

When a loved  
one dies...



THIS GUIDE IS NOT INTENDED TO PRACTICE LAW AND IS INTENDED TO  
EMPHASIZE THE NEED TO CONSULT AN ATTORNEY AND ACCOUNTANT FOR  
PROFESSIONAL ADVICE AND SERVICES.

In the wake of a family member's death, survivors experience the grief that comes with the loss of a loved one. The difficulty of the following days and weeks can be compounded by feelings of stress and anxiety at the thought of handling all the details associated with the passing of a loved one. Our goal to lessen that stress by providing the information that will be needed and the tasks that must be performed when someone dies.

## Things you should know

When a loved one dies, the family needs to execute and be mindful of the following:

- Locate copy of the Will and any trust documents.
- Locate or establish directives for funeral proceedings.
- Obtain the deed to cemetery plot.
- Locate deceased's birth/adoption certificate and marriage license or divorce certificate (citizenship papers).
- Obtain 15 certified copies of the death certificate from the funeral director. These will be needed by each insurance company, social security, bank/lending institution, real estate transfer, auto title transfer, investment firm (with letters of testamentary if estate is probated), etc.
- Locate Social security papers.
- If the deceased was a veteran, locate honorable discharge papers and/or VA claim number.
- Locate Checking and Savings account bank information and Brokerage account statements (stock certificates and bonds).
- Locate safety deposit box number, location, and key.
- Thoroughly document all outstanding loans and credit card balances.
- Locate recent income tax returns.
- Locate deeds, titles to property, any outstanding mortgages and registration papers.
- Locate business ownership documents.
- Confirm employer-provided fringe benefits (401k, group insurance, pension plan, etc.).
- Call the assessor's office for the personal property listed under deceased name.
- Go through the bank register/checkbook for two years to contact any insurance companies about benefits.
- Review the ownership and beneficiary information on all existing life and annuity contracts associated with the deceased person and change when necessary.
- For those insurance plans and bills that will continue into the future, make sure the billing address and drafted account are appropriate to prevent unintended lapse in coverages.
- Notify and arrange an appointment with the deceased's attorney, accountant, financial advisor/insurance agent and executor (as appropriate).
- Do not deposit any benefit checks payable to the deceased (such as social security checks) which were received after the date of death. Otherwise, they may need to be repaid.

## Claiming insurance benefits

When your loved one dies, life insurance benefits are not paid automatically. As the beneficiary, it is up to you to file a claim to receive payment. You will need to contact your insurance agent or the insurer and complete and submit paperwork to the insurer. In addition to a standard life insurance policy, other policies may exist. These types of policies are usually kept with your loved one's important papers in a file or a safety deposit box. If you can't find a policy, but think it exists, you can contact his or her insurance agent, employers, banks, credit agencies, or social organizations. You can also look through loan or purchase contracts to find additional information. Here are a few types of insurance policies you could look for:

- Individually-owned life insurance is a standard life insurance policy. It is purchased by one person, and pays benefits when the insured person dies.
- Group life insurance covers many people under one policy and is available through banks, creditor agencies or other professional or social institutions. Generally, one person holds the actual policy, but all insured individuals receive certificates.
- Employer based group life insurance is offered by employers, often at no cost to the employee or through payroll deduction.
- Check your loved one's pay stubs or call his or her employer.
- Accidental death and dismemberment policies are offered through employers, credit cards or banks. These policies are often offered as part of a loan package or with a credit card and may pay a benefit if your spouse or family member died accidentally.
- Travel accident insurance is sometimes purchased through a travel agency. Credit cards sometimes offer this insurance if a credit card was used to buy the ticket. If your loved one passed away while traveling by air, boat or train, you may be eligible to receive the proceeds.
- Mortgage life insurance may have been purchased if your loved one owned a house. A mortgage life insurance policy pays the mortgage balance upon death. If you are not sure whether your spouse or family member purchased such a policy, check with the mortgage lender.
- Credit life insurance is offered when someone takes out a loan or is issued a line of credit. If elected, this insurance should pay off the outstanding balance of a loan or account.

## Steps to settling an estate

Here are the steps you'll typically follow while settling the deceased's estate:

- Discuss with your attorney if probate is necessary. If so, the personal representative should initiate proceedings.
- Often heirs and beneficiaries named in the will are notified that probate has been initiated.
- Discuss with your personal tax advisor what steps may be required such as whether or not state or federal taxes apply.

