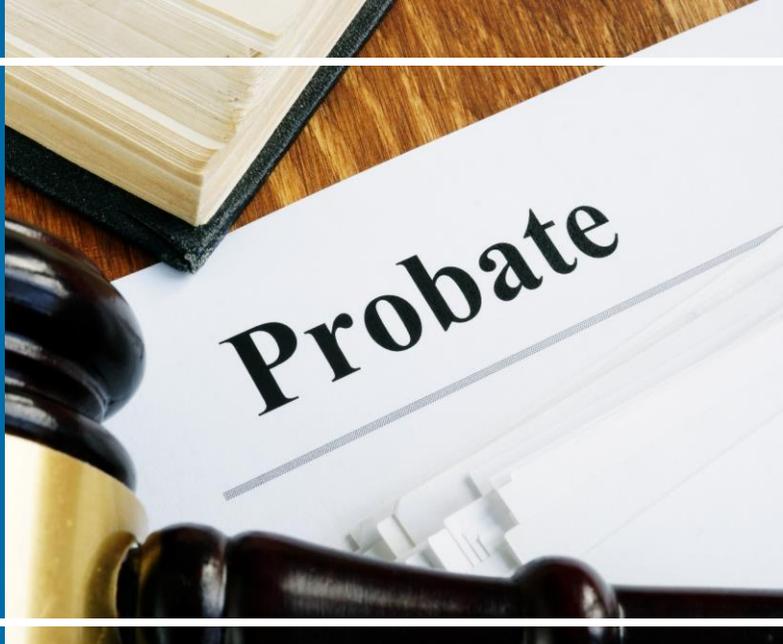


Executors!

What you need to know about probate



Probate: what is it? How do you obtain it? When is it required? Does it offer protection to executors? Knowing how probate works is important.

Probate defined

Probate is judicial confirmation that the Will is indeed the last valid Will of the deceased. The court grant is referred to as Letters Probate or, in Ontario, a Certificate of Appointment of Estate Trustee with Will Annexed.

Probate required

There are many reasons why probate would be requested, including:

- The deceased owned real estate registered solely in their name or as tenants-in-common.
- A transfer agent requires probate to deal with shares held in a publicly traded company.
- A financial institution requests probate to release funds held on deposit.
- A testamentary trust is established under the Will.
- There are beneficiaries under the age of majority.
- The executor has pre-deceased or renounces, and no alternate executor is named.
- There is a charity named as beneficiary under the Will.

Protecting the executor

Obtaining probate is a process that protects you, the executor, in the event a newer Will is found after distribution of the estate. If probate wasn't applied for and a newer Will is later discovered with a different distribution scheme, you could be personally liable.

The probate process

Each province has prescribed forms you must complete to exact standards. It will include information about the deceased and the beneficiaries. In most provinces, an inventory of the deceased's assets and liabilities establishing the value of the estate is required. The original Will accompanies the application to the court and with the exception of British Columbia, probate fees are paid at that time.

Will the original Will be returned to me?

No. You will receive the grant of probate with a copy of the Will attached. The court retains the original Will. We recommend you have multiple *notarial* copies of the grant of probate prepared for the financial institutions and other organizations that require probate to finalize the deceased's affairs. Keep the original grant of probate in a safe, secure location.

Misconceptions about probate

Probate fees are **not** charged on the entire estate. Non-probable assets include life insurance policies, pension plans and registered plans where a beneficiary other than the estate has been designated. These assets are not subject to probate fees.

In addition, probate fees are not as high as people think. While some provinces' probate fees are higher than others, fees generally range from \$0 in Manitoba to approximately 1.7 % of the probable assets. On a \$1,000,000 estate, the highest probate fee in Canada would be approximately \$17,000.

Mitigating probate fees

It is always prudent to reduce the probate fees the estate will pay through proper estate planning; however, there are times when the cost of avoiding probate may be higher than the probate fees incurred at the time the estate is administered. Discuss your options with an estate professional before implementing any strategies to reduce probate fees, as there may be tax implications and other costs; e.g., land transfer fees, legal fees, etc.

Consider connecting with an estate and trust advisor at Concentra Trust to learn how we can assist you in the role of executor, especially if the estate holds complex assets, the family situation is complicated, or you do not have the time to administer the estate.

For more information: 1.800.788.6311 | trust@concentra.ca | concentra.ca

Did you miss our most recent article? Click [here](#) to read *Books are Uniquely Portable Magic*.

Concentra Trust, a national trust company, has been serving clients, corporations and communities for more than 65 years with tailored estate and trust solutions designed to preserve and transition wealth to future generations. We are well versed in navigating the intricacies of estate planning and administration and our experts have the skill to support all aspects of the process. Given our passion for trust governance, our unbiased advice and guidance, and our inclusive leadership culture and co-operative values, we provide exceptional client service.

A word from our lawyers

The content of this bulletin is provided for general information purposes only. It is not intended to be specific advice regarding legal, accounting, financial, or tax matters on which you should rely. You must obtain more specific or professional advice before taking, or refraining from, any action or inaction on the basis of the content in this bulletin. We accept no liability for any loss or damages arising out of your use or reliance of the information in this bulletin, including liability towards third parties.