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# Estate Settlement Essentials

Investment and Insurance Products are:

- Not Insured by the FDIC or Any Federal Government Agency
- Not a Deposit or Other Obligation of, or Guaranteed by, the Bank or Any Bank Affiliate
- Subject to Investment Risks, Including Possible Loss of the Principal Amount Invested



## Estate settlement in real life

Even the most straightforward estates may include stacks of paperwork to complete, state and federal laws to navigate, family histories and relationships to consider, and assets to manage. Depending on how the estate plan was set up, the estate settlement is guided by the terms of a trust, a will, or both.

If you have been named as an executor (in some states referred to as a personal representative) or a trustee following the death of a grantor, the estate settlement process can be complicated. By reviewing the chapters that follow, new executors and trustees may gain general awareness of considerations they may face in their role and how different professionals can assist with various estate tasks.

Settling an estate is a legal procedure. Please consult with a trust and estate attorney to guide you through the process.

**A few notes on terms:** When we refer to “estate settlement” in this guide, we are referring to both options: settling an estate **by probating a will** or **by administering a trust**.

Also, we will use the general term “executor” to refer to the person or organization named in the last will and testament responsible for handling the decedent’s financial and non-financial matters. It should be noted an executor must qualify and be appointed by the applicable court to serve.

For a trust, the responsible individual or organization named in the trust document is known as the “trustee.”



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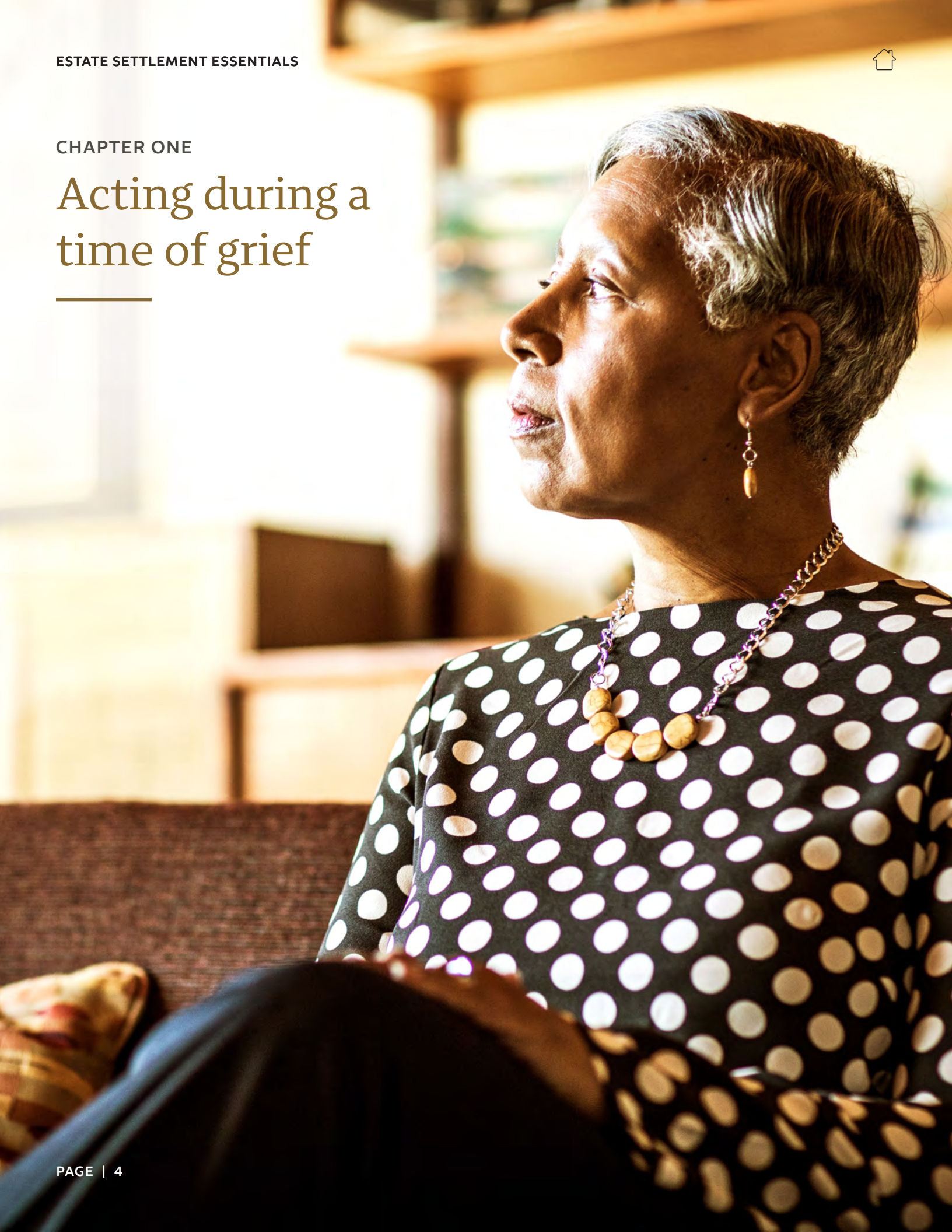