- You may need to establish a checking account for the estate in order to pay any bills or deposit monies received while the estate is being settled. You may need permission from the court to open the account and to spend the estate's money.
- Contact your life insurance agent and file any necessary life insurance claims.
- You may be required to file a final statement with the court. The final statement outlines the estate's income, expenses and administration costs. The approval process may take a year or more after probate is initiated.
- After all claims, debts and taxes are paid (and probate is completed), the estate's assets are distributed to heirs and beneficiaries as instructed in the will.
- Once the estate's assets are distributed, the court will close the estate and discharge the estate's personal representative.

## Estate probate

Probate is the Latin word for prove, which means that through the estate probate process a will is brought before a court to prove that it is a valid will. The courts charged with this responsibility are generally known as probate courts which, depending on where you live, may actually supervise the administration or settlement of the estate. The probate process is governed by state statutes that are generally intended to accomplish three primary objectives:

- 1) To preserve estate assets.
- 2) To protect the rights of creditors in the payment of their claims before the estate is distributed to the heirs.
- 3) To assure that the heirs receive their inheritance in accordance with the terms of the estate owner's will.

Once the estate's personal representative (executor or administrator if the estate owner died without naming a personal representative) is approved by the probate court and posts any bond that is required, the probate process generally proceeds as follows:

- The personal representative must "prove up" the will -- prove that it is a valid will signed by the estate owner who was competent and not under duress or influence at the time of signing.
- The personal representative must prepare and file an inventory and appraisal of estate assets.
- The personal representative must manage and liquidate estate assets as appropriate to pay all debts, fees and taxes owed by the estate.
- Notice must be given to all creditors to make prompt claim for any money owed to them by the estate.
- Finally, the remaining estate must be distributed to the heirs in accordance with the estate owner's will (or the state laws of intestacy if there was no will).

Depending on the complexity of the estate, it is not uncommon for the estate probate process to take six months to a year or more before an estate is finally settled.

## Estate settlement process

The tasks that follow are intended as general guidelines to assist in the efficient settlement of an estate. The process outlined in the Estate Probate section is the responsibility of the attorney and executor which is why a meeting between these two parties is an important early step in the estate settlement process. They are responsible for setting the estate probate process in motion by filing a petition with the probate court to admit the will to probate.

**Safety deposit box:** The executor should inventory the contents of any safety deposit box and determine what contents should be removed.

**Asset inventory/valuation/management:** The executor should complete an inventory of all estate assets. This may require arranging for appraisals and/or managing certain estate assets, such as securities and real estate.

**Business interests:** The executor is responsible for managing and disposing of any business interests in accordance with the deceased's will and/or any agreements, such as a buy-sell agreement, in effect.

**Debts:** The executor reviews all debts owed by the estate and pays those that are valid from the estate. This may require liquidating appropriate estate assets.

**Life insurance:** Obtain death claim forms for all policies on the deceased's life, either from the insurance companies or the local agent. A completed death claim form generally must be accompanied by a certified copy of the death certificate and the policy. If the deceased owned any insurance policies on the lives of others, it will be necessary to change the ownership of any such life insurance policies.

**Bank accounts:** Verify the existence of all bank accounts of the deceased. If a surviving spouse had a joint bank account with the deceased, the account automatically passes to the surviving spouse. A bank representative should be contacted to change the title and signature card on the account. Any bank accounts held in the deceased's name only will have to go through probate. Some assets can pass to beneficiaries outside of a will if the deceased set up transfer on death (TOD) or payable on death (POD) instructions. TOD instructions are for brokerage accounts; POD instructions apply to checking and savings accounts, or certificates of deposits.

**Credit cards:** Pay any balance due from the estate and cancel any credit cards in the deceased's name alone. On joint credit card accounts, change the name to the surviving spouse only.

**Social Security & Government Agencies:** If the deceased was receiving Social Security benefits, notify Social Security of the death. A surviving spouse and/or dependent children may be eligible for Social Security survivor benefits so be sure to ask. In addition, Social Security may provide the surviving spouse with a \$255 one-time death benefit. Contact the local Social Security office or call 800-772-1213 for a determination. You will also want to notify Medicare, Veterans Affairs or any other agency that was providing benefits.

**Employer-provided benefits:** If the deceased was employed at the time of death, contact the employer

to determine if the surviving spouse and/or any dependent children are entitled to receive death, survivor and/or healthcare benefits. If the deceased was retired, notify any benefit programs that were making payments to the deceased. Determine if the surviving spouse and/or dependents, if any, are entitled to any continuation of the deceased's retirement and/or healthcare benefits or to death benefits.

**Fees:** The executor uses estate assets to pay attorney, appraiser, accountant, probate and executor fees and expenses.

**Estate accounting:** The executor provides an accounting of all funds received by the estate and disbursements made from the estate.

