



This is a five-part series designed to assist the surviving spouse, executor, or trustee in the probate process. This checklist may also be helpful to an estate beneficiary. The series is presented in a checklist format. Each checklist can be used independently and can also serve as a reference for successor executors and trustees.

Every estate or trust administration is different. This list is not intended to be a list of everything you will encounter in a Texas trust or estate administration and is for informational purposes only. The list is not intended to be specific legal advice for you. Estate administration is work, and it takes time. Finally, you should read the entire checklist, events and actions in a probate may not follow the order as set forth in this checklist.

Part 1 – Before the Funeral

Please feel free to use our interactive checklist, in order to help you along your emotional and complex journey. Take a deep breath and understand that this process is going to take time. It's okay to be emotional and working through loss and grief is a necessary part of it.

- Acknowledgment: Take Care of Yourself First (Sleep, Eat, Exercise, Use Your Support Group)
- Consider Organ Donation
- Notify Family & Friends
- Consider Children & Pets
- Attend to Funeral Arrangements/Memorial Service – Consider if the Decedent had pre-paid funeral arrangements or a Burial Directive – sets burial arrangements and can appoint someone to be in charge
- Order Death Certificates – Get more than you need – at a minimum 10.
- Notify Social Security – Generally, the funeral home will handle this.
- Prepare an Obituary
- Attend to Disposition of Remains or Headstone
- Secure Property, Locate the Will and other Estate Planning Documents

Part 2 – After the Funeral

- Send Thank You Notes
- Consider Grief Counseling
- **Look for and Gather Important Records:**
- Death Certificate (Can be Provided to Probate Attorney After Initial Meeting)
- Social Security Card
- Driver's License
- Marriage Certificate
- Birth Certificate
- Birth Certificates of Children
- Insurance Policies
- Business Documents and Agreements (Buy-Sell) (Consider if the Business had a
- Succession Plan – this will be apart from the Individual Estate Planning Process)
- Auto Titles and Registration
- Deeds & Titles to other Property

- Bank Account Information
 - Bank Safe Deposit Box Information (Tip: Who can Access the Box and Where is the Key?)
 - Financial Account Information (Stocks & Bonds)
 - Retirement Account Statements
 - Tax Returns (Last Three Years) (Tip: Consider Tax Filing Deadlines)
 - Loan Documents & Debt Information
 - VA Information (Discharge Papers & VA Claim Number)
 - Digital Account Information (Account Information, Passwords)
 - Information regarding Intellectual Property Rights
 - Social Media Account Information (Access, Information & Legacy Programs)
 - Estate Planning Documents (Tip: Powers of Attorney end upon Death)
 - Run credit check to obtain grasp of any liabilities or debts of Decedent
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Consider, and research, if the above Assets have Beneficiary Designations.

Locate the Will. There is no formal requirement to file a will before death. However, a will can be “vaulted” with the county where the Decedent resided for a fee. If you cannot locate the original will, you should consider checking with the County Probate Clerk. You should also check with the attorney who prepared the Will – sometimes Attorneys will maintain the original Will. Note, the Executor selects the Probate Attorney, you don’t have to use the Attorney who prepared the Will to probate the Will. Other places to look for an original will include the following: Bank Safe Deposit Boxes, Safes, Gun Safes, Safe Rooms, and Fireproof Boxes. (Tip: A lot of Estate Planning & Probate Attorneys use blue ink to help us determine that the document is an original. Original documents also often have colored jackets). You should also check with other advisors such as CPAs, tax preparers, financial advisors, and insurance agents. As mentioned below at times and in certain circumstances a copy of a will may be admitted to probate. (Tip: Consider that a few companies offer digital vaulting of important documents such as Wills).

Review the Will or Trust – Read it. The Will needs to be signed by the Testator and be witnessed by two individuals above the age of 14. Don’t assume the will is valid or invalid. Don’t assume that because its old its invalid. Don’t assume that because it was prepared by an online company that it’s valid. Generally, the Original Will is admitted to probate (meaning filed with the court and retained with the court file). However, in certain circumstances, a copy of a Will can be probated. Note, Texas also recognizes the existence of a “Holographic Will” – this Will needs to be “entirely” in the handwriting of a testator and signed. (Tip: Just signing a typed document doesn’t count). Once you locate the Will you should keep it safe because your Probate Attorney will need to review it at the initial meeting.