CHAPTER ONE

# Acting during a time of grief

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Being named the executor or trustee in an estate plan may seem like a great honor, but it is also a great responsibility. You are tasked to act and make important decisions at a time when you may be dealing with your own grief. You will be asked to implement the decedent's final instructions. In so doing, you will be held to a "fiduciary standard of care."

Accordingly, when managing estate assets, you must remain faithful to the terms of the estate plan. You must also act in the best interests of the estate and the beneficiaries.

An executor must be appointed by petition to the applicable court before being empowered to act.

## Typical fiduciary duties of executors and trustees

1. Place the beneficiaries' interests first. That means excluding all of your personal interests in the estate and carefully evaluating all transactions that might be considered conflicts of interest.
2. Exercise reasonable care and skill that a person with good judgment would be expected to exercise in managing their own affairs.
3. Handle general administrative duties of the estate or trust according to the document's terms and in accordance with state law.

4. Be impartial and consider the interests of both current and remainder beneficiaries when making decisions related to the estate's assets. Your decisions and actions, including those related to beneficiary distributions, must be in accordance with the terms of the governing documents.
5. Inform beneficiaries about the estate or trust on a regular basis. This may include providing statements and additional information upon request.

See chapter 2 for more information about this role.

## What about a corporate fiduciary?

Once you know you have been named the executor or trustee in an estate plan, ask the friend or loved one who named you whether they named a co-trustee such as a corporate fiduciary.

A corporate fiduciary is a bank or trust company that works with the executor or trustee to manage estate- or trust-related tasks. Having an experienced financial professional on your team may help you avoid potential mistakes.







# Considerations after a death

After a loved one passes, it can be hard to know where to start. Here are some examples to help you get started.

**Check on the well-being and financial needs of loved ones left behind:** Alternative arrangements for care may be needed.

**Reach out to financial institutions:** Contact institutions where the decedent had accounts or safe deposit boxes.

**Contact decedent's estate attorney and other legal professionals:** Consider compiling a list of initial questions you may have. Determine what notifications are needed and/or required.

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**Call decedent's employer:** Request all benefits information, including details on employer-sponsored life insurance. If decedent was self-employed, determine how to gather pertinent records.

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**Determine who is named as executor and/or trustee in the estate plan:** A common practice is for the named executor to contact an estate planning attorney to discuss qualifying with the court to be formally appointed before any action is taken on behalf of the decedent.

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**Coordinate with the funeral home:** Request at least 10 copies of the death certificate for notifications.





# People and organizations to consider notifying

Here are some examples of those who may need to know when someone dies.

- **Accountant, financial advisor, or tax advisor:**

Discuss personal income tax returns and schedule for estate tax filings; notify IRS of executor or trustee appointment.

Discuss minimum distribution and IRA rollover options for the beneficiaries with a tax professional.

- **Life insurance companies:**

Initiate claims processes.

- **Current and former employers and agencies from which the decedent received benefits, such as the Social Security Administration, Veterans Affairs:**

Ask about applicable pensions and survivor benefits, stop payments, and file claims.

- **Mortgage lenders and county recorder or registrar:**

Obtain decedent's debt obligation and ownership information.

- **Services and utilities:**

Identify if the utilities need to continue and, if possible, consider transferring into the survivor's name. If the utility is not required, consider canceling it.







