

PRACTICE AREAS >>ESTATE ADMINISTRATION



Wade Ash has particular expertise in the administration of decedents' estates. Our Senior Shareholder, James R. Wade, is a former Denver Probate Judge, and he has been the author for over 25 years of the Colorado Probate System, a comprehensive publication about Colorado probate with many forms and checklists, and of Wade/Parks Colorado Law of Wills, Trusts and Fiduciary Administration, which is a review and discussion of the case law and statutory law concerning estate administration, both of which are published by Continuing Legal Education in Colorado, Inc. All of the attorneys in the Firm have been administering estates and trusts throughout their legal careers. In addition, our paralegals have many years of experience in administering estates, including the preparation of estate tax returns and fiduciary income tax returns, asset valuation and asset transfers, so that we can provide a very cost-efficient process to our clients.

Estate administration is the process by which a decedent's assets are gathered, valued, sold or transferred to the appropriate beneficiaries, the appropriate tax returns are prepared and filed, and claims are dealt with and paid. Because the decedent is no longer available to deal with the assets, often a personal representative is appointed by the Court to have the authority to manage the decedent's assets. Probate refers to the process by which the Court admits a valid Will, or determines that the decedent left no Will (died "intestate") and appoints the personal representative. Assets subject to probate administration are those titled in the decedent's name alone.

In its larger sense, probate can refer to the entire administration of the decedent's affairs after death, including administration of a Revocable Trust and the assets titled in that trust, filing of the U.S. Estate Tax Return (Form 706) if necessary, and administration of Irrevocable Trusts created by the decedent during lifetime.

Wade Ash can also assist the personal representative and family with post-mortem estate planning and distribution planning. A qualified disclaimer can often be used to shift assets down a generation free of transfer taxes. In addition, there are a number of elections available under the tax law, including how and when government bond interest is taxed at the lowest available bracket. Thoughtful selection of a non-calendar tax year on a timely filed fiduciary income tax return for probate estates may result in the deferral of payment of income taxes on estate distributions that carry out the income tax liability. Revocable Trusts, which would otherwise be taxed on a calendar year basis, may select to be taxed as an estate to achieve this kind of tax and distribution planning by using a fiscal year.

The following is a list of some of the issues that must be addressed after a client dies:

- What immediate matters must be taken care of, such as the custody of minor children,

who will manage the client's business, who will take care of any pets, and securing the home.

- Did the client leave funeral instructions?
- Where are the client's original documents, such as the Will, insurance policies, annuity policies, etc.?
- Contact an estate administration attorney to assist the nominated personal representative; usually the first meeting does not occur until after the funeral unless there are immediate issues that must be addressed, or family members wish to meet the attorney before leaving town
- Contact Social Security, if the client was receiving benefits. Also, companies paying pensions.
- Forward the decedent's mail to the personal representative so that bills and information about assets will be received.
- Gather asset information: the attorney will give you a list of the information needed, and it depends upon the decedent's circumstances.
- Gather information about debts and claims, including medical bills.
- Prepare and file the decedent's final personal income tax returns, the U.S. Estate Tax Return if necessary, and state estate or inheritance tax returns, if necessary.
- Prepare and file the fiduciary income tax returns for the estate and any trusts.
- Keep careful track of all receipts and disbursements; do not commingle estate assets with personal assets. Give information to beneficiaries about the estate assets, receipts and disbursements.
- Pay valid claims; then make distribution to the appropriate beneficiaries. If there are continuing trusts, arrange for trust administration.
- Close the estate.

See our memorandum titled, [General Duties of Personal Representatives](#) for a more detailed description of the administration of an estate. See [Administration of Trust](#) for a description of the trustee's general duties in administering a trust.

For more information about the Estate Administration area of law, please visit our [Publications](#) page.

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