

Guide to Estate Settlement

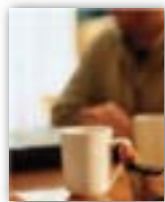




Table of Contents

Guide to Estate Settlement

Initial Meeting	1
Probate	1
Notifications	1
Tax Returns	1
Identify, Value, and Protect Assets	2
Disposition of Personal Effects	2
Payments	2
Investments	3
Distributions	3
Accounting	4
Timeline	4
Conclusion	5
Notes	6

Guide to Estate Settlement



You have been named as personal representative or trustee by a relative or close friend. You understand that this very important appointment requires you to carry out the wishes of that relative or friend, and that it also carries certain duties and responsibilities. What you may not know is exactly what actions you need to take to properly administer the estate and trust.

Plante & Moran is available to guide and support you during the administration process. The purpose of this booklet is to provide an overview of what it means to be a fiduciary by taking a look at some of the most common steps involved in administering estates and trusts. Please keep in mind that although most administrations are similar, different steps may be required depending upon the assets involved, the disposition of the assets required by the particular estate, the needs of the family, and other circumstances.

Initial Meeting

The first step is to arrange a meeting with the beneficiaries and the decedent's attorney. The purpose of this meeting is to review the terms of the will and trust, determine what assets the decedent owned, and discuss who will be responsible for completing the necessary tasks (such as preparing probate pleadings and tax returns).

For discussion purposes, during this meeting you discover that because of the way certain assets were held, there will be a probate estate. We will assume that the assets are worth more than the applicable exclusion amount, also known as the "unified credit," which means that a federal estate tax return will be required.

Probate

As personal representative, it is your responsibility to probate the assets that were held in the decedent's individual name. The attorney will prepare the probate pleadings on your behalf and file them with the probate court. Most probate estates are conducted under informal proceedings, which require minimal court supervision. Some of the required pleadings include the application for informal probate and appointment of personal representative, notice to known creditors informing them how to make claims for payment, the inventory listing probate assets with their values, and the pleadings to close the probate.

Notifications

In addition to the notice to creditors required by the probate court, various other entities will need to be notified of the decedent's death. You may need to contact the Social Security Administration to stop payment of benefits and to determine death, surviving spouse, or dependent benefits. If the decedent was a veteran, the Veterans Administration should be contacted to check for life insurance and other death benefits.

The post office should be notified to forward mail to you if there is no surviving spouse or other family members to receive the decedent's mail. Charge cards must be canceled, as well as subscriptions to newspapers and magazines.

Tax Returns

Your responsibility as personal representative and trustee is to make sure all of the appropriate tax returns are prepared and filed. These include the final income tax return for the decedent, the fiduciary tax return for both the probate estate and the trust (these returns are due for each year the probate estate and trust exist), and the federal and state estate tax returns. Depending on the domicile of the decedent and where assets are located, more than one state tax return may be involved.

Guide to Estate Settlement



Identify, Value, and Protect Assets

The first step in preparing the probate inventory and the federal estate tax return is to identify and value the assets in which the decedent had an interest. Obtaining accurate values is important because, for most assets, the values shown on the federal estate tax return become the tax basis for the beneficiaries receiving those assets.

The family is a good source of information about what assets the decedent owned. The decedent's checkbook and tax returns can also supply information regarding assets. Another source is the decedent's mail (i.e., dividend checks, property tax notices, insurance renewals, etc.).

Once you have identified all assets owned by the decedent, the next step is to obtain values for them. The Internal Revenue Service has very specific requirements as to the type and form of information needed to complete the federal estate tax return. It is required that you:

- Obtain appraisals for real estate
- Determine the value of the stocks and bonds held in any brokerage accounts (including accrued dividends and interest)
- Contact banks to get the account balances as of the date of death
- Submit claim forms for life insurance policies
- Request valuations of partnership interests
- Obtain appraisals for antiques, artwork, collectibles, and personal effects
- Calculate the benefit payable from the decedent's retirement plans

If there is a safety deposit box, you should attend the opening accompanied by at least one of the following: the co-trustee, if any; a family member or other beneficiary; the attorney; bank personnel; or other trusted advisor. This person(s) may then act as witness as to the contents of the safety deposit box. It is not unusual to find valuable items in the safety deposit box, such as jewelry, stock certificates, gold, and cash.

