

Duties of a Personal Representative

(formerly known as an "Executor")

The Will

Locate the Will, file it with the Probate Court, and carry out any burial instructions

Probate

To the extent necessary, assist the attorney with proving the Will in Court, defend the Will against possible challenges, and act as a Special Personal Representative (temporary administrator)

Safeguarding Assets

Immediate protective measures are often required to safeguard assets

Preserve

Take custody of personal property as necessary to prevent loss/vandalism

Protect

Obtain general knowledge of the decedent's business interests and arrange for their protection

Insure

Arrange for additional or new fire and liability insurance as necessary

Collect

Collect valuable files, records, and papers to ensure their safekeeping

Assembling Assets

Locate and collect all known assets and search for unknown assets

Cash

Search area banks (and the decedent's email) for accounts of all types, collect all such accounts, and deposit in the name of the estate

Safe Deposit Box

Arrange with the bank for examination and removal of contents; inventory the same

Securities

Re-register all securities in the name of the estate; liquidate indebtedness to release collateral deposits; collect and apportion/accrue interest and dividends

Personal Effects

Collect and inventory all tangible personal property; obtain appraisals as necessary; provide for sale or delivery of perishables

Life Insurance

Collect proceeds and obtain federal Form 712s

Real Estate

Obtain deeds, leases, and mortgages; arrange for rent collection, insurance, and management of property

Out of State Property

Collect personal property where possible and arrange for ancillary administration as necessary

Other

Ascertain interest of the decedent in other estate, trusts, and pending litigation; collect debts owed to the decedent

Appraisal and Valuation

Establish date of death values for all assets, including by qualified appraisers if necessary

Consideration of Assets

Calculate cash requirements for taxes, claims, and devises; establish proper bookkeeping records; distribute specific devises promptly where possible; and take into consideration the family's wishes to the extent consistent with the Will and the law

Personal Property

Distribute ASAP; where sale is indicated, decide on most advantageous time and method, giving special consideration to objects of unusual value

Business Interests

Obtain complete information with respect to the decedent's business and determine policy as to continuation, liquidation, or sale within the limits of the Will

Securities

Periodically analyze and review securities to determine whether they should be retained or sold, bearing in mind market conditions, investment qualifications, cash needed to settle the estate, income tax status of securities, and the ultimate distribution of property

Real Estate

Value for tax purposes using a qualified appraiser; if sale is planned, examine leases, encumbrances, and condition of property; obtain license to sell from the Court if necessary

Payment of Claims

Receive and investigate the validity of all claims against the estate; require proof of all doubtful claims and reject improper claims (including defending against lawsuits if necessary); pay proper claims promptly and in the priority fixed by law

Nature of Claims Encountered

Family allowances, administrative expenses, preferred debts, bills for current expenses, liabilities on special partnerships/unusual business contracts, taxes, and miscellaneous claims

Taxes

Determine and discharge all tax liability of the decedent and their estate, including state and federal income, gift, estate, and generation-skipping transfer taxes

Income Taxes Before Death

File individual federal and state returns covering the portion of the year prior to the date of death; ensure that returns for prior years were filed

Income Taxes After Death

To the extent necessary, analyze income and deductions during estate administration, file state and federal fiduciary returns, and report income to beneficiaries

Gift Taxes

Consider gifts made by decedent during life for possible estate/gift tax liability and determine whether gift tax returns need to be filed; look for gifts made "in contemplation of death"

State Estate Taxes

Ascertain the decedent's state of domicile and whether the decedent owned property in any other states; arrange for filing of state estate tax returns and payments of state estate taxes as necessary

Federal Estate Taxes

Arrange for filing of federal estate tax return and payment of federal estate taxes as necessary; determine whether it is prudent to make a "portability" election

GST Taxes

Arrange for filing of generation-skipping transfer tax return and payment of GST taxes/allocation of GST tax exemption as necessary

Foreign Taxes

Determine liability for taxes on international real and personal property and arrange for the filing of the necessary returns and payment of the necessary taxes

Final Accounting

Prepare a detailed statement of the estate's receipts and expenditures, including income earned, showing a detailed history of the management of the estate's assets and obtain a Decree and Order of Complete Settlement from the Court

Distribution of Estate

While partial distribution is frequently made prior to the final accounting, funds should not be distributed to beneficiaries until it has been determined that the estate's assets are sufficient to pay its debts, taxes, and administration expenses