

# Estate Administration Responsibilities

## The role and responsibilities of the executor of an estate

U.S. Trust has dedicated teams of wealth transfer and investment professionals across the country who focus solely on delivering estate settlement and trust services. Please contact your advisor to discuss the responsibilities of an estate executor and how we can provide critical support in fulfilling this complex role.

### A SIGNIFICANT RESPONSIBILITY WITH UNIQUE CHALLENGES AND COMPLEXITIES

Administering an estate is a demanding role that is unfamiliar to most individuals. It is a process governed by complex rules and measured by inflexible deadlines, characterized by extensive paperwork. Moreover, a variety of skills is needed to effectively and efficiently administer an estate. Custody, investment, fiduciary, administrative, accounting, legal and tax expertise can all be required in the settlement of even a moderately-sized estate.

To further complicate matters, failure to meet key deadlines exposes the estate to loss of tax reduction methods and may result in interest charges and the imposition of penalties. These losses can be the responsibility of the estate or executor<sup>1</sup> to pay.

If you have been named executor of an estate or are considering the choice of executor for your estate plan, it is important to understand the process and the responsibilities of estate settlement. The checklist that follows is designed to help. While we have tried to be comprehensive, there may be additional responsibilities that are not included on this list. Importantly, laws governing the administration of estates vary from state to state. Please consult with your attorney or other advisor to see how this information applies to your particular situation.

### SPECIALTY ASSET MANAGEMENT

Nonfinancial assets such as private business interests, investment real estate, oil and gas interests, timberland, and farm and ranch land are often an important component of an estate, or ones that have special significance. Managing these assets through the estate settlement process presents challenges for most executors. U.S. Trust's Specialty Asset Management team has specialists with the experience and knowledge to provide strategic advice, as well as day-to-day management of these assets. U.S. Trust's ability to provide the assistance needed through the estate settlement process and beyond can mean the difference between a quick liquidation and preserving a cherished asset—even when heirs do not have the desire or ability to take an active management role.

<sup>1</sup> In some states, the title "personal representative" is used in the place of "executor".

Investment products:

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Please see back for additional important disclosure information.

**This checklist is for representative purposes only and is not intended to be an inclusive list of the information that may be needed.**

**Upon acceptance: Review the Will and begin the estate settlement process**

- After acceptance, retain counsel for the estate; reach agreement on attorney's fees, deliver original Will to the attorney and confirm schedule for filing initial probate pleadings (application, proof, oath and order).
- Determine date for hearing and counsel's preference regarding estate representation at hearing. Request counsel to provide copies of all documents filed with the probate court.
- If applicable, determine which family member will provide testimony at hearing, notify that individual of date and time of hearing and verify that transportation is available.
- Sign oath of executor after probate hearing and arrange for oath to be filed with the court as soon as possible thereafter.
- Obtain information (insurance, deed, tax statements, mortgage) for each parcel of real estate owned by the decedent and request date of death appraisals.
- Arrange for security of cars, residence and other property.
- Arrange for storage and insurance of property as necessary.
- Obtain certified copies of death certificate and letters testamentary.
- Change decedent's mailing address at the post office, if appropriate.
- Have a meeting with all beneficiaries and any co-executor to outline the estate administration process with projected timelines to manage the expectations of the beneficiaries.
- Follow up with a letter to appropriate beneficiaries and any co-executor reiterating all of the information provided at the meeting.