Acknowledgment: You will need a Probate Attorney you cannot represent yourself in Texas Probate.

Keep beneficiaries informed. There is no formal requirement to make a will public to the beneficiaries by “reading” a Will in Texas.

Part 3 – Before Filing for Probate

Locate a Probate Attorney. Our recommendation is to use a Board-Certified Estate Planning & Probate Lawyer. In Texas, you have four years to probate a will if probate is required. The Executor has no power until the will has been probated, the Executor qualifies, and the Letters Testamentary have been issued (Although, you should not avoid common sense considerations). *Note:* You cannot represent yourself in Texas Probate.

Schedule a Meeting with a Probate Attorney. Most Probate Attorneys have Probate Checklists & Questionnaires, so be sure to ask for yours before the meeting and take the time to complete it. Also be sure to bring the original will and relevant important papers to the meeting. Most initial meetings will last an hour or two.

Hire a Probate Attorney. Be sure to always use an engagement agreement. Most Probate Attorneys require a fee or cost deposit, so bring a method of payment to the meeting (Most firms take debit & credit cards).

Decide the best path forward. Your attorney will assist you to determine which process is best for handling the estate. Various methods exist under Texas law to accomplish winding up the decedent's affairs and what is, and is not, required to ensure the proper passage of title to estate property and estate assets.

Acknowledgment: The Probate Attorney represents the Executor or Trustee. The Attorney does not represent the Estate and generally, doesn't represent the Estate Beneficiaries. The Probate Attorney is subject to the ethics rules of the State Bar of Texas and all its constraints. (Tip: Attorney's cannot provide information to third parties without client consent).

Acknowledgment: Probate is a public process that involves the courts, so it can become quite complex. It often involves gathering information and estate assets, paying necessary expenses of administration, paying or resolving valid estate debts, and administering and distributing assets according to the terms of a Will or Trust. Probate only involves probate assets – not all assets are subject to probate (“Non-Probate Assets”).

Part 4 – Probate

Begin Probate. Your probate attorney will file the original will with the court with an application. *Tip: The probate process in Texas is governed by the Texas Estates Code, Property Code, and other Statutes, Local Rules set forth by Counties, Custom and Practice of Judges, Common Law, and the Instrument Itself (Will or Trust).* Your experience may be drastically different than a friend's, co-worker, neighbors, or even the last time you served as Executor or Trustee).

Acknowledgment: Make sure you are qualified to serve in the role of Executor and Trustee. In Texas, you have to be (1) above the age of 18, (2) a Resident of the State of Texas or Appoint a Resident Agent, (3) Never adjudicated to be incapacitated, (4) Never committed a felony, and (5) a person otherwise qualified to serve. If you have questions regarding your qualification, you should review the matter with your probate attorney. When you testify you will be under oath and the Judge may directly inquire regarding your qualification.

Acknowledgment: The probate attorney cannot just schedule a hearing. Texas provides for a statutory notice period (10 days), the probate attorney can schedule the hearing after this date, but generally, it takes much longer to get into court – sometimes a month or two depending on the county, court and time of year.

Pre-Hearing Documents. Generally, for a basic probate, the probate attorney will provide you with a Proof, Order and Oath for your review prior to the hearing. More complicated probates require other documents. If you are an out-of-state executor, you will also have to appoint a Resident Agent in Texas. *Tip: This is often your Texas probate attorney.* Some counties in Texas also require Personal Representative Information sheets, Local Checklists, and even that Death Certificates be presented to the court before the hearing.

Pre-Hearing Meeting. You should have a pre-hearing meeting with your attorney to review your testimony, learn what is required of you, make sure you know when the hearing is scheduled and the location of the courthouse.

