

DEMYSTIFYING PROBATE
**NATIONAL ASSOCIATION OF
FEDERAL RETIREES**

MAY 13, 2026

ABOUT US

- Access to Justice and Law Reform Institute of Nova Scotia
- We make recommendations to modernize, improve and reform of Nova Scotia law
- Current project: Simplifying Probate
 - Sarah Burton
(sarahb@lawreform.ns.ca)

Also joining us: Piotr Luczak (Luczak & Associates)

Luczak & Associates

Barristers & Solicitors

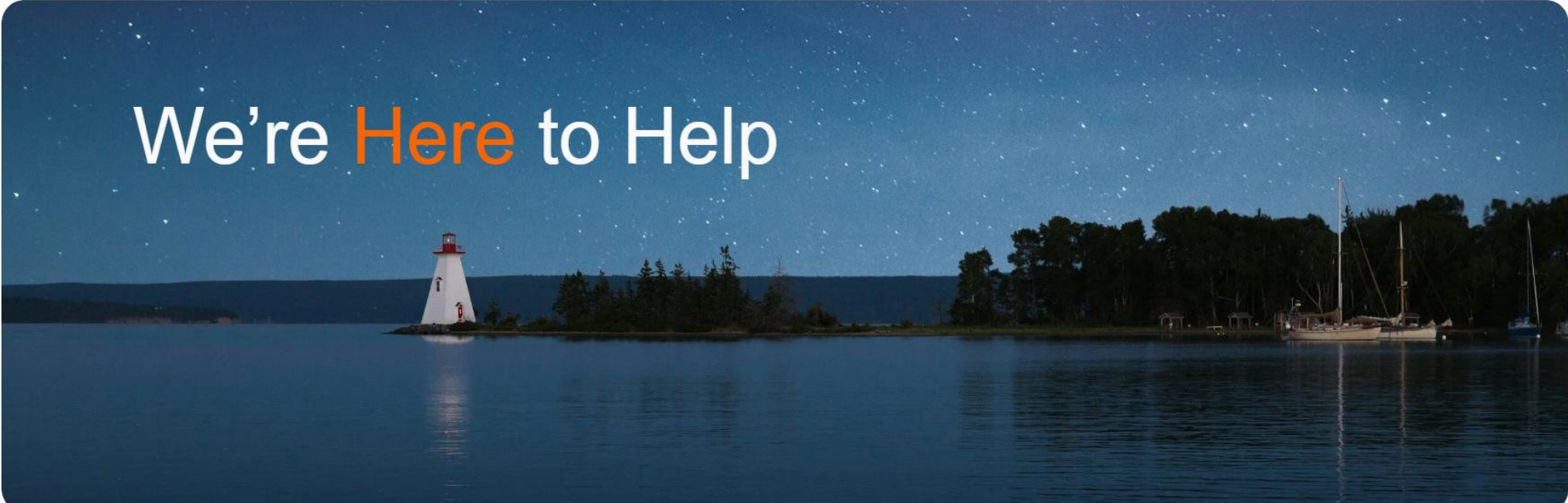
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We're **Here** to Help

PIOTR@LUCZAKLAW.CA

902-634-8354



OVERVIEW OF TODAY'S TALK

1. What is Probate/ Administration?

2. How do they work?

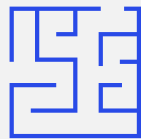
3. Elements we are trying to change

4. Online Resources available to you

SCOPE OF PRESENTATION



This presentation outlines the basic process where there are no disputes



Things get more complicated if disagreements or other problems arise

GOALS FOR TODAY



Thinking about how to
order your affairs and
estate; &



Greater clarity when acting
as, or appointing, an
executor or administrator



WHAT IS PROBATE?: THE BASICS



WHAT IS PROBATE?

- The process to transfer ownership of a person's money and property (their "estate") after they die.
- Make sure the deceased's money and property goes to family, friends, charities, etc. of their choice.
- Pay off debts (credit cards, CRA, funeral expenses, etc.)

WHAT IS ADMINISTRATION?

Probate:

The person died with a will.

Administration:

The person died with no will.

Processes are similar, but not identical (Administration has extra steps)

WHAT IS THE GOAL OF PROBATE AND ADMIN?

Protection

- Transfer the deceased's money and property in a safe way
- Make sure deceased's wishes are followed (where there is a will)
- Make sure the estate goes to certain family members (no will)

WHAT ARE THE PROBLEMS WITH PROBATE AND ADMIN?

