Estate Settlement in Real Life

On television and in the movies, the passing of a loved one—and all the financial implications that go along with it—are frequently tied up in a neat bow. Family members grieve, attend a funeral, and gather for the reading of the will. The attorney hands out checks to the beneficiaries and the story seems to end there.

In reality, the aftermath of death is often more complicated. Even the most straightforward estates include stacks of paperwork to complete, state and federal statutes to navigate, family histories and relationships to consider, and assets to manage. And, depending on how the estate plan was set up to move wealth and possessions from one generation to the next, the terms of a trust may be just as important—or more so—than the words in the will.

An Introduction to the Estate Settlement Process

Dealing with the death of a loved one is often quite complicated. And if you’re the executor or trustee for the estate, this can add a layer of complexity to an already challenging time. This guide provides helpful tips and important details on how to navigate the estate settlement process.

Investments and Insurance Products:

- Are NOT insured by the FDIC or any other federal government agency
- NOT a deposit of or guaranteed by a bank or any bank affiliate
- May Lose Value
Even the most straightforward estates include stacks of paperwork to complete, state and federal statutes to navigate, family histories and relationships to consider, and assets to manage.

Estate Settlement = Both Wills & Trusts

Most people think only of wills and probate when they hear the phrase “estate settlement.” However, revocable trusts have also become popular in estate planning. Revocable trusts may or may not replace the need for probate, depending on how the decedent’s assets were titled at the time of their death. The following chapters will provide guidance on how to navigate the complicated estate settlement process if you have been named as an executor (in some states referred to as a personal representative) or a trustee. You’ll also learn how to ask for help with estate issues, if you need it.

A few notes on terms: When we refer to “estate settlement” in this guide, we are referring to both options: settling an estate by probating a will or by administering a trust. Also, we will use the general term “executor” to refer to the person or organization responsible for handling the decedent’s financial matters after they pass. For a trust, the responsible individual or organization is known as the “trustee.”
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CHAPTER ONE

Acting During a Time of Grief
Being named the executor or trustee in an estate plan may seem a great honor, but it is also a great responsibility. You are tasked to act and make important decisions at a time when you may be dealing with your own grief. You will be asked to faithfully implement the decedent’s final wishes. In so doing, you will be held to a “fiduciary standard of care.” Accordingly, when managing estate assets, you must remain faithful to the decedent’s wishes as memorialized by the terms of the estate plan. You must also act in the best interests of the estate and the beneficiaries.

5 Fiduciary Duties of Executors and Trustees

1. **Put the beneficiaries’ interests first.** That means excluding all of your personal interests in the estate and carefully evaluating all transactions that might be considered conflicts of interest.

2. **Exercise reasonable care and skill** that a person with good judgment would be expected to exercise in his or her own affairs.

3. **Handle general administrative duties** of the estate or trust according to the document’s terms and in accordance with state law.

4. **Be impartial and consider the interests of both current and remainder beneficiaries** when making decisions related to the estate’s assets. Your decisions and actions, including those related to beneficiary distributions, must be in accordance with the terms of the governing documents.

5. **Inform beneficiaries about the estate or trust on a regular basis.** This may include providing statements and additional information upon request.
What About a Corporate Fiduciary?

Another option that may help limit your legal exposure: Once you know you have been named the executor or trustee in an estate plan, ask the friend or loved one who named you whether they have named a corporate fiduciary as well. A corporate fiduciary is a bank or trust company that works with the executor or trustee to manage estate- or trust-related tasks. Having an experienced financial professional on your team may help you avoid potential mistakes.

Do you need a corporate fiduciary to help you manage your complex estate? Consider these five questions:

1. How will I manage disposable assets?
2. Does the estate include a family business or a working farm?
3. Are there multiple properties involved?
4. Are you likely to face family-and planning-related challenges?
5. How will your own emotions affect estate decisions?

If you answered yes to any of these questions, it may be worthwhile exploring the possibility of bringing a corporate fiduciary on board to help you settle the estate.

First Five Things You Need To Do

It can be overwhelming when someone passes. When trying to balance your responsibilities as an executor or trustee with your emotions during this difficult time, it’s helpful to have a checklist of the immediate tasks that need to be tended to in the first few days.

