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ESTATE ADMINISTRATION

What is Estate Administration? When a person dies, it is often necessary to follow formal procedures in settling the estate. The process is called Estate Administration. Both state and federal law establish certain requirements which must be followed. Administration includes procedures and requirements related to the collection of assets, the satisfaction of debts and obligations of the decedent including payment of funeral expenses, tax preparation and payment of income, estate and inheritance taxes, and distribution of net property to heirs and beneficiaries.

What should be done first? If someone close to you has died, make sure that their home is secured and nothing is lost or destroyed. It is illegal in Pennsylvania to enter a safe deposit box without notifying the Pennsylvania Department of Revenue, or its authorized representative, so that the contents of the safe deposit box can be inventoried. Shortly after the funeral, an attorney should be contacted by the survivors to discuss the administration of the estate. The attorney will provide advice, determine whether formal administration will be required, and explain what procedures will be involved. If there is a Will, the person named as the Executor should protect the Will and give it to the attorney at the first meeting.

When is formal estate administration required? In almost every case when a person dies owning real estate or personal property individually, a formal estate must be administered through a probate process. Jointly owned assets or property which designate a beneficiary to whom such property is transferable upon death of the owner are not subject to probate for which formal administration is required. Additionally, some limited types of personal property based upon value or type of the asset may be transferred without formal estate administration procedures.

Who administers an estate? An estate is administered by a Personal Representative. If there is a Will, the Personal Representative named in the Will is the Executor. If an Executor is not named in the decedent's Will, Letters of Administration may be granted by the Register of Wills of the County in which the decedent resided at the time of his death to any qualified individual who is entitled to receive the residuary estate under the Will. If there is not a Will, those heirs entitled to receive the decedent's estate under the Intestate Law as set forth in Chapter 21 of the Pennsylvania Probate, Estates and Fiduciaries Code are generally authorized to be appointed as the Personal Representative if so qualified. Generally, such individual is the spouse or children of the decedent or the closest living blood relative.

What does a Personal Representative do? The Personal Representative is charged with the actual administration of an estate and has the responsibility for performing all functions that are required. This includes following the directions of the decedent if there was a Will, or following the requirements of the law if there is not a Will. The Personal Representative also gathers information about the assets of the estates and the decedent's debts and obligations as well as notifying the beneficiaries under the Will and the intestate heirs. Additionally the Personal Representative must insure payment of all debts, obligations and expenses as well as all income tax and inheritance taxes otherwise due. Once all such payments have been made, the Personal Representative then distributes the remaining net assets to the beneficiaries or intestate heirs as appropriate.

What happens during the administration of an estate? At the beginning, all assets of the estate, including personal possessions and real estate, are inventoried and sometimes physically gathered. All of the beneficiaries or heirs are located. They are told that they are named in the Will or have a legal right to receive an inheritance if there is no Will. Funeral expenses, debts, obligations, estate and federal taxes are paid and all necessary tax returns are filed. Sometimes administration may involve the short term management of a business or corporation, or sale of a business or sale of a business or stock in a corporation. There could also be sale of real estate that was owned by the decedent or sale of various other personal assets such as automobiles, boats, trailers, etc. All financial assets should also be liquidated and consolidated in the name of the decedent's estate, to the extent not otherwise required to satisfy specific bequests.

A simplified time frame for administration of an estate:

1. As soon as practical after the decedent's death, present a petition for Grant of Letters Testamentary or Letters of Administration to the Register of Wills of the County in which the decedent was a resident at the time of his or her death. This will open the formal Administration of the Estate.
2. Apply for a taxpayer identification number from the Internal Revenue Service on behalf of the Estate utilizing a Form SS-4.
3. The Personal Representative must advertise the Grant of Letters in one paper of general circulation where the decedent resided and in the County Legal Journal in which Administration is occurring. The advertisements must appear once a week for three (3) successive weeks. Advertisement of the formal Administration of the Estate begins the one (1) year Statute of Limitations in which creditors may assert claims against the Estate.
4. Notices to Beneficiaries and Intestate Heirs: Within three (3) months after the Grant of Letters, the Personal Representative or counsel for the Estate shall notify (i) every beneficiary named in a Will, (ii) the closest living Intestate heirs of the decedent, usually the spouse and children of the decedent whether or not they are named in or have an interest under the Will, and (iii) the Attorney General on behalf of a charitable beneficiary whose interest exceeds twenty five thousand dollars (\$25,000.00). Within ten (10) days after giving such notice, the Personal Representative or counsel for the Estate must file with the Register of Wills a Certificate of Service stating that the Notices have been properly served on all parties of interest.

5. For any decedent age fifty five (55) years or older, the Personal Representative of an Estate is required to give notice to the Department of Public Welfare requesting the Department to provide a statement of all medical assistance provided to the decedent within five (5) years preceding his or her death.

6. Within nine (9) months after the date of the decedent's death, an inventory must be filed by the Personal Representative with the Register of Wills stating the fair market value of all property as of the date of death, with the exception of real estate located outside the Commonwealth. The inventory must be signed by the Personal Representative and properly notarized.

7. Pennsylvania Inheritance Tax is due nine (9) months from the decedent's date of death. If payment is made within three (3) months of the decedent's death, a five percent (5%) discount will be allowed on the actual tax paid within the three (3) month period. If the tax return cannot be filed when due, an extension of time to file can be requested from the Department of Revenue. However, such extension of time to file the return does not also extend the time in which to pay the tax due. The Department of Revenue's granting of an extension of time to file does not relieve the Estate from payment of interest which will accrue beginning nine (9) months and one (1) day from the decedent's death on any tax ultimately found to be due and not timely paid.

8. Federal Estate Tax and Generation Skipping Tax are also due within nine (9) months after the date of the decedent's death unless an extension of time for payment has been granted, or unless the Personal Representative has properly elected under Section 6166 of the Internal Revenue Code to pay in installments. An automatic six (6) month Extension of Time to File Form 706 may be granted by filing Form 4768 with the Internal Revenue Service.

9. The Pennsylvania Estate Tax Return must be filed and tax paid within ten (10) months after the decedent's death.

10. The decedent's final personal income tax returns must also be filed on a timely basis. When filing such returns, it is advisable to also file Form 4810 Request for Prompt Assessment Under IRC Section 6501D to shorten the statute of limitations for review of the decedent's personal income tax returns from three (3) years to eighteen (18) months. Payment of all of decedent's obligations for personal income tax receive priority over payment of all other expenses, debts or obligations of the Estate, including Administrative and funeral expenses.

11. Administration of an estate may be concluded through the formal presentment of an accounting to the Orphans' Court for audit or through the informal procedure of filing a Family Settlement Agreement signed by all heirs and beneficiaries of the Estate. Such informal procedure is not available when considerable charitable bequests are made, there are pending or unresolved creditor claims filed against the Estate, or other specific circumstances which would require a formal audit of the accounting on behalf of an Estate.

12. Supreme Court Orphans' Court Rule 6.12 requires the Personal Representative to file a status report within two (2) years of the decedent's death if the Estate is not completed and annually thereafter. The filing of such a status report may also be utilized to advise the court when final Administration of the Estate has been concluded.