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When A Loved One Passes Away

The experience of facing the loss of someone close is always sad, somewhat frightening, and quite confusing. For the person who must also deal with the financial and legal implications, it carries some heavy responsibilities as well. To assist in this area, here is an outline of what should be done from a tax and financial standpoint in order to settle the affairs of one who has passed away. While some of the issues are hard to face, it is for the good of all concerned to deal with them openly.

Overview of the Process

It's best to initially look at the whole picture. The first, and saddest decisions come early on at the hospital shortly after death. The attending doctor has the responsibility to sign the death certificate, and decide whether an autopsy is required. For most states, unless the death is due to violence, or suspicious, unexplained causes, no autopsy is performed. However, there may be instances where you would want an autopsy done in case the cause of death may relate to an hereditary issue. If so, your time to make this decision is limited. Similarly, if the deceased was an organ donor, time is of the essence.

Next, decisions must be made regarding funeral arrangements. It is important to find out if the deceased had any specific wishes in this regard, and to coordinate with family and friends. Following this, a number of financial and legal decisions will be required.

The estate of the deceased must be settled. That is, remaining net assets must be transferred to legal heirs. This is called the probate process. In conjunction with this, various federal and state tax returns may be required to be filed on behalf of the deceased.

Succession("Inheritance") Tax Returns may be required as well as a final Individual Income Tax Return. If the deceased has an estate that is yielding income while it is still being probated, a Fiduciary Income Tax Return may also be required.

Lastly, a so-called Final Accounting is done at the end to verify with the legal authorities that all the net assets have been distributed properly after all allowable expenses have been paid.

Within some of these steps are important issues that should be discussed in detail. Since the courts hold the executor of the estate responsible for proper and timely filing of various documents, it is essential to have a good, working knowledge of these various aspects, and due dates involved. Included at the end of this text are several checklists that identify in detail what should be done, and what steps must be taken in sequential order for tax purposes.

Get Copies of Death Certificate

You will need to submit copies of death certificates to various places, so make sure you have a number of copies. These are provided at either the hospital, or, more commonly, by the funeral home. The cost for extra copies averages \$2-8 dollars each. To claim insurance benefits, employer benefits, transfer of assets, etc., requires furnishing a copy of a death certificate.



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Find The Will And Safe Deposit Box

Assuming you know that a Will was made out, it is important to find it as soon as you can since it may provide many important guidelines. It may contain burial and funeral instructions; it certainly identifies the person who will serve as the executor—the one who handles all the legal and financial matters after death. It also may list locations of other important papers such as life insurance policies, and safe deposit boxes. Conversely (and this is a mistake many people make) the Will may be inside the safe deposit box, so you will need legal authority to open the box. If you can't find the safe deposit box, you can do a local search of the banks with the help of a lawyer, and you can also contact the American Safe Depository Association in Indiana. They have lists for all participating banks.

What if you can't readily find the Will? Try asking friends or relatives if they knew which lawyer was used by the deceased. Also, look through address books, file cabinets, checkbooks, or storage facilities to search for clues.

How about someone who dies without a Will? This makes things more complicated. Unfortunately, approximately 60% of all Americans don't leave a Will, according to today's 2000 statistics. In effect, they die "Intestate." If this is the case, the courts will handle the matter based on the individual state law. They will appoint an executor, and all net assets from the estate will be distributed according to state laws, not necessarily the way the deceased may have wished.

Contact Professional Advisors

Getting a lawyer to handle the probate and estate process is an early priority. Most people use the same lawyer who handled the setting up of the Will. But you are allowed to use any attorney with whom you feel comfortable.

You should also contact the professional who will handle the filing of the various tax returns. A mistake most people make is assuming the lawyer handles everything in the estate process. This is rare. While most lawyers will handle filing the Succession Tax Returns, they do not usually handle the Income Tax Returns, or the Fiduciary Tax Returns. These must be filed on a timely basis. So the tax accountant should be contacted early on in order that a coordinated effort can be made with the attorney.

Begin The Probate Process: Gathering Information

This is the complicated job of recording all assets and debts of the deceased, and all the pertinent financial records to comply with the Will, the tax laws, and the courts.

The first step is to locate all assets and debts. As we mentioned, sometimes the Will contains most of this information. But, even if it is listed, don't assume it is up to date. If the Will had been made out years ago, many changes may have occurred to increase or decrease the assets and debts of the deceased. You must make a reasonable effort to do a preliminary inventory of the estate within specified time periods in accordance with state laws. Finding this information can be tedious. The information you will need comes from many sources, including life insurance policies, bank accounts, brokerage accounts, safe deposit boxes, stock certificates, bonds, real estate contracts, vehicle registrations, and old tax returns, to name a few. You should also check to see if there were any ties to various fraternal, military, or social organizations.



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This information is gathered, and a preliminary inventory is made which is used to begin preparing the Succession Tax Returns, and to account to the Probate court. The lawyer and/or tax accountant can assist in organizing these items.

The second step is to arrange for the payment of various benefits that may be available upon death of a person. Life insurance benefits, Veteran's benefits, Social Security, IRA's, Keogh's, SEP's, and other employee-related benefits are the main ones. Proper tax planning when it comes to the distribution of these funds (especially IRA's) can be critical to the recipients so definitely get tax advice here before you make the payments.

It's important to be thorough here because these benefits are not automatic; you must apply for them by providing proof of death, and proof of the beneficiaries.