1. Notify closest family and friends: Ask them to start a phone tree to help you notify others.
2. Check on a surviving spouse: Ask other family members for help or contact a professional support agency for assistance.
3. Consider dependents and pets: What immediate care or help do they need?
4. Contact the decedent’s attorney (if they have one) or an estate attorney: Begin to determine whether the estate has unique concerns with which you’ll need assistance.
5. Call the decedent’s employer: If he or she was still working, request benefits and pay information. Ask for details on employer-sponsored life insurance.
CHAPTER TWO
Understand Your Responsibilities
An important role for any executor (in the case of a will) or trustee (if there is a trust) is to marshal, value, and preserve the assets of the decedent until they are disbursed. In fulfilling this role as the representative of the estate or trust, you owe a fiduciary duty to both heirs and creditors.

Your Financial Responsibilities

- **Banking:** Establish an account for the estate or trust to hold all related cash and securities.
- **Accounting:** Maintain detailed records of all estate or trust receipts and disbursements.
- **Payments:** Settle debts, handle expenses, and verify validity of all claims filed against the estate.
- **Taxes & Disbursements:** Estimate and raise cash for payment of expenses, taxes, and legacies. (For more on taxes, please click through to Chapter 5.)
- **Maintenance:** Hold cash and securities subject to will or trust provisions.
- **Negotiations:** Manage fee agreements with attorneys, accountants, appraisers, and other professionals.

You may also need to:

- **Monitor** the ongoing quality of the decedent’s investment portfolio.
- **Coordinate** the sale of certain assets and tangible personal property.
- **Check in** with business entities that may be connected to the estate.

You may find it beneficial to engage an attorney to counsel you on some of these tasks. If the decedent’s portfolio is complicated, you also may need the help of a financial advisor, property manager, real estate broker, accountant, and several types of appraisers.
For executors or trustees, one of the most important responsibilities is to notify all relevant parties about the passing of the decedent. After the funeral home has been contacted to arrange services, here are people to contact and when, plus what you’ll need to ask of each party.

**Within three days**
- **Decedent’s attorney/estate attorney:** Discuss potential help with management of all pertinent estate issues.
- **Decedent’s doctor:** Obtain any pertinent medical records.

**Within 10 days**
- **Funeral home:** Request at least 10 copies of the death certificate.
- **Banks and financial institutions:** Determine where the decedent had holdings, accounts, or safe deposit boxes; start analyzing the postmortem options for any qualified plans, including IRAs, and updating beneficiaries.
- **Accountant, financial, or tax advisor:** Discuss personal income tax returns and schedule for estate tax filings; notify IRS of executor or trustee appointment.

**Within the first month**
- **Social Security, Veterans Affairs:** Ask about applicable pensions and survivor benefits from these or other agencies from which the decedent received benefits.
- **Life insurance companies:** Initiate claims processes.
- **Mortgage lender and estate agencies:** Obtain decedent’s debt information, titling, or property, and ensure appropriate insurance is in place.
- **Utilities and creditors:** Change name on accounts.
Digital Assets

In this day and age, you may want to discuss the decedent’s digital assets with the family. Digital assets can include network accounts; email accounts; airline, hotel, or credit card reward programs; online photography or video accounts; and websites or blogs. Would the family prefer, for example, to maintain social media accounts for a certain amount of time? The decedent’s account could be a helpful place to inform distant friends and relatives of the death and funeral arrangements.

Alternatively, would the family prefer to remove the decedent’s digital footprint as soon as possible — to preserve privacy? When dealing with digital assets, be sure you’re not violating licensing agreements and terms-of-use policies agreed to by the decedent, in addition to federal or state-specific laws.
Communicating With Beneficiaries

An executor or trustee should be sensitive to the surviving family’s situation. This may include conferring with beneficiaries as early as possible to discuss provisions of the estate and with other parties who would need to be notified of the decedent’s passing. You should also determine family members’ immediate cash needs related to funeral and other expenses, if appropriate. You don’t have to share every detail of the estate process, but you must provide beneficiaries with all legally required information. Also, be clear with beneficiaries about the expected amount and timing of distributions.

Protecting Yourself From Personal Liability

One of the fastest-growing legal practice areas is probate and trust litigation. Poor decisions made by an inexperienced executor or trustee can lead to protracted litigation, family infighting, unnecessary expenses, distributions that are made contrary to the decedent’s wishes, and—in the worst-case scenario—a family irrevocably divided.

