

# The Legal Intelligencer

NOT FOR REPRINT

🖨️ Click to print or Select '**Print**' in your browser menu to print this document.

Page printed from: <https://www.law.com/thelegalintelligencer/2021/09/02/estate-administration-basics-helpful-tips-in-times-of-grief/>

---

## Estate Administration Basics: Helpful Tips in Times of Grief

Dealing with the aftermath of the death of a loved one can be overwhelming, to say the least. Not only do we have to mentally process the loss of someone close to us, but many times while we are still mourning, we need to figure out how to take over the management of their financial affairs.

By **Rebecca Rosenberger Smolen and Amy Neifeld Shkedy** | September 02, 2021



**Rebecca Rosenberger Smolen, left, and Amy Neifeld Shkedy, right, of Bala Law Group.**

Dealing with the aftermath of the death of a loved one can be overwhelming, to say the least. Not only do we have to mentally process the loss of someone close to us, but many times while we are still mourning, we need to figure out how to take over the management of their financial affairs. Sometimes there is more of an immediate need to do things promptly if the decedent had dependents relying on support. Even if that's not the case, there are other deadlines (such as tax payments and tax return filings) that creep up and, eventually, of course, we will want to make sure that the decedent's wealth properly passes down to the decedent's heirs or other intended beneficiaries during the estate administration process. This estate administration may be overwhelming to many, so we thought it would be helpful to give our readers a general overview of what to expect during this process. Of course, in our experience, no two estates are alike and there are always new issues to tackle. Nevertheless, this article may be helpful as a general overview of the process.

- **Probate.** The first step in an estate administration is to determine whether or not it is necessary to open a probate and have a personal representative (an executor or administrator) formally appointed to run the management of the estate. If a decedent

died and owned any “probate” assets, then an executor (if there was a will) or administrator (if there was no will) would need to be appointed by the local probate clerk (at the Register of Wills in Pennsylvania, or the Surrogate’s Court in New Jersey; for purposes of this article, we’ll refer to it as the Register of Wills). “Probate” assets are assets that were titled in the decedent’s individual name (not assets titled as tenants by the entirety or as joint owners with rights of survivorship) for which there was no beneficiary designation. For example, an individually owned nonretirement bank or brokerage account, other than a transfer on death account, would be considered a probate asset. If any such asset exists, then an executor or administrator would need to be appointed in order to be able to distribute the asset pursuant to the terms of the decedent’s will (this is called a testate estate), or, if there was no will, to the next of kin through an intestate estate based on the laws of the state in which the decedent was a resident at the time of his or her death. In order to start the probate process, the original will (if any) and an original death certificate needs to be provided to the Register of Wills and the person to be appointed as executor or administrator must take an oath before the Register of Wills. It should be noted that, during the COVID-19 pandemic, some local Register of Wills are no longer accepting walk-ins and are scheduling by appointment only or, in some counties, by a virtual probate. In a way, the virtual probate process makes it easier for many individuals (particularly those named executors who may live in another state), so many of us hope that the virtual probate option is here to stay.

- **Notices to Beneficiaries.** After probate, the executor or administrator is required to send certain notices of estate administration to the beneficiaries or heirs to advise them of the estate administration and their beneficial interests (this may be due within three months of probate, in Pennsylvania, or 60 days, in New Jersey). This is just a formality and a certification needs to be sent to the Register of Wills to advise them that this was done.
- **Collect Assets.** The person in charge, such as the executor or administrator, or, in the case of a nonprobate estate, perhaps the trustee under the decedent’s revocable trust (we’ll just refer to this person as executor for purposes of this article to keep things simpler), needs to review the decedent’s records to ascertain the assets available for distribution. This would include, but is not limited to, a review of the decedent’s last income tax return, bank and brokerage statements, the deed to the decedent’s residence, checking to see if there is any unclaimed property, and so forth. For any retirement accounts or life insurance policies or transfer on death accounts, the executor should determine whether there were any named beneficiaries so that they can claim the assets. The executor would need to contact each institution and ascertain the date of death value of each asset for tax reporting purposes or obtain appraisals for certain assets (such as real estate or business interests). For any assets belonging to the estate, the executor would need to establish an estate account (after first obtaining a tax identification number for the estate from the IRS) and transfer those assets to the estate account so that the executor can control them. Similarly, in a nonprobate estate, where a revocable trust is involved, the trustee would need to obtain a tax ID number for that trust. It may be advisable for the executor to liquidate some or all of the investment assets at the beginning of the estate administration to avoid a potential decline in the market.
- **Address Debts and Estate Expenses.** The executor should determine what debts were in the decedent’s name as of the date of death and cancel open credit card accounts. To help ensure that the executor is aware of all of the payable debts, the executor for the estate of a deceased Pennsylvania resident must advertise the grant of letters to advise

