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An Outline for the Administration of an Estate

AN OUTLINE FOR THE ADMINISTRATION OF AN ESTATE

By Frazer Arnold of the Denver Bar

WITH the modern complexities brought into most estates by taxation, the dispersion of investments in various securities and the location of property in various places, the following may prove of some value, as a reminder, to any one charged with the duty of executing the terms of a will or of administering the property of an intestate:

LOCATE AND READ WILL:

- Ascertain burial instructions.
- Confer with persons familiar with decedent's affairs.

SAFEGUARD ASSETS:

- Take protective measures immediately following decedent's death and prior to appointment of Executor.
- Properly insure and protect both real and personal property when necessary.
- Become familiar with and protect decedent's business interests.
- Notify banks, safe deposit companies and postoffice authorities of decedent's death.
- Investigate books of account and papers.
- Collect valuables and place in adequate vaults.

PROBATE:

- A wholly judicial proceeding, consisting of citing and notifying requisite parties and establishing the statutory proof by the witnesses to admit the Will, resisting attempts to contest the probate.
- Apply for temporary administration if delay of probate is apparent.
- Petition for widow's allowance or support of orphan minor children.

ASSEMBLE ASSETS:

- Life insurance:* procure forms and collect.
- Cash:* obtain tax waivers and collect.

Household and personal effects: inventory; properly care for, sell or otherwise dispose of, under court order.

Securities: (1) If located in safe deposit box, remove in presence of inheritance tax appraiser. (2) If in custody of others, procure tax waivers and collect. (3) Liquidate indebtedness if held as collateral.

Interest and dividends: collect and safeguard.

Business interests: arrange for proper representation and adequate protection.

Real estate: Obtain title papers and abstracts; inspect and report on condition of property; learn status of taxes, mortgages against property and leases, arrange for management and collection of rents.

Miscellaneous assets: payments due decedent, interests in other estates or trusts present or future. Investigate. Determine correctness of accounts, adjust conflicting claims and liquidate.

APPRAISAL: Establish values as of date of death.

Consideration of assets: Controlled by the testator's wishes as expressed in the Will and governed by the necessities of the estate, as follows:

Household and Personal Effects: Determine best time and method for disposal, with special consideration to valuable art collections, antiques, etc.

Securities: Examine desirability of investments. Determine propriety of holding or selling, with due regard to: (a) investment powers in will, (b) market conditions, (c) wise diversification of holdings, (d) results of statistical research, (e) consultations with persons well informed in particular field, (f) taxation, state and federal, (g) ultimate disposition of estate.

Business Interests: Exhaustive investigation, aided by bond houses, trust companies, etc. Reach policy as to continuance, sale or liquidation of business after securing best information in particular field, having due regard to testator's wishes and ultimate disposition of estate.

Real Estate: Investigate leases, encumbrances, condition of buildings, rental revenue, location, neighborhood, probable developments. If sale desirable, list for submission of offers.

CLAIMS:

(a) Notice required by law, (b) Obtaining proper verification, (c) Rejection of improper claims.

Nature of Claims Encountered: (a) Bills for current expenses, (b) For taxes or readjustments thereof, (c) Unmatured subscriptions, pledges, (d) Liability as fiduciary, (e) Family settlements, (f) Liability as endorser or maker of notes, surety on bonds, etc., (g) Liability as special partner or under unusual business contracts or leases.

TAXES:

Assessment and payment of modern tax liability is highly technical. Special forms for information and return must be prepared and filed for the respective taxing authorities.

Income Taxes:

(a) Income before death:

(1) File necessary returns; (2) make final settlement with tax authorities for all prior years; (3) defend all improper assessments.

(b) Income of Estate:

Arrange for distributions of income, payment of legacies and inheritance taxes and sale of securities in the interest of economy; file necessary returns and pay taxes.

Inheritance Taxes:

(a) State of domicile:

(1) Obtain waivers for transfer of securities and valuable deposits; (2) push proceedings for fixing tax; (3) adjust final tax payment; (4) pay promptly to obtain discount.

(b) Foreign States:

Push proceedings for tax payment to release affected securities for transfer.

(c) Federal Estate:

- (1) File preliminary notice; (2) make return and pay tax; (3) have final adjustment after review and audit.

SETTLEMENT OF ESTATE:

Payment of Legacies: (a) Learn whether any assignments on file, (b) Pay legacies and deliver specific bequests, (c) Procure final receipt and release from legatees, (d) Pay expenses and administration costs and fees.

Establishment of Trust Funds: (a) Set aside securities or cash to constitute corpus of trust, (b) Adjust income due trust fund and provide for its payment, (c) Arrange for regular remittances to beneficiaries.

Review and Audit of the Administration—Accounting:

A detailed statement of the acts and accounts of the executor or administrator is prepared and submitted to the interested beneficiaries and then filed in the County or probate Court for judicial settlement. Upon ratification by parties in interest and by court decree, the balance remaining in the hands of the personal representative is paid to the residuary legatees or heirs, as the case may be, and their receipts therefor are taken and filed in court.