Attend Probate Hearing. An Executor or Administrator will be qualified during this hearing, and Letters Testamentary or Administration will be obtained at the conclusion, unless additional filings are required by the court. *Tip: Letters Testamentary or Administration are issued by the clerk of the court – not the probate attorney or Judge. Also, always be polite to Judges, Court Staff and Clerks.* Generally, you will not need to bring anything to the hearing, other than a checkbook for fees, perhaps. The probate attorney will provide all the necessary paperwork and generally has already filed the documents with the court before the hearing. You should dress appropriately for court, always treat the court with respect and never interrupt the Judge or your attorney. Although the Court does not represent you some courts will provide you with additional information, and even handouts regarding the probate process at the conclusion of the hearing. Most Texas probate Judges are great about staying on time and most basic probate prove-up hearings are brief settings (less than 15 minutes). Generally, the total time to budget at the courthouse should be about an hour. Note, the above is for an uncontested matter. If the matter is contested, the above does not apply and the probate will be much more involved and take much more time.

Formal Administration can begin upon the issuance of Letters Testamentary or Letters of Administration by the Court Clerk.

Comply with Texas Estates Code During Administration. The following items are generally handled by the probate attorney: Required Notice to Beneficiaries, Creditors, Specific Notice to Certain Entities (like Secured Creditors) & Filing of Inventory, Appraisement and List of Claims. *Tip: The Inventory, Appraisement and List of Claims consists of only probate assets, personal property and Texas real property, claims are owed to the estate not debts. Also, provide your probate attorney with the information to complete these tasks in a timely manner.* Each probate is different, and you should seek the assistance of your probate attorney regarding the unique matters that relate to your case.

Sign the Order Approving the Inventory, Appraisement and List of Claims of File an Affidavit in Lieu of Inventory. Generally, Court involvement ends with the signing of an Order Approving the Inventory, Appraisement and List of Claims or the filing of an Affidavit in Lieu of Inventory. *Tip: Your probate attorney can control the timing of filing the Inventory, Appraisement and List of Claims, but generally the probate attorney has no control over the Court regarding timing of signing the Order. As stated before don't contact the court directly. Also, don't assume that the probate attorney will be notified that this order has been signed – often we learn about it days and weeks after the fact.* Generally, in Texas, the Independent Administration is not formally closed, and no final accounting is filed. Procedures do exist to formally close a Texas probate, if this is a concern, the matter should be reviewed with your probate attorney. Even though the Order approving the inventory is signed, the Independent Administration can continue.

Continue Administration. Administration may involve probate and non-probate assets.

Acknowledgment: The probate process can take time and involve some expense. You cannot represent yourself in Texas Probate. Your probate lawyer is there to guide you through the process, as the court and court staff cannot give you legal advice. *Tip: The Judge and Court staff don't represent you – always call your probate attorney for assistance.*

Meet with your Attorney. Have a closing meeting with your probate attorney at the conclusion of Administration or upon Order Approving Inventory Appraisement and List of Claims being signed.

Part 5 – Administration – Probate & Non-Probate

- **Acknowledgment:** Administration is the phase of probate that involves gathering information and estate assets, paying necessary expenses of administration, valid estate debts, and administering and distributing assets according to the terms of a Will or Trust. Administration in Texas for most probates are independent of court supervision (“Independent Administration”). If you are involved in a Dependent Administration, you cannot act outside of court supervision. Non-probate assets can also be involved in administration – although the Executor is not in-charge of these assets – their disposition is governed by the contract between the institution and the decedent. V
- Contact Financial Advisor & Insurance Agent
- Contact Tax Advisor
- **Begin Claims Process for Assets that have Beneficiary Designations Other than the Estate** (Tip: Non-Probate Assets can be handled before the Qualification of an Executor):
 - Claim Life Insurance Death Benefits
 - Claim Annuity Payments or Death Benefits
 - Claim Pension Benefits
 - Claim VA Benefits
 - Claim Wages owed by Employer
 - Claim Account Survivorship Benefits (JTWROS or TOD) (Tip: you may be able to transfer jointly owned assets outside of formal probate)

As the Personal Representative (Executor or Administrator & even as Trustee), follow this checklist:

- Qualify as Executor or Administrator (i.e. see above & go to court)
- Take possession of Estate Assets and Information (important papers)
- Set up a Record Keeping System
- Get an Estate Tax ID Number (your attorney will handle this for you)
- Set up a Separate Estate Account (never co-mingle estate assets with your own)
- Review if Separate Trust Accounts and Trust Tax ID Numbers are required