As an executor or trustee, you could potentially face personal liability if the beneficiaries are not happy with the estate settlement. Here are three ways to help protect yourself against possible litigation:

1. Understand your fiduciary duty
2. Avoid conflicts of interest
3. Seek out professional help if necessary
CHAPTER THREE

The Role of an Executor
A family member, great friend, or business partner named you as executor (in some states referred to as a personal representative). When he or she first asked you to take on this responsibility, you willingly agreed. But now it's time to step into the job. What exactly are your responsibilities?

Transferring Probate Assets

As executor, you are responsible for marshaling and transferring assets the decedent owned in his or her own name (also known as “probate assets”) to either:

- **Beneficiaries** named in the decedent’s will.
- **The decedent’s heirs**, as determined by state law, if the decedent didn’t have a will.
- **The decedent’s creditors**.

Handling “Non-Probate Assets”

Some assets fall outside the definition of probate assets, but you may still need to consider them when settling an estate and preparing tax returns. These include:

- **Assets held in joint names**: These will normally pass directly to surviving joint owner(s).
- **Assets held in accounts with beneficiary designations**: These may include life insurance, qualified retirement accounts, transfer-on-death accounts, and pay-on-death accounts, among others.
- **Trust assets**: Assets titled to a trust at death pass according to trust document terms.

Managing Estate Property

The decedent’s personal residence, vacation home, or other properties may be included in the estate. As executor, you’re responsible for keeping them safe, winterized, and well maintained. Eventually, you’ll be in charge of distributing them to beneficiaries or selling them.

The decedent’s estate documents may indicate how they would like property handled after their death. In the meantime, you should determine whether appropriate insurance is in place, who has keys to the properties, and whether you need to change the properties’ locks.

Until the properties are passed to beneficiaries or sold, you’ll need to use the estate bank account to pay utility bills, homeowners insurance, and taxes. You will also need to keep the assets in good repair or hire someone to help you do so.
Managing Business Interests

If the decedent was actively involved in any businesses, those entities may need to be reviewed as part of the estate-settlement process. You may need the help of an attorney and tax professional. A family-owned business, partnership, or other kind of business interest can really complicate an estate.

It’s usually unwise to handle business assets on your own as the executor, especially when a business partner or co-owner may be involved.

Caring for Children

Are minors involved? If so, you’ll need to work with their named guardian on how and when to distribute estate assets. The will may include specific instructions about how you are to disburse money to a guardian for the benefit of minors. The will may even have established a trust upon death for the children’s benefit. If special-needs children are involved and a Special Needs Trust has not already been established, consult a Special Needs Trust attorney who can help you determine whether such a trust is advisable to preserve eligibility for current or future public benefits.

Other Tasks

- Identify, marshal, and preserve personal property.
- Arrange for the appraisal of probate and non-probate assets for tax returns, estate-tax apportionment, and creditor abatement.
- Review and pay creditor claims.
- Segregate estate property from other individuals’ property.
- Preserve and maintain the value of estate assets by acquiring appropriate insurance and making prudent investment decisions.

It may be helpful to work with an estate attorney throughout the estate settlement process. An attorney can help interpret certain provisions of the will, provide guidance on your fiduciary duties, draft required probate documents, prepare a property inventory, identify required tax compliance issues, and ensure proper distribution of assets.
An Executor’s Starting Checklist

- Obtain at least 10 death certificates.
- Contact attorney to discuss qualifying with the court to be appointed executor.
- Apply for a Tax Identification Number (TIN) for the estate.
- Open an account in the estate's name.
- Consider immediate sources of cash flow needed to cover living expenses for a surviving spouse or dependents, and ongoing household expenses.
- Contact the police to have them periodically check the house if it is now vacant.
- Contact a tax professional to discuss federal and state income tax returns and potential gift and estate tax filings.
- Contact other financial institutions for information on holdings, if any exist.
- Contact banks to find accounts and safe deposit boxes.
- Contact life insurance companies to initiate claims process.
- Contact Social Security and other agencies from which the decedent received benefits, such as Veterans Affairs, to stop payments and ask about applicable survivor benefits.
- Contact agency providing pension services to discuss surviving spouse benefits.
- Obtain IRA beneficiary information and discuss minimum distribution and IRA rollover options for the surviving spouse and beneficiaries with a tax professional.
- Obtain information on how real estate is titled and confirm appropriate insurance is in place.
Estate Settlement Timeline

There is no one-size-fits-all schedule for probating a will. However, after you complete initial tasks, these are generally the responsibilities you’ll need to handle before the estate is finalized.