Hand in hand with the identification and valuation of assets is the protection of those assets. As fiduciary, you must take all reasonable steps to protect and conserve the assets by insuring the property and providing some type of security service to protect the assets.

Disposition of Personal Effects

After the assets have been properly valued, the personal effects should be distributed to the beneficiaries pursuant to the terms of the will or trust. You should make sure that you have reviewed the will or trust so that you are familiar with the distribution provisions. The will or trust may require that specific items go to certain people, or it may give the beneficiaries the right to make their own choices. If the will or trust does not indicate who is to receive the personal effects, you may arrange to either have the beneficiaries take them as part of their share of residue, or sell the personal effects and add the proceeds to the residue.

Payments

Throughout the course of the administration, you will be responsible for making sure that all of the decedent's debts and the ongoing costs of administration are paid out of the funds available in the estate. This includes the following:

- Final medical bills
- Outstanding debts

Guide to Estate Settlement



- Funeral expenses
- Reimbursements to family members for expenses they may have paid on behalf of the decedent's estate
- Filing fees for probate documents
- Attorney fees
- Legacies
- Trustee fees
- Taxes

Investments

As mentioned previously, as fiduciary you are responsible for the safekeeping of the assets, and this extends to properly investing and managing the assets. You are held to high fiduciary standards when making investment decisions and must always balance the needs and desires of the current income beneficiaries with the needs and desires of the remainder beneficiaries. All too often, the needs and desires of these two groups are at odds with each other. Therefore, it is suggested that you meet with the beneficiaries and the investment advisor in order to determine an appropriate investment policy, which should be in writing.

You should also review the investments on a regular basis to make sure they are still appropriate given the needs of the beneficiaries and general market conditions.

Keep in mind the cash needs of the trust when reviewing the investments. Are funds needed to pay bills, taxes, or other administration expenses? Decisions will need to be made regarding the timing and tax consequences for liquidating assets to generate cash.

Distributions

During the course of the administration, it may be necessary to make various types of distributions based upon the terms of the trust. The distributions can be divided into income distributions, discretionary distributions, partial distributions, and the final distribution.

The trust agreement may require that income be distributed to beneficiaries on a periodic basis. Income distributions are usually set up to occur on a regular basis, such as monthly or quarterly.

If an estate or trust provides that trust property is distributed outright to the beneficiaries, you should consider making partial distributions throughout the course of estate settlement. All beneficiaries should receive a partial distribution at the same time in the amount of their pro rata share. This avoids the problem of making a distribution to one beneficiary, and forgetting to make an equivalent distribution at a later date to the other beneficiaries. Again, sufficient reserves should be retained to cover future expenses, taxes, and fees.

When the final tax clearance is received from the Internal Revenue Service, you should confirm that all expenses have been paid. You may then make the final distributions. You should ask the beneficiaries how they would like to receive their distribution, either in kind (i.e., pro rata shares of stock) or in cash (after liquidating the assets). If the assets are being distributed to successor trust(s) (such as a Marital Trust or a Family Trust), you will want to review the assets to determine how to allocate them (i.e., income-producing assets to the Marital Trust and growth assets to the Family Trust).

Guide to Estate Settlement



Accounting

As fiduciary, you have the duty to account for your actions by rendering a formal report to the beneficiaries. This accounting documents all transactions, including the following:

- Assets received and distributed
- Gains and losses
- Income earned and how it was distributed
- Expenses and taxes paid
- Assets that the trust currently owns

It is necessary to review the trust agreement to determine how often you must supply this accounting to the beneficiaries.