CHAPTER TWO

# Understanding executor and trustee responsibilities

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Marshaling, valuing, and preserving the assets of the decedent until they are disbursed is an important role for any executor (in the case of a will) or trustee (if there is a trust). In fulfilling this role as the representative of the estate or trust, you have a fiduciary duty to heirs, beneficiaries, and creditors.







# The roles of an executor and a trustee

These two roles have subtle differences. Depending on how an estate was structured, there may be an executor and a trustee, who may or may not be the same person.

## Executor

Assumes role based on state-specific probate requirements, normally court-appointed

Reviews provisions of the will, locates heirs, and discusses preliminary probate steps with attorney upon decedent's death

Safeguards and marshals the probate assets in the estate

Manages the probate process

For court inventory or tax purposes, obtains non-probate asset information, such as assets in trust that are joint or payable on death, and assets with beneficiary designations, like life insurance

## Trustee

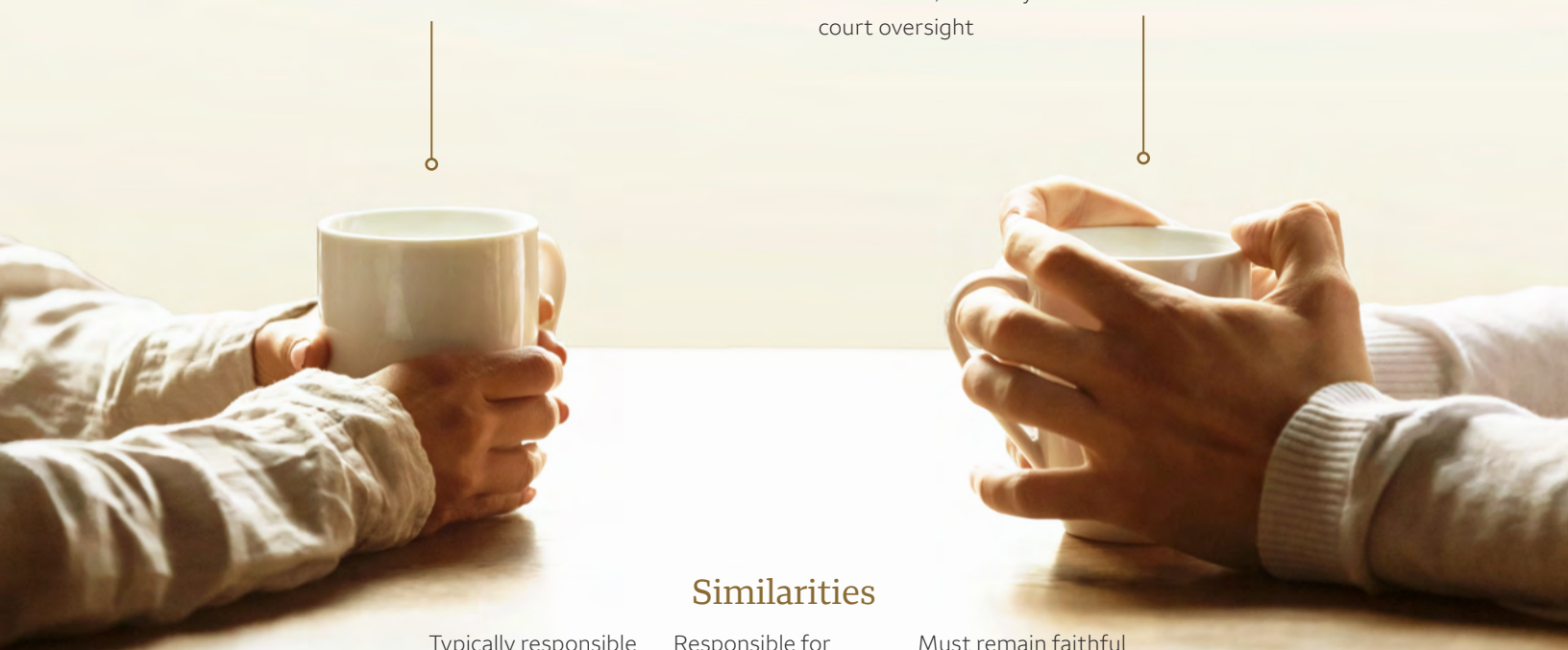
Assumes role when appointment is accepted in writing, which may be when the original trustee passes away or resigns

