

PROBATE

Overview

At Green Germann Sakran (GGS), we offer the full range of estate-related services from the (1) planning stage, by way of Wills, domestic contracts, business succession planning, and powers of attorney; plus, (2) the creation and administration of trusts; including, (3) advising executors and trustees as to the proper administration of estates and trusts, including advising estate trustees and acting as their agents in the day-to-day administration of the estate. When estate-related disputes arise, we advise executors on ways to handle such disputes and, when necessary, we communicate with the various beneficiaries and third parties to resolve issues and, when necessary, refer to our litigation counsel.

What is probate?

- It describes a process of inquiry - “to probe”.
- This is where an Application for Appointment of an Estate Trustee is made to the Court. A Judge reviews the Will and the documentation and makes a determination as to whether the Will is valid.
- The Application has to include a number of critical pieces of information, such as:
 - Personal information of the deceased;
 - Date and place of death;
 - Personal information of the estate trustee(s) named in the Will by the deceased; and
 - The total value of the estate that requires probate. Not all assets of a deceased may require probate and this will be determined when meeting with our lawyer. Assets that require probate will result in an Estate Administration Tax (EAT or probate tax) charged and payable at the time the Probate Application is submitted to the Court, namely:
 - ½ per cent on the first \$50,000; and,
 - 1.5 % on the total value greater than \$50,000.
 - Thus, an estate valued at \$1 million for the purposes of probate, will incur probate tax totalling \$14,500.00.

Once the court approves the Probate Application, it issues a court order, known as the Certificate of Appointment of Estate Trustee (with or without a Will), which legally formalizes the role of the Executor, who can then move forward in administering the estate to its conclusion.

Role of the Estate Trustee(s)

The Executor, also known as the Estate Trustee, is accountable to all persons named in the Will. The estate trustee must keep an accurate record of all monies going in and out of the estate, gather and secure all estate assets, ensure the income tax returns for the deceased and the Estate are filed and all monies paid accordingly, retire all debts of the estate, and ensure an accurate distribution of the residue of the estate among the intended beneficiaries. We provide guidance to estate trustees in these various tasks to ensure the proper administration of the estate to its conclusion while insulating the estate trustee from legal liability.

Our lawyers will be pleased to help. All you need to do is call.