

# After a Death: *What Steps are Needed?*



Aaron J. Lyttle  Cole Ehmke  Mary Martin  Bill Taylor

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## ***Authors:***

Aaron J. Lyttle, *attorney with Long, Reimer, Winegar, Beppler, LLP Cheyenne, Wyoming*

*University of Wyoming Extension Financial Literacy Issue Team:*

Cole Ehmke

Mary Martin

Bill Taylor



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**A**fter a person dies, family members, friends, most likely an attorney, and others must take several steps to close the affairs of that person (known as a “decedent”). Beginning with the funeral and ending with the final distribution of property to the decedent’s heirs, someone, or a group of people, must make a series of decisions. The central person responsible for administering the decedent’s affairs is often named in the terms of the decedent’s will or appointed by a court to become the decedent’s official personal representative (also known as an executor or administrator). If the decedent held property in trust, a successor trustee will be responsible for administering the trust estate outside of the probate process. This person must embark on a range of responsibilities. Many of these responsibilities depend on navigating a complex web of state and federal laws, possibly requiring assistance of a qualified attorney. This bulletin describes some of the major tasks often undertaken by a personal representative under a will or a successor trustee of a revocable living trust.

## Notifying the Authorities

After a family member or friend dies, the proper authorities should be immediately notified. If the death occurs in a hospital, nursing home, or other institution, the staff will typically notify authorities. If the decedent was in the care of a hospice program, a member of the program will often instruct family members regarding appropriate procedures. Otherwise, emergency personnel should be contacted.

## Initial Information-Gathering

The weeks, days, and even hours after a death are important times to collect information relevant for financial and personal affairs. Review the decedent’s papers to determine the identity of the estate planning and tax advisers. This will include the attorney who drafted the will or trust, the accountant who has been completing tax returns, the life insurance agent for any life insurance coverage, and any stock broker or other financial planner who may have been familiar with, and possibly even has custody of, assets of the decedent. The employer/sponsor, trustee, or other custodian for any retirement plan benefits [such as an individual retirement account (IRA) or 401(k) plan] should be determined. Each of these should be notified of the death and dealt with as further described

below. The local U.S. Post Office should be notified to forward the decedent’s mail to the personal representative or the address used for estate-administration purposes.

An initial list of information concerning assets should be compiled, including identifying account numbers, certificate numbers, policy numbers, exact form of ownership (i.e., sole name, joint names with or without right of survivorship, Payable-on-Death, trust, etc.), and approximate values, if known. A list of unpaid bills should be assembled. Look for a list of user identification and passwords for all types of online financial, shopping, social media, and other accounts. Finally, the location of estate planning documents, including wills, trusts, and lists of tangible personal property, should be determined in preparation for the ultimate distribution of the decedent’s property to his or her heirs.

If the funeral expenses have not been prepaid, funds may be needed immediately to pay for funeral and related expenses. Depending on the type of arrangements, this may total many thousands of dollars. See below for details on availability of funds and payment of bills.

### *Create An ‘Important Papers’ File*

When a family member becomes seriously ill or dies, others must step in and manage affairs and make decisions. Unfortunately, much of the information needed may only have been known by the family member or may be hard to find.

An “important papers” file helps by collecting important information and instructions into a central place. It contains legal documents (or copies) of documents like wills, trusts, life insurance policies, living wills, and powers of attorney. It also contains information needed in the management of affairs such as the name and contact information of family members and advisers (lawyers, accountants, bankers, doctors, and so on), a list of assets (bank accounts, investment accounts, retirement accounts, property), and preferences for funeral arrangements or the distribution of personal property. It may also contain information that would help survivors better understand the family member’s background and life, such as childhood memories, values, and lessons learned in life. Numerous workbooks are available to help collect all of this information.

In short, an important papers file will make decision making and information gathering easier, particularly at emotional and hectic times.

