

BABY BOOMER'S GUIDE SETTLING THE ESTATE OF A PARENT

The months following the death of a loved one are stressful and full of emotions. Often times children are left with the responsibility of settling the estates of their parent(s), which seems like an insurmountable task while still in the grieving process.

This guide serves as a checklist, and is intended to be a reminder of some of the details that may be overlooked during and after an estate settlement:



Step 1: Locate Important Documents

Locating various personal records is key in order to obtain important information regarding assets and debts of a loved one. These are typically found in a safe, safe deposit box, or throughout files kept in the home.

- **Birth Certificate, Social Security Card, Passport, Driver's License:** Provide useful information when making calls to different organizations later in the process.
- **Marriage Certificate, Military Records:** Important to help obtain potential benefits for beneficiaries such as a surviving parent later in the process.
- **Divorce Judgement or Stipulation (if applicable):** These are crucial to prevent disputes over alimony, invested assets, debt, property, life insurance proceeds, etc.
- **Logins & Passwords:** Attempt to locate logins and passwords for computers, phones, tablets, email, social media accounts, banking, and investments.
- **Statements/Misc:** Deeds, vehicle titles, bank, investments, credit cards, mortgages, insurances, tax returns, business operating agreements, Social Security, etc.
- **Wills and Trusts:** Trust documents and any wills - these are absolutely critical if they exist. If *trusts* exist, identify the trustees and successor trustees.



Step 2: Understanding Trust Documents

A trust is a legal vehicle that allows a "trustee" to hold and manage assets for the benefit of one or more "beneficiaries". The trustee(s) or successor trustee(s) is responsible for carrying out the directions of the trust, while the beneficiary(ies) are those who benefit from it - An individual may be a trustee and a beneficiary.

If trust documents are located they should be carefully read and understood. Individuals may have multiple different trusts for different reasons so make sure to identify which-is-which.

The most common type of trust you will find is a "revocable living trust" or "family trust". Because they are revocable, these trusts allow the original "grantor(s) or creator(s)" to move assets into and out of the trust while living. **Generally, living trusts:**

- **Become Irrevocable Upon Death of Grantor(s)** - Can't be changed.
- **Avoid Probate** - You won't have to fight with siblings in court over who gets what, or have the court decide. This can also save a lot of money!
- **Identify Trustees & Beneficiaries** - You are possibly one or both of these.
- **Provide Privacy** - Assets in the name of the trust are shielded from public record.
- **Do Not Affect the Taxation of Any Asset** - Trusts themselves do not provide any special tax treatment for assets held.
- **Accompany a Will** - Assets held in the name of a trust avoid probate, a simple will by itself still requires a probate*.

*<https://www.irs.gov>



Step 3: Preparing the Estate

Settling an estate has many nuances and steps to take, much of which depend on your exact situation. Depending on the complexity of the estate and whether or not a probate is required, it may be prudent to consult with an attorney. Here are some action items you should work with your attorney on:

- If a properly executed trust does not exist, or there are substantial assets that were left out of an existing trust, the executor should file for the probate of the will. The probate court will issue Letters Testamentary authorizing the administrator/executor of the decedent to act on the decedent's behalf.*
- Obtain copies of the Death Certificate (at least 10) from the county clerk.
- Develop a list or inventory of the assets and liabilities (debts) of the estate.
- Develop a list of payments being made by deceased. Cancel unnecessary recurring payments. Contact potential creditors and payees of the death. Note that creditors generally are paid first before distributing any assets.
- Open a new bank account for the estate to help temporarily maintain and account for the estate. This account can be used to pay outstanding bills and necessary on-going expenses, pay for the estate and final tax returns, collect rents, etc.
- Transfer property as indicated by trust or contract (see Step 4 "Transferring Assets").

*<https://www.irs.gov>



Step 4: Transferring Assets

The appointed executor of the estate, or the *current* trustee (when a trust is involved) is responsible for transferring assets as necessary. The transfer process can be different depending on the type of asset(s) and how it was owned (Trust, Individually, Joint, Tenants In Common, Right of Survivorship, Community Property, etc.):

- Deeds to **real estate** can be transferred to the designated beneficiary(ies) or executor. Consider working with an attorney on making these transfers in order to avoid costly mistakes, especially in regards to property taxes.
- **Personal property** such as vehicles can be transferred as indicated by will/trust to the designated beneficiaries or executor.
- Assets in **retirement accounts** such as: IRA, Roth IRA, 401(k), 403(b), 457, etc. transfer by contract. This means that they can go directly to the named individual beneficiaries (if any), without the need to be included in probate or a trust. A trust, or estate may also be named beneficiaries.
- **Investment brokerage accounts titled in the name of a trust** - Should first be transferred into an irrevocable trust account (since the revocable trust becomes irrevocable upon death of all grantors), then can be transferred to any designated beneficiaries named in the trust document itself. This can be transferred to a beneficiary individually or even straight to their own living trust.
- **Investment brokerage accounts titled in the individual name(s) of the deceased** - Can be subject to probate depending on how it's titled/owned. For example, if titled as a **Transfer on Death (TOD)** account, it will transfer by contract to beneficiary and is not subject to probate.



