

PERSONAL REPRESENTATIVE'S CHECKLIST

DISCLAIMER

This article is intended for informational purposes, only. It does not constitute legal advice. Nor is it a substitute for legal advice.

This checklist represents an attempt to itemize matters that a personal representative ("PR") may be called upon to attend to following the death of a family member. It is also intended to be of use to family members who undertake to attend to the affairs of a deceased relative. Many of the matters listed will not be part of every PR's tasks, but the intention in making the checklist is to try to include most possible matters.

This Checklist should be read in conjunction with a separate article entitled *The Personal Representative*.

Before jumping into the list below, it might be useful, at the risk of being redundant, to identify a few principal, ongoing tasks of the PR. These are things that the estate attorney or other advisor will in all likelihood rely on you for:

- Find documents: will, trust, tax returns, real estate deeds, etc. (See below.)
- Make a list of the decedent's assets at the time of death. There are forms that you can use to help put together this list, as described below. Current balance sheets can be helpful, as well as bank account and investment account statements.
- Make a list of the decedent's debts, including the names and addresses of all creditors.
- Make a list of the names and addresses of the decedent's children, heirs (if known) and anyone to whom the decedent has left something (if known).
- Make a list of the funeral expenses, with copies of statements/bills.
- Make a list of any expenses of the decedent's last illness. In general, medical debts incurred within the last six months of life.
- Make a list/keep track of any expenses incurred as part of your work as a PR, that is the expenses incurred in administering the estate: keep records!

I. Pre-Probate Matters

A. Personal

- Arrange for the immediate care and security of decedent's minor children and other family members who are unable to care for themselves. Arrange for care of plants, pets and perishable possessions.
- In consultation with close family members, make arrangements for funeral service, burial, organ donation, and memorials. Refer to and honor any wishes of the decedent set forth in the Health Care Directive (Living Will), Will or Trust.
- The Will or the Health Care Directive (Living Will) may contain instructions as to disposition of the body. Did the decedent leave instructions as to donation of body parts, or state a general wish to make such donations? Look for other instructions the decedent may have left as to burial or funeral arrangements. If there are no instructions, the decedent's spouse or surviving adult children will make the decision.

- If death occurs at home, you may need to contact the local police or coroner.
- Arrange for security of all personal assets and documents of decedent. Collect all house keys and car keys. Determine need for security, if any, at home(s) of decedent. Have someone stay at the home during funeral to prevent theft.
- Obtain certified copies of death certificate, at least five. Typically obtained from funeral home. Can be obtained from Nebraska Health and Human Services at http://dhhs.ne.gov/publichealth/Pages/ced_decert.aspx. (If necessary, provide physician with documentation for death certificate.)
- Locate information about prepaid burial plan, if any, before you contact the funeral home or mortuary. For U.S. Armed Services (active duty, reserve or veteran) contact the Department of Veteran's Affairs as to burial benefits, by telephone at 1-800-827-1000 or online at http://www.cem.va.gov/burial_benefits/index.asp.
- Contact the funeral home. Assist family in making arrangement for burial/cremation and funeral services.
- Notify family and friends. Have family members help in contacting relatives, friends, and other people.
- Notify employer, religious organization, social groups, fraternal organization, and any government agency (federal or state) that has been paying benefits/assistance to decedent, such as Social Security Administration, Health and Human Services.

B. Financial and Ministerial

- Powers of attorney terminate upon death; the agent named in a power of attorney has no authority to act once death has occurred. (A number of the tasks described in this section will require demonstration of authority to act on behalf of decedent's estate. In a probate, that authority is a letter of personal representative, which is obtained from the court as part of a probate proceeding. For a successor trustee, either a copy of the trust document or an affidavit of trust may be required. See below under II. Legal.)
- Do not pay for expenses personally, if avoidable, but wait until you open the estate account and decedent's funds have been obtained for payment of expenses. Keep record of any payments made. There is an order for paying expenses of an estate, which may become particularly important should there be insufficient funds to cover all expenses and claims. In Nebraska, that order is:
 - Costs and expenses of administration;
 - Reasonable funeral expenses;
 - Debts and taxes with preference under federal law;
 - Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent and claims filed by the Department of Health and Human Services;
 - Debts and taxes with preference under other laws of this state;
 - All other claims
- Contact post office and have mail forwarded to personal representative or successor trustee.
- Cancel periodical subscriptions and obtain refunds.
- Review existence and status of on-line accounts, including reward point and frequent flier accounts. (Obtain passwords.)

- Locate documents:
 - Last Will & Testament (If original cannot be located, check with decedent's attorney, the safe deposit box, if any, or for a filing in will repository of local county court.)
 - Any trust agreement, whether decedent was trustee, beneficiary, or settler/trustor
 - Income tax returns for last three years
 - All gift tax returns, if any
 - Prenuptial or postnuptial agreements
 - Divorce decrees
 - Life insurance policies (contact companies to report death, determine filing of claims)
 - Safe deposit agreement/keys (contact bank)
 - Pension or retirement benefit plans (contact companies to report death, determine filing of claims)
 - Annuities (contact companies to report death, determine filing of claims)
 - Bank statements, account statements, checkbooks
 - Title to vehicles, boats, trailers, etc.
 - Leases
 - Unpaid bills
 - Business documents (Did decedent own or help to run a business? Contact other owners. Obtain copies of business agreements, if any, in particular any buy-sell or shareholder agreement.)
 - Health insurance documents, for final claims
 - Documents evidencing any debts owing to decedent
 - Investment and financial account documents/statements

