

You can't trust your Trust with everything

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Your Trust document can lull you into false sense of being prepared. And while a Trust document is an important thing to have (along with other estate planning documents such as Health Care Directives, Power of Attorney, etc.) many people think that it does more than it actually does. The two biggest things to note are

1. Your Trust documents do not have any control over your IRA/retirement accounts
2. Listing something in your Trust document does not mean your Trust owns it

Let's take a closer look at these two misconceptions, and maybe find something out that you didn't know you didn't know.

"My IRA Beneficiaries are in my Trust"

NO they're **NOT**

Your Trust document does not have any control whatsoever over your retirement accounts. So, while you do select beneficiaries/heirs within your Trust

document, you are only selecting those who will benefit from the Trust owned assets.

Your retirement accounts, including IRAs and 401(k)s, have their own governing documents (an adoption agreement and plan document respectively). Your Trust document will not override your retirement account's documents and designations. It is

VERY IMPORTANT

that you complete a Beneficiary Designation document for each retirement account you own and keep a copy of those designations with your estate planning documents.

If you mean to change your beneficiaries for any reason (you have a new grandchild ... or you decide you don't like your snothead kid anymore)



you should change your designation in your Trust document, as well as completing a new Beneficiary Designation for each of your retirement accounts.



By the way, making changes to your IRA/retirement account is far less work than updating your Trust document and should not cost you any money.

For more important information on Beneficiary Designations see “What Happens to Your Retirement Accounts After Your Gone?” in the last issue of The Loop.

“Schedule A” Strikes Again

Trust documents include a “Schedule A” which lists out your property/assets – but that’s all it does. Just because property is listed on “Schedule A” does not mean the property now belongs to your Trust. If you wish for an asset to be controlled by the instructions in your Trust document it is important to re-register those assets into the name of your Trust.

Let’s look at an example...

Bill and Sally decide to draw up a Trust document. Their attorney asks them for a list of all their assets/property, and they are sure to include their home. Bill and Sally sign their new Trust document and feel they have covered all their bases ... Unfortunately, simply listing property in your Trust document does not mean your Trust owns that property. When Bill and Sally pass away their heirs will discover they must go through probate and give the courts 3% of the value of the home for the pleasure of explaining Bill and Sally’s intentions to a judge.

If Bill and Sally were to have re-registered the home into the name of their Trust, probate would be avoided and the home would pass to their heirs per the instructions in the Trust document.

By the way, a “Pour-over Will” will not protect against the need to go through probate either. (A “Pour-over Will” directs all property after your death into the Trust.) While the property in your “Pour-over Will” eventually ends up in your Trust, your heirs will have to go through the probate process. That cat is going to get extra fat.



In summation – if you want the instructions in your Trust to direct an asset, re-register that asset into the name of your Trust. (Some exceptions, such as your car, exist.)



But What if I Need my Trust to Control my IRA Assets?

Don't worry, there is one way to ensure your Trust document will control your IRA assets after you're gone, and that is to name your Trust as the beneficiary on the IRA Beneficiary Designation. There are advantages and disadvantages to this strategy; we suggest speaking with BOTH your Estate Planning Attorney and your Financial Advisor to see if naming your Trust as beneficiary is the best option for you.

If you've taken nothing else in this article away, take this:

It is VERY IMPORTANT for you to complete a Beneficiary Designation for each retirement account you own and keep a copy of those designations with your estate planning documents.

Consult your Estate Planning Attorney and Financial Advisor on the rest.