



## **"Administering An Estate in Pennsylvania: The Basics"**

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When someone passes away, everything that person owned becomes his or her estate. In general terms, the process of administering a decedent's estate involves collecting all assets, locating all creditors, paying all debts, paying all applicable taxes, and then distributing the remaining assets to the persons entitled to inherit under the decedent's Will, or where there is no Will, under the laws of intestacy. Assets that have a named beneficiary, such as life insurance, retirement plans or certain accounts, will pass to the named beneficiary, and jointly owned assets may pass to the joint owner, although the exact wording must be checked. This Article will go through a brief overview of the steps involved in administering an estate.

Initially, one must determine whether the decedent died with a Will (testate) or without a Will (intestate). Also, a thorough search for important documents must be conducted, including the original Will, Trusts, evidence of a safety deposit box, and financial records.

After the Will is located (or it is determined that the decedent had no will), the next step in estate administration is to probate the estate and to have a personal representative appointed. This is done by going to the Register of Wills in the County in which the decedent resided. The Register of Wills is part of the Court of Common Pleas, which has jurisdiction over the estate administration. The Executor named in the Will should be appointed as the personal representative (if the decedent died intestate, an Administrator will be appointed).

Letters Testamentary will be granted (or Letters of Administration in the case of intestacy), which Letters give the personal representative the authority to act on behalf of the estate. These Letters are typically advertised promptly, in order to discover and give notice to any estate creditors. The Register of Wills also issues Short Certificates to the personal representative, which are used to conduct estate business, such as closing bank accounts, obtaining date of death values and transferring property.

The personal representative's job is to carry out the provisions in the Will. He is the overseer of all estate property and has a legal duty to the beneficiaries of the estate to protect and maintain all estate assets. He must open an estate account using a Taxpayer Identification Number to hold liquid property, request the Post Office to forward the decedent's mail, and conduct an inventory of any safety deposit box. The personal representative is responsible to ensure that appropriate insurance is maintained on estate assets and

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arrangements are made to care for any real property. Stocks and marketable securities must be identified and secured, and they may be sold with the proceeds deposited into the estate account.

There are four taxing systems to consider and pay, if necessary: The Pennsylvania Inheritance Tax; the Federal Estate Tax; the Decedent's final lifetime income tax returns (Pennsylvania and Federal); and the income tax returns for the estate (Pennsylvania and Federal).

The Pennsylvania Inheritance Tax Return is due within nine (9) months of the date of death, although a five percent (5%) discount may be obtained if a prepayment is made within ninety (90) days of the date of death. The Pennsylvania Inheritance Tax Rate depends on the relationship between the decedent and the beneficiary to whom the assets are passing. Under present law, there is no Pennsylvania Inheritance Tax on assets that pass to the decedent's spouse. Assets which pass to the decedent's children are taxed at the rate of 4.5%. Assets that pass to the decedent's siblings are taxed at the rate of 12%. Assets passing to other persons (e.g., friends, cousins, nieces or nephews, etc.) are taxed at the rate of 15%. The Federal Estate Tax Return, if any is required, is also due within nine (9) months of the date of death. The Federal Estate Tax generally affects only large estates with assets in the millions of dollars, and the tax rates are quite high, with an upper rate of 45%.

Estates may be concluded in one of two ways. First, a formal accounting may be filed with the Court for approval of the estate administration and distribution. Second, if all beneficiaries are in agreement, they may each sign a "Receipt and Release" that our office would prepare and which would approve the administration and distribution of the estate. The formal accounting can be a rigorous, time-intensive, and costly process, and generally is used only when serious disputes have arisen amongst the beneficiaries.

The above overview highlights the issues and tasks of the personal representative during estate administration. It is important to remember that the personal representative acts in a fiduciary capacity caring for matters that financially impact others, and those responsibilities must be taken seriously.

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