1. Financial cost

Probate Tax:

- Estate Under \$10,000: \$85.60
- \$10,000-\$25,000: \$215.20
- \$25,000-\$50,000: \$358.15
- \$50,000-\$100,000: \$1,002.65
- \$100,000 +: \$1,002.65 plus \$16.95 for every \$1,000 more.

Lawyer's Fees: approx. \$5500

WHAT ARE THE
PROBLEMS
WITH
PROBATE?

2. Mental Cost

- Complexity (forms, legal system etc.)
- Delay (1-2 years?)
- Dealing with banks, lawyers, probate court, creditors, CRA

Worse with no will...

IS PROBATE NECESSARY?

People avoid probate by:

1. Planning their affairs make sure nothing is in their “estate” when they die; and/or
2. Assuming probate isn't necessary because they don't own much.

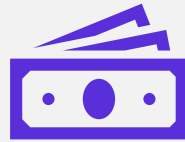
AVOIDING
PROBATE (1)

Joint Ownership

Beneficiary
Designations

Gifts before death

THE RISKS
THE COME
FROM
AVOIDANCE
STRATEGIES



Financial Abuse /
Mismanagement



Exposure to Loss



Questions about Gifts

AVOIDING PROBATE (2)

- Assuming probate isn't necessary because they don't own much
- Banks / insurance companies may demand probate even for small amounts.
- Having no will does not avoid probate!

THE TAKEAWAY

Probate is not fun. It takes time, money and can be tedious.

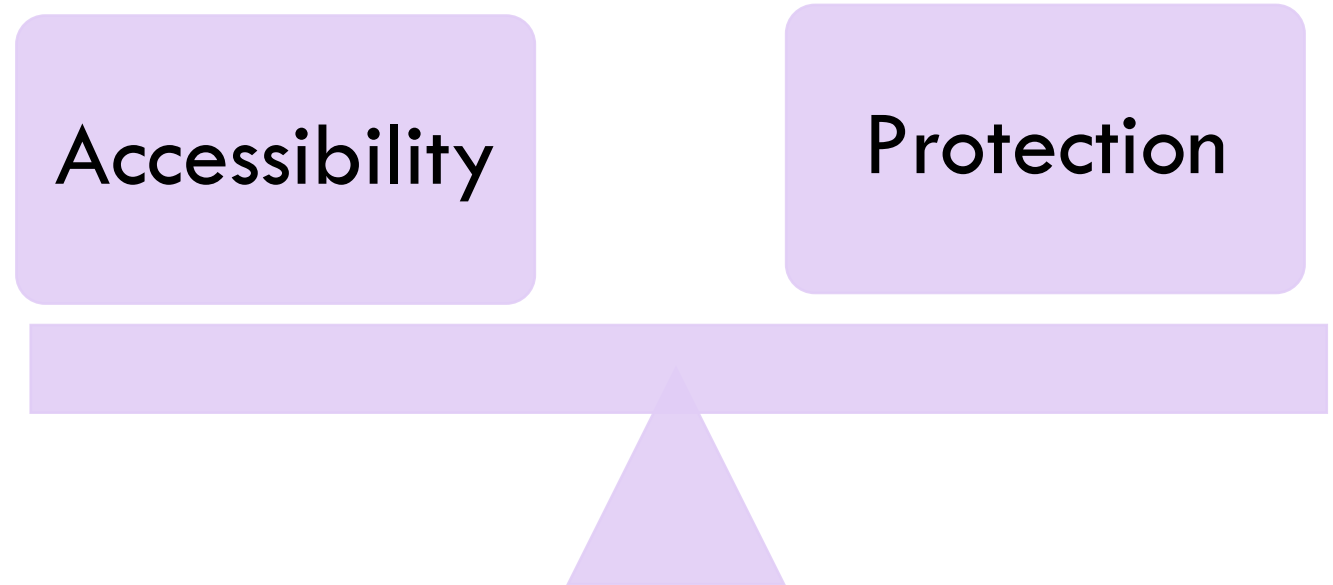
BUT That doesn't necessarily mean it is always smart to "avoid" probate

The process can be improved and made cheaper by having a will

We are looking at other ways to make probate easier to navigate

OUR REFORM GOALS

We are trying to find a better balance:



STEPS TO PROBATE & ADMINISTRATION

STEPS OF PROBATE AND ADMINISTRATION

- 1 Determine Who Can Administer Estate
- 2 Get Renunciations from Family
- 3 Obtain security
- 4 Get Grant of Probate / Administration
- 5 Serve Grant on People who will Inherit
- 6 Advertise to Creditors
- 7 File Estate Inventory at Probate Court
- 8 Distribute Estate
- 9 Pass Final Accounts

OBTAINING A GRANT

1. Obtain Grant of Probate

Grant of Probate = the Master Document to Deal with Deceased's Estate

Person named as **Executor** is put in charge:

- Their job is to **gather** all the assets, **protect** the assets, **pay** off debts, and **distribute** the estate

OBTAINING A GRANT

1. Obtain Grant of Probate

How do you get the Grant of Probate?

