Trust UPDATE

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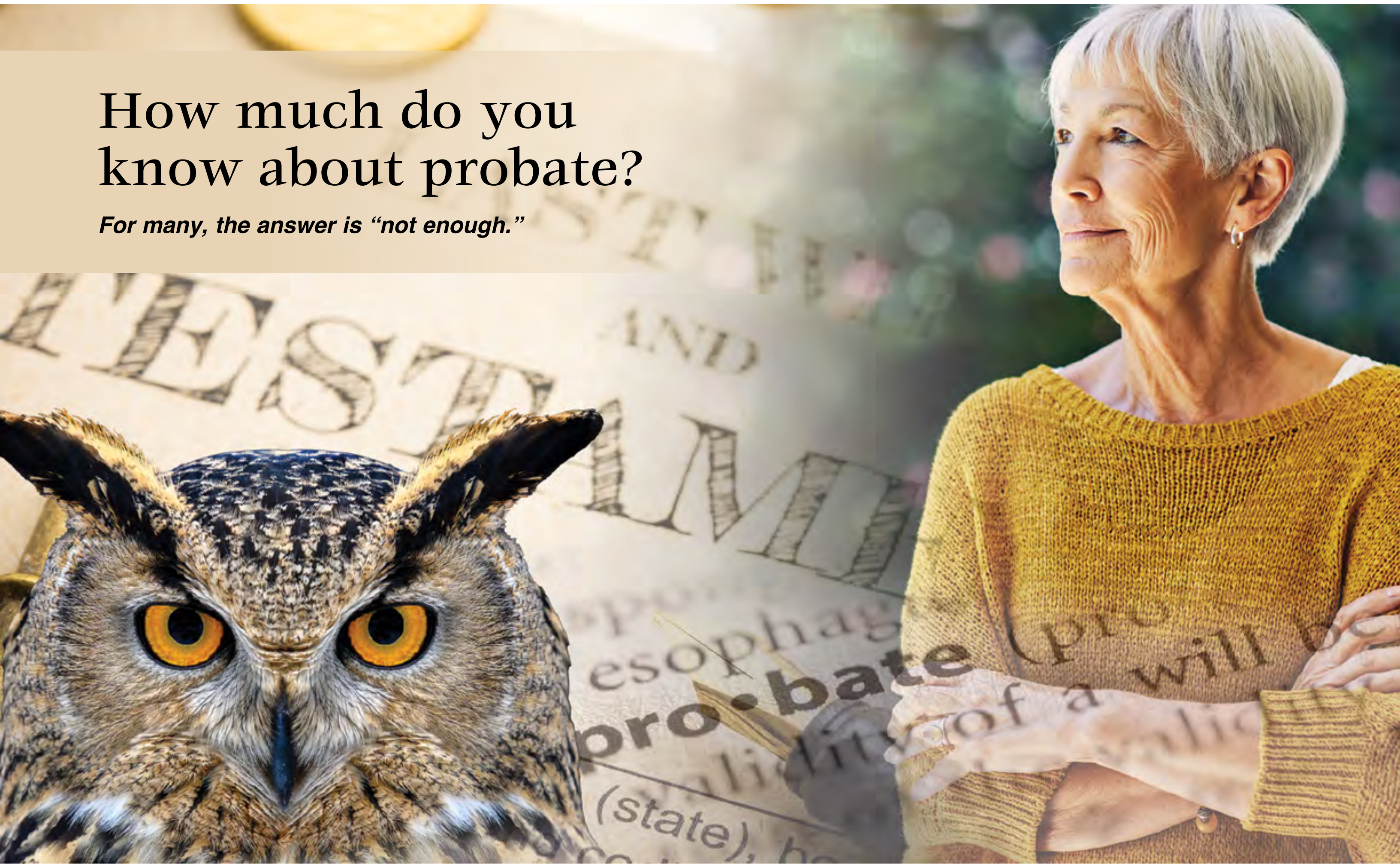
How much do you know about probate?

For many, the answer is "not enough."



Probate is the legal process of settling an estate and distributing assets to beneficiaries. A spring 2024 survey done by Trust & Will, a legal forms provider, revealed some misconceptions and a need for some education.

How long does probate take? Probate can take months, or it can take years, depending upon the complexity of the estate. The average time, according to the report, is 20 months. The survey respondents expected a shorter timeline, such as four to six months (15%) or ten to twelve months (12%). Some 37% were unsure.

What does probate cost? Less than $1,000, according to 10% of survey respondents. More than $10,000, said 4% of those surveyed. The majority, 56%, simply had no idea what the cost of probate might be.

The cost of probate will vary with the complexity and size of the estate, but it is generally thought to run from 3% to 7% of the estate's value.

Is probate hard? In the survey report, 17% of respondents expected probate to be somewhat or very

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easy, while 52% expected a somewhat or very difficult experience.

