



Estate Planning

What Happens Next When a Loved One Passes Away? (Duties of an Executor or Personal Representative)

A parent, a spouse, a best friend, or some other individual close to you has passed away. You know you've been named the executor of the decedent's will, or, because of your relationship, you are the person that will handle and resolve the decedent's affairs in the absence of a will. It's an extremely emotional time, but there are many things that must be done. There are funeral arrangements, bills to pay, investments to manage, legal and tax affairs, and many, many more activities of daily life that continue on, despite your grief.

This is a checklist that will, hopefully, provide you with guidance during a time when it may be difficult to see and think clearly.

The Executor is the individual appointed by the decedent in his or her Will, and confirmed by the Probate (or Surrogate's) Court, whose duty it is to administer the estate and carry out the wishes of the decedent as expressed in the Will. For a married couple, the Executor is typically the surviving spouse. For an unmarried individual, it is usually a family member or friend. Depending upon the size and complexity of the decedent's estate, a financial institution may also be designated as a Co-Executor, to assist the Executor in these duties. In either event, the Executor is called upon to discharge responsibilities that he or she may only experience once in a lifetime and at an extremely emotional and disturbing time.

The Executor is also called the "Personal Representative" of the estate. Another kind of Personal Representative is known as an "Administrator." His or her duties are similar to an Executor's, except that this person is appointed by the court to handle the decedent's affairs when the decedent did not leave a Will.

For the remainder of this checklist, we will use the term Executor interchangeably with Personal Representative and Administrator.

This checklist is designed to prepare the Executor and family members for some, but not all, of the many duties and responsibilities required of the Executor. At all times, the Executor should be acting with the advice of an attorney, accountant and financial advisor. The greater the net worth of the decedent, or the more complex the decedent's affairs, the greater the need for the Executor to administer the estate with the help of a team of professional advisors. Indeed, many of the items in this checklist are performed by an attorney or accountant, but the Executor is the party responsible for managing this process.

The Executor should not feel alone in this process.

In addition, these are just general guidelines. The Executor's duties vary from state to state. Local laws and customs play an important role in the administration of the estate. Some of the listed items on this checklist may not be required. Other requirements that are not listed may be added. The attorney for the estate will determine the requirements that must be followed.

The following are some of the duties and responsibilities. They are not necessarily listed in sequential order.

Preparation:

1. Locate the will. If the original will is located in a safe deposit box, the Executor may need to obtain a court order to open the box.
2. Ensure that the funeral arrangements have been carried out if that hasn't already been done by family members.



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3. Obtain several copies of the death certificate.
4. Select an attorney to represent the Executor.
5. Submit the Will for probate and petition the court for official appointment as the Executor of the estate. [In the absence of a Will, petition the court for official appointment as the Personal Representative of the estate.] You will receive certificates from the court evidencing your appointment as Executor that you may need to show third parties in order to carry out your responsibilities.
6. Open an estate bank account.
7. Notify the post office to forward mail, if necessary, to the Executor.
9. Collect and take possession of all assets payable to the decedent or the estate, including retirement plans and insurance.
10. Inventory all assets that may be payable to others on account of the decedent's death (e.g., joint accounts, payable-on-death or transfer-on-death accounts, retirement plans, insurance, etc.).
11. Invest surplus cash and maintain investment accounts in a manner that would comply with the applicable laws of that jurisdiction (e.g., Prudent Investor Act).
12. Secure real estate – safeguard contents, change locks, forward mail, maintain or terminate utilities, etc.
13. Arrange for appraisals of real estate, antiques, collectibles, jewelry, automobiles, and other fixed assets.
14. Prepare an inventory of all of the estate assets and liabilities.

Collection and Investment of Assets:

1. Locate the assets by reviewing income tax returns, investment statements, bank account statements, life insurance policies, etc.
2. Arrange for the inventory of the safe deposit box.
3. Notify banks, investment brokers and others of the death, and of your appointment as the Executor.
4. Obtain copies of the latest statements for bank accounts, brokerage accounts, mutual funds, etc.
5. Establish values for all stocks, bonds, and other assets as of the date of death either through published sources or appraisals.
6. Obtain life insurance claim forms and submit claims.
7. Check for various government benefits (e.g., Social Security death benefits, Veteran's Administration benefits, etc.) and submit claims.
8. Check on employment benefits (e.g., pensions, survivor benefits, death benefits, etc.) and compensation owed to the decedent and submit claims.

On-going Maintenance and Operations:

1. Pay last medical expenses.
2. Examine status of business interests.
3. Participate in the operation of the business interest on behalf of the decedent's estate (e.g., hire business administrators, attend board meetings, vote decedent's shares of stock, etc.) until the interest is sold or otherwise distributed.
4. Pay or contest bills and invoices. Settle debts.
5. Assist the attorney and accountant for the Executor and estate, as needed.
6. Manage all real estate owned by the decedent and make decisions concerning the sale or transfer of the property.
7. Continue to collect rents, make repairs, maintain utilities, renew leases, and handle tenancy related issues, etc. for income producing real estate.



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8. Maintain complete records for all transactions and provide statements for all receipts and disbursements.

Estate Administration and Tax Planning:

1. Determine cash requirements of the estate for payment of debts, taxes, expenses, bequests, etc. and determine the best course of action to raise the necessary funds through the liquidation of assets, sale of property, life insurance, etc.
2. Prepare court accountings as required.
3. Review, contest or settle claims made against the estate.
4. Analyze tax planning options and make all applicable tax elections.
5. Select the valuation date to be used for the federal estate tax return (which may provide substantial tax savings).
6. Prepare and file the final federal and state income tax returns and gift tax and generation-skipping transfer tax returns for the decedent, and pay any taxes due.
7. Prepare and file the estate's federal and state fiduciary income tax returns on an annual basis and pay any taxes due.
8. Prepare and file the federal and state estate tax returns as required. Determine charitable, marital or other deductions and elections.
9. Obtain Estate Tax Closing Letter from the Internal Revenue Service.
10. Obtain State tax waivers.

Estate Distribution:

1. Notify all heirs and family members of their interests in the estate, if any.
2. Determine appropriate times to pay bequests and legacies depending upon potential creditors' claims, money needed for taxes, ability to liquidate assets, and other relevant factors.
3. Prepare a distribution plan if required in your jurisdiction and obtain the court's approval.
4. Pay specific bequests of cash or property to the appropriate beneficiaries.
5. Distribute all tangible personal property specifically bequeathed.
6. Arrange for the preparation of Receipts and Releases for signature by the beneficiaries. These provide for a written record of distributions made and acknowledgement of receipt of those distributions by the beneficiaries.
7. Arrange for the transfer and re-registration of securities with the appropriate transfer agent.
8. Execute and file deeds for transferred real estate.
9. Execute and file the appropriate documents to transfer business interests.

Closing the Estate Administration Process:

1. Pay final administration expenses.
2. Prepare and file the final accounting for the estate showing all of the assets and income collected, expenses paid, all investments and reinvestments, all distributions made, and other pertinent information concerning the administration of the estate. This accounting will be provided to the beneficiaries and the court.





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3. Make the final distribution of assets. Assets should not be distributed too early if there are substantial claims by creditors against the estate.
4. Prepare final federal and state income tax returns for the estate.
5. Petition the court for the discharge of the Executor or Personal Representative.
6. Notify the Internal Revenue Service of the termination of the fiduciary relationship.

Please consult with your Guardian Financial Representative if you have any questions concerning this document.

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GEAR # 2008-9230

Expiration: 12/31/2016

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