

Is a Safe Deposit Box for You?

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At the conclusion of an estate plan clients often ask where they should keep their original Wills or Trusts. We advise clients that they should keep their original documents in a safe place and often suggest that they place their documents in a safe deposit box or fire-proof box in their home. Although utilizing a safe deposit box provides peace of mind to clients during their lifetimes, complying with the administrative requirements to access the safe deposit box upon their deaths can be taxing to their families.

Safe deposit boxes have traditionally been used by people to store original Wills, deeds, life insurance policies and other important documents. The documents are kept safe and the safe deposit box owners do not have to worry about misplacing these documents or their unintended destruction.

During the lifetime of the owner of the safe deposit box, the owner or a joint owner of a safe deposit box may enter the box at any time to add to or remove documents. However, upon the death of the owner, the bank will restrict access to the safe deposit box in order to comply with state law.

The Commonwealth of Pennsylvania has set rules under which safe deposit boxes may be accessed upon the death of a safe deposit box owner. These rules restrict entry into the safe deposit box to certain individuals and permit entry only under controlled situations. These requirements protect the property of the decedent for distribution to the decedent's beneficiaries and also protect the interest of the PA Department of Revenue (the "Department") in ensuring that PA inheritance tax is paid on all assets held in the safe deposit box.

Upon the owner's death, no one is permitted to enter the safe deposit box except to remove a Will and any burial instructions. This restriction applies to joint owners of the safe deposit box as well. Any entry into a safe deposit box to remove a Will or burial instructions must also be done in the presence of a bank employee. No other property may be reviewed or removed from the safe deposit box without observing the following additional procedures required by law.

Current law provides that a representative of the estate of the decedent may review and remove the contents of the safe deposit box upon at least seven days prior notice to the Department. The estate representative must provide proof to the bank that the required notice was given to the Department and the estate representative must also file a written Inventory of all property contained in the safe deposit box with the Department on the Department's special form within twenty days of the examination of the contents of the safe deposit box.

The law allows only an estate representative to review and remove the safe deposit contents of a decedent. Most banks require the probate of the decedent's estate in order to establish the estate representative's authority to review and remove property from the safe deposit box of the

decedent. This is not a problem if the estate of the owner of the safe deposit box estate must be probated in order to distribute other assets to beneficiaries. However, if the owner of a safe deposit box executed an estate plan that permits his estate to pass to his beneficiaries without the cost and hassle of probate, the owner may not want his family to be required to probate the estate solely to remove property from a safe deposit box.

Safe deposit boxes provide security for our property. However, when deciding to use a safe deposit box, the procedural steps that the decedent's family will be required to take in order to review and remove property held in the safe deposit box after the decedent's death should be considered.