



What To Do At The Death Of A Loved One

Please accept our sincerest condolences for your loss. We realize that the death of a loved one or a close friend can be a very difficult and emotional time. We have developed this information to provide you (and other survivors) with some idea of what normally must be done to administer an estate in New York State after a loved one has passed away. Please note that although this list is intended to give you a general understanding of the estate administration process, every estate is different and this information does not replace proper legal advice.

Immediate Concerns. Immediate concerns typically relate to arranging Funeral or Memorial Services and determining the immediate needs of the survivors.

- ◆ Arrange for the care of minors or family members who are unable to care for themselves
- ◆ Arrange for funeral and/or memorial services
- ◆ Arrange for care of pets or farm animals.
- ◆ Determine the immediate needs of survivors, such as cash needs
- ◆ Stop the mail, newspapers, and other deliveries as appropriate
- ◆ Stop all automatic payments for services no longer required
- ◆ Locate and provide safekeeping for business and personal assets
- ◆ Locate and provide safekeeping for documents and records

Starting the Probate or Administration Proceeding. Probate is the legal name of the process of transferring property – the “estate” – from a person who has passed away to the beneficiaries named in his or her will. Administration is the legal term used for this process if the person who passed away did not leave a will.

- ◆ Locate any wills and/or trusts (if any)
- ◆ Select an attorney to represent the estate
- ◆ Collect names, addresses and phone numbers of the beneficiaries and immediate family
- ◆ Start to collect asset and debt or liability information

The Legal Process of an Estate Administration. After you have selected an attorney, he or she will handle any necessary legal filings with Surrogate’s Court and as such much of the following list will be done by, or at the direction of, the attorney.

- ◆ Obtain “Waiver and Consent” forms from the beneficiaries and/or heirs
- ◆ Prepare and file the “Petition for Probate” or “Petition for Administration”
- ◆ Determine the need for “Ancillary Probate” (for out of state property)
- ◆ Prepare and file an “Inventory of Estate Assets” form
- ◆ File “Receipt and Release Agreement” forms
- ◆ File “Attorney Affirmation” form



Typical Executor or Administrator Duties. The main duties of an Executor or Administrator include the collection of assets, the payment of debts and expenses, and other miscellaneous duties. An Executor or Administrator should be careful regarding the payment of expenses as certain expenses are considered priority expenses which should be paid first. This is especially important if there are not enough assets to pay for all of the administration expenses and debts.

Collection of Assets

- ◆ Notify banks and/or credit unions to arrange for opening safe-deposit boxes and prepare an inventory of items found in the safe-deposit boxes
- ◆ Collect the proceeds of any checking, savings or other bank accounts and open an estate account in which to deposit the funds
- ◆ Contact life insurance companies to start the claim process
- ◆ Contact employers to collect any wages, death benefits or pensions due
- ◆ Collect all stock, bond and mutual fund share certificates and calculate date of death values for all stocks, bonds and mutual funds (as these assets obtain a stepped up basis for tax purposes)
- ◆ Secure rental property - confirm proper insurance, arrange for property management, pay any taxes and collect rents
- ◆ Arrange for the management of any business and decide if it should be sold
- ◆ Petition court for continuation of any and all unincorporated businesses

Typical Payment Duties

- ◆ Pay for or reimburse for the funeral bill
- ◆ Pay for or reimburse for any court costs
- ◆ Pay for priority administrative expenses – accountant fees, appraiser fees, attorney fees, executor commissions, etc.
- ◆ Pay any personal taxes or real estate taxes due
- ◆ Pay any final medical bills
- ◆ Pay for any other debts and liabilities

Other Miscellaneous Duties

- ◆ Obtain a tax identification number (“TIN”) for the estate
- ◆ Open estate checking, savings and investment accounts needed
- ◆ Arrange for appraisals of real property (real estate), personal property (coin collections, jewelry, etc.) and businesses or business assets
- ◆ Establish and fund any trusts set up in the will (or trust)
- ◆ Contact the property insurance company to notify of death & check coverage
- ◆ Sell or dispose of any perishable items
- ◆ Continue and/or settle any claims or lawsuits
- ◆ Notify the State Attorney General for certain charitable gifts



Income and Estate Taxes. After a loved one passes away they will likely still have to file an income tax return. An estate may also have income tax returns (“fiduciary” returns) to file similar to an individual. Also, an estate may have gift tax and/or estate tax returns to file.

- ◆ Notify the IRS and State Agencies of your authority to act (Federal Form 56 – Notice of Fiduciary Relationship)
- ◆ Prepare and file any final federal and state *Personal* Income Tax Returns (IRS Form 1040 and New York State Form IT-201 to report the income and expenses of your loved one for the period(s) before death)
- ◆ Prepare and file any federal and state *Fiduciary* Income Tax Returns (just like individuals, estates may have to file returns and pay taxes based on income and expenses from the date of death until the estate has been settled)
- ◆ File any gift tax returns as necessary
- ◆ File any federal and state estate tax returns as necessary, and pay tax due. (This is often referred to as the “death tax”. New York State and Federal limits are currently set at different thresholds for when an estate tax return must be filed. Also, in some instances returns should be filed for planning reasons even if the estate amount is under the limit when a return must be filed, so care must be taken in determining if a return should be completed.)

Distribution. After all of the assets have been collected and all of the expenses and debts have been paid, any remaining assets should be distributed to the beneficiaries.

- ◆ Prepare an accounting of the estate (The beneficiaries are entitled to a report of the assets and income collected by the estate, the debts and expenses paid, and what remains to be distributed to them.)
- ◆ Obtain receipt and release agreements from the beneficiaries approving the accounting and acknowledging their share of the estate
- ◆ File the appropriate paperwork with Surrogate’s Court to discharge you from your duties and close the estate

Please note that this information is provided to help you and other survivors understand the estate administration process and give you some idea of what you can expect during the estate administration process. However, because every estate is different, some of the items listed above may not apply in your particular situation. Also, you may have additional requirements that are not listed above depending upon your loved one’s unique situation. All information provided herein was developed based on laws applicable to New York State estates and this information should not be used as a substitute for legal advice for your particular situation.

If you should have any questions regarding the information presented or about the process, please do not hesitate to contact us at 607-962-6162.