## Funeral and Burial

### *Paying for the Funeral*

The estate (e.g., the property he or she owned at death) will likely need to pay for the decedent's funeral service expenses, including services provided by a funeral director or embalmer, as well as burial or cremation expenses.<sup>1</sup> An individual may have entered into a prearranged funeral contract (also known as a pre-need arrangement) or have funeral service benefits stemming from a life insurance contract. Often, an insurance company will reimburse family members for funeral expenses after it has received the decedent's death certificate. The U.S. Department of Veterans Affairs may provide financial assistance if the decedent was a veteran of the U.S. military (National Cemetery Administration at <http://www.cem.va.gov/>). It may be helpful to identify joint owners of the decedent's bank accounts to authorize payments.

### *Funeral and Burial Plans*

In many cases, the personal representative (the person appointed by a court to administer the decedent's estate) is a close family member or friend. Although planning a funeral in many cases may not be the responsibility of a personal representative (in some cases the personal representative may not be identified until well after the funeral), the personal representative is often closely involved because of his or her involvement with the decedent and the estate's assets. At the very least, a known personal representative will have authority to pay for funeral expenses from the decedent's estate.

To begin, locate funeral, memorial, burial, or cremation instructions. In some circumstances burial and cremation instructions may be binding under Wyoming law.<sup>2</sup> Often, these may be stored in the same place as the decedent's estate planning documents, which can create problems if the estate planning documents are not located until after the funeral and burial or cremation have already occurred. If no instructions can be found, check with family members, friends, funeral directors, and church officials about any wishes the decedent might have shared. If such information can't be located, then the decedent's religious or fraternal groups should be consulted to determine an appropriate service.

The funeral director (also known as a mortician or undertaker) will typically guide the family through steps from the death to the burial. A funeral director is a person or entity called to take charge of a body, possibly determine the cause of death, prepare the body for burial or cremation, and direct or supervise the funeral. The decedent's family will usually have a range of options when selecting a funeral director, depending on the family's location in Wyoming. The funeral director may have been previously chosen or indicated by family or the decedent, and the funeral may have even been prepaid by the decedent. If a funeral director has not yet been contracted, consider comparing prices and services before choosing one. If the funeral has not been prepaid, the funeral director may want someone to enter into a contract obligating that person to pay for the decedent's funeral expenses. Unless that person wants to be personally liable for these bills, survivors should determine the availability of reimbursement from the estate, trust, or an insurance policy. The funeral director can often provide assistance regarding various other decisions, including those involving the handling of the remains and the development and writing of an obituary.

### *Death Certificates*

The funeral director should assist in ordering death certificates. It is likely that most institutions with which the decedent had accounts will want to see the decedent's death certificate. Many will require a certified copy issued by the Wyoming Department of Health's Vital Statistics Services. The state charges a fee for each certified copy of the death certificate. In estimating the number needed, consider the number of life insurance policies (one death certificate needed for each), the number of counties in which real property is located (real property consists of land, buildings, and other improvements attached to the land), the number of states outside of Wyoming in which real property is located (one for each property), the number of pension accounts, and the number of financial institutions where accounts are held. If there are minor children, a death certificate will be needed to enroll in Social Security survivor benefits. Order another for each of the individuals who may want one for historical or genealogical purposes. Two additional certificates should be ordered for unknown contingencies. Death certificates can take a few days to several weeks to be processed. Because the number

of certificates needed can be significant, and fees for reordering them can be considerable, it will likely be less expensive and easier to order a sufficient number the first time. More information, including a form for obtaining certified copies of death certificates, can be found on the Wyoming Department of Health's website at [http://www.health.wyo.gov/rfhd/vital\\_records/index.html](http://www.health.wyo.gov/rfhd/vital_records/index.html).

## **Bank Accounts**

After appointment by the probate court, the personal representative must take possession of the decedent's property and collect outstanding debts.<sup>3</sup> This usually requires the personal representative to take charge of existing checking and savings accounts and to maintain a new account to hold the estate's cash during administration.

