

Be the Hero: How to Help Your Clients Avoid Probate

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Your clients likely set up a living trust with the goal of avoiding probate. When properly prepared and funded, a trust-based estate plan will avoid the public, costly, and time-consuming probate court process. Shockingly, many people still make a big mistake, catapulting their assets and loved ones right into the oft dreaded probate court system. That mistake? **They fail to fund their trust.**

How Do Financial Advisors Benefit from Helping Clients Fund Their Trusts?

Collaborating with clients and their estate planning attorneys in the funding process will benefit both you and your clients:

- You will likely discover assets not yet under management that the client can consolidate with your firm - prior employer 401ks, scattered IRAs or investment accounts, or individual stocks or savings bonds that can be cashed in and invested.
- You will likely find product opportunities - life insurance needs (new policies, 1035 exchanges); annuities that can be cashed in or converted; large cash balances in bank accounts that can be invested with your firm.
- Your clients will gain peace of mind because their estate plan will actually work.
- Your clients will value your hands on, professional approach and be inclined to refer family and friends.
- Your clients' children or other beneficiaries will appreciate the smooth transition of ownership after their loved one's death and be inclined to leave the assets with you.

Know that you can call our office at any time to ask a funding question; and, in this issue, you'll learn how to be the hero to two, or even three, generations by helping to ensure your client's trust is funded properly.

What Does it Mean to "Fund a Trust"?

Funding a trust is simply the process of transferring assets from the client's name into the name of the client's trust. Most beneficiary designations are changed to the trust as well.

Planning Tip: Be well versed in your company's trust funding process so that you can work quickly to help clients transfer their accounts with you into their trusts. We're happy to walk you through the funding process.

What Happens to Assets Left Out of a Trust?

If an asset in your client's individual name is not funded, probate is guaranteed.

Planning Tip: Review your client list for accounts that are titled in a client's individual name or in joint names with a spouse or others. Contact these clients and ask about their estate plans - do they have a revocable living trust? If the answer is yes, offer to contact the client's attorney to find out if the account(s) should be transferred into the trust. Then, make it happen. This is the perfect time to ask about any other assets.

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

In general, the client will probably want to fund the following assets into a 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 the client
- Life insurance - if the client doesn't have an irrevocable life insurance trust; also confirm that the revocable trust is a protected owner under applicable state creditor laws.
- Business interests
- Intellectual property
- Oil and gas interests
- Personal effects - artwork, jewelry, collectibles, antiques.

On the other hand, the client will probably not want to fund the following assets into a 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 - the minor is the owner, not the custodian, so the client should name a successor custodian.

- Cars, trucks boats, motorcycles and scooters - Virginia, like most states, allows a small amount of assets, including vehicles, to pass outside of probate; in Virginia, DMV now allows a beneficiary to be designated for vehicles.

WARNING: It's essential to coordinate with the client's estate planning attorney before transferring the client's accounts into a trust because funding recommendations will vary from client to client. For example, there may be creditor protection or tax reasons why a client is advised to keep an investment account in joint names with a spouse instead of transferring the account into a trust.

The Bottom Line on Trust Funding

For many people, avoiding probate is the main reason they set up a revocable living trust in the first place. Unfortunately many believe that once they sign their trust agreement, they're done. They're not. If they fail to fund, **many assets will likely have to go through probate.**

TAKE ACTION: During your annual reviews, be sure your clients' estate plans are properly funded. We're here to help and are available to answer your trust funding questions; and, rest assured - we'll be sure that any clients we share have properly funded trusts.