

Chapter Newsletter

News from your Illinois Chapter



Fall - 2022

2022 November Conference

November 9, 10, 11

Par-A-Dice Hotel, East Peoria, IL (Room Rate: 1110TAX)

Speakers: David & Mary Mellem EA

Register:

<https://www.natptax.com/Chapters/Pages/IllinoisChapterEducation.aspx>

[Coming in 2023, Save the Dates](#)

November 8, 9, 10

Speaker: Chris Bird

Probate: What is it and How to Avoid it for Your Estate

By: Chad A. Ritchie, Ritchie Law Office, Ltd.

Avoiding Probate is one of the top reasons why people need to create an Estate Plan. The term “Probate” is not generally understood by the public – but when asked most people will say that it is best to “Avoid Probate” when someone dies. This article explains what “Probate” is and shows how two different types of estate plans can help avoid probate for an estate.

Probate is the court process of transferring legal title of property from a person who has died to that person’s heirs or legatees.

Each state has its own laws about how their probate process works.

The Probate Process is supervised by a court and includes:

1. Determining the validity of a Will
2. Naming an Executor or Administrator of the Estate
3. Gathering and Accounting for Assets of the Estate
4. Paying any debts that are owed by the Estate
5. Settling disputes over who inherits the Estate assets
6. Distributing the Assets to the Heirs/Legatees

In Illinois, the minimum amount of time the Probate Process will take is usually 9 -12 months, assuming there are no disputes or complications. If there are disputes among family members or creditor issues, then it can take years to get through probate.

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In this issue:

- Save the Date
- Board of Directors
- Feature Article: Probate
- Neighbor Chapter - Ohio
- Illinois Update
- A Little Humor

If you would like to be a part of the IL NATP Chapter Board, please let us know!

Register!

Upcoming Conference:

- Nov 9,10,11 (2022)
 - David & Mary Mellem

Save the following:

- Nov 8,9,10 (2023)
 - Chris Bird

Thank you

Special thank you to Chad Ritchie of Ritchie Law Firm for providing information on *Probate: What is it and How to Avoid it for Your Estate*.

Shannon Stewart for Bordering state article on Ohio

ILLINOIS: Update

Property Tax Rebate:

If you need to file IL-1040 PTR form, be sure to include supporting documents with your submission (i.e., property tax bills and/or proof of payment)

See FY 2022 – 27 (June/2022) for details

DEADLINE for filing:

On or before Oct 17, 2022

Tax.illinois.gov/rebates

Probate cont.

Identifying Estate Assets as “Probate” or “Non-Probate”

Every asset that someone owns – whether it is real estate; furniture; bank accounts; stocks, life insurance, etc. is part of one’s “Estate”. Not all Estates have to go through probate to be transferred to the next generation. Only assets considered to be “Probate Assets” are potentially subject to the court probate process.

Non-Probate Assets: Non-Probate Assets are assets that have **beneficiary designations**; are **jointly owned with right of survivorship**; or are held in a **Trust**. These assets will transfer without having to go through Probate because:

- Assets that have beneficiary designations will be easily transferred to the named beneficiaries on these accounts by filing some paperwork with the companies or institutions that are holding these assets.
- Assets held in trust will be transferred to the beneficiary named in the trust without having to go through probate.
- Jointly owned assets (with right of survivorship) will automatically be transferred to the surviving joint owners a matter of law – no paperwork needed.

Probate Assets: Probate Assets are assets that are owned in one person’s name only -- there are no joint owners to automatically inherit the assets. Probate Assets are also assets that do not have beneficiary designations -- either directly associated with the asset or indirectly through a trust. Any asset that is considered a “Probate Asset” will have to be transferred through the court Probate process **OR** be transferred through a Small Estate Affidavit.

The Small Estate Affidavit

Most states have recognized that they don’t want to clog their courts up with what they define as a “Small Estates” and therefore have provided a statutory affidavit form that can be used to transfer probate assets without going through the probate process. In Illinois, a Small Estate is considered an estate that is less than \$100,000 that does not consist of real estate. Every state has their own definition of a Small Estate and rules for their Small Estate Affidavit.

Two Types of Estate Plans that Can Avoid Probate:

There are two different types of Estate Plans that we can use to avoid Probate -- “**Will-Based Estate Plans**” and “**Trust-Based Estate Plans**”.

Trust-Based Estate Plans: Any asset that is held by a Trust is a Non-Probate Asset.

Trust-Based Estate Plans are used when someone creates a Revocable Living Trust and transfers enough of their “Probate” assets into it so that they are under the \$100,000 Probate Asset Rule (Illinois). Then when that person dies – the assets inside of the Trust will be distributed per the terms of the Trust. If there are assets outside of the Trust and still owned by that individual – then so long as those assets are less than \$100,000 in total – a Small Estate Affidavit can be used to transfer those assets to the heirs without having to go through Probate. Trusts are very powerful Estate Planning tools that have a lot of other benefits other than avoiding Probate. People with a large estate or complex family situations should consider using a Trust as part of their Estate Plan.

Probate Cont.

Illinois Cont:

If your client filed a 2021 Form IL 1040 but did not include the Sch ICR, then they will need to file the form IL 1040-PTR on or before Oct 17, 2022, to request the Property Tax Rebate.

A Little Humor:

Well, That's a Relief

A nervous taxpayer was unhappily conversing with the IRS auditor who had come to review his records. At one point the auditor said, "We feel it is a great privilege to be allowed to live and work in the USA. As a citizen you have an obligation to pay taxes, and we expect you to eagerly pay them with a smile."

"Thank God," returned the taxpayer. "I thought you were going to want cash."

