

Nothing To Fear — Making the Most of Probate

The word “probate” has long sent shudders down the spines of those involved in estate planning. It is, however, often a fact of life in the distribution of assets after death. Why not make the process as painless as possible?

The process of probate was originally set up to smoothly and fairly transfer assets to beneficiaries and creditors. These 10 steps should help you more easily navigate this sometimes trying process.

- 1. Provide proof of the will’s existence.** Your executor files your will with the probate court to protect its integrity and to allow inspection by interested parties. If you have no will, state law controls property disposition.
- 2. Determine the immediate family’s needs.** Most states provide for allowances to be made from the decedent’s estate to support the surviving spouse and any minor children during the term of administration.
- 3. Open the probate estate.** Most states require disclosure of the estate’s approximate value and of the names and addresses of

interested parties. The court must approve the will, and challenges may be filed at that time.

- 4. Notify all interested persons.** This includes all beneficiaries named in the will, natural heirs and other interested persons, such as creditors. The type and length of notice required to establish a deadline for creditors to file their claims vary by state.
- 5. Appoint a personal representative to oversee the estate’s liquidation and distribution.** The will usually designates this representative, subject to court approval, who manages the decedent’s assets during the term of administration.
- 6. Collect and inventory all assets.** This helps assure proper distribution — the decedent may have various assets in many locations.
- 7. Pay all valid claims in full.** If a creditor does not file its claim on time, the claim generally is barred. This allows the personal representative

to know when the decedent's assets may be distributed to the beneficiaries.

8. File tax returns and pay any taxes.

This usually includes final income and estate taxes and, when required, estate fiduciary income taxes.

9. File any and all final accounting. Most states require an accounting of the estate's assets, receipts and disbursements to be distributed to interested parties.

10. Distribute residuary estate. The remaining assets are now distributed to the beneficiaries.

Don't Be Afraid To Ask for Help

Though not as frustrating as many think, the probate process can be complicated by several factors, such as the contesting of a will, valuation problems and creditor claims. But more often than not these issues can be avoided.

Our professionals would be happy to help you wade through the sometimes complicated though not always dire process of probate. Please let us know how we can be of assistance.