

THE C & D NEWSLETTER



CITRON & DEUTSCH
A LAW CORPORATION

Published by:
RICHARD K. CITRON
DAVID R. DEUTSCH
MICHELLE LeCOLST-JOHNSTON
Attorneys

THERE MIGHT BE A WILL, BUT IS IT THE WAY?

If you are like most people, you believe a simple Will is all that is needed to transfer your property to your loved ones in the event of your death. While it is in fact one way to accomplish this goal, it often times is not the best way or most cost efficient approach.

A decedent with only a Will leaves behind an estate in danger of being "probated". A probate is a judicial procedure whereby the Executor, the person you nominate to handle your post-death affairs, submits your Will to the court for processing. Thereafter, the court oversees the administration and distribution of the decedent's estate, which becomes public record. The entire process can take approximately one year to complete (longer in most cases) and cost the estate three to five percent of its value in attorneys' and administrative fees. Furthermore, beneficiaries do not receive their gifts or share of the estate until the probate is closed.

Some methods of avoiding probate, explained in their simplest form, include:

1. Holding property in joint tenancy. This is a method of holding title to property, often times real property, by more than one person. For example, when two people hold property as joint tenants, there is, under the law, a "right of survivorship" which provides that upon the death of one joint tenant, the other will inherit the entire property free of probate.
2. Utilizing designated beneficiary forms. Designated beneficiary forms are often used in the case of such assets as life insurance policies or IRA's. Simply put, the holder of the asset chooses a beneficiary and this information is recorded and filed with the issuing company. Upon the death of the holder, the issuing company will distribute the asset to the named beneficiary thereby avoiding probate.
3. Totten trusts. A totten trust is a device used to pass funds held in a bank account to a designated beneficiary upon the depositor's death rather than through the process of probate.
4. Establishing an irrevocable or revocable trust. A trust is an arrangement in which property is transferred, held and administered by a trustee for the benefit of selected individuals under the terms and conditions decided upon by the settlor (the person who created the trust, who in many cases can also act as the trustee). For example, upon the death of the settlor, a trust can provide for the care, support, education and medical needs of surviving minors until they reach the age of majority or any alternate age selected by the settlor. A trust avoids probate and can provide privacy and estate tax advantages.

In most cases, implementing a combination of some or all of the above methods is the best approach in completing your estate plan. Each method has unique complexities and characteristics not discussed herein, but that should be addressed in greater detail with your estate plan professional and/or financial planner. Proper estate planning takes only a small amount of time and will provide your family and loved ones with lasting benefits.

This complimentary newsletter is intended to provide general information. Because of the complexities and constant changes in the law, it is important to seek professional advice before acting on any of the matters covered herein.

