



PROBATE ADMINISTRATION

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WHAT IS PROBATE?

Probate is a court procedure where the validity of a will is proved or disproved and a person is appointed to collect, account for, and distribute the decedent's assets to his/her legal heirs and/or beneficiaries.

IS PROBATE NECESSARY?

It depends. When a person dies, some property may pass directly to named beneficiaries under a life insurance policy or under a bank's deposit agreement. Assets that do not transfer directly, i.e. are not "payable on death" (or "POD") are subject to the decedent's Will. Financial institutions usually require a probate to access these "non-POD" assets. Likewise, title insurance companies may require probate in order to transfer real property.

WHAT IS INVOLVED?

Washington probate procedures are not complicated, but they require some experience. The Will names an executor to manage the estate assets. If there is no will, the court will appoint someone. The executor (if he/she accepts the job) is responsible for properly handling and settling the estate. The executor is usually required to:

- Notify heirs and creditors of the probate
- Take possession of and preserve/inventory estate assets
- Manage decedent's business
- Determine the names, ages, residences and degrees of relationship of the decedent's heirs and estate beneficiaries
- Prepare returns for, and pay all state and federal income and estate taxes
- Pay valid creditor claims, and if necessary, sell property to raise funds to pay claims, taxes and estate expenses
- Distribute the net estate property to heirs and/or beneficiaries

WHAT IS THE COURT'S ROLE?

Probates in Washington always start in the Superior Court, usually in the county where the decedent lived or owned property. If the Will allows the executor to settle the estate "without court intervention," then the court's role is limited to appointing the executor, who may then settle the estate without further court supervision. Any person interested in the estate may ask for the court's involvement if an executor acts improperly.

HOW LONG DOES IT TAKE?

It depends. Each estate is different. Six months is generally the minimum to settle an estate. Real estate transactions or the filing of state and federal estate tax returns, if required, may lengthen the process.

WHAT PROPERTY IS INCLUDED IN THE "PROBATE ESTATE?"

Not all the decedent's property is subject to probate. For example, life insurance will pass directly to designated beneficiary(ies) unless the beneficiary is the insured's estate. Property held as joint tenant with right of survivorship ("JTWROS") passes automatically to the surviving joint tenant(s), subject to possible tax liability. A bank account with a "pay on death" or "POD" provision will generally pass directly to the named beneficiary. Property not subject to probate is generally not affected by the deceased's Will.

WHAT ABOUT TAXES?

Every estate may be subject to state and/or federal estate tax based on the total value of all assets including both probate and non-probate assets.

Both Washington and federal estate taxes are graduated. They are levied against the net estate after allowing for certain deductions and exemptions. The exemptions are large enough that many estates will owe no tax.

If an estate earns interest or rental income it could owe income tax too.

WHAT ABOUT SMALL ESTATES?

A simplified proceeding may be used as a probate substitute if the estate does not contain real property, the total value is less than \$100,000, and has enough value to pay any/all claims against the estate.

WHAT DOES IT COST?

A consultation is required in order to estimate cost. During the consultation the attorney will learn the facts and offer opinion and advice. Consultations and work are billed at the attorney's hourly rate.

ADVANCE FEE DEPOSITS

For hourly matters we require an upfront deposit that will be applied to pay our fee and reimburse costs advanced. Clients have the opportunity to review invoices prior to payment from the deposit. When the deposit is fully spent, we bill monthly or we may require the client to replenish the deposit. If the work is completed and the deposit is not fully utilized, we refund the balance.

Whatever your challenge, we can help.