

Trust Funding

Trust funding? What the heck does that mean?

You paid good money to have a trust created for you. You keep your trust binder in a safe, but accessible location. Your beneficiaries and decision makers are aware that you have a trust and where the documents are kept. The next issue is to ensure that you have re-titled all of your accounts and other assets into the Trust.

Most trusts have a “schedule” at the end. The schedule supposedly lists all of your “trust assets.” For married couples, many trusts have one schedule for joint or community property and then a schedule for the sole and separate property of each spouse. The schedule is a great way to keep track of your assets; however, simply listing the assets on the schedule is not enough to avoid probate.

While probate is not the dirty word many think it is, part of the reason to have a trust is to avoid a legal process when you pass away.

How do you avoid probate with a trust? You MUST re-title your accounts. Take your binder (or trust document or trust certificate) to each financial institution where you have an account. They will re-title your accounts. There is no need to get new checks or change account number—therefore you do not need to change any direct deposits or direct withdrawals. If you own any real property, including time shares, you will need to have a new deed recorded in the appropriate county. You can do this through an attorney or, sometimes, through a title company.

As for other assets, each asset is treated differently. For example, accounts such as life insurance, retirement accounts and annuities please ensure that you have the appropriate beneficiary listed. Typically, your spouse will be the primary beneficiary and the trust will be

the contingent beneficiary. Talk to your financial advisor and CPA about any tax consequences of having your trust as a beneficiary.

Some people have mineral rights or installment notes (where someone pays you money each month). For those types of assets, typically you will need to sign an “Assignment” document. That document “transfers” the rights to payment from you individually, to you as Trustee of your Trust.

It is very frustrating for your beneficiaries and/or Trustee to know that a trust was created and then find out that you did not “fund the trust.” The attorney rarely takes care of all of these details. Additionally, the attorney will not know any assets you acquired after you signed your trust.

The best example I can come up with is that the attorney builds the house and the client needs to turn on the electricity and ensure the furniture is moved.

Make the most of your trust. Review it annually, make sure your decision makers know where to find it and FUND YOUR TRUST!

If you would like more information, please call us at 480-348-1590.

The Law Office of Emily B. Kile, P.C. provides services related to: Estate/Trust Settlement, Medicaid and Long Term Care planning, conservatorships and guardianships.

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