

WHAT DOES “PROBATE” REALLY MEAN?

The word “**probate**” means, “to prove”. This word is used because the person who presents a will to the Register of Wills for probate has to prove that the will is genuine by evidence that it was the deceased person who actually signed it. It is the legal process by which the provisions of a will are implemented.

WHAT HAPPENS TO SOMEONE’S PROPERTY WHEN THEY PASS AWAY?

An adult over the age of 18 can die with, or without, a will. A person who leaves a will dies “**testate**”, and a person without one is “**intestate**”. Whether or not a person dies intestate, determines who inherits, or is a beneficiary, of the property of the deceased person.

WHAT IS A WILL?

A **will** is a “writing,” signed at the end, by a person who is at least 18 years old, and of sound mind at the time of writing. In a will, a person can determine what happens to his property when he dies, and who will inherit from him.

WHO INHERITS IF I DON’T HAVE A WILL?

If there is no will, then the State **Intestacy Laws** determine who a person’s heirs are, and what share of the property they can inherit. This may be a person’s spouse, or children.

DO I HAVE TO LEAVE MY PROPERTY TO MY SPOUSE OR CHILDREN?

In a will, a person cannot completely disinherit a spouse. However, children and everyone else can be “excluded,” or left out of a will.

WHAT IS AN ESTATE?

An Estate contains the property left when someone dies only if that person owned it in her own name.

IS THERE ALWAYS AN ESTATE WHEN SOMEONE DIES?

Not always. Property that is owned by a person jointly with her spouse, or with another person with the right of survivorship, does not go into an estate. Instead, the title to the property passes by law directly to the survivor.

WHY WOULD I EVER NEED PROBATE?

When someone dies, ownership of property that is in an estate cannot be changed, except by a **personal representative**, appointed by the Register of Wills. A person may become someone’s **Executor** (if named in a will) or **Administrator** (no will). For example, a **Short Certificate** issued by the Register of Wills is required by a bank to close out an account because it certifies that the personal representative has the legal authority to act.

WHAT DO I HAVE TO DO IF I BECOME AN EXECUTOR?

The duties of a personal representative, both Executor and Administrator, include gathering and distributing the property in the estate of the deceased person, according to the will, or the intestacy laws. **Notice of the estate** must be sent to the next of kin, and an **Inventory** of property filed with the Register of Wills. An **Inheritance Tax Return** and payment of any tax due is required within nine months of death to avoid penalty for late payment. For example, the tax assessed on amounts inherited by a spouse is 0%, but varies from 4.5% - 15%, according to the relationship to the deceased.

WHAT WILL IT COST ME TO PROBATE A WILL?

The fee that the Register of Wills charges to issue Letters to a personal representative is based on the value of the gross assets of the Estate. For example, as of July 2006, the probate fee for an Estate that has assets worth less than \$10,000 is \$236, the probate fee for an Estate that has assets worth \$50,000 is \$285, and for an Estate under \$200,000, the fee is \$390. You should call the Register of Wills' probate department at (215) 686-6255 for specific information.

HOW CAN I GET MORE INFORMATION ABOUT INHERITANCE TAXES?

You can call the Inheritance Tax desk at the Register of Wills in City Hall at (215) 686-2918, or 2919. The Pennsylvania Department of Revenue in Harrisburg also answers Inheritance Tax questions directly. You can call (717) 787-8327 for additional information.

SeniorLAW Center

assists many low-income Philadelphia seniors who need help with probate. Call SeniorLAW Center's intake line (215) 988-1242, Monday through Friday, between 9 a.m. and 1 p.m. for help or information.

WHAT YOU SHOULD KNOW ABOUT PROBATE

(but were afraid to ask)



SeniorLAW Center

(formerly Judicare)

**100 South Broad Street,
18th floor**

Philadelphia, PA 19110

(215) 988-1244

www.seniorlawcenter.org