It is often necessary to open a new checking account in the name of the estate. This ensures that the estate's property is not improperly commingled with assets owned by the personal representative. However, banks are unable to open an account for the estate or trust until a tax identification number (TIN) [also known as an employer identification number (EIN)] has been issued to the estate. An attorney or accountant can help the personal representative obtain a TIN from the Internal Revenue Service (IRS). Some banks will also do it as a matter of customer service. Many personal representatives find it convenient to apply for a new TIN online ([www.taxid-gov.us/](http://www.taxid-gov.us/)). Along with the TIN, the bank will require a copy of the death certificate (often certified) and "Letters Testamentary," which are documents issued by the court identifying the personal representative and giving the representative the power to act on behalf of the estate. Funds held in the new account can then be used to pay the estate's expenses and bills.

If a surviving person (often a spouse) is a joint owner of the account with survivorship rights, then the survivor may continue to use the account (including paying bills) without any limits. However, if the account was owned by a parent with a child having signing privileges, but not with rights of survivorship, the decedent's account must be closed because the owner of the funds is no longer alive and the child will have to open an estate account to transact the business of the estate. The bank will typically write a check for the balance of the account, which can then

be deposited into the designee's own account, or an estate account, to deal with estate expenses.

In the situation of a trust, the trustee produces documentation that proves he or she has been named as the person who is administering the trust. This person is known as the "successor trustee."

A personal representative, joint owner, or successor trustee should take care to do the following:

- Note all checks written before death but clearing after death.
- Use deposit slips to clearly identify the source of all deposits made after death. This information will assist in identifying deposits as income or principal for estate accounting purposes.

An estate's assets consist of two parts: income and principal. Generally, principal is the property set aside for ultimate distribution to the heirs or distributees (i.e., a bank account in the decedent's name) while income is property derived from the use of principal (i.e., interest). These are simply rules of thumb: there may be additional complexities in characterizing an estate's assets as income or principal, which could require assistance from an attorney.

If money needs to be added by the personal representative to the account to pay bills, this should be noted as a "loan" on the deposit slip, and the loan can then be repaid without interest as soon as is feasible. All estate bills must be paid through this one checking account, not paid separately by the personal representative out of a personal account or paid out of some other account belonging to the decedent. All deposits of post-death receipts should occur in this account as well. This will allow the bank statements for this one account to form the primary basis for future estate accountings.

## **Probate Administration**

Probate and settlement are the court-supervised processes for distributing assets of the estate to proper recipients after a person's death. These processes include:

1. Proving the will to admit it to probate;
2. Appointing the personal representative;
3. Determining assets of the estate;
4. Paying all claims against the estate, including taxes;

### **What is Probate?**

Probate is the legal process of supervised administration of the estate of a deceased person. A probate court:

1. Determines the validity of a deceased person's will
2. Appoints a person to act as personal representative of the deceased person's estate
3. Adjudicates claims against the deceased person's estate
4. Authorizes distribution of the deceased person's property as provided by the terms of a valid will and Wyoming law.<sup>21</sup>

District Courts handle Probate in Wyoming

5. Administering estate property (such as overseeing the sale of estate assets);
6. Distributing the remainder of the property according to the terms of the decedent's will (if it exists and is valid) or the default provisions of Wyoming law.

If the real and personal property owned by the decedent's estate have a value of \$200,000 or less, a person claiming part of the estate property may file an affidavit for summary distribution without probate in the district court of the county where the property is located.<sup>4</sup>

If the decedent's estate owns Wyoming property worth more than \$200,000 in his or her sole name [i.e., property that was not jointly owned, held in an account with a Payable-on-Death (POD) or Transfer-on-Death (TOD) designation, held in trust, or subject to a beneficiary designation, such as a 401(k) or a life insurance contract], that property must generally be distributed through the probate process, with mandatory court supervision. This process entails proving a will's validity, having the personal representative receive authority to act by the court, providing notice to creditors, hearings, and reports to the court before the property can finally be distributed to the decedent's heirs.

