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UNDERSTANDING DEPENDENT VS. INDEPENDENT ADMINISTRATION

This handout is for informational purposes only and does not constitute legal advice. Every estate situation is different.

Texas Probate Matters

When a loved one passes away, their estate may need to go through probate. In Texas, there are two primary ways an estate can be administered:

- **Independent Administration**
- **Dependent Administration**

Understanding the differences can help you know what to expect and determine which option may be appropriate for your situation.

What Is Probate?

Probate is the legal process that:

- Identifies and values the decedent's assets
- Pays debts and taxes
- Distributes the remaining property to heirs or beneficiaries

The type of administration affects how much court involvement is required during this process.

Independent Administration

Independent administration is the most common form of probate in Texas. It allows the personal representative (Executor or Administrator) to handle estate matters with minimal court supervision.

Texas law generally favors independent administration when possible.

When Is Independent Administration Allowed?

Independent administration may be granted if:

- The Will specifically requests it,
- The Will does not prohibit it, or
- All distributees (heirs or beneficiaries entitled to inherit) agree to it.

Even if there is no Will (intestate estate), independent administration may still be possible if all heirs consent.

How It Works

Once appointed, the Independent Executor or Administrator can:

- Pay debts
- Settle claims
- Sell property
- Distribute assets

Without obtaining court approval for each action.

The representative may still be required to:

- File an inventory and appraisement of estate assets, or
- File an affidavit in lieu of inventory under certain circumstances.

Advantages of Independent Administration

- Faster process
- Lower court costs
- Fewer required hearings
- Greater flexibility for the representative
- Less administrative burden

For many families, this approach reduces stress and expense.

Dependent Administration

Dependent administration is a court-supervised probate process. The personal representative must obtain court approval before taking most actions.

This type of administration is less common but may be required in certain situations.

When Is Dependent Administration Used?

Dependent administration may occur when:

- There is no Will and heirs do not agree to independent administration
- The Will does not authorize independent administration and consent is not obtained
- The court determines that supervision is necessary
- There are disputes among heirs
- The estate has complex creditor issues

How It Works

In dependent administration, the representative must obtain court approval for actions such as:

- Settling claims against the estate
- Selling real estate or other property
- Paying certain debts
- Filing tax matters
- Distributing assets

This requires filing applications and attending hearings throughout the probate process.

Advantages of Dependent Administration

Although it involves more court oversight, dependent administration can provide:

- Increased court supervision
- Added protection for the representative
- Clear procedures for handling creditor claims
- Additional safeguards in contested or high-conflict estates

If disputes arise, the court's involvement can help resolve issues and protect all parties.

Key Differences at a Glance

Independent Administration

Minimal court supervision
Faster and more efficient
Lower court costs
More flexibility
Executor acts independently
Most common in Texas

Dependent Administration

Court supervises most actions
Typically slower process
Higher court costs
Less flexibility
Executor must seek court approval
Used in contested or complex situations

Which Type Is Better?

In most cases, independent administration is preferred because it saves time and reduces costs. However, dependent administration may be appropriate when:

- There are creditor concerns
- There are family disputes
- Heirs cannot agree
- Additional oversight is needed

Each estate is unique. The size of the estate, family dynamics, debt issues, and the presence (or absence) of a will all play a role.

We're Here to Help

Whether your loved one's estate qualifies for independent administration or requires dependent administration, proper legal guidance is essential.

Our office can assist with:

- Determining the appropriate form of administration
- Identifying heirs and distributees
- Securing consents for independent administration
- Navigating court procedures
- Protecting the personal representative from liability

If you have questions about probate or estate administration in Texas, please contact our office at (972) 418-2919 to schedule a consultation.