**Specific bequests:** The executor first distributes any specific bequests made in the deceased's will.

**Residuary estate:** After specific bequests have been distributed, the executor distributes the residuary (remaining) estate according to the terms of the deceased's will. This may require changing the title on property, such as real estate, securities and automobiles, to the beneficiary's name. Review homeowner and automobile insurance policies to make certain inherited assets are covered.

**Tax returns:** The executor is responsible for filing all required state and federal income and estate tax returns and paying the taxes due. The required tax returns may include one or more of the following:

- U.S. Estate Tax Return (Form 706)
- State Inheritance/Death Tax Return (for state of residence and for other states if necessary because of property holdings)
- Federal and State Income Tax Returns for the deceased and the estate

Please consult an accountant or tax attorney for assistance.

**Identity theft:** It's sad to say, but there are reports that theft of the identity of deceased people is increasing. To minimize the possibility of having your loved one's identity stolen, AARP recommends that you do not include details, such as the deceased's address or month and day of birth in the obituary. In addition, you should mail copies of the death certificate to all three credit reporting bureaus (Equifax, Experian and TransUnion) and to all credit issuers to cancel accounts in the deceased's name. It is also recommended that you contact your state department of motor vehicles to cancel the deceased's driver's license and prevent duplicates from being issued.

**Other considerations:** The beneficiary of an IRA, retirement plan or annuity should explore distribution options and select the one that provides the best income tax results consistent with the beneficiary's needs. In addition, if the deceased was listed as the beneficiary on any life insurance policies or retirement accounts, it is recommended that those beneficiary designations be reviewed and changed as appropriate. A surviving spouse should also review his/her will and make needed changes.

## The will and probate exemption

The "Will" is probated even in modest estates when no estate tax return is filed. There is a "Probate exemption" in Arkansas meaning that estates valued within the exemption can be settled without court proceedings using an affidavit to transfer assets. After probate, you can get "Letter of Testamentary". A

Letter of Testamentary (sometimes called a “Letter of Administration” or “Letter of Representation”) is a document granted by a local court. The document simply states that you are the legal executor for a particular estate and that you have the ability to act as such. Generally, Letter of Testamentary, along with a legally binding death certificate, are the two documents you’ll need to perform real estate transactions, banking transactions and asset distributions for the estate. Appraisals might need to be done for probate. If the property is your residence and jointly held, an appraisal probably isn’t necessary (please consult your tax advisor). An affidavit of “Debt and Domicile” states the capacity of the person acting for deceased-furnished by the Investment Company. Letter of Testamentary will need to be presented to the Investment Company. Meet with your investment advisor. If both names are on the title of your home, it will automatically transfer to the survivor. The survivor should get with their attorney to discuss adding a child or relative for an Estate plan. The disadvantage is that if you ever want to sell the property, then all joint owners and their spouses will have to sign. If it is “joint tenant with right of survivorship”, then it is not subject to probate. Even jointly held assets are included for Estate tax purposes, though they are not subject to probate administration. The title transfer can be done with a “Quit Claim Deed” to put the title in a joint name with right of survivorship.

## Use this time to organize your own estate

Handling a loved one’s claim helps you identify what you need to organize your own estate. Here are a few tips to help you:

- Maintaining uninterrupted health insurance coverage is very important. If you were covered by your spouse’s company insurance, call your spouse’s former employer and ask if you are still covered. If so, you may be able to reduce your payment. If not, you may qualify for COBRA coverage or need to consider purchasing health insurance through your own employer, another group or an individual plan.
- Consider disability insurance if you are working and are your family’s sole income provider. If you become unable to work, consider how your family would be provided for.
- Consider purchasing an annuity if you receive a large life insurance settlement. An annuity will provide you with set payments that can be used now or in retirement.
- Consider buying life insurance for yourself if you do not already own life insurance. Life insurance can help protect your loved ones in case something happens to you.
- Make sure your will is current.
- Update your beneficiary information on such documents as wills, insurance policies, mutual funds, stocks and bonds.
- Change ownership of bank accounts, credit cards, mortgages, U.S. savings bonds, vehicle titles and any other jointly owned property. You will need a copy of the death certificate for each change.



- Make sure that someone you trust has access to your safety deposit box. If you are the only one with access, the bank might seal the box upon your death and your survivor will have to gain court approval to access the box.
- Inventory your assets and papers for your survivors. Make sure your survivors know where important documents are kept and how to access to them.

This guide is not intended to practice law and is intended to emphasize the need to consult an attorney and accountant for professional advice and services. The ASA Group does not practice law or offer tax advice.



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