

IS PENNSYLVANIA PROBATE ALWAYS REQUIRED?

“Probate is a legal process that comes into play when certain postmortem asset transfers are taking place. It provides certain protections, but there are drawbacks that go along with this process.”



FLOOD & MASIUK LLC
Attorneys at Law



There are estate administration tasks that must be completed after you pass away, and many people do not take this into consideration when they are making preparations.

If you utilize a last will to state your final wishes regarding the transfer of property that is in your personal possession, the probate process will have a significant impact.

The executor that you nominate in the last will would administer the estate, but the overall administration would be supervised by the probate court. This process is in place to provide oversight, but it can make things a bit difficult for the surviving family members.

There are expenses that accumulate during probate, and these costs reduce the inheritances that will ultimately be distributed to the heirs.

In addition to the money factor, there is the matter of time. Inheritances are not distributed until after the process has been completed, and it can take close to a year, even if there are no snags.

There are certain types of property transfers that are not subject to the probate process. Let's look at some of them.

PAYABLE ON DEATH ACCOUNTS



When you open up a bank account or a brokerage account, the institution may offer you a payable on death or transfer on death option.

With a payable on death account, you name a beneficiary. Many institutions will allow you

to name multiple beneficiaries.

After your death, the beneficiary or beneficiaries would assume ownership of the assets that remain in the account. The transfer of these resources would not be subject to the process of probate.

JOINT TENANCY



If you own property, you can add a joint tenant. This person would become a co-owner of the property.

Joint tenancy typically comes with something called right of survivorship. This would allow the surviving joint tenant to assume ownership of the entirety of the property after the death of the other joint tenant. This transfer would take place outside of probate.

LIFE INSURANCE POLICIES



Many people have life insurance policies. If you have an insurance policy on your life, the beneficiary that you name on the policy would be paid by the company after your death. The probate court would not be involved in the transfer.

PROACTIVE PROBATE AVOIDANCE STRATEGIES

Because of the drawbacks that go along with probate, many people are proactive about the implementation of probate avoidance strategies. You can intentionally take steps to get assets into the hands of your heirs outside of probate.

There are a number of different ways to go about it, and the ideal course of action will vary depending on the circumstances. This being stated, one very popular probate avoidance tool is the revocable living trust.

You experience no loss of control when you create a revocable living trust, so you take no risks. If you change your mind, you can take back the assets. As the grantor of the trust, you can also act as the beneficiary and the trustee while you are alive and well.

When you create the trust agreement, you leave behind instructions in the trust declaration, and you name a successor trustee along with successor beneficiaries. After you die, these instructions will be followed, and assets will be distributed to the beneficiaries outside of the probate process.



SUMMARY

Probate is a legal process that comes into play when certain postmortem asset transfers are taking place. It provides certain protections, but there are drawbacks that go along with this process.

The process of probate is time-consuming, and there are expenses that often accumulate.

Some asset transfers are not subject to probate. It is possible to consciously facilitate postmortem asset transfers that would take place outside of probate.

You should certainly understand the probate process when you are planning your estate. If you discuss everything in detail with a licensed attorney, you can ultimately make informed decisions.



Many estate planning attorneys offer free consultations, so you can often get answers to your questions without making any firm commitments. The attorney will gain an understanding of your unique personal situation and make recommendations.

Ultimately, if you choose to do so, you can go forward and create a custom crafted estate plan that facilitates fast and efficient postmortem asset transfers to your loved ones.

REFERENCES

Forbes

<http://www.forbes.com/sites/janetnovack/2012/10/14/the-forbes-guide-to-estate-planning/>

Cornell University Law School Legal Information Institute

<http://webserver.rilin.state.ri.us/Statutes/TITLE33/INDEX.HTM>

About Flood & Masiuk, LLC



Marianne Flood

As the founder and managing partner of the Southampton, Pennsylvania law firm of Flood & Masiuk, LLC, Marianne Flood oversees a practice devoted to providing clients with personalized service and counsel in all aspects of estate planning.

Because of Ms. Flood's deep commitment to the specialty of estate planning, she became a member of the American Academy of Estate Planning Attorneys in April, 2000. Her entire private practice has been devoted to helping families of

all ages and backgrounds.

Joe Masiuk

As a partner in the law firm of Flood & Masiuk, LLC, Joseph Masiuk is committed to, a practice which provides people of all ages and walks of life with thoughtful and comprehensive solutions in Estate Planning, which includes Elder Care, Medicaid and Special Needs Planning.

Today, Mr. Masiuk is a widely noted speaker, author and seminar leader on topics ranging from estate and Medicaid planning to asset protection for traditional and GLBT couples and families.

Flood & Masiuk, LLC
703 Lakeside Park
Southampton, PA 18966
Phone: (215) 322-6330
Fax: (215) 322-9199
Website: www.floodmasiuk.com