

ENSURE PROPER ADMINISTRATION OF YOUR LOVED ONE'S ESTATE

Upon the death of a loved one, there are a number of important steps that must be taken.

Personal Representative and Asset Collection

If the decedent owned assets in his or her sole name, a personal representative (called either an executor or administrator) should be appointed to act on behalf of the estate. If the decedent died with a Will, a petition for probate will be needed to admit the Will and appoint the executor. If the decedent had no Will, a petition to appoint an administrator will be necessary.

Estate Checking Account and Asset Collection

Once a personal representative is appointed, he or she should collect and re-title the decedent's assets. An estate checking account should be opened. Checks payable to the decedent will need to be deposited and bills and administration expenses will need to be paid. Certain assets, such as real estate, personal effects or a closely-held business, may need to be appraised by a professional appraiser. If additional cash must be raised, the personal representative should evaluate which assets to liquidate.

State and Federal Estate Tax Returns

Depending upon the size of the decedent's estate, the personal representative may need to file state and federal estate tax returns and pay estate taxes. The filing threshold is \$1,000,000 in New York, \$2,000,000 in Connecticut, and \$675,000 in New Jersey and \$5,000,000 for federal estate tax returns. If there is a surviving spouse and the estate is less than \$5,000,000, a federal estate tax return must still be filed to take advantage of the portability provisions to provide the surviving spouse with a credit equal to the deceased spouse's unused credit and the surviving spouse's \$5,000,000 credit. In general, estate tax returns are due, and the estate tax is payable, within nine months after death. Failure to timely file estate tax returns and/or timely pay estate taxes can result in significant penalties and interest. Since the Internal Revenue Service audits a high percentage of taxable estates, there should be a detailed review of the decedent's assets.

Final Distributions

When the estate is ready to be closed, the estate assets remaining after payment of debts, taxes and administration expenses must be distributed to the estate beneficiaries. Depending on the particular situation, the personal representative's obligation to account to the beneficiaries may be satisfied with a simple distribution schedule. In other situations, a full income and principal accounting in judicial format, or even a judicial accounting proceeding, may be appropriate to fully protect the personal representative from future lawsuits regarding the estate. ■

Danziger & Markhoff LLP has an in-house estate administration department. Please call Harris Markhoff, Esq., or Michael Markhoff, Esq., with any questions about estate planning or estate administration.

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