If you have created a revocable living trust to avoid probate or you are considering establishing a special needs trust or other type of trust, you may have heard that it is important to “fund” your trust. This is indeed an important task and it can involve some complex steps that may require assistance from financial and legal professionals.

However, while the action of “funding” something can sound intimidating when estate planning attorneys talk about funding a trust, all they really mean is that you need to transfer property into the trust appropriately. What is considered appropriate will depend on the type of trust and your particular situation.

Consider the Purpose of the Trust

A trust starts out as an empty virtual container. Trusts are created to hold property, but until you take steps to move property into a trust, your trust remains empty. Before you start transferring property into your trust, you should have an idea of what should be going in, and what should be staying out.

To know what property you need to transfer into the trust, you should first consider the purpose of your trust. If you created a revocable living trust so that property could pass to your loved ones without being subject to probate requirements, then you need to transfer all property that would otherwise become part of a probatable estate. Transferring all of those specific assets would accomplish the purpose of your trust. If you leave something out, then that asset might need to be probated, which creates extra work for your loved ones.

Funding goals might be very different for other types of trusts. If you created a trust to provide for the future care of a loved one with special needs, a grandchild’s educational expenses, or even the care of a pet, then you need to transfer enough assets into the trust so that there will be resources available to pay expenses when the time comes. Figuring out what to transfer into the trust and when will require some personalized calculations with your legal and financial professionals.

Funding a Trust with Real Estate or Vehicles

If you want to place real estate into your trust, you need to take formal legal steps to create a new deed. The property must be titled in the name of the trust, and you cannot change a deed—you must create a new one. An attorney can manage this for you and ensure that the deed is properly recorded.

To transfer a car, truck, boat, or any vehicle with a title into your trust, you will need to obtain a new title. The trust should be listed as the owner.

Funding a Trust with Accounts

Certain accounts, such as individual retirement accounts and tax-deferred plans, should not be moved into a trust because that can trigger tax penalties. Other accounts can be moved into the trust by changing the name on the account. Each financial institution has their own method for handling this type of transfer. In some cases, however, rather than moving property in an account into your trust, it is better to establish a beneficiary clause and allow the property to pass directly to loved ones through the financial institution.

Moving Your Personal Property into the Trust

If you established a revocable living trust for probate avoidance, at or soon after the time the trust document is created, you can create a document assigning your personal property into the trust. Your attorney might include broad terms in the trust document that assign your property such as furniture and jewelry into the trust, or you might create a separate list to ensure that items of value are not overlooked and that everyone understands that those items are intended to pass through the trust.

Irrevocable Trusts Might Have a Look-Back Period

If you are moving property into an irrevocable trust for a particular purpose, such as to establish eligibility for Medicaid long-term care benefits, it is important to

consider the look-back period, which is often five years. That means that for five years after you make the transfer, that property is still considered to belong to you instead of the trust. It is important to plan ahead and move assets into this type of trust long before you expect to need to rely on the benefits of the trust.

The Nordhaus Firm Can Advise You on Funding Your Trust

At the Nordhaus Firm, we know that creating a trust is only the first step toward enjoying the advantages your trust can provide. We can work with you to ensure that your trust is fully funded to meet all of your objectives. To talk to us about funding or any aspect of a trust, schedule a consultation today.