**Months 3–6**
- Appraise and value all estate assets as of date of death (also alternative valuation dates if advantageous for estate tax returns).
- Establish and document tax basis for all assets.
- Review prior income and gift tax returns filed by the decedent.
- File inventory of assets with the court.*
- Pay validated creditor claims.
- Raise cash for payment of administrative expenses, estate taxes, and specific bequests.
- Distribute tangible personal property.
- Establish communication plan that keeps beneficiaries well informed throughout the process.

**Months 7–8**
- Amend inventory of estate assets and debts/expenses if necessary.
- Examine the availability and appropriateness of making available postmortem tax elections and disclaimers.
- Prepare/review drafts of federal and state death tax returns.
- Pay specific bequests, if applicable and prudent at this time.

**Month 9 and beyond**
- Create reserve fund for taxes and expenses.
- File decedent’s personal income tax returns and pay tax.
- File fiduciary income tax returns for estate/trust and pay tax.
- File federal and state death tax returns and pay tax.
- Obtain death tax and income tax clearances.
- Obtain final approval of court.*
- Make final distribution of remaining assets and obtain receipts, as appropriate.

*If required by the court
CHAPTER FOUR
The Role of a Trustee
A trustee is the person who administers any assets that were placed in a trust. While the fiduciary duties for managing these assets are quite similar to those of an executor settling a will, assets in a trust do not have to go through probate. Depending on your comfort level with the process and your time availability, you may wish to find an estate attorney to help guide you on these important components of administering a trust.

Managing Trust Property

A trust may include the decedent’s personal residence or multiple properties. You’ll need to check trust documents for specific directions, ensure that appropriate insurance is in place, determine who has property keys, and change the locks when appropriate.

Until you and your attorney have determined whether the property or properties will be distributed to beneficiaries or sold, you will need to maintain them just as you would your own home. This includes paying utility bills, homeowners insurance, and real estate taxes, along with general maintenance and upkeep.

Managing Business Interests

The trust’s interest in closely held businesses, partnerships, or other business interests may be subject to co-owner or partnership agreements. Work with your estate attorney and tax advisor to determine the most appropriate courses of action.

Caring for Children

If the decedent is survived by a minor, work with their named guardian to determine their needs and distribute trust assets. Trust documents will dictate how, when, and under what circumstances trust money will be released to a guardian for a minor’s care. If any of the children are living with special needs and the decedent did not establish a Special Needs Trust, consult a Special Needs Trust attorney who can help you determine whether the establishment of such a trust is advisable to preserve eligibility for current or future public benefits.

Special Needs Trust

What-if Scenario

Under the terms of the decedent’s trust, at her death, half of the trust is to be distributed outright to her daughter. Soon after the decedent’s death, the trustee learned that the daughter is living with special needs and could possibly be receiving SSI and Medicaid, which are means-tested public benefits.

Strategy

Upon learning about this potential issue, the trustee should schedule a call with the daughter or her guardian and a Special Needs Trust advisor. The trustee should then gather detailed information about the daughter’s situation and then review the terms of the trust with an attorney specializing in Special Needs Trusts. After reviewing the trust with counsel and the Special Needs Trust advisor, the trustee may choose to transfer the funds to a Special Needs Trust.
Working With a Corporate Trustee

Individuals may name a corporate as well as an individual trustee. In these cases, the corporate representative and the individual trustee will work together to meet the best interests of the beneficiaries. Make sure you clearly understand both your and the trustee’s roles and responsibilities regarding administrative tasks.

Working With an Executor

If you do not also serve as the executor of the will, the person serving in that capacity will have separate and specific duties and the two of you should collaborate closely. The most common tasks requiring close collaboration include postmortem planning for debts, expenses, taxes, and the ultimate distribution of the estate and trust. The governing documents or governing law provide direction for both. Without collaboration, additional risk and liability can be incurred at the detriment of the beneficiaries.

