Funding A Trust Do I Have Everything Titled Correctly?

By Gary Altman

So, you have completed, signed, and notarized your estate plan written by your estate attorney, and you think you are done. But getting the document drafted and signed is the first step. For any trust to be effective, you must complete funding your trust as soon as you can. But what is funding?

A common way to think about funding is to imagine your trust as an empty bucket. For that bucket to be useful, it needs to be filled with something. In the case of a trust, that something is your money and property. Funding is moving your money and property into the bucket. Technically, the funding process involves **retitling** your accounts and property in the name of your trust.

There are two ways to move money and property into a trust:

(1) by transferring ownership of your accounts and property from you as an individual to yourself as the trustee of your trust and (2) by completing beneficiary designations, naming the trust as the beneficiary, on other types of property such as life insurance and, sometimes, retirement accounts.

When you own property in the name of your trust, if you become incapacitated (unable to make your own decisions or manage your affairs) or die, that bucket can be quickly and easily handed to a successor trustee with the right and responsibility to use the accounts and property for you and your trust's beneficiaries. And because it is a trust, no court proceeding (called probate) will be required for the transition to a successor trustee or oversight of the trust's management. Only funded living trusts let your loved ones avoid probate.

Properly funding your trust will often involve working with financial institutions to change account ownership to the trust's name; in the case of real property, it may require you to sign a new deed and record it with the county. There are several ways to make sure your trust owns your accounts and property. Below are some of the most important and common types of property you should transfer into your trust and how to accomplish it.

Checking and Savings (Cash) Accounts

Routinely fund savings, money market, and certificate of deposit (CD) accounts of substantial value into your trust. You can achieve this by working with the bank or credit union where you have the accounts and providing them with a certificate of trust that lists important information the financial institution will need to retitle those accounts.

Before retitling CDs into your trust, check to ensure no early withdrawal penalties. If a penalty applies, you may need to wait until those CDs mature and then make the transfer. Usually, it is unnecessary or even desirable to have a bank. issue new checks with the trust's name on them.

Personal residence or another real estate

You will need to enlist the help of an attorney to properly title associated real property interests, such as mineral or timber rights, and prepare, sign, and record actual property deeds that transfer those interests into your trust. It is crucial to work with an experienced attorney on this important part of funding your trust so you understand any property tax or other legal implications that may result from such a transfer.

Investment Accounts

Work with your financial advisor or brokerage account custodian as with your cash accounts custodian to complete the paperwork to retitle investment accounts in the name of your trust. A certificate of trust will normally be necessary, and the financial institution can refer to the information in the trust certificate to correctly complete its required paperwork.

Personal Possessions

You can transfer your personal property, such as

ALTMAN
& ASSOCIATES
A DIVISION OF
FROST LAW

Annapolis, MD
839 Bestgate Road,
Suite 400
Annapolis, MD 21401

Rockville, MD
11300 Rockville Pike,
Suite 708
Rockville, MD 20852

Washington, D.C.
Suite 500
1050 Connecticut Ave NW,
Washington, DC 20036

Northern VA
8000 Towers Crescent Drive.
13th Floor
Vienna, VA 222182

furniture, jewelry, clothing, books, artwork, coin, and stamp collections, into your trust by signing an assignment of personal property. You can also transfer vehicles registered with your state's department of motor vehicles into your trust, but many attorneys advise against doing so, given the tax and registration considerations, the casualty insurance complications that can arise, and the potentially greater risk of litigation when a vehicle owned by a trust is involved in an accident. Sometimes, it can be advisable, but the pros and cons should be weighed first. Your estate attorney can explain more about the considerations relevant to transferring motor vehicles into your trust.

Retirement Plans

Ownership of retirement assets such as individual retirement accounts (IRAs) and 401k plans should never be transferred to a trust. Doing so can result in serious negative tax consequences for the plan's owner. However, under some circumstances, it may be advisable to name the trust as either a primary or a contingent beneficiary of the retirement plan. Understanding the potential tax consequences of naming a trust as a beneficiary of such a plan is crucial. Often, the tax consequences must be carefully balanced against the plan owner's desire to protect the plan proceeds from the risks associated with potential lawsuits, divorces, bankruptcies, or other creditors of the beneficiaries. Coordinating the beneficiary designations on your retirement plans to complement your trust and estate planning is important, and discuss any changes with your attorney before making them.

Life Insurance and Annuities

Generally, life insurance and annuity investments should name your trust as the primary beneficiary so the trust can control and protect the proceeds of those policies. After that, it is customary to name your spouse, partner, or children as secondary (or contingent) beneficiaries on such policies. Contact your insurance agent to obtain the proper beneficiary designation forms to make these changes. It is increasingly common for insurance companies to make these forms available online so that no paper is involved. If so, get written confirmation or even print or take a screenshot of the confirmation page when you complete the process, so you have proof of the changes you made and when you made them. Keep the confirmations with your other trust documents.

Other Assets to Fund into Your Trust

The types of property discussed above are some of the most common that people transfer into their trusts. But you can think of plenty of other types of property you may want to transfer as well. This is true if your goal is to avoid probate and make sure the trust can protect and manage your property in your incapacity or after the property passes to your spouse, children, or other beneficiaries at your death. The following are additional types of property that you will likely need to transfer into your trust:

- mortgages, loans, promissory notes, or other receivables
- business interests such as partnerships, LLCs, sole proprietorships, or small business stock
- royalties from books and art, such as music and recorded performances
- trademarks and copyrights
- digital assets such as income streams from online content (blogs, social media channels, etc.)
- college savings plans (529 plans)
- health savings accounts
-

Each type of property has special considerations, and you should know them when ownership is transferred to a trust.

This may all sound overly complicated to you. At the time of closing, the lawyers of Altman & Associates ask our clients if we can help them with this process. It is why we are here. Our job is to help our clients think through the many issues of transferring property to a trust, so you feel

Annapolis, MD
839 Bestgate Road,
Suite 400
Annapolis, MD 21401

Rockville, MD
11300 Rockville Pike,
Suite 708
Rockville, MD 20852

Washington, D.C.
Suite 500
1050 Connecticut Ave NW,
Washington, DC 20036

Northern VA
8000 Towers Crescent Drive.
13th Floor
Vienna, VA 222182

confident that your estate plan works as intended.

Call us today at 301-468-3220 or schedule a consultation if you have specific questions regarding transfers, but whatever you do, take these next steps.

Gary Altman, Esq. is the Estate Planning Partner of Altman & Associates, A Divison of Frost Law serving MD, DC, VA, NY and FL.
Gary can be reached at 301-468-3220 or via e-mail at Gary.Altman@frosttaxlaw.com.

Follow our estate planning blog, Altman Speaks, available on our website: altmanassociates.net

CONNECT WITH US

/altmanassociates

@garyaltman

/in/garyaltman

Annapolis, MD
839 Bestgate Road,
Suite 400
Annapolis, MD 21401

Rockville, MD
11300 Rockville Pike,
Suite 708
Rockville, MD 20852

Washington, D.C.
Suite 500
1050 Connecticut Ave NW,
Washington, DC 20036

Northern VA
8000 Towers Crescent Drive.
13th Floor
Vienna, VA 222182