The probate process includes a number of deadlines and other requirements that may dilute the value of the estate or "trip up" unprepared personal representatives. It is, therefore, a good idea to hire an attorney who is familiar with the probate process if you have been appointed personal representative by the terms of someone's will or order of the court. Choose an attorney licensed to practice in the state in which the probate will be handled. It is always wise to check the credentials, references, and reputation of any attorneys before hiring one, especially if the estate is complicated or holds significant assets. In Wyoming,

you can find out if any attorneys have been disciplined for whatever reason by going to the Wyoming State Bar webpage at [www.wyomingbar.org/](http://www.wyomingbar.org/). Click on the "News & Publications" link on the left side of the main page, and then go to "Disciplinary Actions."

### **Bill Paying**

Any bills that are particularly pressing should be paid. If the personal representative needs to lend money to the estate to do so, this can and should be done if the representative is confident that there will eventually be funds available from the estate to repay the loan. The personal representative should make a loan to the estate's bank account as noted above, rather than a direct payment of the bill out of the personal representative's personal account.

### **Administering Estate Property**

Generally, legal title to the decedent's estate is held by the personal representative until the estate is closed and final distributions are made. Before that time, creditors' claims, tax bills, funeral expenses, final expenses, and administrative expenses must be paid according to the priority provided by Wyoming law.<sup>5</sup> The Probate Code provides a number of rules regarding management of the estate's property during probate.<sup>6</sup> In some situations, the decedent's surviving spouse and minor children may be entitled to property allowances during estate administration.<sup>7</sup>

### **Claims Against the Estate**

Probate provides an opportunity for all people and companies to whom the decedent owed debts at the time of death to file and settle those claims against the decedent's estate in court. The personal representative must publish a statutory notice in a newspaper of general circulation in the county where the probate has been opened. In Wyoming, the notice must appear once a week for three consecutive weeks after the will has been admitted to probate. The personal representative must also provide certain notices to the decedent's surviving spouse, heirs, beneficiaries named in the decedent's will, reasonably ascertainable creditors, and (if the decedent received Medicaid) the Wyoming Department of Health. Creditors generally must file claims within certain time limits after notice has been mailed or first published. The personal representative is then required to accept or reject

each claim and rank the accepted claims according to Wyoming law.<sup>8</sup> A creditor has 30 days to file a suit against the personal representative to assert a rejected claim.<sup>9</sup> If the assets of the estate are insufficient to pay the estate's creditor claims, the creditors may recover from the assets of a trust created by the decedent that was revocable when he or she died.<sup>10</sup>

Wyoming law provides a priority list for the payment of claims against the estate:

- a. Court and administration costs,
- b. Reasonable funeral and burial expenses,
- c. Property allowances for a surviving spouse and minor children,
- d. Debts and taxes to the U.S. government,
- e. Final medical expenses,
- f. Certain state taxes,
- g. Debts owed to employees who worked within 90 days preceding the decedent's death,
- h. Repayment of public assistance, and
- i. All other claims allowed.

Certain types of property, such as a surviving spouse's homestead exemption or property that was transferred by a completed, non-fraudulent gift during life, may be exempt from creditor claims.

As people live longer, medical and living expenses tend to take up a greater portion of a decedent's final debts and expenses. As outlined above, final medical expenses take priority over some types of creditor claims (i.e., administration and expenses and U.S. taxes), but not others. Often, the estates of older individuals are subject to claims for repayment of public assistance received in the form of Medicaid benefits during life.<sup>11</sup> These claims by the Wyoming Department of Health take priority over general creditor claims but not other specialized claims, such as administration expenses, state taxes, etc. These claims also do not take priority over estate property that is necessary for the support, maintenance, or education of the decedent's surviving spouse, minor children, or other dependents.

