You had your estate planning attorney prepare a revocable living trust document. You've told your family about the trust and made sure your alternate trustee understands how it works. Now you can relax knowing your loved ones won't need to deal with probate, right?

Wrong.

If you don't take the right steps to fund your trust, your assets will still become part of your estate when you pass away. That means someone will still need to open probate and deal with the whole expensive, time-consuming process. Your trust will not have served your intended purpose. So don't forget to fund your trust!

How a Living Trust Works

Your living trust is an entity you created to own your property. One way to think of it is like an empty bucket. You serve as trustee and enjoy the benefits as the beneficiary, so during your lifetime, your trust does not seem to have much of an impact on your ability to control your assets.

But it is important to realize that most of your property does not automatically jump into the trust. It was created as an empty bucket and you need to fill it. You have to take steps to transfer ownership of certain assets into the trust. Otherwise many of those assets will just become part of your estate. The goal is to make sure that your assets either transfer automatically or that they are part of the trust so there is nothing left to form an estate.

Transferring Assets to the Trust

You should discuss with your attorney which assets should be transferred to the trust and how to best accomplish the task. To transfer real estate, you will need to re-title it in the name of the trust with the help of a lawyer. If the property is mortgaged, you may need to check with your lender first, but the fact that the trust is revocable usually assuages any concerns on their part.

You will also need to change the titles to add your vehicles to the trust. Don't forget recreational vehicles like campers, boats, and even golf carts.

The trust document will generally cover personal property such as furniture and jewelry. But to change ownership of accounts, you will need to correspond with the bank or company that manages the account.

Some Assets Will Stay Out of Your Trust

You may choose to transfer some assets to beneficiaries in other ways. For instance, investment accounts usually provide beneficiary provisions where you can name the individuals who should receive proceeds when you pass away. You can create a payable-on-death provision for many bank accounts.

Certain assets should never be a part of your living trust. Transferring funds in a retirement account, for instance, would be considered a withdrawal that triggers tax liability. Health savings accounts cannot be legally transferred to a living trust, although you could make the account a beneficiary.

Talk to Your Attorney About a Plan for Funding Your Trust

Setting up a revocable living trust is a critical step toward developing a solid estate plan. But don’t forget to take the step that comes after. Your legal advisor can help you determine which assets to transfer and assist with the process.

To discuss a revocable living trust with the team at the Nordhaus Firm, contact us today.