# What Avoiding Probate Really Means: The Benefits Of Investing With A Canadian Insurer

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The recently passed 2011 Ontario Budget contains measures that will have a significant impact on estate planning practices in Ontario. Among other things, the Budget shifts the administration of probate fees from Ontario's Ministry of the Attorney General to the Minister of Revenue. This new shift means that probate applications can be audited and reassessed for up to four years after the date of the application. This could result in longer periods between the time of death and when the beneficiary receives the estate's assets.

## Probate Fees and Other Estate Fees

After an individual's death, his or her estate must file a "terminal tax return," or the final tax filing, which triggers probate fees and other expenses. In other words, assets that are considered to be part of the estate are subject to probate fees. For the Province of Ontario, Under the Estate Administration Tax Act, probate fees are calculated as follows:

- **For the first $50,000 of assets falling into the estate: $5 per $1,000**
- **For assets in excess of $50,000 falling into the estate: $15 per $1,000**

In addition to probate fees, estates must also cover the executor fees, legal fees (including accounting fees for preparation of the final tax return), and the deferred sales charges (DSC) associated with most mutual funds. Combined, these fees can reduce significantly the amount of the bequest ultimately received by the beneficiaries of the estate.

However, with appropriate planning, and a designated beneficiary, assets can pass outside the estate if held with a Canadian insurer. Unlike mutual funds, stocks, bonds, GIC's and savings accounts held in a bank, these similar investment products if held with Canadian insurance companies pass directly to a named beneficiary without going through probate.

The table below shows typical fee amounts for a $1,000,000 estate. (For this table investments held inside

**Table 1.**

| For a $1,000,000 investment... | | Non-Segregated Investment | | | | Segregated Investment |
|---|---|---|---|---|---|---|
| **Fees** | **Calculation** | **Low** | | **High** | | |
| **Probate** | $250 + $15 per $1,000 >$50,000 | 0.0145 | 14500 | 0.0145 | 14500 | $0 |
| **Executor** | Varies, up to 5% | 0.01 | 10000 | 0.05 | 50000 | $0 |
| **Legal** | Varies, 1.5% to 3.0 % + accounting fees | 0.005 | 5000 | 0.03 | 30000 | $0 |
| **DSC** | Varies, 0% to 6% | 0 | 0 | 0.06 | 60000 | $0 |
| **Total Cost** | Varies, 2.95% to 15.45% | 0.0295 | 29500 | 0.1545 | 154500 | $0 |

an insurance company will be referred to as a “segregated investment” and investments held outside an insurance company referred to as “non-segregated investments”. Please note that fees vary depending on the nature of the fund and the amount of the investment.)

In the example on the previous page, the estate fees associated with a $1,000,000 non-segregated investment, such as a GIC or a mutual fund, range between 2.95% and 15.45% of the total amount. As you can see the fees drop to zero if those same assets are invested in a segregated investment. This strategy not only minimizes probate fees and other estate fees, but also allows the beneficiary to receive the bequest more quickly in many cases.

## Case Study: Homeowner

Matthew anticipates that at the time of death, he will have 1 million in assets. His house will be worth

**Table 2.**

| **Anticipated Holdings At Death** | | **Estate Subject To Probate ($)** |
|---|---|---|
| House (principal residence) | 450,000 | 450,000 |
| GIC held at bank | 550,000 | |
| GIC with insurance company | | 550,000 |
| Total | 1,000,000 | 1,000,000 |
| Estate subject to probate | 1,000,000 | 450,000 |
| **Probate Fees** | | |
| First $50,000 ($5 per $1000) | 250 | 250 |
| Remainder ($15 per $1000) | 14,250 | 6,000 |
| Total | 14,500 | 6,250 |
| **Savings Achieved By Estate Bypass** | | **8,250** |

$450,000, he will have another $550,000 Guaranteed Investment Certificate (GIC) held in a bank. He is considering acquiring a GIC issued by an insurance company. Looking at these two scenarios, see the difference in how probate fees are calculated.

Investing in an insurance company with a named beneficiary not only minimizes the probate fees, but also results in the beneficiary receiving the bequest sooner. If the asset forms part of the estate, like a GIC at the bank, then it’s more than likely that executors of the will might delay disbursing the estate proceeds. The disbursement of assets could be delayed until the probate officer has determined that no additional amounts are owed.

## Other Options for Passing Assets Outside of the Estate

Insurance products are not the only financial tool that can be used for passing assets outside of the estate and avoiding probate fees. Investors can choose to use alter ego or joint partner trusts, or joint ownership with right of survivorship, among others. However, these strategies can have far-reaching implications in terms of income taxes, loss of control, responsibilities for the other party’s debt, and other considerations.

Holding your savings plans with a Canadian insurer appears to be the investor’s best option for passing funds outside of the estate. As discussed above, such funds protect the assets from probate fees, executor fees, legal and accounting fees, and DSC. In addition, they offer additional benefits such as potential creditor protection, a death benefit guarantee, and a maturity guarantee.

For many Canadians administration of their estates will become considerably more complex. As mentioned an application for probate will be subject to possible audit and reassessment for four years under the Minister of Revenue. Heirs may also see delays in payouts from the estates. Holding your assets in a Canadian insurance company with a designated beneficiary can help ease the burden on your estate passing amounts directly to you beneficiaries, outside of your estate and avoid the probate process. As with any estate planning decision, it important to consult with an experienced and qualified financial planning professional who can make recommendations regarding the estate-planning strategies that are most appropriate for your unique circumstances.

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