

## ADAM SMITH INSIGHTS:

Published by Keith Tufte, President of Adam Smith Advisors, LLC, with insights on investing and wealth management.

## INVESTING QUOTE OF THE MONTH:

"In the end, it's not the years in your life that count. It's the life in your years." —Abraham Lincoln.



## ADVICE FOR PERSONAL REPRESENTATIVES OF AN ESTATE

Being named the Personal Representative (Executor in some states) of someone's estate is a big responsibility. In many cases, the Personal Representative (PR) is going through the estate process for the first time. Are you named as the Personal Representative of someone's estate? Who is the Personal Representative on your estate? In our business we have helped many families go through this process. We thought it would be helpful to pass along some advice to those acting as Personal Representatives (now or in the future) based on our own experience, and that of other estate experts. A personal representative of an estate is typically entitled to a fee for their work. This fee can be an hourly rate or a fixed fee, if that is spelled out ahead of time in the will. If the fee is not spelled out in the will, it must be in accordance with applicable state law.

### Before the person passes away or becomes mentally incapacitated:

1. Be sure the person has an up-to-date Will that is executed properly under state law (signed, dated, witnesses, and notarized). Are the intentions of the person well documented? Determine the location of the Will. A Health Care Directive and Power of Attorney are also strongly recommended as part of an estate plan.
2. You may want to proactively get information from the person about their personal preferences surrounding their passing away. This could include things such as the obituary, burial vs. cremation, funeral preferences, tombstone, place to be buried, and if there are any specific personal belongings that they wish to go to specific beneficiaries.
3. Check that all IRA or 401(k) accounts have adult living beneficiaries named on them. Do the same for life insurance policies.
4. Determine where they keep a list of all major assets and liabilities.
5. Know the location of their financial, estate, and other documents. Where are the keys to their safe deposit box? What is the combination/keys for the home and/or gun safe? Does the home have an alarm system? What are the codes for it?
6. Encourage them to make a list of passwords for their computers, as well as all security access codes for financial, social media, and other important accounts online. Be sure at least two people can access this information.
7. If they are terminally ill or likely to pass away soon, encourage them to meet with an accountant or estate planning attorney to review their final wishes for their legacy. There may be strategies that can significantly reduce exposure to income or estate taxes, but these must occur while the person has the ability to independently make decisions. One pre-death planning strategy is making cash gifts to beneficiaries, if that may reduce estate taxes. You can gift up to \$14,000 to as many people as you want per year (annual gift tax allowance), without affecting your lifetime gift/estate exemption. You likely don't want to gift appreciated assets, as the cost basis on those will be stepped up to current values upon death. Another pre-death strategy is to consider selling any securities that have significant capital losses, and get the tax deduction, as those assets may have their cost basis adjusted down to current values upon death. These are just a few examples, and should not be undertaken except after receiving a professional review of the circumstances and potential tax consequences. One final thing to consider is having one of their children or family members (or yourself) get financial power of attorney with/for them, if that has not already been done. This must happen before they become legally incapable of signing a legal document.