Another common source of debt of the decedent's estate comes from loans secured by mortgages on the decedent's real property. The death of the borrower often constitutes a default event under the terms of a mortgage, which may allow the lender to declare

the unpaid debt immediately due. When the creditor files a claim against the estate, it may provide a general description of the mortgage in its claim.<sup>12</sup> The personal representative may request permission from the court to sell the property if doing so benefits the estate.<sup>13</sup> The lender may purchase the property at sale and apply the purchase price to the amount of the outstanding debt.<sup>14</sup> Sometimes, the sale proceeds may be insufficient to pay off the relevant debt because the property is not worth the amount of debt. This is called "negative equity" or an "upside-down" mortgage and has become a more prominent problem following the 2007 collapse of the U.S. housing market. If the personal representative sells the mortgaged property, the probate court, with the lender's consent, may order that the sale be subject to the mortgage, releasing the estate from liability for a deficiency.

### ***Final Distribution***

After debts, claims, and tax liabilities are settled, the personal representative will file a final report and accounting with the probate court.<sup>15</sup> The decedent's remaining property will then be distributed according to his or her wishes (if a valid will exists) or per state law. The court will issue a final decree of distribution, discharge the personal representative, and close the estate.<sup>16</sup> The estate can later be reopened to provide for the distribution of property discovered after the estate has closed or to correct erroneous property descriptions.<sup>17</sup>

### **Life Insurance Collection**

All life insurance applications will require a death certificate (possibly certified) and a copy of the original policy. The life insurance agent, if known, should be contacted to obtain a death benefit claim form. When a claim for life insurance death benefits is made, a request for Form 712 should be made to the insurance company if it is expected that the estate must file IRS Form 706 federal estate tax return (i.e., if the value of the decedent's assets exceed \$5.25 million [as of 2013, although this amount is indexed for inflation and there may be other reasons for filing an estate tax return, such as to take advantage of the deceased spouse's unused exemption for the surviving spouse's benefit]).

## Social Security Notification

The U.S. Social Security Administration should be notified as soon as possible when a person dies. In most cases, the funeral director will report the person's death to the administration. The funeral director will need the decedent's Social Security number to make the report. Deaths can be reported to the Social Security Administration by calling its toll-free number 800-772-1213. It does not currently accept death reports by email or through the internet.

Some of the decedent's family members may be able to receive Social Security benefits if the deceased person worked long enough under Social Security to qualify for benefits. Contact a Social Security office as soon as possible to ensure the family receives all of the benefits to which it may be entitled. The Social Security Administration website is <http://www.ssa.gov/>

## Tax Issues

The Wyoming Probate Code does not allow entry of a final decree of distribution until the probate court is satisfied that all federal, state, county, and municipal taxes levied on the estate's property or due because of the decedent's death have been fully paid.<sup>18</sup> For some estates, this might include estate taxes owed to the U.S. government. For others, it might include outstanding property taxes.

A TIN (tax identification number) should be applied for early-on for a revocable trust (which became irrevocable at death) or for the estate, if there is going to be a probate. This can be done by either the attorney or the accountant. A determination needs to be made regarding whether the prior year's income tax return has been filed if death occurs between January and April 15. Income earned between January 1 and the date of death needs to be determined and will be reported on the decedent's final Form 1040, which will be due the following April 15. A determination also needs to be made as to whether any gifts have been made for which a Form 709—Gift (and Generation-Skipping Transfer) Tax Return—is required, either for the prior year or for the year of death. Care should be taken to keep separate all post-death income and expenses for proper reporting by the estate or trust.

A copy of IRS Publication 559—Survivors, Executors, and Administrators—should be consulted for additional information on tax reporting: <http://www.irs.gov/uac/Publication-559,-Survivors,-Executors,-and-Administrators>. If the decedent had assets (combined with lifetime gifts) having a value exceeding \$5.25 million (the tax-free amount for 2013, indexed for inflation), an estate tax return Form 706 will be due within nine months after death (extensions are available if needed). Assets to be considered in determining whether the threshold amount is owned by the decedent include life insurance death benefits (if the decedent had the ability to change the beneficiary), one-half of assets owned jointly by decedent and his or her spouse, all assets owned jointly with another person to the extent the original source of the asset was the decedent, all assets owned in a revocable trust or in the decedent's sole name, and all assets held in an IRA or other type of retirement plan. Estate and gift taxation is a complicated area of the law. A personal representative should consult a qualified estate planning or tax attorney if estate taxation is a reasonable possibility.

