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PERSONAL REPRESENTATIVE GUIDE

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Losing a loved one is a significant and emotional experience, and it's important to take the necessary time to grieve and honor their life. While certain responsibilities must be addressed, this guide is designed to provide a thoughtful starting point for handling their affairs.

It's important to remember that each situation is unique, and this guide may not cover every aspect, with timelines potentially differing based on your circumstances.

A key recommendation is to maintain thorough records of all decisions and actions taken. While it may be tempting to make swift choices, such as selling property or addressing financial matters, allowing yourself time to process and reflect can lead to better outcomes. Documenting events carefully will help ensure smooth management of responsibilities, and recording personal memories while they are fresh can offer both practical and sentimental value as time passes.

TABLE OF CONTENTS

FIDUCIARY DUTY

LIABILITY

CHECKLIST

SUMMARY



FIDUCIARY DUTIES

A Personal Representative has a legal obligation to act in the best interest of the estate.

All steps in the administration of the estate are directed toward three goals:

1. Collection and management of assets;
2. Payment of debts, taxes and expenses; and
3. Distribution of the balance of the estate assets to the named beneficiaries.

COLLECTION AND MANAGEMENT OF ASSETS

Collection

The first duty of a representative is to protect and preserve the assets. Utah law gives the personal representative the power to take possession and control of the decedent's property. The personal representative is also responsible for paying expenses and taking all steps for the management, protection, and preservation of the assets.

You may need to collect the various assets. Valuables, such as securities, jewelry, and other personal items of substantial value should be kept in a safe place such as a safe deposit box, to which only the representative has access. The decedent may have a personal property list that controls how personal items should be distributed.

Bank, savings, and loan accounts as well as security brokerage accounts may need to be closed or have their ownership changed to reflect the representative's name. Some banks convert the decedent's bank account into an estate account which gives the personal representative access. In order to make the change of accounts into the representative's name, the representative will need to use the Order and Letters signed by the court.

The representative should thereafter maintain an accurate record of all deposits and withdrawals from these accounts, reflecting the amount and sources of each deposit and the amount and purpose withdraws.

****However, it is very important to not begin paying large debts yet.****

Utah law requires a personal representative to prepare an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item. The personal representative shall send a copy of the inventory to interested persons.



FIDUCIARY DUTIES

Management

Management of assets entails several duties. A representative should be sure to maintain adequate insurance on valuable assets by making sure that existing coverages will continue after the decedent's death and making a note of expiration dates on applicable policies while also checking that coverage reflects current market values.

Investment decisions will need to be made. Cash income not needed for other purposes of administration, such as immediate payment of expenses, should be placed in interest-bearing accounts. In due course, it may be necessary to sell some of the estate's property, either because an item should be disposed of to avoid needless expense or loss through depreciation in value, or to raise cash for payment of expenses and taxes.

Holdings in a closely held corporation, partnership or sole proprietorship may pose special concerns or problems. The representative may be required to continue or windup the business in order to avoid a serious risk of loss to the estate.

PAYMENTS OF TAXES, DEBTS, AND EXPENSES

Only the estate is liable for any debts. Heirs should not use personal funds to pay creditors or sign any new contracts for the assumption of loans or otherwise.

Taxes

There are three types of taxes that may apply to any estate:

1. Estate
2. Capital Gains
3. Income

Estate Tax or death tax is a tax levied on the net value of the estate of a deceased person before distribution to heirs. The exemption amount is approximately \$13.99 million in 2025 as adjusted for inflation. You are most likely not going to pay any estate tax.

Capital gains tax is a tax levied on profit from the sale of property or an investment. It is calculated based on the difference between a property's "basis" in the hands of the seller and the sales price. This may be owed on real property or stock accounts. However, most estates do not owe capital gains because there is a "step-up in basis" that occurs at death. The "basis" becomes the fair market value as of the date of death.



FIDUCIARY DUTIES

Income tax is a tax levied on income. A personal representative will need to file taxes for the year in which the decedent was alive. The estate, or the amount of money your loved one died with, is responsible for paying income tax.

Any heir who inherits any 401(K) or IRA retirement plan will pay income tax on the distributions. Anyone other than a spouse must distribute the full amount within 10 years from the date of death.

Please consult a tax professional on all tax matters.

Debts and Expenses

The decedent will have debts and expenses. As part of the management of assets, your personal representative will be responsible for closing accounts and stopping payments. Please refer to the checklist at the end of this document for common accounts to close.

You will be responsible for making payments to maintain certain pieces of property and final payments on liabilities. Remember to keep track of all expenses for the inventory.

You should avoid paying debts until you have an accurate idea of the amount of assets in the estate and the value. Utah law allows families a certain amount of money that is not subject to creditors. An insolvent estate that cannot pay all debts can legally discharge debts through probate.