Identifies, safeguards, and marshals assets titled in the trust's name or payable to the trust (insurance, retirement benefits, estate assets)

Administers the trust and is responsible to beneficiaries of the trust, normally without court oversight

Monitors assets for quality and preservation, recognizing near-term distribution requirements. For ongoing trusts, monitors and manages for the benefit of the beneficiaries' current and future needs

May be required, per document terms, to keep the trust operational for the lifetime of the surviving spouse or one or more beneficiaries



## Similarities

Typically responsible for disbursing assets to beneficiaries

Responsible for paying taxes

Must remain faithful to decedent's instructions



## Considerations for executors

A trust and estate attorney counsels executors through the estate settlement process. An attorney can help interpret certain provisions of the will, provide guidance on your fiduciary duties, draft required probate documents, prepare a property inventory, identify required tax issues, and ensure proper distribution of assets.

Depending on the complexity of the decedent's portfolio, key advisors may also include a financial advisor, tax advisor, property manager, real estate broker, accountant, and appraiser.

## Financial responsibilities may include:

- **Banking:** Establish accounts for the estate or trust to hold cash and securities.
- **Accounting:** Maintain detailed records of all estate or trust receipts and disbursements.
- **Payments:** If solvent, settle debts, handle expenses, and verify validity of all claims.
- **Taxes:** The amount an estate pays in taxes can impact what's left for beneficiaries. Get professional help from a trust and estate attorney and tax professional. They can develop a plan that analyzes tax-filing requirements and available tax elections to help reduce the decedent's and the estate's overall tax bill. Whether an estate is subject to estate taxes or not, income tax returns will have to be filed for the decedent and the decedent's estate and/or trust.

- **Other disbursements:** Estimate and raise cash for payment of expenses and specific gifts, as appropriate. Once you've set a plan for taxes, your estate attorney should be able to help you with next steps.
- **Maintenance:** Hold cash and securities subject to will or trust provisions while monitoring investment performance.
- **Negotiations:** Manage fee agreements with attorneys, accountants, appraisers, and other professionals.

## Communicating with beneficiaries

An executor or trustee should be sensitive to the surviving family's situation. It may be helpful to meet with beneficiaries early to discuss provisions of the estate plan and expectations.

## Other tasks may include:

- Coordinate the valuation and possibly sale of certain assets and tangible personal property.
- Identify digital assets, and implement steps to safeguard against fraud, identity theft, or other potential misdeeds. Digital assets can sometimes be overlooked and may include things like email accounts, reward programs, social media or multimedia accounts, websites, etc.
- When dealing with digital assets, be sure you're not violating licensing agreements and terms-of-use policies agreed to by the decedent, in addition to federal or state-specific laws.







## Transferring probate assets

Executors generally are responsible for marshaling and transferring assets the decedent owned in their own name (also known as “probate assets”) to either:

- **Beneficiaries** named in the decedent’s will.
- **The decedent’s heirs**, as determined by the court interpreting state law, if the decedent didn’t have a will.
- **The decedent’s creditors.**

## Handling “nonprobate assets”

Some assets fall outside the definition of probate assets but still need to be considered when settling an estate and preparing tax returns. These include:

- **Assets held in joint names:** These will normally pass directly to surviving joint owner(s).
- **Assets held in accounts with beneficiary designations:** These may include life insurance, retirement accounts, transfer-on-death accounts, and pay-on-death accounts, among others.
- **Trust assets:** Assets titled to a trust at death pass according to trust terms.

## Business interests

If the decedent owned any businesses, those entities may need to be reviewed as part of the estate-settlement process. A family-owned business, partnership, or other kind of business interest can really complicate an estate.

## Arranging care of children

Are minors involved? Guardians for the children may be nominated in the will, but they will need to be appointed by the court.

The will may include specific instructions about how you are to disburse money to a guardian for the benefit of minors. The will may even have established a trust upon death for the children’s benefit.