- Determine if Tax Elections are Required (Tip: Consult with a Probate Attorney who understands Federal Tax Law or your CPA – not all accountants have experience with estate and trust taxation or accounting)
- Keep Accurate Accounting Records (Tip: Use an accounting system like QuickBooks to keep accounting records)
- Do NOT co-mingle estate/trust funds with your own personal funds.
- Make sure Estate Property is Insured & Protected
- Keep Track of Your Time and Expenses (Tip: Keep Receipts for Everything) (Tip: You can get Reimbursed for Ordinary and Necessary Expenses incurred within the Administration of the Estate)
- *Consider if you can get paid an Executor or Trustee Fee.* Generally, you should look at the Will or Trust compensation provision. Normally compensation is based upon a reasonable fee. The compensation you receive is taxable and will be reported on your income tax return. There is a compensation formula in the Texas Estates Code if the Will is silent on compensation. (Tip: You should review this matter with your Probate Attorney)
- Keep Beneficiaries Informed (Tip: Frequent Communications often help with the Personal Representative Beneficiary Relationship)
- File a Form 56 with the IRS
- Administer Estate According to Terms of Will or Trust
- Forward Mail (Tip: Use of an Estate P.O. Box during administration can be a great way to segregate estate mail and isolate junk mail)
- Keep an Updated List of Assets and Debts & their disposition
- *Gather photos, personal effects, and family mementos.* Use of a service to preserve and digitize photos, family video and other documents can be an efficient and equitable way to preserve family history (Tip: Photos and other family documents may already be digital, need to consider checking computers, applications and other storage devices)
- Obtain Appraisals of Property (Real and Personal) if necessary. Be careful of the quick sale of Estate Real Property – you will get a lot of initial offers and most are way beneath true market value – use of a realtor can be invaluable.
- Return any Leased Equipment
- Review Bank Accounts for Automatic Payments (Tip: Review whether payment is necessary)
- Stop Subscriptions
- Care for Assets (i.e., yard care, pets, utilities, maintenance and upkeep)
- Dispose of Hazardous Materials (i.e. paint, gasoline, old computer equipment)
- Dispose of Bulk Trash, Estate Property that has no value, papers, debris.
- Pay Expenses of Administration & Valid Debts (Tip: Not all debts are valid, you should not automatically pay debts, but review matter with your Probate Attorney)
- Confirm Tax Returns have been filed (Tip: Need to be Mindful of Tax Return filing dates)
- File Required Tax Returns (State or Federal)
- Notify Local Taxing Authority regarding Property Tax Exemptions (May need to update or remove current exemptions)
- Cancel & Close Accounts
- Credit Card Accounts
- Cancel Unnecessary Bills (Cell Phone, Subscriptions – electronic or otherwise, Cable TV)
- Notify Health Insurance & Life Insurance Company
- Cancel Driver's License
- Notify Election Board
- Notify Credit Reporting Agencies
- Cancel Memberships
- Cancel E-mail & Website Accounts – when appropriate
- Make Distributions according to terms of Will, Trust or Court Order
- Consider that the Decedent may have left a letter to the Executor or Trustee regarding the disposition of Personal Property
- *Facilitate an Estate Sale of Personal Property, if necessary.* (Tip: Often the items you think will sell do not (clothes, big furniture, furs) – at times household items such as used cleaning products, scrap metal, wires and utility items will sell first – be careful what you want to throw away).
- Recycle Items, if appropriate
- Donate Unclaimed Items of Personal Property
- *Make sure if Asset has a Title Document that Title has been legally transferred.* A Deed is used to Transfer Title to Real Property. (Tip: It is your responsibility to make sure property has been distributed according to the terms of the Will and titled correctly).
- Check Unclaimed Property Records for any State Where the Decedent Resided

- Obtain Receipts from Beneficiaries
- *Have a Closing Meeting with Probate Attorney* (Tip: Provides Closure for You and the Probate Attorney) (Tip: It also identifies any loose ends).
- Make sure you retrieve any original documents you have left with the Probate Attorney
- Preserve a copy of estate records (including tax returns and basic information). Make records digital for future record keeping.
- Consider having your own estate planning done by a Board-Certified Estate Planning & Probate Lawyer if you are a surviving spouse, child of decedent, or beneficiary of the estate. To ensure your assets are protected, your estate plan is updated, and your estate passes according to your wishes.