You should publish notice to creditors which alerts potential creditors of your appointment and allows creditors to make a claim for 90 days. After the expiration of that date, all claims are barred. Otherwise, creditors have 3 years or longer to file a claim for payment.

DISTRIBUTION TO THE BENEFICIARIES

After a proper inventory is made and all creditors and debts have been paid or discharged, you may distribute the estate. You may also make a interim distribution. You must hold back enough money to pay for any additional expenses that may be due. Once all expenses have been paid, a final distribution may be made.

The representative may be allowed to distribute property or sell properties, and distribute cash. You must follow the terms of the will, or if there is no will, then you must follow Utah law. On final distribution of the remaining assets, it is advisable for the representative to obtain an written and signed acknowledgement from each beneficiary.



LIABILITY

As personal representative you may be liable for improper actions.

If you do something improper, you are personally liable for damage or loss resulting from a breach of fiduciary duty.

You may believe that your family will not have issues regarding the administration of the estate. You may be correct. But many personal representatives find themselves in situations where they are being challenged or questioned by heirs. It is imperative to have adequate documentation to resolve disputes.

Most disputes happen when heirs are not informed as to the progress of the administration. Even if relationships are good with family members, distrust and poor communication can create havoc on families.

Common mistakes includes the following:

- Not securing personal items and allowing anyone to have access to the property.
- Not documenting what items were in the home at death.
- Not documenting what personal items were taken and by whom.
- Giving personal items to family members who are not heirs such as a grandchild.
- Using estate funds to pay for personal costs during administration.
- You may reimburse yourself for costs. Make sure to save all receipts and keep track of the purpose of the expense.
- Distributing too much money to an heir.



CHECKLIST

This checklist is designed to guide you through the immediate steps that need to be taken following the loss of a loved one. During this critical time, important tasks such as notifying relevant authorities, securing legal documents, and managing initial financial matters require attention. This checklist provides a clear, organized approach to handling these responsibilities, helping to ensure nothing is overlooked. Not all the items listed may be applicable to your situation.

- Notify family members and friends of the death.
- Plan a funeral service and burial.
- Obtain certified copies of the death certificate.
- Notify Social Security which is typically done by the funeral home.
- Consult with a qualified attorney about probate or estate administration.
- Meet with a qualified accountant to discuss estate and/or income taxes.
- Contact the deceased's financial advisor to gather financial information and determine next steps in dealing with investment accounts.
- Begin to gather the deceased's financial records.
- Contact financial institutions about bank accounts, safe deposit boxes, etc.
- Get a copy of the deceased's credit reports so you are aware of all debts in their name.
- Ask to have a notification in the credit reports that says "Deceased — do not issue credit."
- Cancel any credit cards in the deceased's name.
- File claims with life insurance companies and request benefits.
- Check for any life insurance benefits available through existing credit card or loan accounts.
- If the death was accidental, verify whether benefits are available on existing accidental death insurance policies.
- Notify health insurance, including Medicare or Medicaid. You may need to cancel the policy and make final payments.
- Cancel deceased's prescriptions.
- Notify car insurance and remove the deceased's name from your policy.
- Notify the mortgage company.
- If the deceased's home is unoccupied, cancel unnecessary home services, such as newspaper delivery, cable service, etc.
- Notify the Veteran's Administration and inquire about death benefits for veterans and their family.
- Notify the deceased's employer and inquire about any 401(k), pension, or company benefits.
- Cancel cell phone number and if applicable convert the account to your name only.
- Cancel the deceased's driver's license.
- Cancel subscription services such as dollar shave club etc.
- If the deceased was your spouse or partner take time to re-visit and update your estate plan. Including updating your beneficiary designations and power of attorney.
- Change any emergency contact information that had the deceased's name or number listed as someone else's primary point of contact.



SUMMARY

The estate administration process involves several key phases that guide the orderly handling of a loved one's affairs after their passing.

It begins with notifying loved ones and relevant third parties, followed by making funeral arrangements. Once these immediate tasks are completed, the legal process of probate is opened to formally validate the will and appoint a personal representative. After this, the focus shifts to gathering assets, creating an inventory, and ensuring all property is accounted for.

Finally, the estate's assets are distributed to the rightful beneficiaries. Each phase is designed to ensure the process is handled with care, precision, and respect for the wishes of the deceased.

WHAT SHOULD YOU DO:

- 1 NOTIFY LOVED ONES AND THIRD PARTIES
- 2 FUNERAL
- 3 OPEN PROBATE
- 4 GATHER ASSETS AND CREATE AN INVENTORY
- 5 DISTRIBUTE ASSETS





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CONTACT Us:
candace@cornerstonelawutah.com
(801) 849-3171

CORNERSTONELAWUTAH.COM