Fill out and file Forms at Probate Court:

- Attach the Will, and
- Affidavit From a Witness to the Will
- **You also pay Probate Tax at this point (estimate)**
- May have to pay out of pocket

SERVING THE GRANT

2. Serve Grant on Family / People who will Inherit

- Send a copy of the Grant to family / everyone that is named in will
- You have to get an affidavit signed/ sworn showing that they were “**served**” and file that at probate court

ADVERTISING TO CREDITORS

3. Advertise to Creditors

- You must Advertise the Estate to Creditors for 6 months
- You must advertise in the Royal Gazette (not just in a newspaper or online)
- Usually during this time, you are waiting on documents from CRA

**SUBMITTING
THE
INVENTORY**

4. File Inventory at Probate Court

- List value of everything in the estate
- This should be done within 3 months of getting Grant
- Registrar can extend time
- Probate tax adjusted here



DISTRIBUTE THE ESTATE

5. Distribute Estate

- Pay all debts off first
- Wait until you have CRA Certificate of Clearance in Hand

CLOSING THE ESTATE

Registrar reviews financial documents showing everything that went into and out of estate

A light blue downward-pointing arrow indicating the flow from the first step to the second.

Once done, the Executor no longer has responsibilities to the Estate

A light blue downward-pointing arrow indicating the flow from the second step to the third.

Executor often avoids this by having heirs sign a document “releasing” Executor from liability.

STEPS OF PROBATE AND ADMINISTRATION

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APPOINT AN ADMINISTRATOR

1. Determine Who Will be Administrator

Since there is no will, someone has to come forward to be in charge of estate

There is a priority list to work through:

1. Spouse and Children
2. Heirs who live in Nova Scotia
3. The Public Trustee
4. Heirs who live outside Nova Scotia
5. Creditors
6. Other interested parties

RENUNCIATIONS

2. Get and File Renunciations

- Once a person comes forward to act an administrator, they need to get consent from everyone who sits in equal or better priority to them
- Their consent needs to be signed and filed with probate court

BONDING

3. Get a Bond

- A bond is like an insurance policy. It can look like:
 1. Buying coverage from an insurance company.
 2. Having someone sign a document where they agreed to act as a surety.
- Bond must be paid before Grant issued

FINAL ACCOUNTS

4. Formal Closing of Accounts (at the end)

- A record of all the money that went into and out of the estate.
- Must be filed and approved by Registrar
- Formal Notice/Service must go out to everyone.
- People are choosing to walk away rather than go through this process

TOTAL TIME
INVESTMENT?

Ranges

- 1 – 2 years
- Slower with administrations
- Usually waiting at least 9 months to get CRA documents

THE TAKEAWAY

Probate / administration involves gathering, protecting, and ultimately distributing the deceased's money and property

Goal is protecting the deceased's wishes

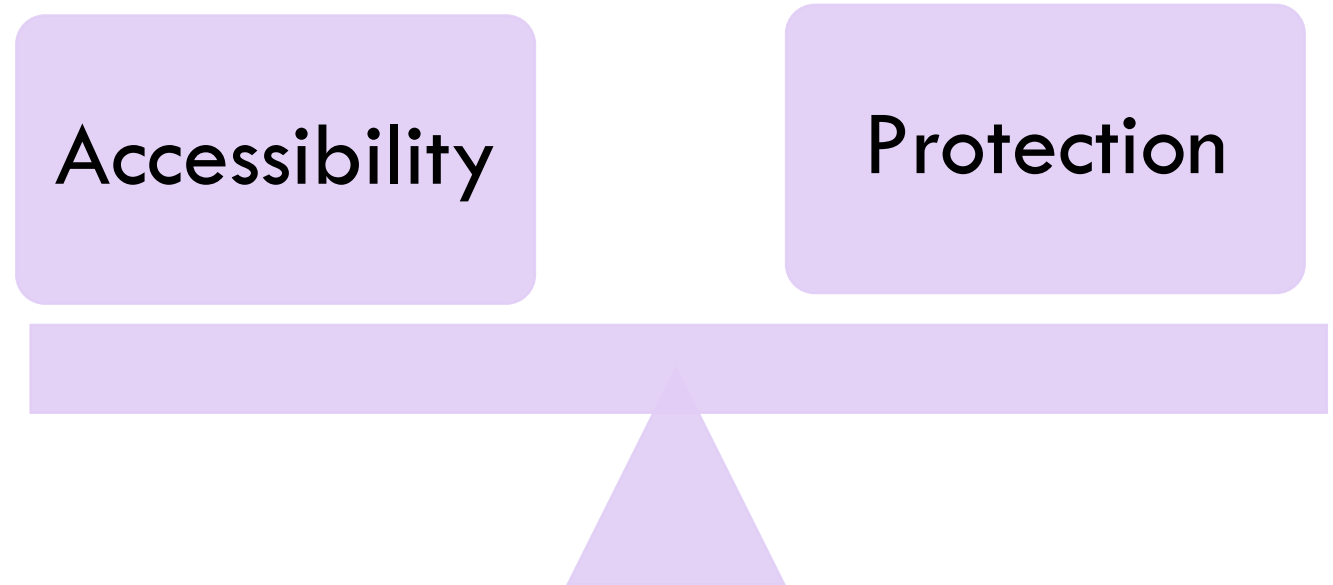
Process is more cumbersome / expensive if there is no will