## Considerations for trustees

A trustee is the person who administers any assets that were placed in a trust. While fiduciary duties for managing these assets are similar to those of an executor settling a will, assets in a trust do not have to go through probate. Trust and estate attorneys can help guide trustees on the important components of administering a trust.

## Managing or preserving property or business interests held in trust

A trust may include the decedent's personal residence or other real estate. You'll need to check trust documents for specific directions, ensure that appropriate insurance is in place, determine who may have access, and make arrangements to secure the property.

Until you and your attorney have sold or distributed the properties, you will need to maintain and keep the property in good repair. This includes paying utility bills, homeowners insurance, and real estate taxes, along with general maintenance and upkeep.

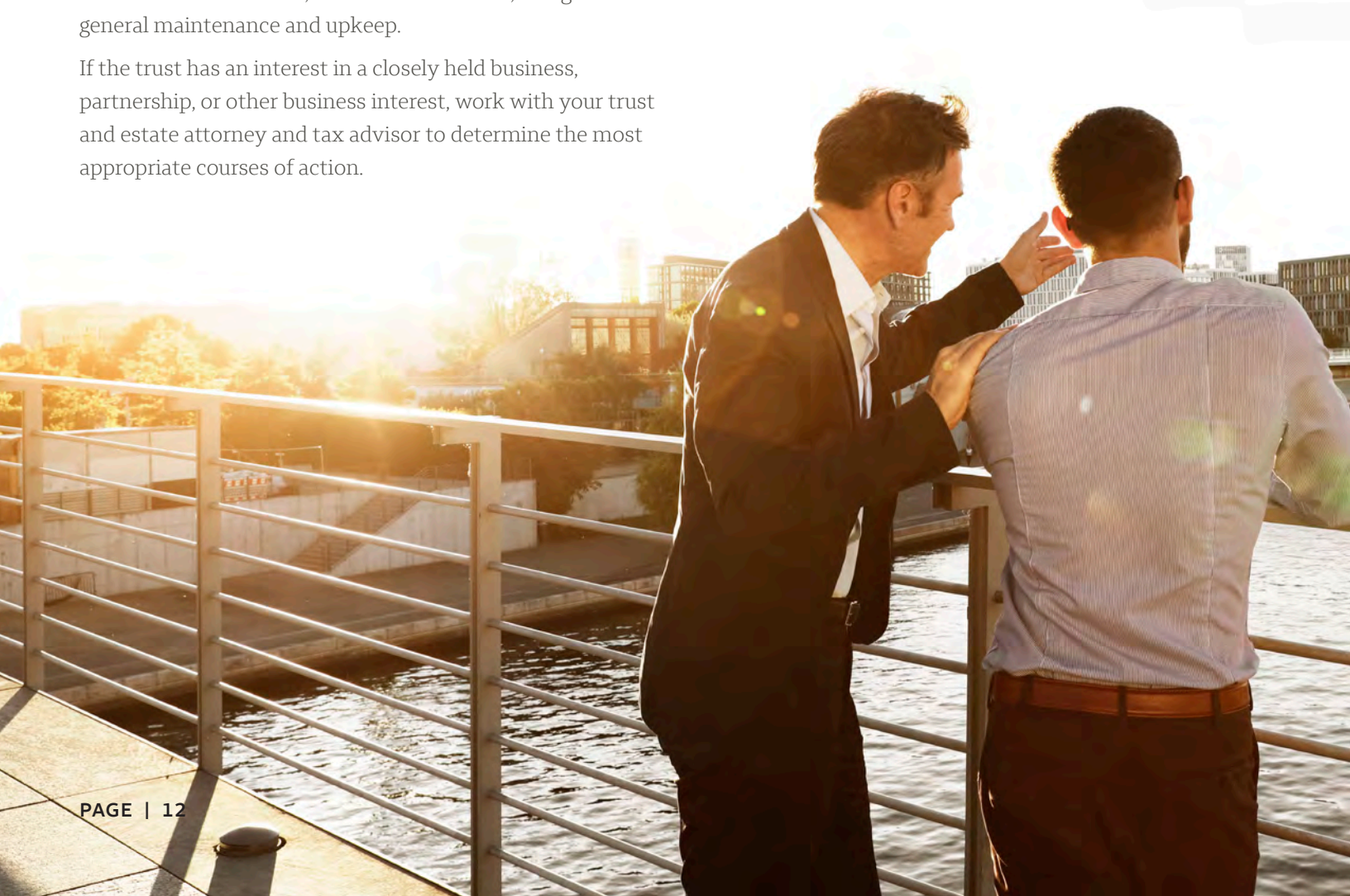
If the trust has an interest in a closely held business, partnership, or other business interest, work with your trust and estate attorney and tax advisor to determine the most appropriate courses of action.

