A revocable living trust works only if you properly fund it

Published on March 25, 2021

A revocable living trust is often used to complement a will. For instance, you might transfer various assets such as financial/investment accounts and real estate to the trust. Notably, these assets generally don't have to go through the probate process, which in many states can be time-consuming and expensive (although generally much less so in New Jersey).

Accordingly, a living trust enables your beneficiaries to receive some of your wealth on your death, with no complications. However, it won't do anybody any good if the trust isn't properly funded.

Legal ownership of assets

Funding the trust is simply the process of transferring assets to it. Essentially, you change legal ownership of your assets from your name to the trust's name.

If you don't properly transfer assets to the trust, you run the risk that you won't accomplish your objectives, particularly with respect to avoiding probate. In that case, the disposition of the assets is governed by your will. For that reason, you should add a "pour-over" provision to your will, directing any leftovers to the trust.

Assets to transfer

What should you transfer? Some typical examples include bank accounts, securities, real estate and business interests. Generally, you can transfer these assets with little difficulty, although real estate may require some additional footwork. Make sure to change the beneficiary designations for assets that are to be transferred to the trust. Typically, you'll want to avoid transferring IRA and 401(k) plan or other retirement plan benefits to a revocable trust. Without careful consideration and proper planning, naming the trust as beneficiary can trigger unwanted tax consequences.

It's often recommended that you transfer ownership of life insurance policies and annuities to a trust. But note that, absent certain exceptions, there are rules that will cause insurance policies and annuities transferred within three years of your death to be included in your taxable estate. Rather than transfer the ownership, you might simply change the beneficiary designations. The decision may hinge on whether estate tax is likely to be a factor.

Turn to us for guidance

Revocable trusts provide significant benefits, including the ability to avoid probate of the assets they hold and facilitating management of a person's assets in the event he or she becomes incapacitated. If you have questions regarding your revocable trust and what assets you should fund it with, contact us. We'd be happy to help.

The Law Office of Eugene Gorrin, LLC
17 Watchung Avenue, Suite 204
Chatham, NJ 07928
973.701.9300
egorrin@gorrinlaw.com
www.gorrinlaw.com