



DO MY HEIRS HAVE TO PROBATE THE HOUSE?

Your executor has to open a probate in any state in which you own real estate at the time of your death. In order to avoid this, many people transfer their homes into the name of their revocable trust. This will not avoid estate taxes but it will avoid having to go through an ancillary probate. However, it is important before making any transfer to confirm it would not adversely affect any possible homestead exemptions in states such as Florida.

Another approach to avoid probate would be to place the house in the name of an LLC so that the membership interest is what is owned instead of the real estate itself. This may also avoid estate taxes in some states, but this area is still evolving. Also, the manager and members of any LLC will need to determine if the LLC is subject to the FinCen reporting requirements of the Corporate Transparency Act.