



## Tax alert: Key Amendment in Succession Planning – Removal of Mandatory Probate Requirement

25 December 2025

Repealing and Amending Act, 2025 removes the mandatory probate requirement under Section 213 of the Indian Succession Act.

### In a nutshell



The Repealing and Amending Act, 2025 repeals 71 obsolete laws and updates provisions to simplify legal processes.



Section 213 of the Indian Succession Act, 1925 has been omitted in entirety to remove the mandatory probate requirement that was applicable for certain communities before enforcing Wills for property in specified



This change simplifies succession procedures, reduces costs, and enhances privacy for legatees.



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### Background:

- The President has accorded assent to The Repealing and Amending Act, 2025 (“RAA”), which repeals 71 outdated laws and amends provisions in others to eliminate redundant legal processes. This Act is a significant step toward modernizing India’s legal framework and reducing procedural complexities.
- One such key amendment has been brought in the Indian Succession Act, 1925 (“the Act”) which repeals a century-old requirement of obtaining probate for Wills - a court certification that establishes a Will as genuine and legally authorises executor to administer deceased’s estate.
- Prior to the amendment, Section 213 of the Act required that Executors and Legatees, specifically under the Hindu, Buddhist, Sikh, Jain and Parsi communities, had to secure probate or Letters of Administration for Wills executed in the former presidency towns of Mumbai, Chennai or Kolkata or for Wills executed outside these jurisdictions but relating to immovable property located in the aforesaid jurisdictions.

- This requirement did not apply to Muslims or Indian Christians.
- The provisions were thus, creating discrimination based on the testator's religion and geographic location which resulted in additional time and money being incurred by such legatees and executors.

**Amendment in the Act:**

- RAA has completely omitted Section 213 of the Act thereby eliminating the mandatory requirement of obtaining Probate to establish an executor's right. The amendment seeks to create uniformity and remove discriminatory provisions.
- Consequential amendments have also been made in Section 3 and section 370 of the Act to remove references to probate, aligning them with the new framework.

**Why this change matters:**

- The probate requirement was originally intended as a safeguard but had become discriminatory and obsolete. It created unnecessary delays, increased costs, and compromised privacy. By removing this requirement, the law ensures uniformity and fairness in succession matters across India.

**Implications:**

- **Speed & Cost Efficiency:** Heirs will no longer incur additional time and cost for probate where it was previously mandatory to obtain such probate
- **Privacy Maintained:** No public notices or court filings are necessary.
- **Uniformity & Fairness:** Removes religious/geographic discrepancies and enhances legal equity.



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