## After the person passes away:

1. Locate, protect, and maintain all of the Decedent's real and personal property. Prepare a detailed list of the assets and gather all the financial and estate documents you can find.
2. Find the will and/or trust documents for this person. Sometimes funeral, burial, or other instructions will be provided in these documents.
3. Get the Decedent's mail forwarded to your address. Timely receipt of all mail is vital in accurately determining the Estate's assets and liabilities.
4. Resist the temptation to notify any online account providers (Facebook, Gmail, Instagram, etc.) of the account holder's passing. Notice of death will immediately and perhaps permanently prevent access to the account.
5. Put together a team of professionals to help you with the process. This will often involve an estate attorney (preferably with experience in probate), a CPA (with experience filing estate tax returns), and an investment advisor. Probate procedures differ by state, so you should retain an estate attorney from the same home state as the deceased. If you do not have a strong estate attorney or CPA for this process, we can refer one to you. In many cases the estate attorney will take the lead and help drive the process.
6. Get a dozen or more certified death certificates from the funeral home. These will be required for many reasons during the process.
7. Once the death certificate is issued, your attorney will prepare the necessary paperwork to commence a probate proceeding (if necessary). This will admit the decedent's Last Will and Testament into probate, and appoint a Personal Representative. The provisions found in a Will are not final until the document is admitted to probate.
8. At the conclusion of the initial probate proceeding, the court will issue a document called "Letters Testamentary" legally confirming you as personal representative of the estate. This gives you legal authority to act on behalf of the estate.
9. Once Letters Testamentary are issued, your lawyer or CPA can obtain a Tax ID Number for the estate. You can then open a checking account in the name of the estate. This will be used to deposit assets into, to pay bills and taxes related to the estate, and for distributions.
10. Communicate regularly with the persons named in the Will. Be very open and transparent with everything you do. Involve them as much as you can with important decisions, and provide them with regular updates on the progress of the estate administration.
11. Wait until the Letters Testamentary are issued before notifying the person's banks, credit card companies, insurance companies, brokerage firms, etc. of the death of the person. Do not immediately close the decedent's primary checking account. That may be the source of automatic payments such as utility bills and other necessary expenses. If the decedent was receiving Social Security, their last benefit payment will often be automatically recovered by the SSA from this account. Otherwise, the estate may have to pay penalties and interest if the repayment back to the SSA is delayed because the account was closed. You will likely want to notify Social Security and Medicare soon after the death of the person.
12. Do not pay any bills, property tax, or tax payments until authorized by the attorney or CPA. In most circumstances, the estate should not pay any liabilities until the period for filing claims against the estate has ended, which can be four months after the appointment as Personal Representative. Go through the decedent's bank statements, credit card bills, mail, etc. and make only those payments that are needed to preserve estate assets such as electricity, gas, garbage pickup, association fees, snow removal, lawn care, etc.
13. Be very organized with all records, copies, files, and all paperwork that you do. Keep a notebook or folder and log of all forms/letters sent, and a log of your time as executor, including all phone calls made.



14. Assist, as needed, on inherited IRA accounts for the beneficiaries of the deceased's IRA accounts. Work with the CPA on this issue. Be aware of and take the required minimum distributions (RMD's) from all IRA and 401(k) accounts during the year of death. Help the IRA beneficiaries be educated that they will need to take RMD's from their inherited IRA accounts starting the year following death.
15. Work with the CPA to determine whether certain assets should be distributed in kind, or if they should be liquidated to cash, which may create tax liabilities. Do not make these decisions on your own. Seek advice.
16. Update the cost basis on the deceased assets to the value at the date of death, with the help of your advisors. Some illiquid assets (real estate, privately owned businesses, artwork, private securities, etc.) may require professional valuation estimates.
17. Determine if the deceased person's estate will be subject to estate taxes, with the help of your advisors. The U.S. federal estate and gift tax exemption amount is \$5.45 million per person in 2016, or \$10.9 million per couple. Each state has its own estate/inheritance tax rules. In Minnesota, the estate tax exemption is \$1.6 million per person in 2016. These exemption amounts will change from year to year in the future.
18. Take your time. Don't rush the process. Don't distribute assets until probate (if necessary) is finished, and taxes/creditors have been paid. Be sure to leave enough cash in the estate at the end to pay the professionals (estate attorney, CPA, etc.). Some people distribute all the assets, then later found out that the estate owed money or taxes. Where will that money come from?
19. Have the estate attorney prepare the Closing Documents, which may include a Final Account of the income and expenses of the estate administration and the assets remaining for distribution, receipts, and other documents that may be required.
20. Distribute the assets from the estate.
21. File a final income tax return, an estate tax return (if required), and the estate's income tax return for the deceased.
22. Close the estate checking account in person to obtain an accurate balance.
23. File the necessary paperwork with the probate court.

Take your time.  
Don't rush  
the process.

The passing away of a friend or family member is always a sad and stressful time. We hope this note will be helpful for those of you that have taken on the responsibility of being the Personal Representative of an estate, or helpful for the person acting as the PR for your estate. Please contact us if you have any questions, or if we can be of help in this long, and often difficult journey.

*Adam Smith Advisors, LLC (ASA) provides unique wealth management services for a select group of client families to help give them peace of mind. Author Keith Tufte, (CIO of ASA) has over 25 years of successful investment management experience as a Wall Street Analyst, Mutual Fund Portfolio Manager, Director of Equity Research for a major mutual fund firm, Hedge Fund Portfolio Manager, and Wealth Management Advisor. Please FORWARD this e-mail to friends/relatives/business associates that you think may have an interest. Please see our website at <http://www.cherrytree.com>.*

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