

Fund Your Trust! By Gary Case

It's hard to open this or any other newspaper without finding an advertisement for estate planning, especially wills and living trusts. A living trust can be a very useful estate planning tool, especially when property is owned in more than one state, where multiple probate proceedings would be required to settle an estate. Often, living trusts are recommended "to avoid probate," thus creating the assumption that probate is something to be avoided (not always necessary or desirable). Properly administered, a living trust will help avoid probate, a procedure that can expose estate assets to public scrutiny.

Living trust documents are constantly presented to me in the financial planning process. When I see the trust documents, my first question is, "Is your trust funded?" or, "Have you transferred ownership of your assets into the trust?" All too often, I get a quizzical look as the answer to my question.

Far too often, clients are sold a set of trust documents, usually for a substantial amount of money, and, as soon as the trust documents are signed, the seller disappears and is never heard from again. Once in a while, I see a letter instructing the trust owner to transfer property to their trust, and sometimes forms are provided for the trust owner to use in funding their trust. However, in by far the majority of cases, the trust owner either does not understand the importance of funding their trust, or they are overwhelmed by the perceived scope of the task, and simply do nothing. This is expensive, unnecessary, and tragic, and most of the blame goes to those who prepare the documents, not the buyers!

A partial list of assets that could (and in most cases, probably should) be transferred to a living trust are:

- Principal Residence
- Investment Accounts [not your 401(k) or IRA, but non qualified money]
- Checking and Savings accounts
- Vehicles
- Ownership of business entities (S-corps, LLCs, etc.)

With some work, you can fund your trust yourself, but you'll need to ask questions of your mortgage company, the county clerk of courts, your bank, your broker, etc. Alternatively, you may want to enlist the services of a professional—an attorney or financial planner—with experience in funding trusts to assist you. In any event, if you have a living trust, and want it to help you, fund it!

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