

**BOLHOUSE, BAAR & LEFERE, P.C.**  
**ATTORNEYS AT LAW**

**The Probate Process**

Thomas R. Vander Hulst

January 2010

In the last issue of our quarterly newsletter, we introduced our expanded Tuesday evening hours (5:00 PM to 8:00 PM) to better meet our estate planning and Medicaid planning clients' needs. In this issue and subsequent issues, we will be looking at the various aspects of estate and Medicaid planning. The first topic we want to address is probate and estate planning in general.

Probate performs two basic functions. First, it transfers property from a deceased person to that person's heirs at law if there is no will, or to the beneficiaries of that person's will if a will exists. Second, probate serves to insure that the deceased person's creditors are all paid in a timely fashion. Probate involves a number of steps and will generally take a minimum of five months to complete.

In Michigan, there are three types of probate: supervised, formal and informal. In supervised probate proceedings, a judge supervises every aspect of the probate process. Supervised probate can become expensive because a court hearing is necessary in order to obtain the probate judge's approval for most decisions. Supervised probate proceedings are usually used if there is discord in the family and a referee is desirable.

In formal probate proceedings, a judge supervises some of the aspects of the probate process. While there will be some court hearings, there will not be as many as in supervised probate proceedings but there will be more than in informal proceedings. Formal probate proceedings are typically used if there are questions as to the deceased person's heirs or whether a will is valid.

In informal probate proceedings, the personal representative administers the estate with no direct supervision by the probate judge. In informal probate all interested parties are provided with sufficient information to police the personal representative's activities. In most cases, informal probate proceedings are used because there are usually no issues requiring more court oversight.

Estate planning by definition is planning for the disposition of one's property after death. An estate plan can utilize the probate process or avoid it. Estate planning also involves providing direction to family members in the event one becomes disabled.

There are various 'tools' used in estate planning. Whether an estate plan will be very complicated or relatively simple will depend on individual circumstances. However, an estate plan will typically include one or more of the tools we will be discussing in the next few issues.