

PROBATE, WILLS & TRUSTS

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I JUST MOVED TO ARIZONA FROM OUT OF STATE. DO I NEED TO HAVE MY WILL OR TRUST REVIEWED TO SEE IF IT COMPLIES WITH ARIZONA LAW?

No. As long as your out-of-state will or trust was done in compliance with the laws of the state in which the will or trust was executed, Arizona courts will honor the will or trust even if it does not comply with Arizona will and trust law. However, if health care and financial powers of attorney are part of your estate plan, you should have those documents reviewed by an Arizona estate planner. Further, if you have a trust, you should make sure that your new home in Lake Havasu City is titled in the name of the trust.

IF I DON'T HAVE A WILL OR TRUST, WILL THE STATE OF ARIZONA GET MY PROPERTY WHEN I DIE?

Probably not. If you do not have a will or trust, Arizona law mandates how your assets are distributed to your spouse and your blood relatives. However, what the state of Arizona mandates is not necessarily what you would want to see happen.

WHAT IS PROBATE?

Probate refers to a process by which your property is administered through the court system after you die. The probate court appoints a personal representative (executor) who then has authority to access bank and investment accounts, sell real estate, pay creditors and to distribute the estate assets in accordance with the will or interstate succession law. In return for the authority given, the personal representative must comply with a complex set of rules imposed and supervised by the



probate court. The average probate case in Arizona takes about a year and costs about five thousand dollars (\$5,000.00).

DOES HAVING A WILL HELP TO AVOID A PROBATE OF MY ESTATE WHEN I DIE?

No. A will simply directs where your assets will go among your heirs and who should be in charge of the distributions to the creditors and the heirs.

ARE THERE THINGS I CAN DO NOW TO AVOID THE PROBATE PROCESS FOR MY HEIRS?

Yes. The most popular method used to avoid probate is the utilization of a living trust. You can think of a trust as your own private company that owns substantially all of your assets. As trustee of your trust, you have 100% control over the assets. When you die, the trust document creating your trust provides who takes your place as trustee. This successor immediately has control of the assets in the trust estate without going to court to get that authority. In most cases, a trust administration will have no court or lawyer involvement.

SHOULD EVERYONE HAVE A LIVING TRUST?

Not necessarily. Sometimes a probate can be avoided without having a trust, through the use of payable on death beneficiaries for accounts and beneficiary deeds for real estate. Also, if there is significant acrimony among the heirs and the estate is relatively complicated, a probate court supervision of the administration of your estate may be beneficial.

WHAT TAXES DO MY HEIRS OR BENEFICIARIES PAY WHEN I DIE?

Unless the value of your estate exceeds 5.3 million dollars, there will be no estate or inheritance taxes at the federal or state level. Of course, if you owe income taxes when you die, your estate will be responsible for paying them before distributing the assets to the heirs and beneficiaries. ♡



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