REFORM IDEAS

OUR REFORM GOALS

We are trying to find a better balance:





REFORM IDEAS

Focused on Common Hurdles:

- Making it easier to:
 - Move documents around / get them signed
 - Avoid bonding / final accounting
 - Move forward when family members won't respond
 - Pay probate tax
- Change how we deal with small estates?

REFORM IDEAS: BETTER HARNESSING TECHNOLOGY

The Law Now

- Documents need to be sent by mail, signed and witnessed in person, originals filed at court

Our proposals

- Allow some documents to be served by email
- Allow some documents to be witnessed virtually
- Allow filing of electronic docs

REFORM IDEAS: NON- RESPONSIVE FAMILY MEMBERS

The Law Now

- Non-responsive family members slow down opening administration.
- Must go to court for permission to move forward without their participation (\$)

Our proposal

- Start a clock running on non-responsive family members

REFORM IDEAS: BONDING

The Law Now

- If you don't have a will, you need a bond

Our proposals

1. A majority of heirs can decide they don't need the bond.
2. People who live outside of Nova Scotia should be able to be sureties

REFORM IDEAS: FINAL ACCOUNTS

The Law Now

- If there's no will, you have to pass final accounts
- People are choosing to walk away rather than go through this hassle

Our proposal

- Formal passing of accounts is only required if someone requests it

REFORM IDEAS: PROBATE TAX

The Law Now

- Probate tax needs to be fronted before you have the Grant (Executor paid back later)
- NS has some of the highest probate taxes

Our proposals

1. Taxes eliminated for estates under \$50,000; can lower where the estate is real property
2. Probate court invoices
3. Pay by credit card?

REFORM IDEAS: SMALLER ESTATES

The Law Now

- The cost of probate can drain most of/all small estates
- However, banks etc. require probate documents
- Leads to estate abandonment

Question for Consideration

- How can we encourage banks to release these small amounts without having probate?



ONLINE RESOURCES

LEGAL INFORMATION SOCIETY OF NOVA SCOTIA

[HTTPS://WWW.LEGALINFO.ORG/](https://www.legalinfo.org/)



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Wills & Estates



The Legal Information Society of Nova Scotia is excited to announce a new addition to our Estate Planning suite, [The Power of Attorney App](#). The Power of Attorney App allows Nova Scotians to create an Enduring Power of Attorney through our guide and interactive tool.

Wills & Estates Related Links and Resources

[After the loss of a loved one](#)

NS government guide to legal & emotional concerns [\[novascotia.ca\]](#)

[Canadian Network for Prevention of Elder Abuse](#)

Elder abuse information and resources [\[cnpea.ca\]](#)

[Confederacy of Mainland Mi'kmaq](#)

Mi'kmaw Wills and Estates series [\[cmmns.com\]](#)





LEGAL INFOⁱ
NOVA SCOTIA

It's In Your Hands:

Legal Information for Seniors
and their Families



Where can I get information on probate?

The [Probate Courts in Nova Scotia](#) make information available to the public. You may get copies of [the forms](#) by contacting your local Probate Court office or by going to the Courts of Nova Scotia website, www.courts.ns.ca.

