
Protecting Assets with a Pour-Over Will



Many estate plans include a Trust for privacy, timeliness, costs, and the avoidance of probate. However, in order to realize these benefits, an individual's assets must be moved into their Trust prior to death. In this document, we'll introduce you to a Pour-Over Will which is an estate planning tool that helps ensure all assets get moved into a trust upon an individual's death.

What is a Trust?

Much like a simple Will, Trusts enable an individual to designate how their assets should be distributed after the individual's death. However, unlike a simple Will, a Trust keeps these assets and beneficiaries private because it is not filed with the probate court. The assets are distributed directly from the Trust to beneficiaries, avoiding the time and costs associated with probate court.

A trust can be either revocable or irrevocable. A revocable trust, also known as a living trust, can be modified, and assets can be recalled from the Trust until the individual's death. An irrevocable trust cannot be modified by the individual who sets up the Trust without the consent of the Trust's beneficiaries.

Once the Trust is established, it is important to "fund" the Trust by moving assets into it, now and in the future. Any assets not transferred into the Trust would have to go through probate or may be subject to intestate succession laws if not expressly handled through a Will.

Benefits of a Pour-Over Will

A Pour-Over Will acts as a back-up to an existing trust by automatically moving property and assets into the Trust upon an individual's death, essentially pouring these assets over into the existing Trust.

For example, an individual purchases property and dies before the property is transferred into the Trust. A Pour-Over Will would automatically move the asset into the Trust to be handled according to the terms in the Trust.

Another example is personal property such as jewelry, antiques, or furniture - items not typically funded into a trust due to convenience. A Pour-Over Will helps to ensure that these types of items are eventually transferred into the Trust.

Considerations

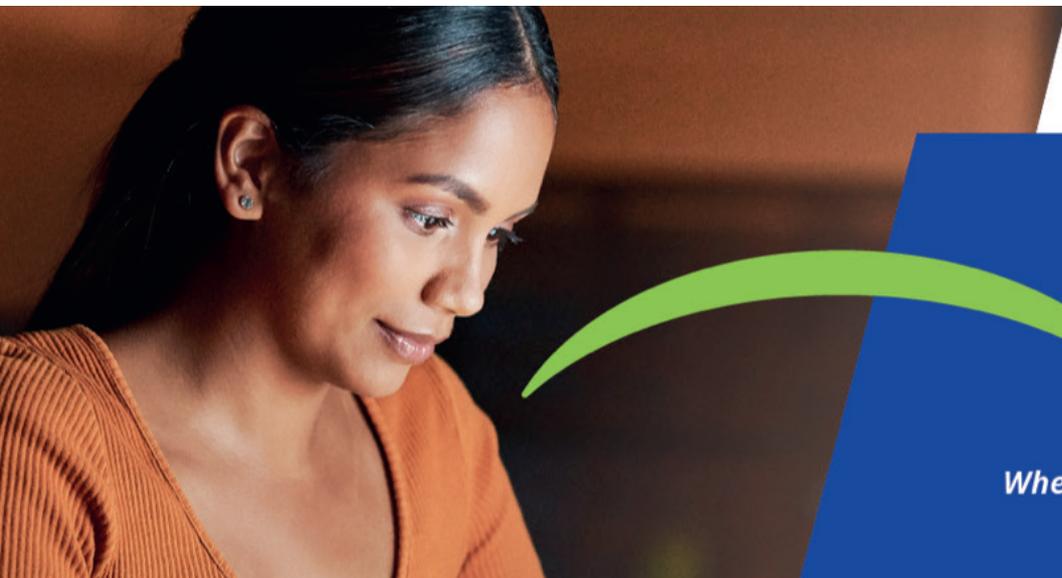
Assets placed into a Trust prior to the individual's death can avoid probate. However, assets placed into a trust via a pour-over provision will still need to go through probate. This is why it's beneficial to put as many assets as possible into the Trust before the individual's death.

A Pour-Over Will can include language directing that assets be distributed to the trust beneficiaries should:

1. The Trust becomes invalid, or,
2. In the case of an unfunded trust, faces legal issues that make it difficult or impossible to fund at the time of the individual's death.

Next Steps

This document is meant to provide an overview of a Pour-Over Will and is not a substitute for speaking with one of our expert advisors. Pour-Over Wills can be an important component of your estate planning. Please contact our office if you have questions about a pour-over will or would like to discuss your estate planning.



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