

## **SUDDENLY SINGLE CAN BE SUDDENLY OVERWHELMING. LET US HELP!**

When you lose someone either through their passing or divorce you feel lost, hurt and anxious. These are normal, human emotions. Yet experiencing the loss and feeling of greater uncertainty need not be exacerbated by being at a loss about your finances. At times like this remember the reality is that you still have friends and are not alone. Most people have empathy and compassion and want to help & console.

ProActive Advisors operates under a fiduciary standard of care. We guide you through the financial and legal red tape notifying beneficiaries, heirs and creditors, organizing and inventorying assets & liabilities for the Executor/Executrix while presenting a financial accounting to your attorney who will work the estate through the legal probate/trust process. Assets with designated beneficiaries (life, insurance, annuities, retirement plans, jointly owned property) bypass probate and estates under \$15,000 in Kentucky are not subject to probate.

Here's a snapshot of the steps in the process:

**If Death of a spouse**, take care of the funeral & burial arrangements. Ask the funeral home to send you several (5) copies of Death Certificates. Locate the deceased's Will & Trusts and file a petition to open probate with the District Court. If no Will, contact the District Court Clerk's office. Give notice to heirs and beneficiaries as well as creditors. Spouses can make telephone calls to creditors but ordinarily a notice is published in the newspaper giving creditors 6-month claim period notice. (KRS 396.011). Valid creditor claims are paid from the estate. A final income tax and estate tax return, if applicable, must be filed after which a final accounting to the court is given showing all transactions where upon the court will approve the distributions and issue an order to close the estate.

**If a Divorce**, call us to help you plan and gather information. During those conversations we discuss dependent children, their support, and help you inventory assets to be split, and devise the basis for requesting support to present to your soon to be EX keeping focus on eliminating words and actions to bias the children against either spouse.

### **Documents needed for settling and estate and completing a Divorce:**

Make an inventory of all assets & liabilities you own together and individually. If there are any trusts (revocable or non-revocable) and any pre-nuptial agreements gather those for review as well. Include copies of tax returns for the last 2 years. Gather insurance policies, contracts, checking, savings, and investment statements as well as beneficiary forms. It is important to see the documents and statements because how they are titled is critical. Note any Power of Attorney authorizations terminate at death.

#### **Pre-Probate\* / Pre-Divorce**

- Inventory Assets and Liabilities
- Organize and Value Assets
- Document Ownership Titling
- Estimate immediate Income needs
- Prepare Net Worth Statement
- Prepare Net Worth Statement
- Develop working budget

#### **Probate\* / Divorce Settlement**

- Discuss & Prioritize Goals
- Analyze income sources
- Estimate earnings potential
- Evaluate after-tax Asset sales
- Project Retirement Needs
- Project Retirement Needs
- Estimate maintenance needs

#### **Cont'd**

- Assistance in Attorney Selection
- Guide & Oversee Beneficiary Dist.
- Notify Social Security & Medicare
- Develop investment strategy
- Manage & Monitor investments
- Provide Tax Planning considering new single status.

## THE PROCESS OF SETTLING AN ESTATE

Probate is the legal process that administers (through the court system) how and to whom the deceased's asset will be distributed. If the decedent has a Will an Executor/Executrix will be named. If not and the deceased died "Intestate" the court will appoint a person, usually a family member or next of kin, to assume responsibility for handling the probate process. The process is somewhat time consuming but varies by county and the complexity of assets and liabilities subject to probate. Legal representation may be important to engage in some cases but ProActive is familiar with bank, securities (stock, bonds, mutual funds), real estate, retirement, and insurance policies (Life and Annuities) and can assist in making good financial decisions regarding these assets.

Here are the steps in Probating an Estate:

1. **File a petition** or request on a form made available by the county court clerk to begin probate. The county with jurisdiction is normally the county the deceased lived in when they passed. The court will hold a hearing to confirm the death by presentment of the Death Certificate, find out if there is a Will naming an Executor/Executrix, see if there are any objections to the person requesting to be Executor/Executrix, and then appoint someone who will then be the legal representative for the deceased estate.
2. **Give Public Notice** to all creditors, beneficiaries, and heirs, as required by the county court, that the deceased state is in Probate to be lawfully distributed. Some counties require a notice to be mailed while others require a published newspaper notice.
3. **Take the estate inventory** and appraise all assets subject to probate which includes bank checking and savings accounts, investment accounts, insurance policies, real estate, automobiles, boats, trailers, motorcycles, and other personal assets such as art, gun, coin, watch, glass, collections, etc. as well as furniture and antiques.
4. **As Executor/Executrix act as the deceased's Paymaster** for debts and taxes as well as collect money owed to the deceased keeping records of what is owed, received in payment, and paid out. To know what is owed and what is due, Executors/Executrixes' must search through mail, email, credit card statements and checking accounts to discover what needs to be paid and what sources of income are coming in. In this process, prudence must be taken to be certain every creditor can be paid in full out of the estate assets because any shortfall could cause personal liability to the Executor/Executor. While unusual, a bankruptcy could claw back payments made or a disgruntled creditor could ask the court for redress. Also please note the last Social Security payment received by the deceased must be returned in the month of their death.
5. **Distribute Assets.** After all debts and expenses are paid the Executor/Executrix will make distributions of the remaining asset to the lawful heirs & Beneficiaries as provided for by the Will of the Deceased or as dictated contract and Probate court if the deceased did not have a Will and died "In Testate."
6. **Caveats to Think about.** Retirement plans and insurance policies as well as assets in a Trust bypass probate. Only non-contractual assets owned in the Decedent's name or joint name with a spouse at time of death are subject to probate. Wills and Trusts often direct assets upon death to be automatically transferred to a trust. In that case there may be no assets to probate. Aside from this, cases where Divorce and Remarriage are factors, businesses are owned by family members, and out-of-state real estate is owned may be subject of dispute or claim. If for example a vacation home is owned in a state where the deceased is not a resident, that real estate must be separately probated in the state where the vacation property is located. Potential conflicts and estate problems can be addressed with prior planning. Call ProActive should you need help planning your estate or concluding a divorce.