**First 9 months: Assemble, inventory and take custody of assets and financial records**

- Obtain information concerning any proprietorship, closely held business or limited partnership interest.
- For each piece of real estate, plan for oversight of property maintenance.
- Obtain information regarding any mineral and royalty interests and request date of death appraisals.
- Notify Social Security (funeral home usually does this) and any annuity payers of death. Arrange to return Social Security payment for month of death.
- Obtain birth certificates for any beneficiaries whose distributions are dependent upon their ages.
- Arrange a meeting to take possession of the decedent's financial records and other important documents. Review and organize.
- Inventory the decedent's safe deposit box, if any, in the presence of a family member, a co-executor, or a bank employee. Take possession of assets and important papers, close box and obtain refund where appropriate.
- Contact the decedent's CPA to obtain copies of the last three years' federal, state and local income tax returns and any gift tax returns ever filed.
- Obtain copies of Wills, estate tax returns and audit adjustments for estates of persons from whom the deceased inherited property within ten years prior to decedent's death for use in computing credit for prior transfers on decedent's estate tax return.
- Obtain copies of all agreements to which decedent or decedent's spouse was a party, such as partnership agreements, buy-sell agreements, oil and gas leases, etc.
- Obtain financial statements and tax returns of closely held businesses and partnerships in which the decedent or decedent's spouse owns an interest.
- Obtain copies of signature cards for each of decedent's deposit accounts, along with the date of death balance of the account and any interest accrued at date of death. Ascertain whether decedent had any loans, safe deposit boxes, or other existing relationship with financial institutions.
- Take possession of decedent's cash accounts.
- Obtain as much information as possible, including a summary plan description, if available, concerning any employee benefit plans in which the decedent was a participant.
- If the decedent was divorced, obtain divorce decree and property settlement agreement to consider pertinence to settlement of estate.
- Obtain and review copies of any trusts (a) that the decedent created during lifetime or (b) of which the decedent was a beneficiary.
- With the assistance of estate counsel, determine the separate or community property character of each asset, segregating any assets that are survivorship property, and evaluate the need for an ancillary administration. Identify any special problems that need to be resolved.
- Make preliminary determination as to whether death tax returns will need to be filed. If so, select tax return.
- Complete Estimate of Cash Requirements.
- Pay funeral bill promptly to obtain discount, if possible.
- Review and pay outstanding non-medical bills.
- Submit and monitor Medicare/private insurance claims for any outstanding medical bills. Pay all medical bills not covered by insurance.
- Cancel unwanted accounts, memberships and subscriptions, obtaining refund if applicable.
- Obtain date of death value of securities.

**First 9 months: Assemble, inventory and take custody of assets and financial records (continued)**

- Arrange for appraisals of household goods, jewelry, antiques, collectibles and other unique assets.
- Consider appropriate timing of delivery of autos and tangible personal property, taking into consideration any survivorship requirement in the Will. Obtain receipts for all property distributed and ensure that transfer tax is provided for if distributed property bears a portion of the tax.
- Consult with estate attorney to evaluate overall estate and identify any problems that need to be resolved.
  - a. Consider damage suit if death resulted from accident or possible medical malpractice.
  - b. Review with counsel any pending litigation to which the decedent was a party and have executor substituted into the litigation.
  - c. Identify all statutory notices that must be given and filed with the probate court.
  - d. Review Estimate of Cash Requirements, updating as appropriate.
  - e. Evaluate estate's liquidity. If sales of assets will be necessary to pay taxes, expenses and specific bequests of cash, obtain estate and inheritance waivers, and arrange for timely and prudent sale of assets.
  - f. With the assistance of counsel, consider possible use of disclaimers on behalf of the decedent with respect to property or powers of appointment held by the decedent in another estate.
  - g. Make final determination of need for filing of estate and inheritance tax returns.
  - h. If tax returns will be required, ensure that counsel will obtain an extension of time for filing inventory with the probate court.
- Collect proceeds of life, accident, hospitalization (including Medicare) and other insurance that is payable to estate. Obtain Form 712 on each life insurance policy on decedent's life and each policy owned by decedent on the life of another.
- Determine whether any other life insurance is payable through credit life insurance, credit card accounts, club memberships, fraternal orders, etc.
- Collect Social Security, veterans, railroad retirement and employee death benefits.
- Contact state unclaimed property division to determine if there is any unclaimed property in the name of decedent, including mineral or dividend checks.
- Review estate assets to consider use of alternate valuation date (AVD) (six months after date of death).
- Follow up to ensure that death tax returns and probate inventory are timely filed.
- After death tax returns have been filed, send letter to appropriate beneficiaries reporting on progress of estate administration.
- Adjust carrying values of assets if AVD values were used on 706.
- Verify that all of the following obligations have been paid in full:
  - a. Debts and claims.
  - b. Estate, inheritance, income, payroll and other taxes.
  - c. Court costs.
  - d. Executor's compensation.
  - e. Attorney and accountant's fees.
  - f. Ancillary administration expense.
  - g. Specific bequests.

