

The Components of Settling Every Estate

There are several main components to settling an estate. Each of these is examined and considered in every estate. However, by working through each component, each estate will be different and will require different actions to be settled. Note, each of these components will be involved in every estate regardless of how small or simple. The process and steps of completing each component will vary from estate to estate.

The estate settlement components are:

1. Determine the documents of the Decedent.

In every estate a diligent search must be made to locate all of the documents of the Decedent. These will include Wills; Trust documents; assets; titles; business documents and tax returns.

These documents begin to provide the road map to how the estate will proceed and the actions necessary to administer the estate. Each document must be read and analyzed in order to build the estate settlement road map.

2. Determine the assets of the Decedent.

There are several ways that the Decedent can hold title to various assets. We use our companion guide, *5 Ways the Decedent Can Hold Assets*, to prepare asset schedules.

Determine the Decedent's assets is a three step process:

1. Determine how each asset was held by the Decedent. This means how each each asset was titled. This requires reading all documents of title, account statements, and the past two years of income tax returns.
2. Determining the date of death value of each asset. This may require obtaining DOD Value letters for each account; appraisals of property or valuation statements. Generally, we want to obtain independent verification of the date of death values in order to prove the numbers in case of challenges or a tax audit.
3. Allocating the decedent's assets according to the Decedent's Will, trust or the laws of the state of Decedent's domicile if there are no such documents. This means building a schedule that shows how the assets are to be distributed when the time for distribution arrives.

3. Determine the probate status of Decedent's estate.

Not every estate requires any probate actions. This will depend on the title to Decedent's assets; the nature of the assets; and the laws of the state where the Decedent was living at the time of death. It will also be affected by where individual assets are.

Probate is not a bad thing. The probate system exists in order to clear the title to assets into the names of the proper beneficiaries if the Decedent did not do this prior to death.

4. Determine the income tax returns necessary for the Decedent.

Final income returns for the Decedent and any entities controlled by the Decedent may be necessary. The family should engage the services of a qualified accountant to assist with this component.

5. Determine the estate tax status of the Decedent's estate.

Every estate is subject to both federal and state death or inheritance taxes. Whether the estate will be required to pay such taxes will depend on the size of the estate; the way assets are held and the state where the Decedent was living.

If the Decedent's estate is large enough, then estate tax returns will need to be prepared and filed. The family should work closely with a qualified estate attorney to analyze and complete this component.

6. Administer the estate pursuant to Decedent's Will, trust or state law.

The final component involves the actual administration of the estate. Initial and final estate administration requires the working through of all of these listed components.