## Special Types of Property

### *Vehicles with Certificates of Title*

In Wyoming, the offices of county clerks issue certificates of title to establish legal ownership of vehicles. This includes motor vehicles, trailers, snowmobiles, watercraft, and mobile homes. Transferring title to these types of vehicles requires obtaining a new certificate of title from the county clerk's office.

Similar to bank accounts with Transfer-on-Death designations, if the vehicle is jointly titled—e.g., the certificate of title clearly states that two or more persons own the property as joint tenants with right of survivorship (often abbreviated JTWRROS)—the surviving joint owners (called “joint tenants”) succeed to the deceased owner's entire interest in the property. The survivors can transfer title to the vehicle by filing an application for a new certificate along with a certified copy of the deceased owner's death certificate.<sup>19</sup> But if the vehicle is titled in the decedent's sole name, then it may be necessary to transfer the title through the probate process.



Often, the vehicle must be transferred to an heir of the decedent or the successor trustee of a trust. In these cases, the county clerk will likely require more information to transfer title to the recipient's name. Possible documents required by the clerk may include certified copies of letters testamentary and the order of distribution (in the case of a probated vehicle), a certified copy of the death certificate, the original title, or the affidavit of collection and distribution (for summary proceedings). You or your attorney may want to contact the relevant county clerk's office to determine what documents will be necessary to effectively transfer title.

## **Personal Property**

Personal property represents the most unregulated matter involving the settlement of a decedent's final affairs. This category includes everything the decedent owned at death other than cash and titled property (e.g., property with a formal document stating ownership, such as for a vehicle, house, and/or land). Tangible personal property includes those items of tangible property that have a physical existence, such as a decedent's furniture, silverware, dishes, a signed Marlon Brando poster, jewelry, firearms, etc. Sometimes, these items disappear after a visit by the first one or two family members, which can create very hard feelings for other family members.

The first step is to check the decedent's will, if one is available, to determine if it provides for the distribution of personal property to specific recipients. Some items may be listed within the text of the will, but it is also possible for a decedent to create a signed list providing for the distribution of specific items of personal property (which will be mentioned in the will).

Care should be taken to have a second person (or more) along when safe deposit boxes, jewelry boxes, and other private areas are viewed after a death, so that there will be at least two people who can vouch for what was, or was not, there at the time.

Most personal items, like family photographs, can be difficult to distribute since more than one person may be interested in an item. Because it is impossible to guess what another person may find valuable and there may be many opportunities for frustration, proceed cautiously. Begin with making an inventory if there is any risk that more than one person may want

the same thing—a listing of each item in each room would be excellent, accompanied by photos or video.

Even if the decedent planned carefully, there may be some belongings that more than one heir will desire. Consider developing a system for resolving such disputes. It might be as simple as having the parties involved draw straws or flip a coin for desired items. Or, you could give heirs equal quantities of Monopoly money or marbles, and have them bid on the personal items they want in an auction-type setting. To identify items of conflict, have each heir indicate their interest by initialing the item on the personal property inventory. Often, a will or trust will designate a method of resolving conflicts or simply give the trustee discretion to make the required distribution.

Usually it is difficult to tell if a decedent owned the item or if it had previously been given to a child or a spouse and was simply retained in the decedent's home for storage. The only documents of title, if any, tend to be casualty insurance policy schedules. Nevertheless, these items need to be reported to the IRS on Form 706 if the decedent's estate exceeded \$5.25 million in value (the 2013 unified exemption amount). If clothing or other items are given to charity, a receipt should be obtained to claim a charitable deduction. If these items are to be moved to a different location, a determination should be made as to whether they continue to be insured pending a final division.