The Roles of an Executor and a Trustee

These two roles have subtle differences. Depending on how an estate was structured, there may be an executor and a trustee, who may or may not be the same person.

**Executor**
- Starts role based on state-specific probate requirements, normally court-appointed
- Reviews provisions of the will, locates heirs, and discusses preliminary probate steps with attorney upon decedent’s death
- Must safeguard and marshal the probate assets in the estate
- Manages process of probate court oversight, which may include court permission to sell and distribute real assets
- For court inventory or tax purposes, obtains non-probate asset information, such as assets in trust that are joint/payable on death, and assets with beneficiary designations, like life insurance
- Serves as an executor for life (a probate case may be reopened even after details have been finalized)

**Trustee**
- Starts role when appointment is accepted in writing, which may be when the original trustee passes away or resigns
- Must identify, safeguard, and marshal assets titled in the trust’s name or payable to the trust (insurance, retirement benefits, estate assets)
- Administers the trust and is responsible to beneficiaries of the trust, normally without court oversight
- Monitors assets for quality and preservation, recognizing near-term distribution requirements. For ongoing trusts, monitors and manages for the benefit of the beneficiaries’ needs
- May be required, per document terms, to keep the trust operational for the lifetime of the surviving spouse or one or more beneficiaries

**Similarities**
- Typically responsible for disbursing assets to beneficiaries
- Responsible for paying taxes
- Must remain faithful to decedent’s wishes

Percentage of affluent households that establish a personal trust: 30%
Average percentage of affluent investors’ asset mix made up of real estate and privately held business interests: 40%
Percentage of affluent investors who say they’ve acted to ensure an orderly wealth transfer: 71%

Sources: “Money in Motion,” SpectremGroup, 2016; “2015 Wells Fargo Affluent Investor Survey”
A Trustee’s Starting Checklist

- Notify trust beneficiaries and document your acceptance of your role as trustee.

- Review the individual’s financial statements and prior year’s tax returns to identify assets titled in the trust’s name.

- Establish a new bank account or have the existing bank account renamed to identify you as trustee.

- Identify a financial advisor who can conduct a portfolio review of all investment assets in the trust.

- Consider consolidating multiple trust accounts for ease of management.

- Determine an appropriate amount of easily accessible money to cover ongoing trust-related fees, taxes, and expenses.

- Create a list of key contacts at financial and other institutions. Provide each with:
  - Copies of the death certificate and your trustee acceptance form
  - The trust’s Tax Identification Number (TIN), which you can request from the Internal Revenue Service

- Arrange asset appraisals for estate and income tax purposes.

- Work with the estate attorney and/or tax advisor to file required return(s) and pay taxes due (coordinate with the executor of the estate if one is appointed).
Trust Settlement Timeline

There is no one-size-fits-all schedule for administering a trust. However, after you complete initial postmortem tasks, these are generally the responsibilities you’ll handle before the trust administration is finalized.

**Months 3–6**
- Appraise and value all trust assets as of date of death (also alternate valuation dates if advantageous for estate tax returns).
- Establish and document tax cost basis for all assets.
- Pay validated creditor claims (if not being done by an executor).
- Generate cash for payment of estate taxes and specific bequests.
- Distribute tangible personal property.
- Establish communication plan that keeps beneficiaries well informed throughout the process.

**Months 7–8**
- Finalize inventory of trust assets and debts/expenses.
- Examine the availability and appropriateness of making postmortem tax elections and disclaimers available.
- Prepare/review drafts of federal and state estate tax returns.
- Pay specific bequests, if applicable and prudent at this time.

**Month 9 and beyond**
- Create a reserve fund for taxes and expenses.
- File estate and income tax returns and pay tax (if not being done by an executor).
- File fiduciary income tax returns for trust and pay tax.
- File federal and state death tax returns and pay tax (if not being done by an executor).
- Obtain death tax and income tax clearances (if not being done by an executor).
- Make final distribution of remaining assets and obtain receipts, as appropriate.
CHAPTER FIVE

Death and Taxes
Whether an estate is subject to estate taxes or not, income tax returns will have to be filed for the decedent and the decedent’s estate and/or trust. Be careful: Completing post-death tax returns can be complicated.

