

UFT Welfare Fund Retiree Legal Plan

PREVENTIVE LAW GUIDE



A newsletter designed to help guide you through the legality of reality

Issue 71
September 2015

Look inside for:

- Your free office consultation coupons for the coming year
- Legal Service Plan telephone numbers

Probate traps for the unwary

By Christopher M. Petillo, Esq., CPA, CELA

Many clients will ask about “avoiding probate” and how to do it. To better answer this question, we must first ask “what is probate?”

Probate is a term that typically refers to the act of offering a Will to the Surrogate’s Court. The judge will oversee a legal proceeding to review your original Will, and make a determination as to whether the Will is valid and an Executor should be appointed to handle the property of the estate, pay debts and taxes, and distribute assets to the beneficiaries.

The probate court will want to know about the nearest blood relatives (whether living or dead) as well as the spouse of the deceased, if any. The court will also want to ensure that family members are given notice of the probate in case they want to file any objections.

Even certain relatives who are disinherited may be entitled to notice of probate so that the court can determine whether there is a concern such as fraud, undue influence or forgery. There may be court filing fees and there may also be legal fees if the Executor/trix would like help in navigating the process.

What flows assets go through probate and pass under my Will?

Generally, probate assets include assets that are titled in your name solely (i.e., where there is no joint owner with a right of survivorship and no designated beneficiary).

Isn’t there a simpler way?

There can be if it makes sense for you. A Will can serve an important purpose in many cases, especially if you have provided for a trust to protect a beneficiary in your Will. But there can be ways of streamlining the process in many cases.

Probate traps for the unwary

1. *Do you own a home, co-op or condo?* Do you own it in your name alone? If so, the property will be a probate asset, unless you change the ownership while you are alive (such as placing the property into a Trust). We often meet with clients who are the surviving spouse, and they will implement planning so the home can avoid probate upon their passing.

2. *Do you own property in more than one state?* You could wind up with the probate of your Will in more than one state.

3. *Do you own savings bonds?* If so, have you looked at them lately? Many clients have bonds that have no beneficiary or are “POD” (Pay on Death) with a predeceased beneficiary (such as a spouse who died first).

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Don't wait to organize important documents

By John Calimano, Esq.

“Help! My loved one has passed away and I don't know if he/she had a Last Will & Testament or where any of their important documents are located.” In order to avoid this unfortunate scenario, it's important to organize all of your documents.

The first step is to assemble important documents, including (but not limited to) the individual's birth certificate; adoption certificate; marriage certificate; death certificate (for spouse or parent); divorce papers; military records; driver's license; Social Security number; passport/citizen papers; original Last Will & Testament; and funeral instructions (plot deed).

These documents can also include their Health Care Proxy; Living Will; Power of Attorney; Trust; insurance policies; brokerage/investment account information; copies of beneficiary forms; checking & savings account information; contact information for financial advisors; tax returns; deeds to real property; title to vehicles, boats, etc.; safety deposit box information; passwords for online accounts; and account information for home utilities.

Once all of this information is assembled, it's necessary to review it to ensure that it is current and accurate. If there are any inaccuracies in the documents, take the time to correct them.

For example, is your Health Care Agent and Power of

Attorney still the person you want? Does your Last Will & Testament still reflect your wishes? Do your beneficiary forms still indicate the people you want receiving those accounts?

The second step is to choose a place to store the information. A fire- and water-proof safe provides the most protection. And make sure to inform someone of the combination or where the key is located.

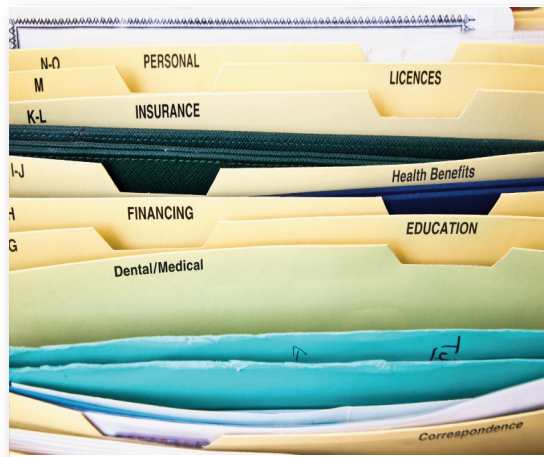
If the original Last Will & Testament is being stored at an attorney's office, keep a copy of the Will with instructions that the original is being stored at the attorney's office with the attorney's contact information.

