

# Caring For Your Loved One's Estate

SERVING AS A PERSONAL REPRESENTATIVE



LegacyWay

# Introduction

A Personal Representative is the person or entity who oversees a person's estate upon their death. Although the words *Executor* and *Executrix* are used interchangeably with *Personal Representative*, this guide uses the term *Personal Representative*.

When you are named as a Personal Representative in a will, it is one of the highest expressions of confidence you can receive. You are trusted to perform some very important responsibilities for a person after he or she has departed this life.

State laws provide for a legal process when a property owner dies. That process, known as a probate, differs from state-to-state, but will follow a prescribed path. LegacyWay or your state foundation can give you counsel.

The purpose of probate is to determine the assets in the estate of the deceased, to establish their value, to pay debts and taxes owed by the estate, and to distribute the estate assets to the heirs and causes named as beneficiaries in the decedent's will.

This should be used as a guide, and is not intended to substitute for legal, tax, or investment advice. If you need assistance in any of these areas, please contact LegacyWay so we can help find the right person for your needs. In addition, the state of the law and regulations change rapidly, perhaps more often than this may be updated. It's always a good idea to have a professional review important financial and legal decisions you make, especially in light of the circumstances in which you find yourself.

This Resource Guide is divided into four sections to assist you in your role as Personal Representative. This Guide will take you through the following steps after you begin to locate the important documents related to your representation:

**I. Begin Court Proceedings, Obtain Information, and Secure Assets**

This section guides you through such steps as gathering necessary documents and making contacts with heirs and beneficiaries.

**II. Manage Estate Property**

This section will guide you through the examination of the estate, including outstanding expenses, assets and liabilities, liquidation and accurate record keeping.

### **III. Prepare Tax Returns and Pay Taxes**

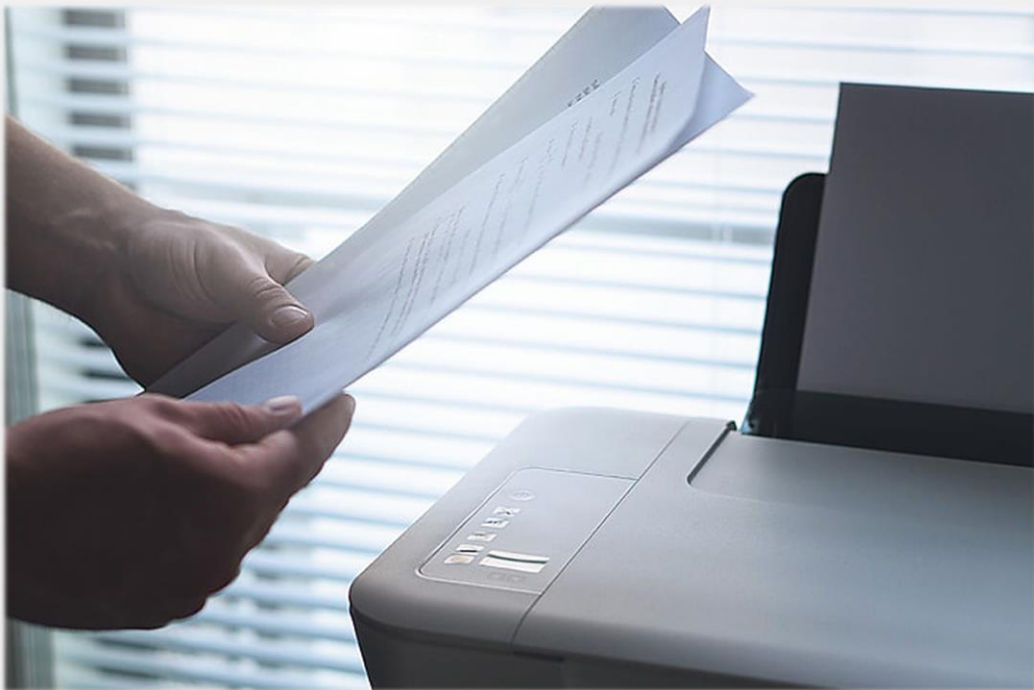
This section directs a Personal Representative to complete the necessary tax documents.

### **IV. Distribute Estate Assets**

This section guides you through the final accounting steps and distribution of estate assets.

### **Locate Important Documents**

Various records and documents will be needed to settle the estate for the decedent. Places to search include a safe deposit box, home and office desks, safes, or other places where important documents are kept. Ask a family attorney or accountant for copies of documents you may need. Because many of these documents will be required when filing for benefits, you will want to make copies of each important document.



# Where To Begin

## Important Documents to Locate:

- Original Last Will and Testament
- List of Online Accounts
- Legacy Will (record of personal testimony)
- Revocable Trust Agreement
- Personal income tax returns for the previous five years
- Insurance policies
- Financial statements
- Records of outstanding loans
- Real estate documents, including deeds, leases, rental agreements, and most recent mortgage statement
- Auto registration papers
- All personal identification
- Records of employee benefits
- Credit report (Contact List on page 5)

Order original Long Form Certificate of Death (Includes Cause of Death) for:

- Each life insurance policy

Order Short Form Certificate of Death for:

- Retirement account
- Social Security Administration
- Investment or bank accounts
- Department of Motor Vehicles for transfer of ownership
- Courthouse in county where property is owned jointly
- Broker, CPA, attorney, family, and personal use

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## **I. Begin Court Proceedings, Obtain Information, and Secure Assets**

Among the first steps you will take as Personal Representative is to employ competent legal counsel to assist you. This attorney is an indispensable partner in this important undertaking. He or she will represent you at court hearings, advise you about specific actions and appropriate responses at different stages in the probate process, and prepare and file the necessary notices, forms, and documents required to complete the transfer of ownership from the decedent to others.

