Estate Planning Pitfall

You Didn't Retitle Assets To Be Included In A Trust

There are numerous benefits of using trusts in your estate plan. For example, trusts can maximize the tax code provisions shielding assets from gift and estate taxes, protect assets from the clutches of creditors or ex-spouses, and maintain control over potential spendthrift heirs, just to mention a few common benefits.

Accordingly, revocable living trusts may be viewed as an integral part of your overall estate plan. But trusts aren't a "draft-it-and-forget-it" proposition.

Notably, a trust won't do you any good if it isn't properly funded, including additions that are warranted. For example, you may neglect to move certain assets — including cash, securities, real estate, artwork and other types of property — into the trust before your death. This may defeat your estate planning intentions.

Assuming you have a need for a trust, and you've already made the necessary arrangements, make sure to retitle assets in the name of the trust. This is often easier said than done and will require you to meet specific requirements depending on the asset type. It's not enough to simply transfer assets to the trust. For example, a transfer of ownership of real estate generally requires you to jump through some extra hoops.

If you fail to retitle assets, they'll fall outside the scope of the trust. This means they'll have to go through probate like other assets in your name. The probate process can be costly and time consuming, depending on which state you live in, and opens up the assets to public inspection. Even worse, you don't derive the benefits of using a trust for those assets unless those assets are eventually transferred into the trust according to the provisions of your will.

Be aware that despite a common misconception, a revocable living trust doesn't save tax. In effect, it's tax-neutral.

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