To shorten the probate process, to make it easier and to reduce expenses, one needs to have a plan. In some cases, executing a will provides sufficient guidance for the estate settlement process. For larger estates, the addition of trusts may be helpful.

Steps in estate settlement

Winding up the financial affairs of *any* individual's lifetime is not a simple, linear process. Many tasks overlap or occur simultaneously. That raises the question: Who has the needed skill set, the systems, the personnel and the time required to handle the job of estate settlement promptly and efficiently?

- *Inventory.* It's the rare individual who leaves a complete inventory of all of his or her financial assets and interests. Some assets are easy to find—bank and brokerage accounts with their regular statements, for example. Life insurance policies and retirement plan interests can prove more difficult to find. Interests in real property and closely held businesses can be the most problematic.
- *Asset management.* Investments must be monitored and income collected. Insurance must be purchased or maintained. Property taxes will need to be paid. Appraisals may be needed for collections, jewelry or other hard-to-value assets.
- *Debt collection.* Money owed by the decedent at death must be paid by the executor, after the legitimacy of the debt is confirmed. Similarly, the executor must make diligent efforts to collect all funds owed to the decedent. Tact will be needed when the debtor is a family member.
- *Raise cash.* Estate management requires cash for paying expenses and taxes. But most estates consist primarily of property. That means the executor will have to decide what to sell and when to sell it to meet the estate's cash needs. This is where strong investment planning skills can pay off. Funds should be raised without parting with the assets best suited for future family needs.
- *Pay income taxes.* The executor will have to file the decedent's final income tax return and fiduciary income tax returns for the estate itself.
- *Pay death taxes.* This year federal estate taxes are due on taxable estates larger than $13.61 million. An estate tax return will be needed for estates of this size, even if no tax will be due because of the marital or charitable deductions. Smaller estates will also need to file a return if there is a surviving spouse, in order to preserve the deceased spouse's unused federal estate tax exemption. Some states have much lower thresholds for filing state inheritance or estate tax returns. A state tax return may be required for each state in which the decedent owned property.
- *Distributions.* Delivering the estate assets to beneficiaries, or to trusts for their benefit, is among the easier and more pleasant duties that the executor must discharge.
- *Accounting.* The executor's final task is to account for all money and property that has been received and disbursed. Therefore, accurate and detailed records must be kept from the beginning of the process.
- *Report.* The executor must file the accounting with the probate court for final approval.

We are ready to serve you

Whom should you choose to settle *your* estate? We have the skills, the experience and the knowledge to properly handle the job of estate settlement. We are available, and we are impartial. We understand the nature of fiduciary responsibilities, and we know how to discharge them.

And for all this, our fee for settling an estate is generally comparable to what an inexperienced individual would receive. In some cases, our experience will help to reduce estate shrinkage, increasing the amount available for beneficiaries.

Would you like to learn more? Please call on us for more details about our estate settlement service. ☐

Core advantages that we bring to the job of estate settlement

When an estate includes very unusual assets, selecting a family confidant with special expertise in such assets for estate management can be a wise choice. However, even more mundane assets, such as real estate or securities portfolios, also require significant expertise for proper management. That is the talent that a corporate fiduciary, such as us, brings to the table.

Here are the basic benefits that a corporate fiduciary provides in estate settlement:

• We treat estate and trust administration as a full-time job.

• We have facilities and systems for asset management that individuals lack.

• Estate assets and trust funds in our care are doubly protected, by both internal audits and regulatory oversight by state or federal officials.

• We have an unlimited life, while an individual may die, become incompetent or just disappear.

• We bring long experience and group judgment to the job of investment management.

• We will treat all beneficiaries impartially, and most beneficiaries will appreciate that.

• We can withstand pressure when a wayward beneficiary asks for more from a trust than was intended, while an individual trustee might give in to requests for "more."

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An unfortunate postscript to Tony Bennett's life

Seventy albums, more than 50 million records sold worldwide, 20 Grammy Awards, two Primetime Emmy Awards—singer Tony Bennett enjoyed a remarkable career. He started as a singing waiter, before being drafted for the final stages of World War II in 1944. After the war and a stint at the American Theater Wing on the GI Bill, Bennett began his climb to fame. Mitch Miller signed him to a recording deal with Columbia Records in 1950, and a series of hits followed through the 1950s and 1960s.

Bennett's popularity dimmed in the 1970s, but in 1980 his son, Danny, took over the management of Bennett's career. He was introduced to a new generation, with appearances on MTV and many other television shows. Bennett continued performing well into his 90s, and his longevity put him into the *Guinness Book of World Records*. *Rolling Stone* reported that Bennett's earnings in the last 15 years of his life reached $100 million, and his fortune at his death in 2023 was estimated to be $200 million.

