Probating an Estate in Massachusetts

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In 2012, Massachusetts adopted the Uniform Probate Code. This new code changed the way the Commonwealth probates estates. The process has been changed to allow more leeway based on the complexity of the estate. Estates with smaller proceeds may be able to probate through the "Informal" process by which the Court has minimal supervision. Estates with more substantial assets may need to proceed through the "Formal" probate process.

The complexity of an Estate depends on many factors such as the value of the assets of personal property involved, whether there is real property to be distributed, the number of potential heirs, whether or not there is a valid will, and whether or not the distribution of the estate may be contested. This list, however, is not an all-inclusive list of potential factors to consider.

The Informal Probate process allows minimal oversight by the Courts and is less costly to the Estate. Estates with or without valid wills may file for informal probate. In addition, it is advisable to have an agreed upon Personal Representative (formerly "Executor/trix"). The Personal Representative is the person who will ensure the proceeds from the estate are distributed per the wishes of the decedent. If there is no will or the decedent died "Intestate", a Personal Representative needs to be appointed to ensure the distributions occur per the laws regarding distribution. There are instances; however, where the informal process may not be used. Such instances include but are not limited to: unknown heirs, minors as heirs, an original will cannot be produced, or there is not available death certificate.

The Formal Probate process becomes necessary when there are issues such as the ones listed above, as well as when there are contested issues with the distribution of the estate or when there is not a consensus among the heirs on who should be appointed as the Personal Representative. The complexity of the assets may also necessitate the need for Formal Probate. Although certain types of assets such as life insurance proceeds, pension plans with beneficiaries, and real estate with survivorship rights may not need to be probated, other assets always necessitate probate for proper distribution.

The responsibilities of a Personal Representative only begin with the appointment. There are procedures that need to be followed in a timely fashion that pertain to taxes, debts of the estate, potential MassHealth liens, accounting of the distributions and then the official closing of the estate. These closing procedures are also dependent on the type of probate process requested.

Whether Formal or Informal, there are many considerations in determining how to proceed with probating an estate of a deceased loved one. At Cohen Cleary, P.C., we can assist in selecting the appropriate process suited for the needs of the estate. We can advise as to the legal processes as outlined by the Massachusetts Uniform Probate Code. Additionally, we can provide assistance through the entire process as needed. Contact our office today for a

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confidential consultation with a Massachusetts Lawyer Probating an Estate in Massachusetts.[/fusion_builder_column][/fusion_builder_row][/fusion_builder_container]

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