

Senior Voice -

How much is that probate in the window?



By [Kenneth Kirk](#)
For Senior Voice

Sometimes when we talk about a particular subject a lot, we take it for granted that people know certain background facts. I realized this recently when I was talking about the high cost of probate (a subject I mention pretty regularly) and was asked whether it was in fact true that, as this person had heard, probate costs could run several thousand dollars.

Several thousand dollars? That's if you're lucky. Probate costs money. A lot of money.

In many states, the key players – attorneys and executors – are paid a percentage of the estate. The amount varies from state to state, and usually depends in part on the size of the probate estate itself, but it can be quite substantial. Would you like to know a surefire way to find out how much of a rip-off the probate costs are in a particular state? Ask an attorney there how much he charges for a simple will. If the fee for drafting the will is really low, for instance less than \$150, you can count on the probate charges being extraordinarily high. The attorney is charging a low price for the will as a “loss leader” so he can get the lucrative probate work later.

The problem is that the amount of time the attorney and executor have to spend is not necessarily based on the size of the estate. I have had some million-dollar estates that were handled pretty simply and smoothly. I have had some relatively modest estates, say just a few hundred thousand dollars, that have been real bearcats.

But let's say that I'm the attorney for the estate, handling things on an hourly rate (as is done here in Alaska). If everything goes really smoothly – the executor is doing a good efficient job, there are no disputed creditors' claims, the heirs are cooperative, the deceased did not leave her financial affairs in a mess – it's still going to run at least \$3,000 in attorney fees. There are a lot of specialized pleadings that have to be drafted, especially at the beginning of the case, and then at the end to get it closed out. In between, there are various tasks that have to be done to satisfy the probate court, and typically the executor will need some advice and help along the way. It all adds up.

The executor is going to spend even more time than I do. He'll have to inventory a lot of personal property (furniture, jewelry, artwork, tools, etc.) and may have to arrange appraisals of a lot of it. Some of it will have to be hauled off to the dump, some donated, some sold. Creditors have to be dealt with. Accounts have to be closed, others opened. Taxes may have to be filed. Mail has to be gone through. Disgruntled heirs may have to be re-gruntled. Accountings have to be kept.

On top of those fees and costs, there are appraisers, tax preparers, filing fees, costs of publishing notices... the list goes on and on.

So how much does this all add up to? It depends on the case, or course, but it doesn't take too many complications for it to add up to more than \$30,000. Or more. Or maybe way, way more.

I had a case once in which the total costs and fees ended up around \$450,000. If you're wondering how that could happen, imagine flying two attorneys to Nome to fight against each other in a trial, and then flying accountants in from Fairbanks to testify. And that was only a piece of it.

And then consider that that's modest. Back in the 1800s, the estate of the richest commoner in the wealthiest country in the world – the so-called “Miser of Acton” – was completely eaten up by probate fees and costs. It

took more than 100 years to do it, but when it was all done, there was literally nothing left for the heirs.

So the next time you balk at spending a few bucks to avoid probate, consider the alternative.

Kenneth Kirk is an Anchorage estate planning lawyer. Nothing in this article should be taken as legal advice for a specific situation; for specific advice you should consult a professional who can take all the facts into account.

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