



SHAILA BUCKLEY LAW

Personal Representative's Checklist



Being appointed as the Personal Representative of an Estate is a large responsibility. However, it is also a meaningful service you can provide for your friend or loved one who entrusted you with this responsibility.

As the Personal Representative (“PR”), you are responsible for settling the final affairs of the decedent – locating important documents (such as the decedent’s Will or Trust), identifying and inventorying their assets, identifying and paying their debts from the proceeds of their estate (not from your own personal funds), distributing the remaining assets to the people named in the Will or Trust or by state “intestacy” laws if they did not have a Will or Trust, and, importantly, selecting and hiring an attorney to help you with this process. **We are happy to assist you with this process.**

As the Personal Representative, you are placed in a position of trust and owe fiduciary duties to the beneficiaries of the Estate. You must follow the terms of the Will and may not use Estate funds to benefit yourself. You are also not personally responsible for paying for the debts of the decedent. This means that if the decedent died with more debts than assets, you are not responsible for paying these debts from your personal funds.

Below is a list of steps to follow if you are called upon to be a Personal Representative. This list is meant to be an overview only and cannot address each person’s unique situation or substitute for seeking legal advice.

ACTIONS TO TAKE IMMEDIATELY FOLLOWING DEATH

- ✓ Arrange for the care of the decedent’s minor children or other family members who are unable to care for themselves.
- ✓ Ensure that pets, plants, and any perishable possessions are cared for.
- ✓ Make sure the decedent’s home and property are safe. Consider collecting all house keys and car keys or changing the locks, if warranted.
- ✓ Notify family and friends. Get help from family members to contact friends and relatives.

- ✓ Notify employer, religious organization, social groups, fraternal organization, and any government agency (federal or state) that has been paying benefits/assistance to decedent, such as Social Security Administration, Health and Human Services.
- ✓ Locate the decedent's Will or Trust, or determine that the decedent did not have a Will or Trust (known as dying "intestate"). Check with family members and friends, safes or safe deposit boxes. If the decedent had a lawyer, check whether they have copies of these documents.
- ✓ Request at least 5 copies of the Death Certificate, usually available from the Funeral Home.
- ✓ Contact post office and have mail forwarded to personal representative or successor trustee, if warranted.

FIND AND HIRE AN ATTORNEY.

- ✓ An experienced estate planning attorney will be able to advise you on the legal steps necessary to process the decedent's estate, including whether probate (which involves filing an action in Court that allows the PR to transfer the decedent's property to their beneficiaries) is necessary, and if so, what type of probate process is needed and the estimated cost. **We are happy to assist you with this process at Shaila Buckley Law.**
- ✓ Your attorney will file the necessary documents with the Court, and will rely on you to provide them with information about the decedent's family, their assets and debts.

LOCATE IMPORTANT DOCUMENTS.

- ✓ Will
- ✓ Any trust agreement, whether decedent was trustee, beneficiary, or settler/trustor
- ✓ Income tax returns for last three years

- ✓ All gift tax returns, if any
- ✓ Prenuptial or postnuptial agreements
- ✓ Divorce decrees
- ✓ Life insurance policies (contact companies to report death, determine filing of claims)
- ✓ Safe deposit agreement/keys (contact bank)
- ✓ Pension or retirement benefit plans (contact companies to report death, determine filing of claims)
- ✓ Annuities (contact companies to report death, determine filing of claims)
- ✓ Bank statements, account statements, checkbooks
- ✓ Title to vehicles, boats, trailers, etc.
- ✓ Leases
- ✓ Unpaid bills
- ✓ Business documents – If the decedent owned or help to run a business, contact the other owners. Obtain copies of business agreements, if any, in particular any buy-sell or shareholder agreement.
- ✓ Health insurance documents, for final claims
- ✓ Documents evidencing any debts owing to decedent
- ✓ Investment and financial account documents/statements

OBTAIN LETTERS TESTAMENTARY OR LETTERS OF ADMINISTRATION.

- ✓ Once your attorney initiates the probate proceeding, you will be formally appointed as PR and will receive **Letters Testamentary** (if the decedent had a Will) or **Letters of Administration** (if the decedent died without a Will). These documents allow you to conduct business with third parties on behalf of the Estate.

PREPARE LIST OF INTERESTED PARTIES.

- ✓ Prepare list, with addresses, of family members, closest relatives, or other interested parties. It is important that close family members receive

notices of the probate proceeding whether or not they are to receive any inheritance. Your attorney will provide this notice as part of probate proceeding.

- ✓ Review Will to determine beneficiaries of the estate. Make a list of all estate beneficiaries, with each person's name, address, email address, and phone numbers. If there is no Will, consult with your attorney about the order of beneficiaries under Idaho intestacy laws.
- ✓ Provide this information to your attorney to ensure proper notice is provided.
- ✓ Advise any beneficiaries that contact you that it will likely be 4-6 months before you can distribute the Estate according to the terms of the Will.

