

JOHNSON, GASINK & BAXTER, LLP

TWO THINGS CERTAIN®

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JGB ESTATE/TRUST ADMINISTRATION 101

By Jeremy C. Johnson

We routinely are asked the question by clients and potential clients, “When I die, is this estate plan implemented automatically?” The universal answer is a resounding ‘No’. The existence of a Will or Trust document does not, by itself, make anything happen automatically. The estate plan provides the framework within which the action is implemented to accomplish your predetermined goals and objectives. In simpler terms, your estate plan provides your marching orders which must be carried out by your designated fiduciary.

If your estate plan is a will-based plan; then, that plan will be carried out and supervised through the probate system. Your Personal Representative (Executor/Executrix) as designated in your will document (and if approved by the court) will be charged with the responsibility of opening your probate estate; meeting the filing deadlines imposed by the probate estate; and settling your final debts, expenses and taxes before he/she distributes your estate to your beneficiaries/heirs. In our experience, the administration of a probate estate in Virginia typically costs somewhere between 3-5% of the probate estate; generally lasts between 9 months to 2 years to complete; and is a public process. This is why many of our clients choose to move away from will-based plans and use trust-based plans instead.

For properly funded trust-based plans, the probate system is completely removed from the administration equation. As such, the Trustee you have designated in your trust instrument will settle the final enforceable debts, expenses and taxes of your trust estate and then distribute the trust assets to your intended beneficiaries outside of local and state government oversight/supervision, expense, public disclosure and time delay that would otherwise be imposed by the probate system. In our experience, most trust estates can be administered and settled within 3 months of the death of the grantor of the trust.

Next, we are often asked, “How can JGB assist my family with the implementation of my estate plan after I pass away?” Simply put, JGB has established various levels of estate administration service that your family/chosen trustee can select from for assistance upon your death. We have set up our estate administration service in this manner because we have discovered that there is no ‘one size fits all’ solution for clients. Our basic level of assistance provides your trustee with the minimal legal documents they need to implement the settlement of your trust. This typically includes your Affidavit(s) of Trust, EIN acquisition and deed work. The intermediate level of service includes everything from the basic level of service, plus a detailed written letter of instruction providing your trustee with a step by step manual on how to commence and complete the settlement of your trust. Finally, our third and highest level of service is where the trustee engages JGB to provide everything from level one and level two services modules, plus handle the administrative functions of valuing the assets and assisting with the funding of the distributions to beneficiaries after all enforceable debts, expenses and taxes are settled. Each of these levels of service has a corresponding flat fee structure. JGB establishes our Estate Administration fee schedule annually so that there is consistency and reliability across the practice.

JGB is also equipped to assist those who require help with the administration of probate estates. Just like with our trust administration fee schedule; the attorneys of JGB set the firm’s probate administration fee schedule each year.

The attorneys and staff of JGB are here to assist clients in the creation of top-notch estate plans and we are available to assist your family/successor trustees to implement those same estate plans. JGB clients are those select individuals who have taken the time and energy to get their affairs in order so that their families are protected from the ravages of estate conflicts and the perils of the probate system.



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About the Author:

Jeremy Johnson is an experienced problem solver who helps individuals and businesses achieve and protect their goals of prosperity, stability and growth through appropriate planning. Jeremy takes great pride in making sure that his work for clients is always reliable, correct, and on time.

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