

WHAT ARE THE DRAWBACKS OF PROBATE IN OKLAHOMA?

There Are Some Considerable Drawbacks that Come Along with the Probate Process; Let's Take a Look at Three of these Pitfalls



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Most people automatically think they should use a last will to express their final wishes. There is also a common misunderstanding that having a last will avoids probate. However, a will does NOT avoid probate. If you are considering using a last will, you should know some things about the probate process before making a final decision.

When you draw up a last will, you name an executor or executrix. This is the person who will handle the business of the estate after you pass away. An executor is a male estate administrator, and an executrix is a female who assumes this role.

One of the first orders of business for the executor is to admit the will to probate. During probate, the probate court supervises the administration of the estate.



There are some considerable drawbacks that come along with the probate process. In this paper, we will look at three of these pitfalls.

PRIVACY LOST

As you are handling your money throughout your life, you don't broadcast your decisions to the entire community. Do you want the general public to be able to find out exactly how you planned your estate? This is exactly what will happen if you use a last will to facilitate the transfer of your monetary assets.

Probate is a public proceeding, and the goings-on become a matter of public record. Anyone who wants to pry into your final affairs can access the probate records.

PROBATE EXPENSES

Some individuals think that they will save on legal fees if they use a simple last will to arrange for the transfer of their assets. Those who assume this probably don't understand the expenses that can accumulate during the probate process.



First off, the executor is going to put in a lot of time and effort, so the executor is paid. There is a filing fee with the court. The executor will typically call in a probate lawyer, so there are legal fees.

During probate final taxes must be paid, so a tax accountant may be necessary. If there is property that must be appraised, appraisers will be engaged, and there are liquidation expenses.

Other various expenses may present themselves during the probate process. All in all, a noticeable percentage of the estate may be consumed during probate. This will reduce the amount of the inheritances the heirs to the estate will receive.

THE WAITING GAME

The process of probate can get lengthy, and it is important to recognize the fact that the heirs to the estate will not receive their inheritances until the process of probate has run its course.

The exact duration of the process is going to vary depending on the circumstances. Sometimes there are challenges to a last will. Short of an all-out

challenge to the validity of the will, there can be different types of disputes among interested parties.

There may be a great deal of property that must be appraised and liquidated. Paperwork must be produced, and liquidation can take time.

In most jurisdictions a simple and straightforward case will typically pass through probate in approximately a year. Very complicated cases can take considerably longer.

PROBATE AVOIDANCE STRATEGIES

It is possible to facilitate the future distribution of your financial resources outside of the probate process. There are a number of different options, and the best choice will depend upon your financial position and your estate planning objectives.



One very popular probate avoidance tool is the revocable living trust. Take note of the word revocable. Because the trust is revocable, you don't have to worry about losing control of the assets that you convey into it. You can revoke the trust if you want to, and you can carry on as usual with your

money in your pocket.

However, if the trust remains intact at the time of your passing, the trustee that you name in the trust agreement will distribute assets to the beneficiaries according to your wishes. These distributions will take place outside of the

process of probate.

CONCLUSION

When you use a last will to arrange for the transfer of your financial resources, the will must be probated before the heirs receive their inheritances.

The primary drawbacks of probate are threefold: probate can be expensive; it is time-consuming; and it is a public proceeding that strips your family of privacy.

You do not have to use a last will to facilitate the transfer of your assets. To explore your options with regard to probate avoidance strategies, arrange for a consultation with a licensed estate planning attorney.

REFERENCES

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About the Author

Larry Parman



After helping his own family deal with a lengthy probate and a battle with the IRS following his father's death in a farm accident, Larry made a decision to help families create effective estate plans designed to reduce taxes, and minimize legal interference with the transfer of assets to one's heirs, and protect his clients' assets from predators and creditors. Following a dozen years in the investment banking and financial services business, in the mid-1980s Mr. Parman formed a law firm that gives families the peace of mind that comes from having created a premier estate and financial plan.

After forming his law firm in 1984, he offered a series of public and private seminars to inform the public about using a Living Trust as the foundation of a family's estate plan. Today, Parman & Easterday is one of the leading business and estate planning law firms in the Midwest. The firm's primary focus is on business and estate planning, elder law, asset protection, and providing effective estate planning solutions for clients. Today, the firm's premier estate plan design is referred to as a Legacy Wealth Plan.

Mr. Parman is a frequent guest on the radio and can be seen on television talk shows explaining the importance of proper estate planning. Prosperity Productions selected Mr. Parman as a featured speaker in a nationally-recognized educational video on Living Trusts. He is the author of numerous published articles on financial and estate planning matters and the co-author of two books, *Estate Planning Basics: A Crash Course in Safeguarding Your Legacy* and *Guiding Those Left Behind in Oklahoma: Settling the Affairs of Your Loved Ones*.

Mr. Parman is a member and Fellow of the American Academy of Estate Planning Attorneys. He is also a member of the Oklahoma and Missouri Bar Associations, the American Bar Association, and the Oklahoma City Estate Planning Council.



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