[Source:
<https://www.thinkadvisor.com/2022/03/16/22-of-the-best-tax-jokes/>]

NATP State Volunteers:

Find them on the NATP website under "Member Center"

- State Tax Volunteers
 - Find
 - Become

Will-Based Estate Plans: A Will is a document that says who inherits your Probate Assets.

Many people don't have complicated family issues and don't have enough assets to justify needing a Trust-Based Estate Plan. Some people can have a simpler estate plan and still avoid probate. For these clients – a Will-Based Estate Plan may take care of their needs and still avoid Probate. This is done by evaluating all of the assets in their Estate and finding ways we can reclassify Probate Assets into "Non-Probate Assets – without using a Trust. For example – someone may be able to name a beneficiary on a bank account (bank accounts with beneficiaries on them are called "Payable on Death Accounts" or "POD" Accounts. By adding a beneficiary designation to this bank account, you have turned this "Probate Asset" into a Non-Probate Asset".

Conclusion

Avoiding probate is one of the main reasons people create an estate plan. By understanding the difference between Probate Assets and Non-Probate Assets we can properly evaluate whether someone's estate would avoid probate or not. Avoiding probate is a major consideration in determining whether someone should have a "Will – Based" Estate Plan or a "Trust-Based" estate Plan. It is best to consult with an experienced Estate Planning attorney to review an Estate and determine the best way to avoid Probate and meet any other Estate Planning goals a client may have.

To the Border States: Ohio

We probably all have clients that will stay with us no matter where they move across the country. We take this as a compliment and appreciate their trust in us. Sometimes we learn they have moved into another state, and it is the height of tax season, and realize this will take extra effort and research.

We appreciate software and everything it does, but most of us know we cannot completely trust software especially a state that we do not routinely complete.

I had one of those experiences recently; my long-time client moved into Ohio. I have completed Ohio returns in the past, but it is one of those special states that I know will take extra effort on my part. I sometimes look at those returns, and I wished I knew where to begin.

I looked at my client's w-2 and they had state withholding, and what originally appeared to me as two school district withholdings. My client's address did not appear to be a special city that imposed the city tax. Yes, Ohio has state return, school district return, and a city return. Since my client did not live in a special city that imposed the city tax, the amounts on the client's w-2 seemed to be two separate school districts. I approached the filing in the same way; I filed two separate school district returns and on one my client owed and the other received a refund. The school district with the refund rejected. I corrected and submitted it again and this time the return went through, however, my client received a nice letter challenging the refund. Ohio wanted to see the w-2. We submitted the w-2 as requested. My client again received a letter, which denied the refund. My client went through the process of calling them and asking why. Ohio replied that the amount on his return was not a school district but a city withholding, and the city does not give refunds.

At this point, I remember that NATP has state volunteers listed on our NATP website, I decide to reach out to one of them. Ohio has four volunteers listed on the NATP website willing to assist. So, I reached out and talk with one of them. I asked them to teach me as a beginner and to think back when they started completing Ohio returns. How do you begin? How do you understand the school districts and city tax returns?

OHIO cont.

They gave some great advice that I would like to share with you. They agreed that Ohio is not an easy state to prepare!

Here is where you begin.

- Start with The Finder Website: <https://tax.ohio.gov/help-center/the-finder>
 - Select: Tax District Summary
 - Look up: Address (Client's address)

The good news for me and my client, I was using this site. This is how I knew that my client was not living in a city (Municipal) tax area. This site will let you know your client's school district and if your client lives in a city tax area.

They continued; it is important to remember the following when filing Ohio city tax return.

- File where you live
- Pay where you work

They let me know that employers are required to withhold the city taxes. I had inadvertently mistaken my client's city tax withholding for a school district withholding. What makes it more difficult is that some cities and school districts shared the same name. My Ohio volunteer stated when you look at the w-2 if the withholding has name written (ie. New London) that is a city tax not a school district. The school districts will have a number (ie. 3202) or the name followed by "SCH". In my client's case, my client works in a city taxing area and the employer is required to withhold. We are not to file a return because he does not live in a taxing area; but he is paying where he works and cannot receive a refund.

If you have a client and they live in a city that taxes and they are working in a different city that is also taxing. The client may receive a credit for the taxes paid where he works but will never receive a refund.

- Example: Credit Received
 - Client works in City A/pays 1% Client lives in City B/ 2% -- client will owe 1%
 - File where they live, and it will calculate 2% tax
 - Client will receive a credit for the tax withheld – but he will owe
 - Employer is required to withhold city tax
 - Client works in City A/pays 2% Client lives in City B/ 1% -- Even, no refund
 - File where they live
 - Credit for the taxes withheld
 - Never receives a refund, but will not owe

My Ohio volunteer shared that the city tax returns can be complex. She stated that Ohio will prepare the city tax returns for free. You do not need to file these.

- For Ohio to prepare these for you, send copies of the following:
 - 1st page of client's 1040
 - Sch 1
 - All schedules (A, B, C, D, E, F) etc
 - City w-2

She stated that you look up the address for the city return and send by mail or fax this information to them. The city will prepare the return; if your client owes, the city will send your client a bill and copy of the completed tax return. If your client does not owe, the city sends a copy of the completed tax return. There is no charge for this service.

After our discussion, I feel confident going forward with preparing Ohio returns. I really appreciated her willingness to take some time and walk me through these areas.

After my conversation with her, I went back to the NATP website to see who is volunteering for Illinois. I am sorry to report that there currently are no preparers on the Illinois volunteer section. I would like to take a moment to ask those reading this article to get involved in this service. As you can see from my situation, the volunteer was extremely helpful, and her assistance was greatly appreciated.

If you also come across the need to talk over your state situations, remember to go to the NATP website and look to see if there are volunteers in the state you are preparing. This is a great resource for us. Also take a moment to consider getting involved. This could benefit you with also having other networking opportunities with preparers in other states.