Timeline

Now that you have an idea of the steps involved in administration, you are probably wondering, “How long does the administration process take?”

Estate settlement (the transition period after a person’s death during which probate is conducted and estate taxes are calculated and paid) generally takes a year or more to complete. Trust administration (the management of a trust once it has been funded) is determined by the terms of the document and may last for a person’s lifetime or until the person reaches a specified age. Some so-called “dynasty trusts” may last for several generations.

The following timeline will help you to better visualize the entire process. Required filing dates are noted in italics; the other dates are used only for illustration.

February 1, Year 1	Client passes away
Shortly thereafter	Initial meeting with the fiduciary, beneficiaries, attorney, and accountant
Shortly thereafter/Ongoing	Identification and valuation of assets
March 1, Year 1	Probate commences
<i>April 15, Year 1</i>	Previous year’s Form 1040 is due to be filed or extended
May 31, Year 1	Probate Inventory — <i>due 90 days after appointment of personal representative</i>
July 1, Year 1	Probate claims period ends — <i>Period ends later of four months after publication of claims notice or one month after Notice to Creditors is sent to the creditor</i>
Shortly thereafter	Pay debts and distribute personal effects
Ongoing	Pay fees and other expenses
November 1, Year 1	Form 706 and Form MI-706* — <i>due nine months after date of death (six-month extension is available)</i>
Anytime after assets are identified and valued	Financial planning meeting

*Ohio State Tax Form 2 or appropriate state form.

Guide to Estate Settlement



Ongoing	Arrange for ongoing income distributions per terms of trust
Spring, Year 2	Annual accounting to beneficiaries for activities during Year 1
<i>April 15, Year 2</i>	Final income tax return (Form 1040) due (covering January, Year 1)
<i>April 15, Year 2</i>	Trust Form 1041 to report income earned by the trust during Year 1 is due (calendar year end)
May 1, Year 2	Form 706 clearance letter received from the IRS — <i>Usually takes six to eight months (or longer) after filing the return to receive the clearance letter or to be notified that the IRS will audit the estate</i>
May 2, Year 2	File Sworn Closing Statement with Probate Court
Shortly thereafter	Transfer probate assets to the trust
<i>May 15, Year 2</i>	Probate estate Form 1041 for Year 1 due if January year end elected
June 2, Year 2	Certificate of Completion received from Probate Court — <i>Issued 28 days after Closing Statement is filed with the Probate Court</i>
Shortly thereafter	Distribute assets per the terms of the trust; in this instance, to the Marital Trust and the Family Trust
Ongoing	Make income and principal distributions from the Marital Trust and the Family Trust pursuant to the terms of the agreement
Spring, Year 3	Annual accounting to beneficiaries for activities during Year 2 (accounting will be required for each year each trust exists)
<i>April 15, Year 3</i>	Final trust Form 1041 for Year 2 is due
<i>April 15, Year 3</i>	First Marital Trust income tax return (Form 1041) for Year 2 is due (Form 1041 will be due each subsequent year the Marital Trust exists — Income may be reported on the spouse's Form 1040)
<i>April 15, Year 3</i>	First Family Trust income tax return (Form 1041) for Year 2 is due (Form 1041 will be due each subsequent year the Family Trust exists)
<i>May 15, Year 3</i>	Final probate estate income tax return (Form 1041) for Year 2 is due

Conclusion

Does all this sound overwhelming to you? Clearly, there are a wide range of issues to address depending on the particular estate or trust involved. If the steps to administer a will or trust seem daunting to you, Plante & Moran is available to help you sort through the complexities of estate and trust administration. We will be happy to provide as little or as much support as you want or need. In addition, Plante Moran Trust is available to act as agent to assist you with your fiduciary responsibilities.

If you have questions regarding estate settlement or trust administration, please contact us for additional information or a personal consultation.

Notes