## **Final Thoughts**

A person who knows in advance that he or she will be appointed personal representative of someone's estate can take steps to make his or her eventual duties more straightforward. For instance, it may be helpful to discuss a number of topics as soon as you learn that you have been appointed personal representative and that the person you are representing is mentally capable of having such a discussion. Among the things to visit about are 1) the person's wishes for funeral planning, including whether there will be a funeral or memorial service and whether the body will be buried or cremated, 2) the location of important documents, assets, and contact information for family, friends, and advisers, and 3) the coordinating of responsibilities with other people who will be involved in disposition of the estate and final affairs.

Talking about matters involving our inevitable mortality can be uncomfortable; however, these conversations can prove invaluable to a person's surviving loved ones and provide that person with a measure of assurance regarding the management of his or her final worldly affairs.

Wyoming State Statutes dealing with wills, decedents' estates, and probate code are available online at <http://legisweb.state.wy.us/statutes/dlstatutes.htm> .

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<sup>1</sup> Wyo. Stat. Ann. § 2-7-101(a)(iii).

<sup>2</sup> Wyo. Stat. Ann. § 2-17-101.

<sup>3</sup> Wyo. Stat. Ann. §§ 2-7-103 and 2-7-401.

<sup>4</sup> Wyo. Stat. Ann. § 2-1-205.

<sup>5</sup> Wyo. Stat. Ann. § 2-7-701.

<sup>6</sup> Wyo. Stat. Ann. §§ 2-7-301 to -627.

<sup>7</sup> Wyo. Stat. Ann. §§ 2-7-501 to -509.

<sup>8</sup> Wyo. Stat. Ann. § 2-7-712.

<sup>9</sup> Wyo. Stat. Ann. § 2-7-718.

<sup>10</sup> Wyo. Stat. Ann. § 4-10-506(c).

<sup>11</sup> Wyo. Stat. Ann. § 2-7-707.

<sup>12</sup> Wyo. Stat. Ann. § 2-7-704(b).

<sup>13</sup> Wyo. Stat. Ann. §§ 2-3-501 to -504, 2-7-612 to -626.

<sup>14</sup> Wyo. Stat. Ann. § 2-7-618.

<sup>15</sup> Wyo. Stat. Ann. § 2-7-811.

<sup>16</sup> Wyo. Stat. Ann. §§ 2-7-813 and 2-7-814.

<sup>17</sup> Wyo. Stat. Ann. § 2-8-101.

<sup>18</sup> Wyo. Stat. Ann. § 2-7-812(a).

<sup>19</sup> Wyo. Stat. Ann. § 31-2-104(j).

<sup>20</sup> S.B. 54, 77th Leg., Reg. Sess. (Or. 2013); S.B. 279, Gen. Assemb. 2013–2014 (N.C. 2013).

<sup>21</sup> Adapted from Farlex, The Free Dictionary, <http://encyclopedia.thefreedictionary.com/probate>.

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You should not act or rely on this brochure without seeking the advice of an attorney.

