Office Hours Study Guide

Understanding Probate

What Advisors Should Know

Probate is one of the most misunderstood parts of estate settlement; it can also significantly affect a client's financial plan. As an advisor, understanding how probate works and why clients often wish to avoid it can help you guide families through sensitive conversations about estate planning, privacy, and legacy.

WHAT PROBATE IS AND HOW IT WORKS

Probate is the court-supervised process that validates a decedent's will and oversees the administration of their estate. The court appoints an executor (or personal representative) who is responsible for:

- Collecting and valuing assets
- Paying outstanding debts
- Distributing remaining assets to heirs as directed in the will or via state intestacy rules

While probate ensures that a person's wishes are followed, it's often more complicated and timeconsuming than clients expect, especially when multiple assets, heirs, or states are involved.

WHY CLIENTS AIM TO AVOID PROBATE

Advisors frequently encounter clients who want to "stay out of probate," often without knowing exactly why. The three most common reasons are:

- **Time:** Even straightforward estates typically take six months to a year to complete, while complex cases can take several years.
- **Cost:** Attorney's fees, executor compensation, and court costs can consume a noticeable portion of the estate, particularly in states like California, where probate fees are statutory and high.
- **Privacy:** Probate is typically a public process. Once a will is filed, anyone can view it, including details about beneficiaries and asset distribution. This lack of privacy can expose sensitive family information and attract unwanted attention.

THE PRIVACY FACTOR

Because some probate filings, including wills, are public in most states, journalists and even bad actors can access them. While most courts still require in-person requests, digital access is expanding. This shift heightens privacy concerns for clients with significant wealth, blended families, or charitable intentions they prefer to keep confidential. Advisors can help clients understand how strategies like revocable living trusts can bypass probate and preserve privacy.

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The Bottom Line

Probate exists to ensure estates are properly settled, but for many clients, the drawbacks outweigh the benefits. Advisors who can explain the implications and outline probate-avoidance strategies are better positioned to add value in estate planning conversations.

Review your clients' estate plans to identify where probate could create delays, costs, or exposure. Partner with estate planning attorneys and encourage clients to take proactive steps, such as establishing trusts or updating titling, to ensure their wealth transitions smoothly and privately. To learn more about this topic, please watch our **Office Hours** video or reach out to your investment consultant.