

What Do I Do Now?

The funeral is over, all the flower cards have been put away and acknowledgments of appreciation have been sent to the many friends who supported you through the trauma of the illness and death. The funeral director has filed the proper papers as requested or required by law. The emptiness and void remains and seems to be overwhelming at times and wherever you look you are confronted with a reminder of the one who is no longer a living part of your daily life. Suddenly you are reminded that you are responsible for administering the estate. What does that mean? What must I do? Must I have a lawyer? What about the other family members' involvement? Do I need to go to the courthouse? What papers will I have to have? A dozen questions race through your already cloudy mind and you acknowledge that you know little of the affairs of the deceased. Is there a safety deposit box, are those insurance papers in there and can I open the box? There may be property to sell or give to someone, but can I do it without settling the estate in accordance with the laws of the state?

The questions and decisions that are racing through your mind are exactly the same as those of this writer, for I, too, have been placed in the same position. Had it been possible for me to have had a "check list" to follow, it would have saved me much time and anguish. The following is a combination from personal experience and discussions with legal representatives. It is not intended to be all inclusive and cover every aspect of settling estates, but rather is submitted as a guide in hopes that the task will be a little less confusing and a little less stressful for those who have the responsibility assigned to them.

When a death has occurred, there is usually a need to administer the estate of the decedent. In North Carolina this process is handled through the office of the Clerk of Superior Court of the county where the decedent was actually domiciled at the time of death.. Every estate should be considered unique, and not all estates will require the same administrative duties. Some small estates, under particular circumstances, will not even require administration. Estates

in which the surviving spouse is the sole beneficiary may employ summary administration procedures. Therefore, the following is intended to be a general checklist of duties that may arise in the handling of an estate, but not necessarily in chronological order. This checklist is not intended to be exhaustive, nor is it intended to be a substitute for advice of legal counsel or an accountant, which should be sought on specific matters.

The Clerk will provide many of the forms that are required. "Fill-in-able" versions of these forms are available online at www.nccourts.org/Forms.

1. Locate and collect important papers, such as the Will and codicils if any, certified copy of death certificate, deeds, stock certificates, bonds, vehicle titles, life insurance policies, certificates of deposit, bank books and statements for checking and savings accounts, money market accounts, income tax returns, etc.
2. If there is no will, determine who will be the administrator and bond requirements; ascertain the heirs, who may collectively designate the administrator and agree to waiver of bond.
3. Obtain and complete the Application for either Probate and Letters Testamentary (Will) or Letters of Administration (no Will) which requires a) "Preliminary Inventory" of assets and b) the addresses of all beneficiaries/heirs (use application forms provided by Clerk); "letters" give the estate representative the authority to act; the value of assets need only be estimated or approximate for the preliminary inventory.
4. Take an original death certificate, the Will (if any) and completed Application for Letters to the Clerk's office. (The Clerk will generally assist in completion of the Application upon request, but the Clerk cannot provide legal advice and will direct you to consult an attorney.)
5. Personal representative (executor or administrator) appears and qualifies upon oath before the Clerk, who will then issue him/her "letters" (request several copies for transferring certain property, e.g. bank accounts and securities.)
6. Publish "Notice to Creditors" in the local newspaper, obtain "affidavit of publication" from the newspaper and file it with the Clerk (creditors have three (3) months from the date of first publication to present their claims; the Estate cannot be closed before the expiration of this three-month period)—also mail this notice to all known creditors of the decedent if any and file "Affidavit of Notice" form confirming this.
7. File IRS Form SS-4 to obtain taxpayer ID number for the estate; this number is required for the estate checking account and also to file fiduciary income tax returns, if any.
8. Open estate checking account with a bank to pay debts of the estate, expenses, distributions to beneficiaries/heirs, and administration fees; keep detailed financial records of all transactions.
9. Ascertain, take custody of, and determine the date-of-death value of decedent's assets; transfer ownership of stocks and bonds; transfer motor vehicle titles; file insurance claims.
10. If decedent was a veteran, he/she may be entitled to VA burial allowance and he/she and other non-veteran decedents may also be entitled to a Social Security death benefit. The funeral director will usually make these claims.
11. Notify IRS of the personal representative's existence and address so IRS will send any information concerning the decedent's taxes directly to the personal representative; also notify IRS that no further estimated tax payments will be made on behalf of the decedent.
12. Notify the Post Office and have decedent's mail forwarded if necessary.

13. Have appraisals made of property as necessary.
14. File 90-Day Inventory of Property with the Clerk (form provided by Clerk), accompanied by appropriate filing fee. (Note: the exact "date of death" value of all assets must be listed on the 90-Day Inventory.)
15. File decedent's final income tax return by April 15 of the year following the year of death.
16. Within 3 1/2 months after the end of each fiscal year of the estate, file federal and state fiduciary income tax returns. An estate is a separate taxpayer on income earned by it (e.g. interest, dividends, etc.) during the process of administration. It is usually helpful to seek an accountant's services for advice and preparation of fiduciary returns.
17. File the federal estate and the North Carolina estate tax returns, if required.
18. File an annual account with the Clerk within 30 days after expiration of one year from the date the personal representative qualified and annually thereafter until the final account is filed. Accounts should be supported by canceled checks or paid receipts.
19. Distribute property to beneficiaries/heirs. Obtain written receipts for all property distributed.
20. File petitions with the Clerk requesting approval of attorney's fees and personal representative's commissions, if sought.
21. File the final account with the Clerk supported by canceled checks or paid receipts. (Note: if the final account is filed before the annual account is due, as is often the case, no annual account will be necessary); pay Clerk's fees and any costs (final payment must be made by certified check or law-firm check). The personal representative's

duties end and the estate is closed upon acceptance of the final account by the Clerk.

22. Notify IRS that the personal representative's duties have ended. Notify the surety on any bond that the estate is closed.
23. Close the estate checking account (note: this effectively occurs when all checks incident to final distribution, expenses and Clerk's costs and fees have cleared; be wary of any bank service charges and ensure any interest is stopped before final account is computed).

If there are multiple beneficiaries or heirs, make every effort to keep them informed of your actions on their behalf and consult with them if possible, especially where there is no Will. You should keep copies of all transactions with the Clerk of Court, the attorney, insurance companies, banks and other persons that relate to the resolution of the estate. There are potential tax implications and tax advantages that should be discussed with legal counsel or an accountant.

The responsibility will be great and the anxiety of it all will remain for months, but through careful planning, expert advice and family support, you can resolve the duties in a manner that will provide you with personal satisfaction.

I hope that you will have the same comfort in the following words as I have:

"God does not take away trials or carry us over them, but strengthens us through them."

—E.B. Pusey

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**NORTH CAROLINA
FUNERAL DIRECTORS ASSOCIATION**
5860 Faringdon Place, Suite 2, Raleigh, NC 27609
919-876-7886 • 800-616-2332
Fax: 919-876-5382 • www.ncfda.org

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