**9 to 15 months: Prepare and file tax returns**

- Consult with estate attorney about selection of fiscal year for estate and postmortem tax planning opportunities.
- Prepare asset information for probate inventory if filing not extended.
- Follow up to ensure timely filing of probate inventory or request for extension of time to file.
- Send letter to appropriate beneficiaries reporting on status of administration.
- Set up and maintain schedule of income received on all property that is the subject of a specific bequest.
- Set up and maintain schedules of the following information to facilitate preparation of death tax returns:
  - a. Debts of the decedent.
  - b. Administration expenses, actual and estimated.
  - c. Miscellaneous receipts, such as refunds, traveler's checks, Medicare/insurance reimbursements, etc.
  - d. Non-probate assets.
  - e. Lifetime gifts in excess of the annual exclusion per year.
- Review appraisals of estate assets and deliver to estate tax return preparer if applicable, retaining a copy of each for file.
- If practicable, no later than six months after death, provide estate tax preparer the following information to facilitate preparation of transfer tax returns:
  - a. Certified copy of governing document(s).
  - b. Certified copy of death certificate.
  - c. Copies of all trust agreements either created by the decedent or of which the decedent was a beneficiary.
  - d. Final 1040, if filed.
  - e. List of all assets with values as of DOD and AVD.
  - f. Estimated fees for executor and professionals.
  - g. Schedule of debts.
  - h. Schedule of administration expenses.
  - i. Schedule of miscellaneous receipts.
  - j. Schedule of lifetime taxable gifts.
  - k. Names, addresses and Social Security numbers of beneficiaries.
- Furnish information for preparation of extended inventory to counsel.
- Review draft copy of estate and inheritance tax returns to verify accuracy and completeness.

9 to 24 months: Distribute the estate

- Review governing document(s) and applicable probate code sections to determine correct apportionment of debts, taxes and expenses.
- Make arrangements to collect pro rata share of debts, taxes and expenses from recipients of non-probate property, if appropriate.
- Consider possible benefits of early partial funding of testamentary trusts, such as obtaining advantage of income splitting.
- Consider early delivery of specific bequests, obtaining receipts and making sure that the beneficiary's pro rata share of taxes and expenses is provided for.
- Consider partial distributions to residuary beneficiaries if sufficient assets are available.
- If non-pro rata division of community property is contemplated, review with accountant and/or attorney before proceeding.
- After closing letter has been received from IRS, prepare Distribution Schedule, making adjustments for any inequality in distributions made during administration.
- File certified copy of probate proceedings in the deed records of each county in which the decedent owned real estate.

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Whether we are managing your portfolio, serving as trustee, or administering an estate, our focus is what best meets your objectives. Together, we develop personalized solutions that address the dimensions of your worth today and the legacy you're building for future generations.

THE SPECIALIZED EXPERIENCE YOU NEED

Whether you are selecting an executor for your own estate or have been appointed to serve as executor for someone else, U.S. Trust has the experience, technical knowledge and impartiality to simplify the process and carry out fiduciary responsibilities with skill, care and compassion.

Please contact your U.S. Trust® advisor to discuss the responsibilities of an estate executor and how we can provide critical support in fulfilling this complex role.

[ustrust.com](http://ustrust.com)

This summary of common estate administration responsibilities is intended for discussion purposes only, does not constitute legal advice, and should not be acted upon without consulting with appropriate legal counsel. While this document is intended to be a comprehensive representation of the common estate settlement activities, it is not intended to be an all-inclusive list of every duty and certain state-specific activities may not be listed. Also, every item described herein may not be required in every state.

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