any creditors that a death has occurred and afford them an opportunity to present any claims. Generally, claims not presented within one year from the first date of advertisement will be disallowed. Once all known debts are determined, the executor would take care of paying off the debts from the estate assets as well as funeral bills and other estate administration expenses. In the event that this would cause the estate to be insolvent, the executor would need to determine the order of priority before paying any one creditor. Generally funeral bills, estate administration expenses (including personal representative commissions and attorney fees) and taxes get paid first, followed by secured creditors and ultimately unsecured creditors may receive a reduced settlement amount based on their pro rata shares.

- **Tax returns.** The executor may need to file an inheritance tax return and a federal estate tax return. In Pennsylvania, an inheritance tax return is required if the decedent held any assets that were not joint with spouse (if all of the assets were joint with the spouse, a return may not be required). In New Jersey, an inheritance tax return or waiver may be required and tax may be due depending on the relationship of the beneficiaries to the decedent. In both Pennsylvania and New Jersey, there are different tax rates applicable to different beneficiaries, depending on the relationship, such as 0% for spouses, 4.5% in Pennsylvania for lineal descendants (0% in New Jersey for lineal descendants), with higher rates applicable to other relatives such as siblings or nieces and nephews or unrelated parties. The inheritance tax return and payment is due nine months from the date of death (or eight months in New Jersey), but the return can be put on extension. A federal estate tax return (also due at the nine-month mark) may be required if the gross value of the estate exceeds the federal estate tax exemption (\$11.7 million for 2021). Even if not required, if there is a surviving spouse, it may be advisable to file a federal estate tax return for portability purposes so that the surviving spouse can “inherit” the decedent’s unused federal estate tax exemption. The executor will also need to file income tax returns, including the decedent’s final lifetime income tax return as well as income tax returns for the estate until the estate has been closed and final distributions have been made.
- **Distributions to beneficiaries.** The last step in an estate administration is to distribute the assets to the beneficiaries. The first distributions to be made would be to satisfy any cash bequests under the will. Generally, an executor would want to pay these to the beneficiaries within one year from the date of death to avoid the running of interest at 5% (unless interest is waived under the will). These bequests usually get paid while the estate administration is ongoing (unless there is concern about an insolvent estate). Once the estate administration is over and taxes have been paid, the final distributions would be made to the residuary beneficiaries. It should be noted that New Jersey probates have some additional requirements prior to distributing assets to beneficiaries, such as child support searches and executing a refunding bond and release. It is advisable for the executor to give an accounting to the beneficiaries to reflect the activity that has occurred during the estate administration and have the beneficiaries approve this and agree to release the executor for his role in the estate administration before the executor makes the distribution. This may be done by having the beneficiaries sign a receipt, release and indemnification agreement prior to receiving his or her distribution. Sometimes, instead of having this type of agreement, an executor may file a formal accounting with the court to have it approved by the court. An executor may choose to file an accounting in court (rather than a more informal release agreement) for various reasons, such as when charitable beneficiaries (and, thus the Attorney General) are

involved, when there are numerous beneficiaries or when the beneficiaries do not get along or there is a dispute.

- **Close Probate.** Once the estate administration is completed, the executor would file a status report with the local Register of Wills to indicate that the estate administration is completed.

While this article gives a general overview of the basics of an estate administration, there are, of course, many issues that come up during the process, and these vary from case to case. It is advisable to consult with a trusts and estates attorney rather than trying to tackle an estate administration on your own. Just like many other things in life and law, it is never quite as simple as it may seem and there are many traps for the unwary.

**Rebecca Rosenberger Smolen** and **Amy Neifeld Shkedy** are members and co-founders of *Bala Law Group*. They focus their practices on tax and estate planning.

---

Copyright 2021. ALM Media Properties, LLC. All rights reserved.