

If you are appointed the executor of an estate, it is important to remember that you are tasked with serving as a fiduciary for the estate and expected to administer the estate for the benefit of the decedent's beneficiaries named under his or her Will or, if there is no Will, for the benefit of the decedent's heirs determined pursuant to state law. To that end, the following are the general duties of an executor (also sometimes referred to as a "Personal Representative" or, in some cases, an "Administrator"), but it is recommended that you check with the court and speak to an attorney about what local rules might govern the duties of an executor of an estate.

1. Acquire Copies of the Death Certificate

As an executor, you will need to get multiple copies of the death certificate. We recommend at least 10 but this number can vary based on the number of accounts and institutions for which the decedent had business dealings. If you are working with a funeral home in connection with the decedent's last wishes, oftentimes the funeral home will make arrangements to get the death certificates for you.

2. Obtain Estate Planning Documents

Typical estate planning documents pertinent to the executor are the deceased's Will, a copy of any Trust Agreement for a trust that may have been established by the decedent, and any documents that might describe funeral arrangements and/or how the decedent wished for his or her remains to be disposed.

3. Determine if Probate is Necessary

Certain accounts and designations avoid probate (joint accounts where at least one joint owner is still living, IRAs with designated beneficiaries who are still living, payable on death designations where the "pay on death" beneficiary is still living, etc.). Certain estates may not require probate based on the size and content of what is left in the estate. This varies from state to state. You may need to consult an attorney to determine if probate is required.

4. If Probate is Required, then What?

You will need to file a Petition with the probate court seeking to have an executor appointed, heirs determined, and, if a Will exists, the beneficiaries of the Will determined. In most states, the original Will, where a Will exists, is required to be filed with the probate court. Once the Petition has been filed, the court will generally set a date for a hearing for the court to consider the Petition, appoint an executor, and determine next steps. Although not required, it is recommended that you engage legal counsel to assist with this.

5. Notify Institutions of the Decedent's Passing

The Social Security Administration, the decedent's bank(s), any institutions that managed or had custody of the decedent's investible assets, credit card companies, insurance companies (both life insurance and property and casualty insurance), and others will need to know of the decedent's passing.

6. Locate the Assets, Create an Inventory, and Manage Distribution

- An executor's duties including controlling the assets of the deceased until the estate is settled. The probate process is typically a very transparent process; as such, an inventory of the probate assets is often required to be filed with the court so that all parties are aware of what assets are subject to the probate court's jurisdiction.
- As executor, you often make decisions about what assets should be liquidated, what assets should be distributed in kind to the beneficiaries of the probate estate, and when all the foregoing should occur. However, prior to distributing any assets, we recommend that you consult with your legal counsel as the

laws vary from state to state. In fact, in many states, assets cannot be distributed by the executor until the court issues an order allowing for the distribution.

- It is also important to secure certain types of assets to prevent loss or degradation from occurring. Locks might need to be changed to ensure that valuable assets or an important family heirloom are secure. Contact the insurance company that insures any real and personal property to ensure the policy stays in force throughout the administration.

7. Reach out to Appropriate Allies

In executing an estate there will be issues that you will likely not know how to handle. In this case, you may need the advice of an estate attorney, accountant, investment advisor, insurance agent or others access accounts and to file the necessary paperwork.

8. Establish an Estate Account

- You may need to create an estate account to pool all the liquid assets that the deceased left behind as well as the net proceeds from the sale of any non-liquid assets. Oftentimes, various payments connected to the estate may be paid through this account.
- Ongoing expenses of administration of the probate estate may be able to be paid from the estate account. Some examples include legal fees and court costs, accounting and tax preparation expenses, mortgage and property tax payments related to real estate in the probate to ensure foreclosure does not occur, utilities, insurance premiums and other day-to-day expenses. Before any distributions to heirs may be made, all debts must be settled.
- Additionally, debts of the decedent such as payments to unsecured creditors, expenses of illness, and tax debt may be paid from the estate account.
- However, in all cases, prior to disbursing estate funds, check with your legal counsel to ensure the disbursement may be made without first obtaining approval from the probate court.

9. File a Tax Return

An income tax return must be filed for the period from the first date of the tax year until the date of the decedent's death. This is due when it would have been if the decedent were still alive. Generally, April 15th of the year following their death. Additionally, a fiduciary income tax return may be required. Typically, the period related to this return begins with date of death and continues through the conclusion of the probate estate. It is important to consult with a tax preparer or CPA to determine exactly what is necessary here.

10. Keep Accurate Records

It is essential to keep accurate records of everything you do as the executor. Part of the probate process may require the creation and disbursement of an accounting reflecting the assets initially comprising the probate estate, disbursements made, receipts, and ending assets.

DISCLOSURES:

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