Trouble in paradise

A living trust was the foundation of Tony Bennett's estate plan. He and son Danny were the trustees, with Danny becoming sole trustee at his father's death.

The terms of the trust and the full scope of Bennett's estate are not yet public. What we do know is that Danny's two sisters have filed a lawsuit in New York over his actions as trustee. Among their claims:

- Danny supervised the sale of Bennett's music catalog and image rights in 2022, but he failed to provide a full accounting of the sale.
- Bennett's clothing was donated to charity without notifying the sisters first, as required by Bennett's will.
- Danny prevented the sisters from visiting Bennett's apartment to view his tangible personal property, some of which had great sentimental value.
- Bennett's tangible personal property was auctioned off without consulting the sisters, even though such a sale was not required by the estate planning documents.
- Danny received an "improper loan" of $1.2 million, and he received gifts totaling $4.2 million, which was double what Bennett's other children received.

The soundness of these claims and the outcome of the lawsuit are unknown at this time, but future family harmony among Bennett's four children looks unlikely.

Communication is critical

As a general rule, naming a family member who is also a beneficiary to be a trustee or the executor of an estate invites misunderstandings and disagreement among the heirs. The ones not chosen may feel slighted or disrespected. They may not trust the judgment of the family member trustee; they may be quick to see bias or self-dealing. They may not appreciate how complex is the job of trusteeship.

That's not to say that choosing Danny to be the trustee of the Bennett Family Trust was a bad idea. From the decades of managing his father's career, Danny had an intimate knowledge of the family finances. He was well positioned to understand how to maximize the value of the Bennett estate assets.

However, trustees do have a fiduciary obligation to report promptly and fully to trust beneficiaries, as well as a duty to keep thorough records of all decisions and transactions. Danny might have profited by working with a trust department or trust company as co-trustee, so as to dot all the i's and cross all the t's of trusteeship.

In any event, estate plans should be discussed and explained to the beneficiaries in advance, to align their expectations with their future realities. The intentions for the family wealth, the reasoning behind bequests, and the choice of the stewards for that wealth should be reviewed. An airing of the motivations behind an estate plan will usually promote family harmony. But at the same time, heirs need to understand that estate planning isn't a family-wide project, and the plan itself isn't being put to a vote. ☐

Photo: John Mathew Smith & www.celebrity-photos.com from Laurel Maryland, USA

Final Regulations for RMDs

The SECURE Act of 2019 eliminated the "stretch IRA," which had become a hot estate planning strategy for providing lifetime financial support to a young beneficiary. Under the earlier law, distributions from an inherited IRA could be spread over the beneficiary's lifetime. For young beneficiaries, the RMDs might be small enough that the inherited IRA would continue to grow handsomely.

Now only "eligible designated beneficiaries," as defined in the new law, are allowed to stretch the IRA payouts over their life expectancies. In all other cases, the IRA must be distributed in ten years.

There are five categories of those who can continue to have lifetime IRA RMDs:

Surviving spouses. The surviving spouse may use the life expectancy tables to take RMDs over his or her lifetime. A surviving spouse continues to have the option of making an inherited IRA his or her own.

Minor children of account owner. Until they reach the age of majority, the RMDs for minor children may be determined from the actuarial tables. Once they reach the age of majority, the ten-year rule kicks in. Note that the minor must be the account owner's child, not simply a minor. This tax treatment is *not* available to grandchildren, nieces or nephews.

Disabled beneficiaries. If the designated beneficiary is disabled within the meaning of IRC §72(m)(7), RMDs may be stretched over the lifetime. Entitlement to Social Security disability benefits may be a litmus test for eligibility.

Chronically ill beneficiaries. A chronically ill designated beneficiary, as that condition is defined in IRC §7702B(c)(2), may stretch the payouts over his or her lifetime.

Less than ten years younger than the account owner. Life expectancy may be used if the heir is less than ten years younger than the account owner, such as a sibling. However, a blood relationship is not required.

Financial planners debated how to handle distributions for those in the ten-year category. Should they be deferred until the tenth year, for maximum tax-deferred buildup? Or would a program of taking 10% each year for ten years be better, as it avoids pushing the beneficiary into a higher tax bracket?

In Proposed Regulations, the IRS said that not every beneficiary has that option. If the account owner died after his or her required beginning date, the beneficiary would have to take a required minimum distribution in each of the ten years.

That proposal caught planners and financial institutions by surprise, so the IRS responded by waiving penalties for failure to take an RMD from certain inherited IRAs in 2021, and again in 2022, 2023 and 2024. Commenters asked the IRS to change course, but in Final Regulations, issued in July, the Service confirmed the earlier rule. ☐

Utilizing life insurance, revocable living trusts, investment management accounts and more products, our Trust Division has a variety of options to help you preserve your assets for the next generation.

For more information, call (870) 793–4441.

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