



THINGS TO DO AFTER A LOVED ONE PASSES AWAY

If someone dies owning assets in his or her name alone without a trust (“probable assets”), there must be a probate court proceeding to determine who is to receive the assets. In other words, the Will is given effect through the probate court proceedings. If there is a valid trust in place, then it is up to the successor Trustee to perform the duties below.

Probate means “prove.” One must prove to the probate court that the Will is valid, that the maker was competent and not forced to make the Will, that the heirs and representatives are proper, that all creditors have been paid and that all persons are getting their just due. Only after the proofs are made may an heir receive his or her inheritance.

The following is a list of the general steps a person may need to do when administering an estate. Some of these duties may not apply in every estate, but other estates may have circumstances which incur additional duties.

1. Locate Original Last Will, codicils, and, if applicable, Trust documents.
2. If applicable, find or obtain an original marriage certificate. You may have to contact the county in which the marriage was occurred.
3. Obtain death certificates: about 10 short form (no cause of death shown) and 5 long form (cause of death shown). This will also be provided to you by the funeral home. Expect to receive them 7-10 business days after they are ordered. You can also obtain additional copies from the Florida Department of Health, Vital Statistics (904 -359-6900 Ext: 1024).
4. Make funeral arrangements. The funeral home will likely contact the Social Security Administration regarding the termination of benefits.
5. Have an initial consult with an estate attorney to discuss estate administration (Probate or Trust).
6. Take possession of Decedent’s assets and secure against theft and vandalism. Begin preparation of inventory of probate and non-probate assets.
7. Start to identify any digital assets, logins and passwords of the Deceased. This is especially important with respect to email addresses, online financial accounts, and social media.
8. With any closely held business interests, must obtain appraiser to value shares, work with key employees to preserve ongoing concerns and keep business afloat, determine obligations of entity and means to achieve; determine if stockholders agreement calls for sale of shares and work to complete transaction.
9. Notify Post Office to change mailing address of the Deceased to mailing address of PR.

10. Separate all mail of Deceased and retain, discarding “junk” mail. Prepare schedule of all creditors, with addresses and amounts due, dates due, and forward copy of all bills of deceased to attorney for PR.
11. Locate insurance policies on all real estate, automobiles and personal property; and life insurance policies.
12. Verify that all premiums are paid and that coverage under policies will continue even after death of the Decedent.
13. Apply for benefits due under any life insurance policies payable to the PR or the Estate; deliver life insurance policies payable to any other beneficiary to that beneficiary.
14. Make a thorough and diligent search to locate all creditors of the Deceased, their names and addresses.
15. Locate all bank accounts and securities of deceased and prepare a schedule of all accounts with account numbers, bank name and address, balance of Date of Death (the “DOD”). Forward copies of all monthly statements received after DOD to attorney for the PR. Forward statements for month preceding DOD and month of DOD to attorney for PR.
16. Determine if any accounts have “Payable on Death” (POD) beneficiary designations or investment accounts with “Transfer on Death” (TOD) designations. These assets do not need to be probated.
17. Locate all other assets owned by Decedent (either alone, jointly, or in Trust); obtain legal descriptions for real estate; copies of Mortgages and Notes, etc.
18. For Vehicles, collect all the titles to those vehicles. You may take the titles along with a certified copy of the death certificate and a copy of the will and/or trust to the county tag agency and have the vehicle transferred to the Personal Representative/Trustee. (Aircraft differ, see your attorney for this type of vehicle.)
19. Open estate checking account, close all Decedent’s accounts that can be closed without interest penalties, and deposit all funds to estate checking account.
20. Pay all claims not objected to within 4 months after first publication date, if notice to creditors was file by the attorney.
21. File all claims for Medicare, Medicaid or health insurance reimbursements for medical claimants of the deceased.
22. Meet with an accountant familiar with estate administration:
 - a. Ascertain that all IRS Form 1040’s for the Deceased have been filed for all years, including but not limited to, the year of death.

- b. File Form 1041 (Fiduciary Income Tax Return) for estate or trust income (if applicable). Note: A second 1041 may need to be filed in the next year. Please see your accountant for additional details.
 - c. Have your accountant file IRS Form 4810, Request for Prompt Assessment, to request a prompt assessment and review of all tax returns filed by the decedent with the IRS. Filing Form 4810 will shorten the statute of limitations period for the tax return from three years from the date of filing or due date of the return to eighteen (18) months from the date of its filing with the IRS. It is important to note that the shortened statute of limitations period will not apply to: (i) fraudulent tax returns; (ii) unfiled tax returns (IRC §6501(c)); (iii) any tax return with “substantial omissions” (IRC §6501(e)); or (iv) any tax assessment described in IRC §6501(c).
 - d. Also file a release of personal liability of the personal representative IRS Form 5495.
 - e. If a federally taxable estate, prepare Federal 706 and file within 9 months of DOD; obtain all appraisals required; ascertain all mortgages balances and debts; make elections, if applicable. Determine amounts to be paid by the estate for the estate tax return and segregate assets to pay tax.
 - f. Your accountant may need to provide Schedule K-1’s to the beneficiaries if funds are distributed.
23. After payment of all claims, taxes, fees, and costs, make distribution of remaining estate assets to estate beneficiaries.
24. Determine the extent of any online accounts (Facebook, Google, Yahoo, etc...) and terminate those.
25. Notify deceased’s school alumni association.
26. Your Attorney may proceed with the following:
- a. File administration papers
 - b. The attorney for the PR must send out a copy of The Notice to Creditors to each creditor within 60 days after the PR is appointed by the Court, and send them a notice of administration.
 - c. Apply for Federal Tax I.D. number for estate, if necessary.
 - d. Send in Form 56 notifying IRS of fiduciary appointment, if necessary.
 - e. File Inventory of probate estate assets within 60 days after appointment.
 - f. Notify surviving spouse, if any, of rights of election of surviving spouse, family allowance, homestead and exempt property (if applicable).
 - g. File Petition to Determine Homestead (if applicable).
 - h. Promptly review all claims and file and serve written objections to any claim within 30 days after claim period runs or 30 days after the claim is filed in probate. The attorney for the PR must prepare, serve, and file the objection.
 - i. Obtain Order of Discharge from Court.