Step 5: Benefit Claims

There may be certain types of benefits payable to a beneficiary based on their relationship to the deceased, and whether or not they are an indicated beneficiary. Contact the following institutions and notify them of the passing of your loved one:

- **Life Insurance Policies:** Locate all life insurance policies (there may be multiple). If the deceased was still working at the time of death, make sure to reach out to the employer/union/associations and check for a group policy and possible AD&D rider (if applicable). There may also be policies on the mortgage or a vehicle. Life insurance proceeds "pass by contract" (paid directly to listed beneficiary) and are not included in a probate.
- **Salaries Owed, Sick Pay, Vacation Pay:** If working at the time of death, check for compensation not yet paid. These can be paid to a beneficiary.
- **Social Security:** Survivor benefits may be available for eligible widow(er)s, minors, divorced spouses, and some dependent parents over age 62. **(800) 772-1213**
- **Military, Federal (FERS), State, and Local Municipalities:** If your loved one received pension payments from, or still worked for any of these organizations at the time of death, there can be possible continuation of retirement or health benefits available to certain beneficiaries. There may also be additional benefits payable such as those previously mentioned above. Contact them promptly.

Tip: Have death certificates, decedents personal information, and beneficiary personal information ready to provide to these organizations and institutions.



Step 6: Buttoning Up the Estate

Here are some final steps and considerations to take when finishing up the estate settlement process (in no particular order):

- **As an Executor or Trustee:** Keep all of the beneficiaries up to date on what is going on, what you have done, and what you intend to do. Make sure you keep detailed records of any transactions or changes of ownership you have completed while managing the estate.
- **Review Tax Situation of the Deceased:** There may be a final tax return to be filed for the deceased. The documents collected in "Step 1" should assist you in completing this task. Contact a qualified tax professional rather than trying to do this yourself. If there is a tax liability, it can be paid from the cash in the estate.
- **File the Tax Return for the Estate:** The estate may require its own tax filing. Again, hire a qualified tax professional.
- **Close & Distribute:** Executors should make sure all claims against the estate (if any) are paid before distributing assets to the beneficiaries.
- **Take Remaining Required Minimum Distributions (RMD):** If the deceased owned retirement accounts and was taking RMDs, look to see whether or not they satisfied their RMD for all applicable retirement accounts in the year of death. If they hadn't, the beneficiary will need to take the deceased's RMD for that year.



As a trustee or executor, you have a fiduciary duty to act in the best interests of the estate and its beneficiaries. For complex estates, consider implementing a team of professionals including [financial planners](#) to help you navigate the planning process.



Step 7: Develop & Execute a Plan

If you are a beneficiary of the affairs of a loved one such as a spouse or parent, you will want to implement your own financial and estate planning going forward. If you are to inherit various assets, you will want to integrate them into your own life in a way that efficiently creates financial independence and allows you to continue a legacy for your family.

Working with an experienced team of financial planners, tax professionals, and attorneys can help you develop a foundation for your family's well-being.



Looking for a financial planner for assistance? Our firm [Planable Wealth](#) can help you quarterback a team in order to help you pursue your family's wishes and financial goals.

Glossary:

ESTATE: The entirety of the decedent's ownership of money, material goods and property.

EXECUTOR: Person named in a will and appointed by the court to carry out terms of the will and manage the decedent's estate.

GRANTOR: Creates and funds a trust. Can also be referred to as a "Trustor".

TRUSTEE: A natural or legal person to whom property is legally committed to be administered for the benefit of a beneficiary.

BENEFICIARY: Individual, charity, or legal entity eligible to receive distributions from a trust, will, or life insurance policy. Beneficiaries are either named specifically in certain documents or have met the stipulations that make them eligible for whatever distribution is specified.

PROBATE: The legal process by which the decedent's assets are collected and distributed to beneficiaries of the estate.

REVOCABLE LIVING TRUST: A trust that you create during your lifetime. A living trust can help you manage your assets or protect you should you become ill, disabled, or simply challenged by the symptoms of aging. Most living trusts are written to permit you to revoke or amend them whenever you wish to do so.

IRREVOCABLE: May not be revoked or changed. Living trusts become irrevocable upon the death of the Grantor(s), a.k.a "Testamentary Trust".

WILL: Document specifying beneficiaries to inherit decedent's estate and naming an Executor to manage the estate and distribute assets.

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