Preparation & Filing Estate Taxes

The amount an estate pays in taxes can impact what’s left for beneficiaries. Approach this job carefully and get professional help when you need it.

As the executor or trustee, you need to take proper care to file the necessary tax returns and analyze and make advantageous post-death tax elections. This task is critically important. As such, it’s never wise to distribute assets to beneficiaries until all estate-related taxes have been determined.

Because taxes are so important, one of the initial tasks of the executor or trustee is to gather the necessary information and documents and coordinate preparation of the required tax returns. During this time, it’s wise to work closely with an attorney or tax professional. These professionals can develop a plan that analyzes tax-filing requirements and available tax elections to reduce the decedent’s and the estate’s overall tax bill.
Tax-Election Options

You’ll want to pay attention to choosing the most advantageous tax year, allocating expenses on various returns, choosing the timing for charging expenses, and selecting the best way to collect or distribute retirement accounts. When Wells Fargo is named as your agent, our Estate Services team can prepare a detailed tax plan that can help you make the most prudent financial choices.

One of the most important tasks in settling an estate is filing all the correct returns with federal and local governments. This process can be complicated, so it may make sense to work with an attorney or tax professional to identify all the tax documents you will need to file, particularly if you don’t have expertise in this area.
Income Tax Planning Issue

What-If Scenario
The decedent was survived by a spouse, and his trust document created a typical A/B Trust (the A Trust was the Marital Deduction Trust, and the B Trust was the Bypass Trust that allows both spouses’ tax exemptions to pass estate tax-free to their children). Given the high estate exemption tax equivalent and portability, the trustee knew that she had to consider whether the terms of the Marital and Bypass Trusts were beneficial to the surviving spouse and the couple’s heirs.

Strategy
From a tax-planning perspective, assuming the surviving spouse has a small estate, it may be prudent to have the residue of the decedent’s trust paid to the Marital Trust. In that case, the assets in the Marital Trust would be included in the surviving spouse’s estate and receive a full step-up in cost basis upon her death. This should have no negative impact from an estate tax standpoint given the value of the couple’s estates and the availability of the current exemption equivalent for each.

Other Tax Requirements

You will also need to review previously filed gift and income tax returns. You may need to file any pending or delinquent returns with the appropriate taxing authority. Additionally, you may need to be ready to participate in estate or income tax audits on behalf of the estate/trust or decedent.

Required tax filings
- Decedent’s federal and state income tax returns
- Estate/trust fiduciary income tax returns
- Federal and state death tax returns
- Form 8971: Information Regarding Beneficiaries Acquiring Property From a Decedent (if applicable)

Other possible tax exposure
- Property taxes
- Past-due income tax
- Gift taxes
- Foreign account disclosures

After Taxes Are Determined

Once you’ve set a plan for taxes, you’ll be able to plan how and over what time frame to distribute bequests and residual assets to the beneficiaries. Your estate attorney should be able to help you with next steps, which may be to determine the statutory rights of a surviving spouse and children, as well as how to approach important tasks such as:

- Distributing cash, securities, and other assets to beneficiaries in accordance with the provisions of the will or trust
- Funding continuing trusts
- Executing appropriate deeds and asset-registration documents
- Delivering specific bequests of property and cash
CHAPTER SIX
Managing Family Dynamics
Sometimes a will or trust unearths questions or disputes among family members. Your job as executor or trustee is to remain fair and impartial. It’s also helpful to keep beneficiaries well informed throughout the entire estate-settlement process—particularly if you think conflicts are brewing. An experienced attorney can help interpret unclear will or trust provisions and guide you through the maze of state and federal statutory requirements. The attorney who drafted the estate plan may have the clearest understanding of the decedent’s intentions and be in the best position to provide explanations to the family.

Family Dynamics: What Could Go Wrong?

Even with the best possible scenarios, it’s possible that disputes and conflicts may pop up with the estate settlement process. Here are some common issues you may face serving as an executor or trustee:

- Family members contest the will/trust
- Estate plan fails to address unforeseen circumstances
- Disputes about ownership of assets
- Current/former spouses contest the will/trust
- Questions around the decedent’s mental capacity

In cases like these, it may be helpful to seek an attorney for advice.
Court Accountings

Your attorney or a tax professional can help prepare any required court accountings, which are typically very detailed and offer a complete accounting of:

- Estate assets and their value
- The value of any assets sold or distributed
- Cash receipts
- Cash distributions to beneficiaries and creditors
- Professional and administrative expenses paid

Having these completed correctly may reduce the chance of family members questioning your estate work.