EXPLANATION OF FORMAL ADMINISTRATION PROBATE PROCEDURES

The most common probate proceeding is called the FORMAL ADMINISTRATION proceeding. The following must be done to start and prosecute the proceeding:

STEP ONE: You need to furnish your attorney with the following information and documents:

1. Original copy of Last Will and Testament (and Trusts, if any).
2. Certified copy of Death Certificate.
3. A general description of the kind and value of probatable assets.
4. Names and addresses of all persons named in Will. If any are under the age of 18, state so and give names and addresses of their parents or guardians.
5. Names and addresses of all the decedent's following relatives who are named in the Will (if any are under the age of 18, state so and give names and addresses of their parents or guardians).
 - (a) Decedent's parents
 - (b) Decedent's spouse
 - (c) Decedent's children
 - (d) Children of deceased children
 - (e) If none of the above exist, then:
 1. Brothers and sisters of decedent
 2. Children of deceased brothers and sisters.
6. Names and addresses of person(s) nominated as personal representatives (executors) in the Will.
7. Retainer for fees and costs.

TIME FRAME FOR STEP ONE: 30 days.

STEP TWO: Once that information is furnished to the attorney, they can commence the work:

1. Prepares petition for nominated Personal Representative (PR) to sign, listing the same information as noted above. Obtain signatures.
2. Prepares oath of office and designation of agent for service of process for signature of nominated PR. Obtain signature.
3. Prepares proposed order for court to sign.
4. Files original Will, certified copy of death certificate, petition, oath of office and designation of agent for service of process and proposed orders with Court. Pays court fees.
5. Prepares waivers for heirs and other interested persons to sign.

6. Sends copies of Will, petition and waivers to each heir and interest party by certified mail, return receipt requested. Recipients have 20 days after receipt of those papers to file objections to the proceedings, to the Will or to the appointment of the nominated PR. If addresses are unknown, attorney will have a newspaper publish notices of the proceeding to notify heirs and interested parties.

TIME FRAME STEP TWO: 40 to 60 days.

STEP THREE: The attorney will pay for and obtain certified copies of the orders and then commences to do the following work:

1. Causes a notice to be published for two weeks in a newspaper in the county wherein proceedings are held. Creditors have ninety (90) days after publication to file claims.
2. Asks PR to give following information:
 - (a) names and addresses of known creditors.
 - (b) detailed listing of probatable assets and values thereof.
3. Sends notice to known creditors who then have thirty (30) days to file claims after their receipt of notice.
4. Prepares an inventory of assets and values for signature.
5. Sends inventory copy to all heirs and interested persons and files same with court.
6. Aids PR in obtaining assets with use of Letters of Administration and to sell real estate and obtain bank accounts, etc. Note that if attorney handles real estate sale an additional fee will be due over and above that incurred for probate proceedings.
7. If decedent owned real estate, a tax return must be filed with the State to remove any estate tax lien thereon. There will be no estate taxes to be paid if the estate is under \$11,700,000.00 (2021) in value. If estate is over that value, an accountant must be hired to do federal and state estate tax returns.
8. All cash proceeds and cash assets to be held by PR in bank accounts created in estate name.
9. PR commences to pay all bills and can make partial distributions to heirs, saving some funds to cover unknown creditors. Attorney obtains receipts from heirs and files same with the court.

TIME FRAME FOR STEP THREE: 100 Days (or 9 months if federal estate tax return necessary).

STEP FOUR: Final Procedures

1. PR furnishes attorney with detailed information as to:
 - (a) Value and nature of estate originally held as per Inventory filed earlier.
 - (b) Additions or deletions therefrom
 - (c) Expenses paid.

- (d) Amounts remaining.
- (e) Distributions made.

2. Attorney prepares Final Accounting for Court, obtaining PR signature.
3. Attorney prepares petition for discharge for Court. Obtains PR signature.
4. Attorney prepares proposed court order for distribution and discharge.
5. Attorney files Final Accounting, petition and proposed order with court and sends same to heirs and interested parties. They have 20 days after receipt of same to file objections.
6. Attorney obtains certified copy of discharge order from court after objection period ends.

TIME FRAME FOR STEP FOUR: 40 days.

* Note that all time frames are estimates. Much depends on how quick and accurate information and signatures are forthcoming from the Personal Representatives, heirs, and other interested persons. Much time will be spent, additional to that noted above, if objections or creditors' claims are involved.

Thus, about 185 days (6 months or so) are usually necessary to process a FORMAL ADMINISTRATION probate proceeding. However, most times, heirs could start receiving their due after 45-60 days.