

“ISN'T AVOIDING PROBATE THE NUMBER ONE OBJECTIVE IN ESTATE PLANNING?”

Avoiding probate is not necessarily the primary objective in planning your estate. Sometimes probate may serve a useful function in a particular estate, particularly if there are beneficiaries that may not get along, or the person handling the estate may need guidance but may believe professional assistance is not needed, there may be a number of creditors, you plan to include a number of beneficiaries of your estate (individuals as well as charitable organizations). Having one or two persons administering the estate may be more efficient and less contentious. It may lessen the time to complete an estate. The probate laws in Missouri and Kansas have been reformed and make probate a less onerous process than many people think.

However, for some estates, probate may be more cumbersome and possibly more costly than need be as opposed to alternative procedures to pass an estate at death. Some people are concerned about their privacy even after their death because anyone can go to the courthouse and look in the probate estate file and see what assets are included and other information (or that some of the information is on the court's internet site).

Determining the best procedure or procedures to pass your estate will depend on a number of factors. Among the many factors to consider are the following: if you want to delay distribution to certain beneficiaries (due to age, health or responsibility issues), if you want to include multiple beneficiaries, if you want to insure that if a beneficiary predeceases you that the share will pass to his or her descendants or to alternate beneficiaries, if the relationship between the beneficiaries and/or the person or persons you want to handle matters after your death is one of cooperation or of contention, if you want to provide for a second spouse yet preserve assets for children of a previous marriage, and if you want to reduce or eliminate estate taxes or other tax issues. The types of assets and size of your estate will also be factors in determining which procedure or procedures may be best.

Because these factors differ from family to family, having a “one-size fits all” approach may not be best in your situation. It may be advantageous to pass all of your estate through “nonprobate procedures,” such as payable on death (“POD”) or transfer on death (“TOD”) beneficiary designations, or by joint tenancy with right of survivorship, a trust, or a probate administration. Sometimes a combination of several of the options may be advantageous in your estate plan. Each of these procedures has advantages and disadvantages. Guiding you through the various options will help you determine what will work best in your particular estate.