## Checklist

1. Report the death to the appropriate authorities if this hasn't already been done.
2. Determine if there is a safe deposit box, and locate the key. If all persons listed as owners on the box are deceased, then the bank may demand to view a certified copy of the death certificate and court-issued documentation called "Letters Testamentary," appointing the person as personal representative of the estate. Original wills, trust documents, life insurance policies, and vehicle titles must be located if not found at the decedent's home or safe deposit box.
3. Arrange with the post office that delivers mail to the address of the decedent to re-route mail to the address of the personal representative or to another location.
4. Locate the decedent's Social Security number.
5. Cancel prepaid items and attempt to seek refunds (i.e., magazine subscriptions, health insurance premiums, etc.).
6. Take steps to protect the assets of the decedent: notify bank and credit card issuers, change locks on the doors, remove valuable personal property to someone else's custody, and take other actions to keep the estate intact until it can be settled.
7. Make arrangements to secure the decedent's household and vehicles, including possible changing of locks, moving of cars to storage areas, etc. Care must be arranged for household pets. The decedent's refrigerator and freezer should be cleaned out sooner rather than later. If death occurs shortly before the end of the year, an investigation should be undertaken to determine whether the decedent paid that year's real property taxes. It should be determined that adequate homeowner insurance covers the decedent's residence and that all other significant assets are insured.
8. Take care of final payroll deposits and tax reporting if there were domestic helpers, nurses, or other caregivers who continued to work up to the date of death. Severance pay can be given as the personal representative deems appropriate and can be treated as an estate expense. The manner in which payments were being made to domestic employees should be reviewed because often payments were in cash or there otherwise was no withholding or contributions to Federal Insurance Contributions Act or Federal Unemployment Tax Act taxes. Professional advice should be sought early if payments to such individuals exceeded \$1,000 in any recent calendar quarter. Create W-2s for employees for the current and previous year, if needed.
9. Obtain names, addresses, and telephone numbers, if available, and eventually Social Security numbers, for all parties who inherit under the will or trust. In addition, if a probate is required, the law will obligate the personal representative to give notice to all individuals who would have inherited had there been no will, and the names and addresses of these individuals must be gathered as well. The persons who would inherit include a husband or wife, children (grandchildren born of a deceased child taking the deceased child's share, great-grandchildren born of a deceased grandchild taking the grandchild's share, etc.). If there is no husband or wife and no children, then the persons who would inherit are the parents, brothers and sisters (nieces and nephews born of a deceased brother or sister taking the share of the deceased brother or sister, great-nieces and great-nephews born of a deceased niece or nephew taking the deceased niece or nephew's share, etc.).
10. Return any Social Security benefits that were paid for the month in which the person dies. Before doing this, however, visit with a U.S. Social Security Administration representative regarding this issue as well as potential benefits available depending upon family structure at that time. If the decedent was a veteran, a U.S. Department of Veterans Affairs burial benefit may be available (you will likely need a copy of the death certificate and the decedent's discharge papers). The issue of checks not cashed prior to date of death is covered at [http://ssa-custhelp.ssa.gov/app/answers/detail/a\\_id/349/~/checks-not-cashed-prior-to-date-of-death](http://ssa-custhelp.ssa.gov/app/answers/detail/a_id/349/~/checks-not-cashed-prior-to-date-of-death)
11. Make a list of all debts. This includes accounts for outstanding bills, charge cards, property taxes, utilities, loan payments, outstanding leases, mortgages, vehicle payments, alimony, etc. If you are working with a trust document, advertisement for creditors isn't necessary. Reasonably ascertainable

creditors of the estate must be notified of facts required by Wyoming law. A weekly notice should also be published in a newspaper of general circulation for three consecutive weeks in the county in which probate takes place. These notifications start time limits within which creditors must file claims against the estate.

12. File a petition to admit the will to probate (if necessary) or an affidavit of summary distribution (if necessary and available).
13. Allow the required three months from the time of death to give creditors time to respond if you are settling an estate through probate. The debts and assets are compiled by the personal representative and reported to the court, giving creditors an opportunity to object.
14. Check to determine if a deceased person's surviving spouse and minor children are entitled to allowances authorized by Wyoming law (i.e., the homestead and other exempt property, furniture and apparel, and court-ordered support) during probate.
15. Settle all of the decedent's tax debts, creditor claims, final expenses, administration expenses, funeral expenses, etc., before distributions of whatever remains to the decedent's heirs or beneficiaries.
16. Close or manage online accounts and assets: social media, merchants, email, domain names, gaming, utility, financial, banking, and other accounts found in the decedent's bookmarks or browser history. This should preferably be done using the user identification and password information found earlier. This relatively recent development is often overlooked by surviving family members. Some states, like Oregon and North Carolina, have begun to adopt legislation providing for the inheritance of online accounts and assets.<sup>20</sup>
17. File a final report and accounting after the estate has been settled if you are the personal representative. The court will then release the personal representative and close the estate.