Statements to Beneficiaries

Even if you’re not required to do so, giving beneficiaries detailed account statements is a smart way to keep them informed and minimize challenging questions. If Wells Fargo Bank is named as your agent, our Estate Services team can provide detailed statements to beneficiaries. Detailed account statements typically include:

- Listings of assets received (securities, real property, tangible property, etc.)
- Date-of-death values and current market values of all assets
- Lists of distributed assets (including recipients’ names)
- Inventory of assets sold (including the gains or losses realized on sales)
- Cash receipts (including earned income)
- Cash distributions for expense and debt payment (including recipients’ names)
- Fees paid to the executor/trustee, attorney, tax professional, appraisers, and other professionals
When the Court Can Help

If family conflicts run deep, they can derail the estate-settlement process. When that happens, filing a court action may be the wisest choice.

A family member might contest the will or trust. The estate plan may fail to address unforeseen circumstances. Multiple people may dispute ownership of a particular asset. In some cases, beneficiaries may question the decedent’s mental capacity when he or she prepared the will or estate plan.

In circumstances such as these, it’s wise to take an attorney’s advice. You may also need to petition the court for relief.

Why Many People Avoid Probate …
Many families seek to avoid probate because it makes the estate settlement process public when they would rather keep it private. Accordingly, revocable trusts have become a very popular substitute for wills, since they allow families to distribute assets without probate proceedings.

...And Why Sometimes the Court Can Be Helpful
Even when settling a revocable trust, appearing in front of the probate court (or the court with jurisdiction) can be beneficial. Probate courts exist to ensure the proper collection and distribution of a decedent’s assets and can bring order to post-death situations that might otherwise spiral out of control. A court order can give a trustee the authority to settle disputes and begin repairing family relationships. Note that each situation is different, and, as such, the executor may want to seek appropriate counsel as needed.

When Beneficiaries Challenge Prudent Recommendations

What-If Scenario
The decedent left an estate with an underperforming business that was operating at a monthly loss. The executor decided that the most prudent course of action would be to sell the failing business and preserve the estate’s remaining assets. The children objected because they had a sentimental attachment to the business and it was the only employment they had ever had.

Strategy
To protect himself from criticism for selling the business against the wishes of the children and from continuing to hold an underperforming asset, the executor filed a petition with the court asking for guidance. After hearing testimony from all sides, the court, acting as an independent arbiter and fact finder, ordered that the business be distributed to the children and that other productive assets continue to be held by the executor. By petitioning the court, the executor achieved the desired results both of satisfying the beneficiaries’ sentimental wishes and protecting himself from future liability and second-guessing.
CHAPTER SEVEN

Common Estate Settlement Challenges
The more complex an estate, the more likely it is that the executor and/or trustee could run into unusual settlement issues. Everything from the appraisal and sale of a valuable collection to a working farm that needs a transition plan may slow down the estate-closure process. When an estate is complicated, or includes liquidity issues, unusual assets, or a dispute among beneficiaries or creditors, the time required to settle the estate can stretch several years or longer.

There is no doubt that fulfilling your duties as an executor or trustee can be time-consuming. If this is your first time settling an estate, you may quickly become overwhelmed by the required duties and associated liabilities.

For instance, you may encounter a situation where the decedent’s spouse has no cash to cover immediate expenses because all the financial accounts are frozen. Or you may learn that the decedent has an adult child who was completely financially dependent on him or her and may now be in financial distress.

Previous Experience Not Required

Thankfully, you don’t have to be an expert in probate law, fiduciary law, taxation, or asset management to be an executor or trustee. However, in many instances, you may benefit from professional advice. An attorney, for instance, can help you determine if interim distributions to beneficiaries to help alleviate financial difficulties would be advisable and legal.

Even executors with legal or financial expertise may need help managing the settlement process if the estate or trust is particularly complex or includes unique assets.