Before meeting with the attorney, obtain the following information:

- Names and addresses of all heirs of the decedent (generally blood relatives)
- Name and address of all beneficiaries named in the will
- General list of known assets
- Original Last Will and Testament

The attorney will prepare the necessary probate documents to:

- File Petition to probate will
- Send notice to heirs and beneficiaries of hearing to admit will and appoint Personal Representative
- Conduct hearing
- Accept appointment as Personal Representative
- Issue Letters Testamentary (this is a document issued by a court authorizing you to take control of the estate)

Upon approval as Personal Representative you will have the authority to handle the management of the estate.



The next step is to determine if there are any creditors to the estate. In general, a creditor is any person or entity to whom the decedent owed money. The attorney will require a list of known creditors.

With this information the attorney will:

- File a notice to creditors in the probate
- Publish the notice in a newspaper
- Send the notice to known creditors
- Review claims submitted in the probate
- Work with the Personal Representative to determine which claims should be approved or declined

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## II. Manage Estate Property

- \_\_\_ Keep a full and accurate record of all receipts, transactions, and disbursements supported by appropriate statements and receipts.
- \_\_\_ Prepare a complete list of assets and obtain date of death values. Some assets, such as real estate, require appraisals.

The following are items that may be necessary to manage the estate:

- \_\_\_ Obtain Employer Identification Number from Internal Revenue Service (needed to file tax returns).
- \_\_\_ Forward decedent's mail either to your address or to the address of the probate attorney.
- \_\_\_ Apply for Social Security burial allowance.
- \_\_\_ Close all charge accounts in the decedent's name and arrange for the payment of the account balances.
- \_\_\_ Determine if cash assets in the estate are sufficient to pay cash bequests, federal and state estate taxes, administration costs, etc.
- \_\_\_ Determine which assets should be sold if the present cash in the estate is not sufficient to meet bequests and expenses.
- \_\_\_ Negotiate or arrange for the liquidation of certain assets to provide cash flow for estate settlement.
- \_\_\_ Make arrangements for the continued operation of any business(es) owned by the decedent until final disposition of the business(es) is determined.
- \_\_\_ Collect life insurance and health insurance payable to the estate.
- \_\_\_ Collect health insurance proceeds payable toward the decedent's hospital and doctor bills.

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### III. Prepare Tax Returns and Pay Taxes

- \_\_\_ File a final income tax return for the decedent for the year of his or her death.
- \_\_\_ Prepare and file an income tax return for the estate (if necessary).
- \_\_\_ Prepare and file a state estate tax return for each state in which property owned by the decedent is located (estate assets should not be distributed until estate tax release has been obtained from tax authorities).
- \_\_\_ Prepare and file a federal estate tax return with the Internal Revenue Service if the net value of the estate assets exceeds the estate tax equivalent exemption for the year of the decedent's death. (If a federal estate tax return is required, estate assets should not be distributed until a "closing letter" is issued by the Internal Revenue Service).

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**IV. Distribute Estate Assets**

Attorney will:

- File and prepare final accounting and petition for distribution.
- Notify heirs and beneficiaries of final hearing.
- Prepare and submit to the Court a detailed final accounting and notify all interested parties of the date for the final hearing and distribution of estate assets.

Upon receipt of the final probate order, the Personal Representative may do the following:

- Pay administration and court costs, probate attorney’s fee, Personal Representative’s fee (if charged) and reimbursement of Personal Representative’s out-of-pocket expenses.
- Pay bequests and legacies as directed by the will to the extent funds are available and obtain receipt from each beneficiary.
- Receive a release and discharge from the Court of any further responsibility as Personal Representative.
- Retain all records related to the estate settlement for a period of at least three years in the event of tax audits.

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# Contact Information

## Certificates of Death

State Vital Records Service:

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Health Department:

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## Credit Reports

Equifax	800.685.1111
Experian	888.397.3742
Trans Union	800.888.4213

## State Tax Commission

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Federal Tax/IRS	800.829.1040
<a href="http://www.irs.gov">www.irs.gov</a>	

Social Security Administration	800.772.1213
<a href="http://www.ssa.gov">www.ssa.gov</a>	800.325.0778 (hearing impaired)

Veteran's Administration	<a href="http://www.va.gov">www.va.gov</a>
Burial, Death Pension, And Directions to VA Benefits Regional Offices	800.827.1000

Beneficiaries in receipt of Pension Benefits	877.294.6380
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Regional Offices	<a href="http://www2.va.gov/directory/guide/division">www2.va.gov/directory/guide/division</a>
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Civil Service	
Office of Personnel Management Retirement	800.767.6738

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