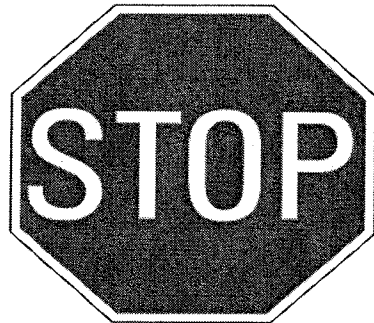


# START HERE



- 1. Make arrangement with a funeral director for a funeral or memorial service. Remember, you rather than the Estate, will typically be asked to sign as the responsible party to make the payment.
- 2. Obtain death certificates. You will be charged for each, so think three to five initially.
- 3. Ascertain the existence of a Will for the decedent. If there is not a Will, you may be eligible to apply as an administrator of the estate.



**NOW STOP:** Do you really wish to become the executor/administrator. If the decedent had debts that exceeded the likely assets of the estate of the decedent, you may not want to get involved. Seek legal advice from an estate attorney. If you wish to qualify, continue to # 4.

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## Probate Checklist



**Tending Your Family Tree**

**by Planning for Probate**

**By James R. Montgomery**

- 4. Prepare a list of the names and addresses of heirs or beneficiaries named in the Will.
- 5. Obtain as best you can the value of the estate (for example, bank accounts, brokerage accounts, and household property). Get an approximate value of the estate--the assessed value of any real estate may be obtained in the office of the clerk of the circuit court or the treasurer of the county/city in which the decedent formerly lived.
- 6. When you have on hand the materials from items 3, 4, 5 above, call the probate clerk in the office of the circuit court of the County/City of the decedent and make an appointment to qualify as a personal representative of the estate (meaning either as an executor or as an administrator).

**THE PROBATE CLERK:** This clerk is found in each circuit court in Virginia. It is the responsibility of the clerk to determine the validity of the will and then to qualify you as a personal representative of the estate. These clerks try to be helpful, but it is your responsibility to have the proper information. These clerks are not permitted to give you legal advice. If you have questions, then you may want to consult an estate attorney.

- 7. Take your check book and meet with the clerk. You will be charged \$1 for each \$1000 in the estate plus the cost of your qualification letters.
- 8. Obtain at least 3 to 5 qualification letters. There is a cost for each one.
- 9. You may have to post the surety on a bond. Such bond is another cost.
- 10. The fees paid to the clerk may be reimbursed to you when you have established an estate bank account and have sufficient funds in it.
- 11. Establish a bank account for the estate. This must be an interest bearing account! In almost all cases you will need to obtain a tax number for the estate, and this number will be used for the new bank account. At times a bank will assist with this number or see an estate attorney. You may also go to IRS.gov and find the form to be submitted on line. You need to remove the decedent's tax number from all accounts (to avoid future filing of income tax in the years following the death) and the new bank account may help resolve this issue.

- 12. In addition to the bank account, you will need to keep a spread sheet/ledger of all money received by the estate. You will also need to track payments made by the estate. Keep a copy of all receipts for money coming in and payments made in the name of the estate.
- 13. Have the mail of the decedent forwarded to you.
- 14. Secure the house and property of the decedent. Make a decision on what utilities to continue or to discontinue.
- 15. Make a sweep through the house to ensure that all is well. Remove the perishables from cabinets and refrigerator. If you are going to turn off the utilities, empty the freezer.
- 16. Stop the retirement payments. If you have used a mortuary, its agent will notify Social Security to stop payment. Note: Social Security frequently takes back the last payment made--take care that you do not cash it.
- 17. Locate the bills owed, and as money becomes available pay them from the checking account of the estate.
- 18. Close out bank accounts and brokerage accounts or replace the decedent's social security number on such accounts with the social security number of the new owner. The objective is to remove the social security number of the decedent from all securities that might send a 1099 to the decedent. As you close out accounts, place the funds in the new estate bank account.
- 19. Notify the insurance companies and the annuities of the decedent's passing and work with those agencies to pay out or otherwise transfer the funds to the appropriate beneficiary.
- 20. Ascertain whether the decedent paid state and federal taxes the year before death. (Due to physical or mental condition, this task is sometimes overlooked by the decedent.)
- 21. File the Inventory of the estate. The clerk will probably provide you with a copy of this form, and it is due in the Commissioner of Accounts office four months after you qualify.

**COMMISSIONER OF ACCOUNTS.** This office represents the court. It makes sure that you have met your duty as a personal representative to account for the estate and to pay the appropriate amount to the beneficiaries of the estate. A word of warning: these offices have sharp eyed auditors who will check your accounts. A failure to keep good records may be met with action by the court.

- 22. Find all the assets; find the bills to pay and take appropriate action.
- 23. Ascertain what you will do with the real estate if it is in the estate. Remember, the real estate may have passed by law directly to the heirs at the death of the decedent. If the real estate passed, do not list it as a probate asset on the inventory. Get help from an estate attorney.
- 24. Determine how you will distribute the personal property in the house and implement your plan.
- 25. Sell or otherwise transfer the realty.
- 26. Prepare your first accounting for the commissioner of accounts. The first accounting is due 16 months after you qualified. Additional accounting may be necessary. Here you will need your bank accounts, your receipts of income received and income expended.
- 27. File the decedents individual state and federal income tax return for the year in which this person died.
- 28. File yearly with the state and federal government an estate tax return. This return is filed each year until the probate process is complete.
- 29. Payments to beneficiaries. WARNING. A personal representative makes payments to beneficiaries prior to an approved accounting at his or her own personal risk. If you overpay, you may very well end up responsible for the overpayments. Be careful when you pay and how much you pay. Certified checks for each beneficiary help to clear the bank account of all funds and to provide proof of payment to the Commission of Accounts.
- 30. When the account is accepted and the beneficiaries are paid, you may pay yourself your 5% fee (could be somewhat less) and you will have completed your assignment. You may now resolve again to never-never become a personal representative.

Jim Montgomery of Montgomery Law, the compiler of this list, readily acknowledges that other items or steps could be added to the check list.