II. Legal

- Interview with attorney(s) to represent the estate. Enter into fee agreement with attorney. Consult with probate court as to reasonableness of attorney's fee.
- Bear in mind that as PR you are responsible for identifying and preserving the assets of the estate, reporting those assets and liabilities to the court, paying valid debts, taxes and expenses of the estate, and then distributing assets according to the decedent's wishes. Once everything has been properly done, the court will discharge the PR.
- Work in consultation with attorney and accountant to:
 - Prepare list, with addresses, of family members, closest relatives, and other interested parties. It is important that close family members receive notices of the probate proceeding whether or not they are to receive any inheritance.
 - Make a list of all estate beneficiaries, with each person's name, address, email address, phone numbers, and tax ID number.
 - Make a list, with addresses, of all creditors of the decedent. Create a checklist to keep track of notice to these creditors of the probate proceeding and deadline for filing claims.
 - Submit Will to probate,
 - Obtain letters of personal representative,

- Publish notice of appointment of PR,
- Open estate bank account, for recording all receipts and disbursements, which aids in proper accounting of assets and expenses
- Obtain (online) a tax identification number for the estate and file a Form 56 Notice of Fiduciary Relationship
- Prepare inventory of assets and liabilities (use form provided by attorney or use Form 706 federal estate tax return with schedules as guide to completing inventory)
 - real estate (use deeds or real estate tax statements)
 - insurance policies
 - securities, stock, mutual funds, bonds, etc.
 - bank and other accounts
 - retirement plans, IRAs, annuities, pensions, profit sharing plans
 - business ownership interests, including buy-sell agreements
 - include property held in any state, not only state of last residence of decedent
- Make an inventory of household goods and personal belongings.
- Review claims of creditors and pay valid claims: it is important to identify creditors and pay valid claims in order to avoid personal liability as personal representative.
- Was decedent subject to guardianship at time of death? If so, contact guardian to arrange for guardian's final report and inventory. Guardian is to turn over assets to the PR.

III. Collect Assets, Analyze Taxes

- Transfer cash to new estate checking account.
- Are there sufficient funds to meet short-term needs and expenses? If not, consult with attorney as to sale of assets.
- Contact employer to determine if there are any death benefits, such as pension benefits or life insurance. Ascertain COBRA rights.
- Contact Social Security Administration to check for benefits for surviving spouse and/or minor children. Do not cash social security check for month in which decedent died. Return check or direct deposit to SSA.
- For active duty, reserve or veteran, contact VA to determine possible benefits, if any.
- Review all account information/documents, including securities, bank accounts, IRAs, mutual funds, brokerage, on-line, etc. Determine status of beneficiary designations, if any. Determine options for beneficiaries. Obtain control over all stocks and bonds decedent held in his/her own name. Consider whether to sell or hold securities. Obtain the written consent of beneficiaries for holding securities.
- Review vehicle and boat titles to determine ownership.
- Determine whether or not existing casualty insurance coverage is adequate. Obtain written documentation of coverage.
- Locate and take control of all non-financial personal property of decedent. Protect and appraise all valuable personal effects such as jewelry and works of art.

- Locate and take control of all decedent's real property interests. Perform any necessary diligence to determine how property is titled; obtain copies of all deeds. Engage an expert to inspect all real estate, if necessary. Arrange for management of properties, including payment of taxes, collection of rents, compliance with USDA regulations.
- Obtain an IRS Form 712 from insurance agent for any proceeds. Consider a review of health and life insurance on survivors.
- Arrange to open safe deposit box, if not already done.
- Gain access to decedent's computer. Settle all email and internet accounts. Use letter of appointment/personal representative to obtain passwords, if necessary. Review internet activities to determine service provider and status of bill, as well as information on direct payments, if any. Decide whether or not to generate an automatic email response concerning decedent's death.
- Consult with advisors to determine
 - valuation of estate, and need, if any, for appraisals
 - inheritance tax and/or estate tax liability, if any, and possible need for extensions
 - use of portability rule for surviving spouse
 - income in respect of a decedent
 - final income tax return
 - need to pay estate tax, if any, in installments
 - usefulness of alternative valuation date for estate
 - benefit and/or eligibility with respect to special use valuation
 - making QTIP election(s)
 - need to treat a revocable trust as part of estate
 - usefulness/necessity of disclaimers by beneficiaries
 - spousal election against the will
 - existence of conservation easement
 - existence, status and strategy for any existing litigation
- Did decedent participate in, own or run/manage a business? Review business affairs. As stated, obtain copies of business documents, i.e. shareholder agreement, buy-sell agreement, by-laws, operating agreement, minutes of company meetings. Recall that PR stands in position of absolute owner of assets of decedent. If necessary, arrange for proper immediate management of the business. Make prompt decision as to continuation, liquidation or sale of business interest, subject, of course, to existing agreements. It is important to consult with advisors as to PR's control of decedent's business interests.

IV. Payment of Taxes, Creditors and Expenses

In consultation with advisors, determine source of funds and make payment of taxes (income, federal transfer, if any, real estate, and inheritance, if any), creditors (bills, loans, claims), and expenses (appraiser, if any, attorney, accountant, PR, court.)

V. Distribute Assets & Close Estate

The assets, after accounting for expenses, are distributed to the heirs and distributees according to the will, after which an informal closing statement is filed.

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