OPEN AN ESTATE BANK ACCOUNT AND OBTAIN A TAX ID NUMBER FOR THE ESTATE.

- ✓ Obtain a Tax ID Number (also called an "Employer Identification Number" or "EIN") for the Estate from the IRS (online or by mail).
- ✓ Transfer funds from the decedent's personal account into the Estate bank account.
- ✓ Avoid paying for any expenses out of your personal funds. Pay all estate related expenses from funds in the Estate bank account.
- ✓ Be careful not to pay for expenses other than those that are necessary to cover funeral expenses and expenses related to preserving the decedent's assets (such as a home mortgage, car payments, utility bills etc.) until you consult with an attorney and receive authorization to do so.
- ✓ **Do not distribute any funds to the decedent's beneficiaries until you consult with an attorney.**

IDENTIFY AND ITEMIZE DECEDENT'S ASSETS AND DEBTS.

- ✓ Locate the decedent's assets and begin preparing a detailed **Inventory** of the decedent's assets. Look for account statements, tax returns, deeds

or titles, or other files indicating the assets own by the decedent. Assets may include the following:

1. real estate (use deeds or real estate tax statements)
 2. insurance policies
 3. securities, stock, mutual funds, bonds, etc.
 4. bank and other accounts
 5. retirement plans, IRAs, annuities, pensions, profit sharing plans
 6. business ownership interests, including buy-sell agreements
 7. include property held in any state, not only state of last residence of decedent
 8. personal belongings and household goods
 9. on-line accounts, including reward point and frequent flier accounts
- ✓ Locate the decedent's debts and start compiling a list of outstanding amounts owed, including any medical expenses related to the last illness. Look for credit card statements, mortgage statements, and other bills.
 - ✓ Obtain "date-of-death" values for the decedent's assets for tax purposes. Consult with your attorney about how to obtain this information for different types of assets.

NOTIFY CREDITORS OF THE DECEDENT'S DEATH.

- ✓ Idaho probate laws require your attorney to publish a **Notice to Creditors** in the local newspaper. This will provide notice for all creditors to submit any claims owed by a specified period of time.

KEEP A DETAILED ACCOUNTING.

- ✓ Keep an **Accounting** for the Estate showing all of the assets held by the Estate, costs paid out to cover expenses, and outstanding amounts

owed. This document should include enough information to document how all estate funds and assets were used.

- ✓ If you are being paid for serving as a PR, keep a detailed ledger of your time showing the amount of hours worked, the tasks completed, and the cost of your time. Consult the Will to determine the rate of compensation.

COLLECT OR SELL ASSETS.

- ✓ Contact employer to determine if there are any death benefits, such as pension benefits or life insurance.
- ✓ Contact Social Security Administration to check for benefits for surviving spouse and/or minor children. Do not cash social security check for month in which decedent died. Return check or direct deposit to SSA.
- ✓ For active duty, reserve or veteran, contact VA to determine possible benefits, if any. Collect any death benefits owed.
- ✓ Contact any other individual or company that owes money to the decedent and collect outstanding amounts.
- ✓ Cancel periodical subscriptions and obtain refunds.
- ✓ If real property is to be sold, rather than distributed to a beneficiary, under the terms of the Will, arrange for the sale of the property.
- ✓ Arrange for disposal or sale of contents of home and personal belongings not otherwise disposed of in the Will or other paper.

PAY DEBTS.

- ✓ After consultation with your attorney, if the assets of the Estate are greater than the amount owed to creditors, begin paying outstanding amounts.
- ✓ If the assets of the Estate are **less than** the amount owed to creditors, do not pay any amounts outstanding. The priority and amount of payments

will be determined by the Court in the probate process.

CONSULT WITH AN ACCOUNTANT AND FILE ESTATE TAX RETURN.

- ✓ Consult with an accountant to determine what types of tax returns need to be filed and the deadlines for filing these returns, and consult with your attorney to determine whether any estate taxes are due. In 2023, there are no estate taxes owed if the Estate is less than \$13,000,000.
- ✓ Discuss with your attorney whether a surviving spouse should make a “Portability” election with the accountant.

MAKE DISTRIBUTIONS TO BENEFICIARIES.

- ✓ After consultation with your attorney and payment of outstanding debts and taxes, distribute assets to the beneficiaries as set forth in the Will. Before distributing assets to the beneficiaries, have the beneficiaries sign a **Receipt and Release** (which your attorney will provide to you), acknowledging their receipt of assets and releasing you from liability.

CLOSE THE ESTATE.

- ✓ After all debts have been paid and all assets have been distributed, your attorney will close the probate.

Questions? Please give us a call at (208) 995-9224. We're here to help.