



# TOP FIVE MISTAKES

When Setting Up a New Trust



Your Guide to Avoiding Costly Legal Errors.

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1

## FAILING TO CHOOSE THE RIGHT TYPE OF TRUST

One of the most fundamental mistakes in the process of setting up a trust is the failure to select the appropriate type of trust. Trusts come in many forms, each serving different needs and purposes. For example, some might need a revocable living trust for flexibility and control, while others could benefit more from an irrevocable trust for its asset protection and tax advantages. Choosing the wrong type of trust can lead to increased taxes, insufficient asset protection, or lack of control over how the assets are managed or distributed. The decision should be made carefully, considering all aspects of the trustor's financial situation and estate planning goals.

# 2

## IMPROPER FUNDING OF THE TRUST



A trust must be properly funded to be effective, which means transferring assets into the trust.

Common assets include bank accounts, real estate, stocks, and personal property. A major oversight is either not funding the trust at all or not properly completing the process by failing to retitle the assets in the name of the trust.

Unfunded or underfunded trusts can lead to significant probate issues, as any assets not titled to the trust must go through the probate process, thereby negating one of the primary benefits of creating a trust.

# 3

## NEGLECTING TO UPDATE THE TRUST REGULARLY

Once a trust is established, it should not be viewed as a static document. Life changes—including marriage, divorce, births, deaths, and significant changes in financial status—should prompt a review and possibly necessitate adjustments to the trust. Failing to keep the trust updated can result in assets being distributed in ways that no longer reflect the trustor’s wishes or current family dynamics.

Regular reviews, ideally with professional guidance, can ensure that the trust remains aligned with the Settlor’s current intentions.



# 4

## CHOOSING THE WRONG TRUSTEE

The selection of a trustee is critical as this individual or institution will be responsible for managing the trust's assets and executing its terms. A common mistake is selecting a trustee based solely on personal relationships rather than qualifications, experience, and ability to manage a trust. The trustee should be someone who is not only trustworthy but also capable of the financial and legal responsibilities involved.

Additionally, failure to contemplate the appointment of successor trustees can lead to problems if the original trustee is unable to serve due to death or incapacity.



# 5

## LACK OF PROFESSIONAL GUIDANCE



Creating a trust can be a complicated process that involves nuanced laws which can vary significantly by jurisdiction. A frequent mistake is attempting to establish a trust without seeking professional guidance in order to save on costs. This DIY approach can lead to errors in the trust document, including vague language, compliance issues with state law, or failure to include critical components that could jeopardize the trust's purpose. Investing in a competent professional or estate planner who specializes in trusts ensures that the trust is correctly set up, customized to the trustor's needs, and legally sound. This is where The Freedom People comes in.

In conclusion, setting up a trust is a delicate process that, if done incorrectly, can result in unintended consequences that complicate or even counteract one's estate planning objectives. By being aware of these common mistakes and engaging with experienced professionals, individuals can create effective trusts that secure their assets and provide for their loved ones according to their wishes.



If you would like guidance on  
setting up your Trust,  
schedule a call to speak with  
one of our agents today!