## Working with a corporate trustee

Often, an estate plan will name a corporate as well as an individual trustee. In these cases, the corporate representative and the individual trustee will work together to meet the best interests of the beneficiaries. Make sure you clearly understand both your and the corporate trustee's roles and coordinate responsibilities regarding administrative tasks.

## Working with an executor

If you do not also serve as the executor of the will, the person serving in that capacity will have separate and specific duties, and the two of you should collaborate closely. The most common tasks requiring close collaboration include post-mortem planning for debts, expenses, taxes, and the ultimate distribution of the estate and trust. The governing documents or governing law provide direction for both.







## CHAPTER THREE

# Managing common estate settlement challenges

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Sometimes a will or trust unearths questions or disputes among family members. The role of the executor or trustee is to remain fair and impartial. Keeping beneficiaries well informed throughout the entire estate settlement process — particularly if you think conflicts are brewing — is another important responsibility. An attorney can help interpret unclear will or trust provisions and guide you through the maze of state and federal statutory requirements. The attorney who drafted the estate plan may have the clearest understanding of the decedent's intentions and be in the best position to provide explanations to the family.





## Court accountings

Your attorney or a tax professional can help prepare any required court accountings, which offer a comprehensive accounting of estate details such as the following:

- Estate assets and their value
- Value of any assets sold or distributed
- Cash receipts
- Cash distributions to beneficiaries and creditors
- Professional and administrative expenses paid

**Please consult with your legal and tax advisors for the complete list of estate tasks relevant to your specific situation.**

## Statements to beneficiaries

Giving beneficiaries detailed account statements and communicating proactively is an appropriate way to keep them informed, minimize misunderstandings, and set expectations for estate settlement timelines.

Detailed account statements typically include:

- Listings of assets received (securities, real property, tangible property, etc.)
- Date-of-death values and current market values of all assets
- Lists of distributed assets (including recipients' names)
- Inventory of assets sold (including the gains or losses realized on sales)
- Cash receipts (including earned income)
- Cash distributions for expense and debt payment (including recipients' names)
- Fees paid to the executor/trustee, attorney, tax professional, appraisers, and other professionals

## When the court can help

If family conflicts run deep, they can derail the estate-settlement process. Here are a few examples:

- A family member might contest the will or trust.
- The estate plan may fail to address unforeseen circumstances.
- Multiple people may dispute ownership of a particular asset.
- Beneficiaries may question the decedent's testamentary capacity when the will or estate plan was prepared.

When a situation like one of these arises, filing a court action may be an option. Talk to your trust and estate attorney for guidance and help in petitioning the court.

### **Why many people avoid probate...**

Many families seek to avoid probate because it makes the estate settlement process public when they would rather keep it private. Accordingly, trusts have become a very popular planning alternative for wills since they allow wealth transfer and distribution of assets without probate proceedings.

### **...and why sometimes the court can be helpful**

Even when settling a trust, appearing in front of the probate court (or the court with jurisdiction) can be beneficial. Probate courts exist to ensure the proper collection and distribution of a decedent's assets and can bring order to post-death situations that might otherwise spiral out of control. A court order can settle disputes. Note that each situation is different, and, as such, the executor should seek appropriate counsel.





