deposit boxes
- Investment accounts – brokerage, agency, custody
- Notes payable to you
- Life insurance – if you don’t have an irrevocable life insurance trust
- Business interests
- Intellectual property
- Oil and gas interests
- Personal effects – artwork, jewelry, collectibles, antiques

On the other hand, you will probably not want to fund the following assets into your trust:

- IRAs and other tax-deferred retirement accounts – only the beneficiary should be changed
- Incentive stock options and Section 1244 stock
- Interests in professional corporations
- Foreign assets – in some countries funding an asset into a U.S.- based trust causes adverse tax consequences, while in other countries trusts aren’t recognized or are ignored due to forced heirship laws
- UTMA and UGMA accounts – your minor grandchild is the owner, not you as the custodian; instead, name a successor custodian
- Cars, trucks, boats, motorcycles and scooters – most states allow a small amount of assets, including vehicles, to pass outside of probate, in others, a beneficiary can be designated for vehicles, and in others, vehicles don’t have to go through probate at all

Planning Tip: Work closely with your estate planning attorney to determine what should go into your trust and what should stay out. Our office can help.

What Are the Benefits of Trust Funding?

Funding your trust makes it possible to obtain trust benefits:

- Your trust is easy to update.
- Your trustee, instead of a judge, will take control of your trust assets if you become incapacitated or die.
- Your trustee will have direct access to your trust assets without a court order.
- Your trustee will be empowered to pay bills and manage, invest, sell, and reinvest your trust assets without court intervention.
- Your private wishes will remain private instead of being publicized.
- Settlement time, costs, and frustration are reduced.

The Bottom Line on Trust Funding

A trust has a myriad of benefits, including probate avoidance. Yet, in the end, an unfunded trust doesn't avoid probate.

ACT NOW: Call our office now and we'll help you make sure your assets are owned properly and that your trust is up to date.

ENSURE YOUR FAMILY IS PROTECTED

If you want to ensure that your family is protected, please schedule your complimentary Estate Planning Strategy Call with San Francisco's premier estate planning attorney, Matthew J. Tuller.

LEARN MORE

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With an emphasis on developing and maintaining relationships with our clients and allied professionals, our firm collaboratively provides comprehensive estate planning and administration solutions to every client. Our firm provides the full spectrum of estate planning solutions. This includes creating and implementing a comprehensive estate plan, maintaining that plan through life, and administering the plan in the most effective and efficient manner.