Life insurance is usually the first to handle since the benefits can be distributed to the heirs within 10 days of notification. Life insurance proceeds do not have to go through probate (although they are subject to Estate taxes). Some tips here: Check with the employer of the deceased for any group life insurance. More than half of all life insurance comes from group plans. Life insurance policies could be in the safe deposit box. Coverage may also come from associations, fraternal organizations, Veterans Administration, credit card supplemental insurance (from death related to travel or accident), bank SBLI insurance, mortgage insurance, some medical insurance policies, credit unions, and others. If in doubt, go through the deceased's checkbook for checks written out to life insurance companies or groups. You can also check with the American Council Of Life Insurance in Washington D.C. to see if any participating companies are listed on behalf of the deceased.

Employee benefits play an important role. Did the person have any pension, profit sharing, stock options, or death benefits payouts available? Does worker's compensation figure in if the person died from work-related injuries? If in doubt, ask for assistance. Most companies have a person or department that can help you in this area. Call them right away.

Military benefits may be available for deceased veterans. These benefits can be in the form of life insurance, burial insurance, pension benefits to survivors, reimbursement for medical bills, or a lump sum death benefit. Your local VA office can help, but you'll need to provide information on the service record. Look for discharge papers to get this information.

Social security benefits can be sizable if the deceased left a spouse with minor children. There is also a small death benefit for funeral expenses. You can get help here from the local Social Security Administration office. If the deceased had been receiving social security or pension checks up until death, keep in mind that any retirement checks of this nature that continue after death may have to be returned. The Social Security Administration especially does not immediately know about a person's death, so there can be a significant lag. It's a good idea to contact them immediately to avoid this hassle.



Probate And Inheritance Process

There are two related issues with which to deal. First, you must probate the estate. That is, implement the transfer of assets from the title of the deceased to the heirs. This involves a series of steps designed to finalize this transfer. The death must be stated in an "open forum" which customarily means it is listed in the local papers, and, in some cases, sent to individuals directly (usually potential heirs and beneficiaries).

All known debts are paid out of the estate, and various legal documents (including a final accounting) are recorded with the courts to allow the assets from the estate to pass on to the beneficiaries. This process can take as little as one month, or many years depending on the size of the estate, if it is being challenged, if the deceased died without a Will, and the backlog in the Probate Court calendar.

Inheritance taxes are a separate function. While they share a common denominator in that the value of the deceased's estate must be established in order to institute the process, the similarities end here. The Inheritance, or Succession Tax function is designed to establish how much tax, if any, is owed to the federal and state governments.

The biggest chunk of potential estate taxes usually goes to the federal government. In effect, it is a graduated rate tax that is due on the net value of the estate. Due to various federal credits, if the taxable estate is less than \$675,000, there probably will be no federal tax. Nor is there usually any tax if the entire estate is left to a surviving spouse who is a U.S. citizen. Beyond that, however, there is a federal marginal tax rate which can reach as high as 55% of the estate. Normally, this tax is due within nine months from date of death. There are certain exceptions to this deadline and exemption amount if the deceased had a business, or owned certain types of realty. State inheritance taxes can vary widely from the federal laws. Your lawyer/accountant team is usually retained to handle these aspects for you.

Winding Up The Process

Once the Inheritance taxes have been paid, and the probate process has been completed, the task is done. As you can see, it can be quite complicated. The more organized the estate is before death, the easier—and less expensive—the process becomes. Moral of the story: Get your own affairs in order before you die to save your surviving family and friends untold amounts of wasted time and frustration.

Steps To Take For Tax Purposes

1. Contact the lawyer, tax accountant, and other appropriate financial advisors you will be using to help with the estate.
2. Begin the inventory process of recording assets, their values at date of death, and any debts/liabilities the deceased had.
3. Apply for federal and state tax identification numbers for the estate, if needed.
4. Prepare federal and state Succession/Inheritance tax returns.
5. Handle accounting reports for Probate.
6. Prepare outstanding Individual income tax returns for deceased.
7. Prepare Fiduciary income tax returns for estate.
8. Do final accounting to close estate.



Summary Of General Steps To Take

Make necessary hospital decisions shortly after death. Autopsy or not, picking up personal belongings, donating organs, and getting copies of death certificate.

Locate Will and safe deposit box, contact attorney and other appropriate financial advisors.

Arrange for Funeral/Memorial, notify friends and family.

Contact decedent's employer for details on death benefits.

Locate life insurance policies, apply for proceeds.

Arrange for continuation of payment of decedent's bills.

Notify Social Security, Veteran's Administration, and other associations for possible benefits.

If required, notify Post Office for address change.

Contact various financial organizations of deceased: banks, mortgage holders, retirement plans such as IRA's, Keogh's, brokers, mutual funds, people who owed money to the deceased, insurance companies holding auto, fire, medical insurance policies, DMV, credit card companies.

Arrange for miscellaneous change and/or shut off of service agreements: Utility companies, oil companies, newspaper and periodical subscriptions, clubs, cable TV.

Follow up on various tax matters as previously listed.

Dispose of decedent's assets, and belongings according to Will. If donating clothing, furniture, etc. to "goodwill type" organization, provide a detailed list and get a receipt for tax deduction purposes.

Re-evaluate your own situation regarding your Will, and information available to survivors in event of your sudden demise. Make it easier for your survivors than it was for you.