

What Steps Can Be Taken to Avoid or Minimize Probate?

Supervision of the estate settlement process by the probate court can result in additional expense, unwanted publicity and delays of a year or more before heirs receive their inheritance. The publicity, delays and cost of probate motivate many people to explore ways in which to avoid or minimize the impact of probating a will, including:

State Statute

If specific requirements are met, many states have made provision for certain estates to be administered without the supervision of the probate court, resulting in less cost and a speedier distribution to heirs.

Form of Property Ownership

The **joint tenancy** form of holding title to property allows ownership to pass automatically to the surviving joint tenant, who is normally the surviving spouse.

Transfer On Death

Many states have enacted Transfer on Death statutes that allow a person to name a successor owner at death on the property title certificate for certain types of property, including real estate, savings accounts and securities.

Life Insurance

Unless payable to the estate, life insurance proceeds are rarely subject to the probate process.

Lifetime Giving

Gifts given during life avoid the probate process, even if made shortly before death.

Trusts

A **"Totten" trust**, which is a bank savings account held in trust for a named individual, can be used to pass estate assets at death outside of the probate process.

A **revocable living trust**, created during the estate owner's lifetime, can be an effective way to avoid the expense and delay of probate, while retaining the estate owner's control of his or her assets prior to death.

Any potential method of avoiding probate should be evaluated in terms of its income and/or estate tax consequences, as well as its potential impact on the estate owner's overall estate planning goals and objectives.