When to Call in Professionals

These unique assets bring additional complications and may require specialized knowledge:

- An operating business or professional practice
- Investment management accounts
- Commercial real estate or rental properties
- A farm, livestock, or crops
- Timber or other alternative investments
- Oil, gas, and mineral rights
- Valuable collections (cars, art, jewelry, collectible firearms, etc.)
- Multiple properties in different states or countries
Your Estate Settlement Team

As executor or trustee, you may benefit from the help of professionals who have deep experience in estate settlement issues. You may want to consider adding one or more of the following professionals to your team:

**Estate Attorney**
- Advises on overall strategy
- Interprets will/trust directives
- Drafts legal documents
- Represents you in probate court
- Serves as a buffer between family members
- Consults on the payment of debts and expenses
- Represents you in state or IRS tax audit or other estate litigation

**Financial Advisor**
- Reviews and interprets financial statements
- Organizes and maintains records by providing account statements
- Conducts portfolio review of investment assets

**Tax Professional**
- Helps gather necessary tax information
- Reviews financial statements and prior year’s tax returns
- Identifies and prepares required tax documents
- Estimates and advises on cash needed for tax payments
- Counsels on business-related tax implications
- Provides guidance in the event of state or IRS tax audit

**Appraiser**
- Prepares asset (personal, business, and real estate) appraisals for estate and income tax purposes

**Property Manager**
(if applicable)
- Ensures property is secure
- Keeps real estate assets in good repair
- Handles collection of rents and payment of expenses
- Negotiates leases and contracts

**Real Estate Broker**
(if applicable)
- Drafts real estate documentation if selling
- Identifies repair needs
- Coordinates and arranges inspections/reviews
- Recommends buyers if assets need to be sold

**Estate Advisory Specialist**
(assigned if Wells Fargo is engaged as executor, trustee, or agent for executor or trustee)
- Negotiates fee agreements with and coordinates activities of all professionals
- Reviews will and trust provisions with the family
- Assists with court administration services: Probates the will, provides notice to creditors, and prepares inventory and accountings
- Marshals and safeguards assets and arranges for asset valuations
- Establishes an account to hold cash and securities
- Manages tax submission process
- Arranges payment of administration expenses and creditors
- Resolves disputes
- Keeps beneficiaries informed via monthly account statements and coordinated communication plan

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Where Can I Get Help?

Some estates are clear and straightforward. Others include extensive investment portfolios, property, conflict with beneficiaries, and more. Executors and trustees don’t have to go it alone. Professionals can help you get the job done.

Hiring experienced professionals may provide you with a critical safeguard. As a fiduciary, you must handle complex, time-consuming tasks at a sensitive and emotional time. Errors or delays could result in needless litigation costs, taxes, expenses, and penalties.

In the previous chapters, we’ve offered you some useful tips to help you with your duties as you work through the estate settlement process, but this information is not exhaustive. If you would like to learn more, we have included a list of useful Wells Fargo & Company contact information.

### Call on Wells Fargo & Company

| For help with savings, checking, and other bank accounts ... | Call Wells Fargo at 800-869-3557 (24 hours a day, 7 days a week). Banking professionals can tell you what steps are necessary to obtain account information. |
| If you have questions about a brokerage relationship ... | A recent account statement from Wells Fargo Advisors may have the name and number of the decedent’s financial advisor, or you can call 866-281-7436. Investment professionals will make sure you have a complete inventory of investment accounts and explain your options for liquidating them or updating ownership information. |
| If you need assistance settling the estate ... | Wells Fargo Estate Services: For client relationships valued at $1 million or more, Wells Fargo can handle every aspect of the estate settlement process. Services can include estate planning document review; probate and trust administration; asset management; closely held business valuations and management; oil, gas, and mineral rights management; real estate management; and post-death tax planning and preparation. Contact the Estate Settlement Services Liaison Team at 855-355-8088 or email estateservices@wellsfargo.com. |
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This report is not an offer to buy or sell, or a solicitation of an offer to buy or sell the strategies mentioned. The strategies discussed or recommended in the presentation may be unsuitable for some clients depending on their specific objectives and financial position. This information is provided for education and illustration purposes only.

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This information is designed to provide general information regarding the estate settlement process, but it is not exhaustive. We encourage you to work closely with your tax advisor and estate planning attorney during this difficult time.

Estate plans need to be prepared and reviewed by an attorney who specializes in estate planning and is licensed to practice estate law in your state.