## Your estate settlement team

As executor or trustee, you may benefit from the help of professionals who have experience in the estate settlement process. You may want to consider adding one or more of the following professionals to your team:

### Tax professional

- Helps gather necessary tax information
- Reviews financial statements and prior year's tax returns
- Identifies and prepares required tax documents
- Estimates and advises on cash needed for tax payments
- Counsels on business-related tax implications
- Provides guidance in the event of state or IRS tax audit

### Investment professional

- Reviews and helps interpret financial statements
- Helps organize and maintain records by providing account statements
- Conducts portfolio review of investment assets

### Estate attorney

- Advises on overall strategy and timing of activities
- Interprets will/trust directives
- Drafts legal documents
- Represents you in probate court
- Consults on the payment of debts and expenses
- Represents you in state or IRS tax audit or other estate litigation



**Appraiser**

- Prepares asset (personal property, business, and real estate) appraisals for estate and income tax purposes

**Real Estate Broker (if applicable)**

- Drafts real estate documentation if selling
- Identifies repair needs
- Coordinates and arranges inspections/reviews
- Recommends buyers if assets need to be sold

**Property Manager (if applicable)**

- Ensures property is secure
- Keeps real estate assets in good repair
- Handles collection of rents and payment of expenses
- Negotiates leases and contracts

**Estate Advisory Specialist (assigned if Wells Fargo Bank, N.A. is engaged as executor, trustee, or agent for executor or trustee)**

- Helps negotiate fee agreements and coordinates activities with professional team
- Reviews will and trust provisions with the family
- Assists with court administration services, probates the will, provides notice to creditors, and prepares inventory and accountings
- Marshals and safeguards assets and arranges for asset valuations
- Establishes an account to hold cash and securities
- Manages tax filings process
- Arranges payment of administration expenses and creditors
- Helps to resolve disputes
- Keeps beneficiaries informed via periodic account statements and coordinated communication plan

**When to call in professionals**

These unique assets bring additional complications and may require specialized knowledge.

- An operating business or professional practice
- Commercial real estate or rental properties
- A farm, livestock, or crops
- Timber or other alternative investments
- Oil, gas, and mineral rights
- Valuable collections (cars, art, jewelry, collectible firearms, etc.)
- Multiple properties in different states or countries

**Where can I get help?**

Some estates are clear and straightforward. Others include complex investment portfolios, property, conflicts with beneficiaries, and more. Executors and trustees don't have to go it alone. Professionals can help you get the job done.

Hiring experienced professionals may provide you with a critical safeguard. As a fiduciary, you are tasked to handle complicated, time-consuming tasks at a sensitive and emotional time. Errors or delays could result in needless litigation costs, taxes, expenses, and penalties.

In the previous chapters, we've offered you some useful tips to help you with your duties as you work through the estate settlement process, but this information is not exhaustive. If you would like to learn more, we have included a list of useful Wells Fargo & Company contact information.





# Call on Wells Fargo & Company

## If you need assistance settling the estate

Wells Fargo Estate Services can provide trust and probate settlement services for large estates or trusts including those with complex assets. Services can include estate planning document review; probate and trust administration; fiduciary investment management; closely held asset management; oil, gas, and mineral rights management; real estate asset management; and post-mortem tax planning. To learn more, contact your advisor or contact the Estate Services Liaison Team at 855-355-8088 or email [estateservices@wellsfargo.com](mailto:estateservices@wellsfargo.com).

## For help with decedent Wells Fargo savings, checking, and other bank accounts

Call Wells Fargo Estate Care Center at 888-790-7980 or visit [wellsfargo.com/help/estate-care-center/](https://wellsfargo.com/help/estate-care-center/). Banking professionals can tell you what steps are necessary to obtain account information.

## If you have questions about a brokerage relationship

A recent account statement from Wells Fargo Advisors may have the name and number of the decedent's financial advisor, or you can call 866-224-5708.





Wells Fargo and Company and its Affiliates do not provide tax or legal advice. This communication cannot be relied upon to avoid tax penalties. Please consult your tax and legal advisors to determine how this information may apply to your own situation. Whether any planned tax result is realized by you depends on the specific facts of your own situation at the time your tax return is filed.

Wells Fargo Wealth & Investment Management (WIM) is a division within Wells Fargo & Company. WIM provides financial products and services through various bank and brokerage affiliates of Wells Fargo & Company.

This information is designed to provide general information regarding the estate settlement process, but it is not exhaustive. We encourage you to work closely with your tax advisor and estate planning attorney during this difficult time.

Trust services available through banking and trust affiliates in addition to non-affiliated companies of Wells Fargo Advisors.

Any estate plan should be reviewed by an attorney who specializes in estate planning and is licensed to practice law in your state.

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