The information available from the Probate Court includes:

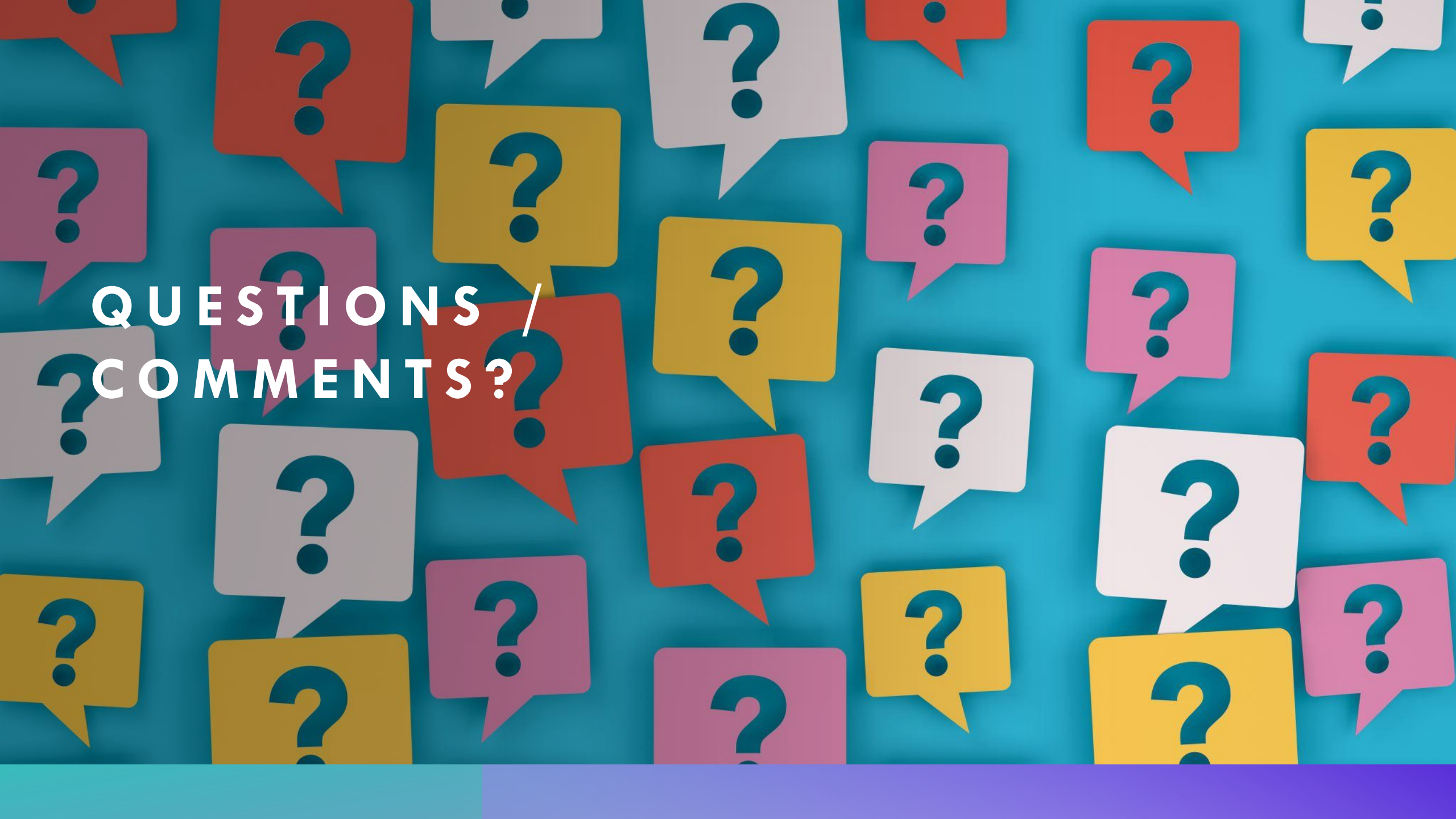
- [The Probate Act - Questions and answers](#)
- [Dealing with an estate](#)
- [Grant of probate checklist](#)
- [Grant of administration with will annexed - checklist](#)
- [Grant of administration - checklist](#)
- [Passing the accounts of an estate in Probate Court - checklist](#)
 - [How to prepare the final account of the personal representative](#)

Where can I get more information?

- Legal Information Society of Nova Scotia (LISNS)
Legal Information Line
902-455-3135
1-800-665-9779
Email: questions@legalinfo.org
www.legalinfo.org

Finding a lawyer who does wills

It is a good idea to speak with a lawyer who focuses on estate planning, including wills, and if possible, a lawyer who has a Trust and Estate Practitioner or “TEP” designation. The Legal Information Society of Nova Scotia’s Lawyer Referral Service may be able to refer you to a lawyer who does wills. Or, go to the Legal Information Society’s website at www.legalinfo.org for information about ways to find a



QUESTIONS / COMMENTS?

THANK YOU

Sarah Burton (sarahb@lawreform.ns.ca)