What Happens to an Estate After a Person Dies?

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Estate administration is the process that occurs after a person dies. During this process, a person's probate assets are collected, his or her creditors are paid, and then the remaining assets are distributed to his or her beneficiaries in accordance with his or her will. Probate assets are all assets that the decedent owned, in his or her name alone, when he or she died. If a person left a will, the will determines the distribution of those assets.

In order to determine who the decedent selected to administer his or her estate, locate the decedent's will. The person named as the administrator must file the will with the court and petition to open the process of probate. When the administrator's petition is granted, the process of probate officially begins.

You need multiple copies of the Death Certificate. If you happen to be the executor or executrix of the decedent, it is critical that you obtain certified copies of the death certificate as soon as possible. You will need several copies—perhaps 20 copies or more. Banks, the state and federal governments, creditors, insurance companies and many others will not even give you the time of day to discuss your loved one's financial affairs until you are able to produce a death certificate. Do not under estimate the importance and the necessity of getting these copies right away.

The administrator must first give notice of the estate administration. The California Probate Code will determine who must receive notice and when this notification must occur. **Typically, notice must be given to all parties who have an interest in the estate.** The administrator must also advertise the estate, so that any creditors of the decedent will have an opportunity to make their claims. The administrator is responsible for paying any claims made against the estate from the assets within the estate, and must pay these claims before distributing anything to the beneficiaries.

Other Important Documents. One of the most arduous tasks in tying up the financial affairs of someone who has passed away is collecting the various pieces of documentation that should be retained routinely. If the decedent has not done a good job of keeping records, it can be like searching for a needle in a haystack—a real frustration. It is best to create a list of all your assets, accounts and property while still alive. Let your spouse or other trusted person know where the list is kept. When you pass, the executor of the estate will have an easier time managing your Will or perhaps a Trust.

Obtain Letters Testamentary or Letter of Administration. You will need proof that you have authority to deal with the decedent's financial affairs prior to contacting the institutions with which the decedent was doing business: you need letters testamentary or letter of administration. An estate planning attorney can handle obtaining these documents and assist with probate, which often is preferable since many Executors will be consumed with issues of family grief and dealings with other family members. It's often best to leave this work to the probate attorney. When probate is opened, the will is validated, and the court gives the authority (via the letters testamentary) to settle the estate and act on behalf of the decedent, as specified in the will. Again, get multiple certified copies.

If there is no will, the court can issue letters of administrations to a surviving spouse or next of kin after a death certificate has been produced. This individual is likely to be the administrator of the estate.

After giving the appropriate notice and advertising the estate, the administrator must locate and collect all of the decedent's assets. After all debts have been satisfied, the administrator may begin to distribute the remaining assets in accordance with the decedent's will.

Speak to an Experienced Estate Planning Attorney.

One thing that will reduce the stress level is to immediately seek the advice of a qualified and experienced estate planning attorney. He or she can simplify the process of settling an estate and avoid any issues. Retain an attorney who practices in estate planning and trust – doing so may relieve some of the stress of going through this process alone.

For an Estate Planning attorney who knows the local judges, the courts, and the process, call Attorney Jeffrey S. Hall, Esq. He is a very experienced probate attorney with many years in the practice of law and tax. He will provide the guidance and support to help save you time and energy and give you greater piece of mind when you need it most. Attorney Jeffrey Hall may be contacted at 925-230-9002 or for more information be sure to visit his website at: www.HallLawGroup.com. He serves the counties of: Alameda, Santa Clara, Contra Costa, and Solano County. He has several offices in the East Bay conveniently located near you. This information is not to be taken as legal advice, and you are encouraged to see your Estate Planning attorney.