

PROBATE – REPROBATE
(OR HOW TO AVOID PROBATE AT ALL COSTS
THROUGH REVOCABLE TRUSTS)
JUNE 2007

- When the probate court impedes the sale of the decedents personal residence in a tight real estate market for no justifiable reason – that’s reprobate!
- When the probate clerk feigns ignorance that they don’t know if the will contains the clause that allows the executor to sell the principal residence forcing the out of state executor to look up the statute herself and then confirms – yes, we knew you could sell – that’s reprobate!
- When the executor gets a federal ID number on the date the decedent dies but then must wait 30 days until the appointment is ratified which triggers all types of other date delays (think creditor notification – think sale of residence) – that’s reprobate!
- When the judge adheres to the 150 day creditor date in spite of the decedent
 1. having no debts
 2. having all beneficiaries put in writing they will honor all debts, and
 3. is inconsistent with other probate courts where 1 and 2 are present – that’s reprobate!
- When the judge delays the sale of the principal residence until the form is completed that tells the judge there is no taxable estate (how insane is that?); when the CPA relative offers an affidavit that swears there is no taxable estate under penalties of perjury and the judge does not accept – that’s reprobate!
- When a statement in lieu of an accounting is allowed but it is still “not in lieu of an accounting” – that’s reprobate!
- When the judge will not give a tax clearance to sell the principal residence until the probate fee is paid (\$1900) even after beneficiaries pledge to pay all debts – that’s reprobate!
- When asked why a form needed to prove a non-taxable estate must be completed so a form for a taxable estate need not be completed and the answer is – that’s what we’re told to do – that’s reprobate!

Copyright pending

*Michael J. Knight & Company, CPAs
116 Sherman Street
Fairfield, Connecticut 06824*

- When suggestions are given that would obviate the need to file one form so another form need not be filed and the answer is talk to your legislator – that’s reprobate!
- When the probate court has way too much intrusive power on people’s lives in their most vulnerable time - that’s double reprobate!!
- The probate court oversteps its bounds in simple non-taxable estates. See Tax Court Estate of Roski, 128 T.C. No 10, where the court found that the IRS didn’t have the authority to impose a mandatory bond requirement under Code Section 6166. The court concluded –

“The record in this case suggests that the executor is a wealthy, well respected businessman; that the businesses given rise to the election are extremely profitable and well managed; and that the nature of the estate’s business assets ensures adequate cash flow to pay the installments timely.”
- How does this differ when the decedent’s total estate was only \$500K with \$300K of liquid assets? For the court to impose an inchoate lien on the sale of the residence is preposterous – that’s reprobate!

Written by: Michael J. Knight, CPA

Copyright pending

*Michael J. Knight & Company, CPAs
116 Sherman Street
Fairfield, Connecticut 06824*