

Probate: Step by Step

Probate is a formal court proceeding to prove the validity of a Will, appoint an executor to administer the Will, and distribute the probate assets to the beneficiaries of the Will.



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Step 1: Probate the Will

Review the Will

Select and retain an attorney

Gather personal information and legal documents

Apply to the court to admit the Will to probate and appoint an executor

Notify known creditors, heirs, and beneficiaries

Publish a notice to unknown creditors

Request an Employer Identification Number (EIN) from the IRS

Notify the IRS of the executor's appointment

Step 2: Gather and Protect Assets

Open an estate checking account

Determine which assets are subject to probate and which are not (such as joint assets, life insurance, and retirement assets)

Create an inventory of estate assets

Confirm insurance coverage is in place for vehicles and real estate

Take control or physical custody of probate assets

Obtain asset valuations and appraisals

Close existing cash accounts and deposit funds in the estate checking account

Sell assets as appropriate

Step 3: Debts, Expenses, and Taxes

Pay estate expenses incurred after death (funeral costs, court costs, legal fees, tax preparation fees)

Pay debts incurred before death (current utilities, medical expenses, credit cards)

File necessary tax returns and pay all taxes (income, estate, gift, and real estate taxes)

Step 4: Distribute Assets to the Beneficiaries

Make specific gifts of cash or property to the beneficiaries

Transfer remaining property to the beneficiaries

Create any trusts established in the Will

Step 5: Close Probate Proceeding

Obtain all necessary approvals from the beneficiaries

Obtain appropriate tax clearances

Prepare a final report of the executor's actions and an accounting of the receipts and disbursements from the estate

Pay the final expenses and close the estate checking account

Apply to the court to close the probate proceeding and discharge the executor



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