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I Should Avoid Probate...Right?

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Introduction

Purpose

- The Basics of Estate Planning
- Wills vs. Trusts
- Should I Avoid Probate?
- The Importance of Planning



Takeaways



- Should you Avoid Probate?
 - It depends.
- Meet with a Trusts & Estates Attorney to discuss:
 - Estate Planning
 - Long Term Care Planning

What if You Do Nothing?

- **Last Will and Testament (Will)**
- **What if you don't have a Will?**
 - **Intestate Law**
 - Who are your heirs?
 - Where do your assets go?
 - Spouse and No Children
 - Children and No Spouse
 - Spouse and Children
 - No Spouse and No Children

Fiduciaries

Understanding Fiduciaries: Roles and Terminology

- **Role and Responsibilities**
 - Collect Assets
 - Pay Debts, Expenses & Taxes
 - Distribute Assets
- **Court Restrictions**
 - Bond
- **Terminology**
 - Executor
 - Administrator
 - Voluntary Administrator
 - Trustee

What is Probate?

Understanding Probate: The Legal Process

Legal Process →

Valid Last Will & Testament →

Appoint an Executor →

Theory of Probate →

Heirs/Distributees Notice →

What's involved in Probate? →

Did You Know?

Even if there is a Will, probate might not be necessary.

What Assets Does a Will Control?

Assets Controlled by a Will

- Assets in your name alone that don't pass in any other way.



Assets NOT Controlled by a Will

- Joint Ownership with Rights of Survivorship
- Designated Beneficiary (TOD, POD)
- Life Insurance, 401k, Retirement Accounts, Pensions
- Real Estate held as JWROS
- Assets in Living Trust

Will

Pros

- Control and Wishes
- Guardianship
- Name Executor
- Court Oversight
- Create Trusts
 - Minors, Disabled
 - Spouse
- Part of Holistic Plan
 - Tax Strategies

Cons

- Delays of Probate
- Fees
- No Immediate access to assets
- Privacy

Should I Avoid Probate?

- Litigious Families
- No Known Relatives
 - Holocaust survivors
 - Never Married, No Kids, Distant Cousins

Reasons to Avoid Probate

Avoid Delays

Asset Distribution

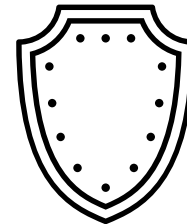
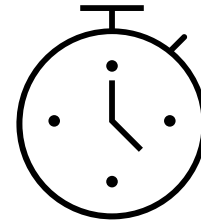
Minors

Disabled

Privacy Concerns

Charitable Beneficiaries

Might Save Costs



Trusts

What are they?



- Trust Agreement**
 - Manage assets
 - Distribute assets
- Types and Purpose**

Trusts

Pros

- Control and Wishes
 - Second Marriage
- Immediate Access to Assets
- Private
- Name Guardian
- Name Trustees
- No Court Delays
- Incapacity Planning

Cons

- Must be funded
 - Real Estate
 - New Assets
- Complexity
- Expensive to Set Up
- Administration / Costs
- No Tax Benefits

Will vs. Trusts

- Similarities
 - Distributions of Estate Assets
 - Name Fiduciaries
 - Name Guardians
 - Amendable
 - Creditors
 - Estate Tax

Will vs. Trusts

	WILL	TRUST
TAKES EFFECT	After death, once probated	Can take effect during life
PROBATE	Must go through probate	Does not go through probate
PRIVACY	Becomes public record	Typically remains private
COURT OVERSIGHT	Necessary	Not Necessary
COST (Generally)	Less expensive to set up. More expensive after death.	More expensive to create and administer.

Probate Might be Necessary if...

- Ancillary Probate
- Incomplete Beneficiary Designations
- Previously Unknown Assets
- Prove Ownership of Cross Claimed Assets

Meet with a Trusts & Estates Attorney

- Discuss Your:**
 - Goals
 - Assets
 - Family Structure
 - Risk Factors
- Determine a Plan**
- Discuss Healthcare Planning**



When to Review your Estate Plan

- Every 5 Years
- Major Life Event
 - Birth, Death, Adoption, Divorce
- Incapacity of a Family Member
- Need for **Healthcare Planning** and/or **Medicaid**
- You Change Your Mind

Key Takeaways

- **Advantages and Disadvantages of Probate.**
- Importance of a **Personalized Estate Plan.**
- **Consult** an Estate Planning Attorney to Help Determine **What is Right** for You.



Questions?

Contact

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