

PROBATE IN CONNECTICUT CAN IT BE AVOIDED?

*The Process of Probate Is Something to be
Aware of When You Are Planning Your Estate*



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Everyone has heard of the estate planning document called a last will. If you maintain personal ownership of your property and arrange for its transfer after your passing through the terms of a will, probate will be a factor.

The process of probate is something to be aware of when you are planning your estate.

WHAT IS PROBATE?

Probate is a legal process. It allows for the supervised administration of the estate. When you use a last will to state your final wishes, whatever takes place during the probate process will become a matter of public record.

The heirs to the estate do not receive their inheritances until the estate has been probated and closed.



Estate administration tasks are handled by the executor of the estate. You select the executor when you create your last will. If you did not nominate

an executor in your will, the state would be forced to appoint a personal representative to administer your estate.

During probate the executor handles the business of the estate. Creditors



must be satisfied, and final taxes must be paid.

The executor has to secure and inventory the assets that comprise the estate during probate. To be able to ultimately distribute the assets according to the terms of the will,

appraisal and liquidation of property may be necessary.

If anyone wanted to challenge the will, this individual could present an argument before the court during probate.

PROBATE PITFALLS

Though it is possible to navigate through probate effectively, there are some inherent pitfalls that go along with the process. As we touched upon in the opening, probate is a public proceeding. Many people would rather see their final affairs conducted privately, away from prying eyes.

There are also considerable expenses that accumulate during probate. The executor who administers the estate is going to be putting in a considerable amount of time and effort. He or she is entitled to remuneration.

The court itself is going to charge a filing fee. Because probate is a legal proceeding, the executor will usually require the assistance of a probate attorney.

An accountant is often called in to handle final taxes and other accounting matters. Appraisal costs may be a factor, and liquidation expenses may be incurred as well.



There will inevitably be other ad hoc expenses that the executor must pay out of the estate's resources. All in all, a significant amount of money may be spent during probate.

Probate is time-consuming.

There is no one particular time frame, because each case is different, and each jurisdiction is different. Exactly how long it will take is going to depend on the circumstances.

To provide some general guidelines, you can expect probate to take a number of months if the case is simple and straightforward. Complicated cases that involve challenges and/or vast holdings can take years .

Since the heirs to the estate do not receive their inheritances until the estate has been probated and closed, the time consumption can be quite disconcerting to many families. In many cases immediate financial need exists.

CAN PROBATE BE AVOIDED?

After hearing about some of the pitfalls that go along with the process, you may wonder if it is possible to avoid probate. The answer is yes.

There are a number of different probate avoidance tools that can be utilized. One very popular option is the revocable living trust.

Assets that have been conveyed into a revocable living trust would be distributed to the beneficiaries by the trustee after the grantor's passing outside of the process of probate.

CONCLUSION

Probate can be defined as the legal process of estate administration. The process provides certain protections, but it can be time-consuming and costly.

It is a public proceeding. Probate records are available to anyone who is interested enough to access them.

If you maintain personal possession of your property through to the time of your death and arrange for its transfer through the terms of a last will, that property will become probate property. It will not be distributed to the heirs until the estate has been probated.

There are ways to arrange for asset transfers outside of probate. The best way to explore your options would be to discuss the matter with a licensed Connecticut estate planning attorney.

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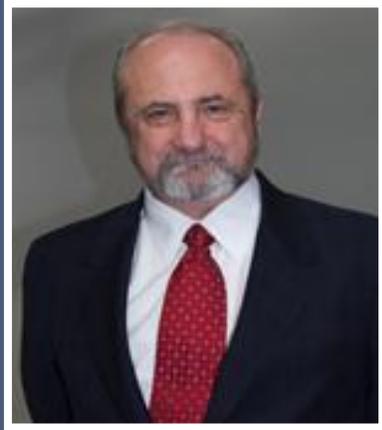
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About the Author

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Barry D. Horowitz is a founding partner in the law firm of Nirenstein, Horowitz & Associates, P.C. He received his diploma from the Loomis Chaffee School and his



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Mr. Horowitz was awarded his Juris Doctor degree with honors from the University of Connecticut School of Law. While attending law school, Mr. Horowitz received the American Jurisprudence Award in Legal Ethics and the Nathan Burkan Award.

After graduation from law school, Mr. Horowitz continued his legal education at New York University School of Law where he received a Post Doctorate Law Degree in Taxation. He has also recently received a national achievement award.

Mr. Horowitz is admitted to practice before all the state courts in the State of Connecticut and the United States District Court. He is a member of the Hartford County Bar Association, a charter member of the American Academy of Estate Planning Attorneys, and has recently received the American Academy Award. Mr. Horowitz is also an active member of the Connecticut Bar Association where he is a member of the Elder Law Section, the Estate Planning and Probate Section, and the Professional Ethics Committee. Mr. Horowitz practices exclusively in the area of Estate Planning where he has earned a reputation as a dynamic and entertaining speaker. He also has recently published a book entitled "Guiding Those Left Behind in Connecticut."

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