

The Four Downsides of Probate

Downside One: Probate Can Be Expensive

Based on an older AARP study, probate generally eats up between eight and ten percent (8-10%) of an estate, including attorney fees, appraisals, transfer fees, and court costs. Based on attorney experience, the range is a little more broad at between four and ten percent (4-10%) of an estate depending on a few factors:

- Number of assets in probate
- Type of assets in probate
- Value of assets in probate (for calculating court costs)

Some states also provide a standard executor/administrator fee such as five percent (5%)

Downside Two: Probate Takes Time

Probate typically takes six months to a year and a half, and probate lasting two years or more is not unheard of. The estate of Howard Hughes took more than 34 years to settle. There are a number of factors that contribute to probate taking so long:

- How well organized the deceased was in keeping financial records and paperwork
- Complexity of assets in their portfolio
- Cooperation of companies in providing required paperwork
- Real estate and certain assets located in other states may require separate ancillary probate proceedings in those other states

Downside Three: Probate is Open to Contests

Challenges to an estate are typically easier when an estate is in probate because all it takes to bring an estate to a grinding halt is for someone to state they have a problem with how the estate is going or the Will is interpreted, file the appropriate paperwork with the court, and now the estate can not be closed nor assets distributed until their problem is resolved.

While it is not right and it is not fair, more often than we would like to think, beneficiaries settle and the interloper is "paid to go away." The two most frequent source of challenges are

- Heirs or beneficiaries who were cut out or didn't get as much as they thought
- People who claim they were promised something in the estate

Downside Four: Probate is Open to the Public

Probate is a court process, so filings with a probate court are open to public inspection, leading to the disclosure of information people generally want kept private:

- Financial and asset values
- How much and what each beneficiary receives from the estate
- Names, addresses, and ages of beneficiaries
- Debts and payments by the estate

Additional Resources

www.Trust101Webinar.com

www.YouTube.com/nclawyer

www.EstateCrashCourse.com