

Howard's California Estate Initial Action Items

When a family member dies, one or more people will become responsible for paying taxes, filing government forms, notifying beneficiaries, satisfying creditors, and distributing property. The responsible person (or persons) may assume the roles of personal representative, executor, and trustee depending on the situation. The responsible person must perform certain tasks immediately after death to avoid unnecessary expenses, delay, and personal liability. If you have been nominated, you may find this list helpful.

- Obtain Certified Copies of the Death Certificate: Get at least three copies from the mortuary. Additional copies can be obtained from your county recorder to court.
- Secure Personal Property and Papers: Valuables and important papers have a way of getting lost when people filter through the decedent's home and office. People have been known to edit documents and discard amendments and codicils they don't like.
- Inventory Safe Deposit Box: You may want a witness as you inventory everything in the safety deposit box and extract important estate documents such as wills and trusts.
- Locate, Read, and File any Will: Continue your search for revised wills and codicils. Some wills reference other documents such as trusts or property lists. Identify the executor and basic terms of the will. Make a copy of the will and file the original with the Probate Court in the county where the decedent resided at the time of death.
- Locate, Read, and Outline all Trusts: Continue your search for revised trusts and amendments. In addition to a standard "living trust" people often create special purpose trusts during their life to protect certain assets or beneficiaries. Identify the trustees, assets, and beneficiaries associated with each trust. Pay particular attention to irrevocable trusts and sub-trusts which may require funding, separate accounting, and tax ID numbers.
- Notify Department of Health Care Services: If there is any possibility that the decedent or the decedent's spouse received Medi-Cal benefits, you are required by law to notify the Department of Health Care Services so they can pursue any claim they have against the estate.
- List Significant Assets: You will develop a detailed date-of-death inventory later but you need to get an immediate idea of how large and complex your work will be. Business interests and real estate require special handling. Insurance and retirement plans with living beneficiaries should be easy to handle.
- List Significant Liabilities and Compare to Assets: If an estate is "under water," you may avoid responsibility by timely rejecting the role you were nominated for. Otherwise, you could find yourself doing a lot of unpaid work for the sole benefit of the decedent's creditors.
- Forward Mail: The information you glean from bills and account statements mailed to the decedent may be invaluable. Update your list of creditors and assets as the mail comes in.

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- Notify Any Trust Beneficiaries and Heirs at Law: Because both beneficiaries and legal heirs have 120 days to challenge the existence and administration of a trust, you will want to start that clock running as soon as possible so you can get on with the administration. That notice absolutely must conform to the specific requirements of the Probate Code or it doesn't count.
- Apply for Tax ID Number(s): Revocable trusts often become partially or entirely irrevocable when a settlor (creator) of the trust dies. Because irrevocable trusts are independent, tax paying entities they require separate tax ID numbers, accounting, and tax returns. Even without a trust, an estate is an entity which requires a tax ID Number unless it qualifies for an exception.
- Open Bank Account(s): Since trusts and estates are independent, tax paying entities, accounting can be a mess without separate bank accounts. Furthermore, the law provides that executors and trustees are fiduciaries who cannot commingle their money with trust or estate money.
- Notify All County Assessors Where Real Estate is Owned: Because death is a "change in ownership" you need to file statements with each county in which the decedent had an interest in real estate including real estate held in a trust. Each county has its own form. There are separate forms for claiming exemptions from reassessment which must be timely filed.
- Engage Attorney and Tax Professional: If you have limited funds, extra time, and a simple estate, you can administer the estate yourself. Your county's free public law library will have all the forms and information you need. However, many estates are more complex than they appear, fighting heirs can complicate the simplest estate, and you are personally liable for mistakes. Thus, you may want to hire an attorney to guide you through the legal maze and a tax professional to prepare special fiduciary tax returns. The sooner you bring them onboard, the easier your life will be.

These initial action items lay the foundation for the work that follows. From the information you developed, you will develop an action plan. Typically, you will review the estate in light of the Probate Code commencing with section 13000 to plan a way to avoid probate. If you are forced into probate, even that can often be simplified. Assets that are immediately distributed will be treated differently than those that are to be held in trust for survivors. Trusts, such as special needs trusts, may indicate a professional fiduciary. Pet and charitable trusts have unique requirements. Although most estates tend to follow regular patterns, each estate is different. Some estates, whether by design or accident, are truly unique and will challenge your attorney's creativity.

Howard Thomas practices law in Walnut Creek, California where easy BART access allows him to conveniently serve the San Francisco Bay Area. The focus of his work is estate planning and administration and mediation. Howard holds a Juris Doctorate from John F. Kennedy University, a Master's in Business Administration from CSU Long Beach, and a Bachelor of Science in Mechanical Engineering from UC Santa Barbara. He completed mediation programs at JFK University, Pepperdine University, and UC Berkeley Extension. There is no charge for a confidential chat about your situation.