Another option is a safe deposit box, which provides greater protection from theft. An original Last Will & Testament should not be stored in the box, though, because it may become inaccessible at the time of your death due to it being sealed by the tax authorities. Even if there

is someone else authorized to access the box, it can still become sealed.

The last step is to inform your family, Health Care Proxy, Power of Attorney, and the Executor/trix of your Last Will & Testament the location of these documents. Even those people who do not like to discuss these issues will be grateful that you organized all of this information when the time comes that they need to access it.

This final step will hopefully encourage further discussion about these very important issues. Your family should know what your burial wishes are and your Executor/trix should be aware of your assets. ⚖️



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Preventive Law Guide is not a substitute for individual legal advice from a lawyer. The information presented here is believed accurate, but laws vary between states and every legal situation is different. If you have any questions whether information presented here applies to you, contact a plan attorney. Don't guess when you can be sure. New York residents, call the NLO at 800-832-5182; all other residents, call 800-292-8063.

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Legal Service Plan's National Legal Office phone numbers

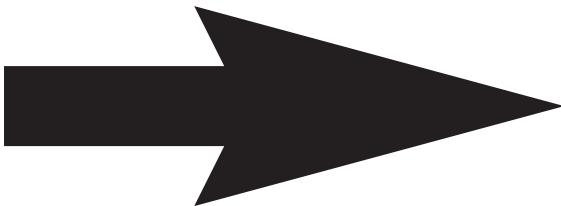
<p>New York: Long Island residents: 631-231-1450 All other NY residents: 800-832-5182</p> <p>Florida: 954-424-1200 or 800-654-1945</p> <p>All other states: 800-292-8063</p>	<p>Emergency Hotline:</p> <p>All states except Florida: 800-292-8063</p> <p>Florida: 800-654-1945</p>
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Please print your name where indicated on your coupons and note the coupon expiration dates.
 Please keep your coupons in a safe place. They cannot be duplicated.



FREE
COUPONS



**UFT Welfare Fund Retiree Legal Plan
Free Personal Consultation Coupon**

Name _____

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Expiration date

is entitled to one hour of free office consultation for any covered legal service. However, this coupon cannot be used for the preparation of a Will, Estate Planning or to reduce "Plan Maximum Fees" (refer to your Certificate of Coverage). Nor can the coupon be used for any services provided under the Elder Law Supplement and Optional Business Protection Rider. Coupons may not be combined for any one particular legal matter. Please present this coupon at consultation.

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Probate traps for the unwary *Continued from page 1*

4. *Do you have savings accounts and CDs?* You may wish to add an "ITF" (In Trust For) beneficiary so the account can avoid probate.

5. *Do you have a checking account?* Many banks do not allow for a designated beneficiary on a checking account. You may wish to keep your checking balance low and transfer money in from savings as needed. If joint ownership is an option you are uncomfortable

with, you may wish to consider a trust.

6. *Do you have a Brokerage Account or Mutual Fund?* Most states allow for a "TOD" (Transfer on Death) beneficiary designation, which would allow the account to avoid probate.

7. *Do you have life insurance through John Hancock (now known as Manulife Financial), Prudential or MetLife?* If so, you may be the owner of stock in those companies as well.

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Probate traps...
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These companies reorganized through “demutualization” in the early 2000’s and, in doing so, had to compensate policy owners. They sent a notice and gave an option for cash or stock. Many clients ignored the letter and received stock. When the stock was issued, it was issued in the name of the policy owner only, with no joint owner (in most cases) and no designated beneficiary. So what did they create? Probate assets!

If you have policies with any of these companies, you may wish to contact shareholder services and add a “TOD” beneficiary designation. Alternatively, you may move these shares into your brokerage account (be sure you have a “TOD” on the brokerage account).

8. Are your retirement accounts & life insurance beneficiary designations up to date? We recently met with a client who had started work in the early 1960s and named their mother as the beneficiary of their company life insurance and retirement plan benefits.



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Through 50 years of marriage, children and grandchildren, the forms had never been updated. That’s why it’s crucial to call the contact number on your accounts and policies to confirm that the beneficiary you believe is on file is actually on file with them.

9. Do you have more than one motor vehicle in your name? New York State Department of Motor Vehicle rules allow for one vehicle to pass to the surviving spouse if the value is less than \$25,000. However, if the second vehicle is in your name as well, there will be Probate. So find out if joint ownership may be an option in your state.

If you do not have close relatives that live nearby or are disinheriting any blood relatives, you may want to pay particular attention to avoiding probate on your assets. If you have any questions about this topic, please contact your Legal Service Plan’s National Legal Office.