

2016 SUPPLEMENT to Texas Probate System

Fourth Edition

JAMES E. BRILL, *Editor and Project Director Emeritus*

RUSSELL W. HALL, *Editor and Project Director*

This supplement updates the *Texas Probate System*, in part by recognizing the requirement of e-filing in all counties.

Digital Download

This supplement's complete digital download, containing the entire text of the System in PDF and all State Bar of Texas–copyrighted forms in Word, can be securely downloaded from our website at www.texasbarcle.com/probate-2016 (for details, go to <http://texasbarbooks.net/download-tips/> or see the section titled 'How to Download This System' in volume 1).

How to Use This Supplement

This supplement consists of loose-leaf pages that replace or add to material in the System. The pages following these instructions are to be inserted in the *Texas Probate System*, fourth edition.

1. BE SURE that your System contains the 2015 supplement. Check the back of the title page in either volume; the copyright dates shown should include 2015. If you do not have the 2015 supplement, you should first obtain it and insert it before proceeding. To order the 2015 supplement, you may write to State Bar of Texas, Sales Desk, P.O. Box 12487, Austin, TX 78711 or call 1-800-204-2222 ext. 1411 (8:00 A.M.–5:00 P.M., Monday through Friday).
2. Use the instructions following this list of steps to remove outdated pages and insert new ones. Set the removed pages aside.
3. When all the listed pages have been inserted and all superseded pages have been removed, the List of Effective Pages will remain. Use the List of Effective Pages to check each page in the System to ensure that the System is complete and that the correct version of each page is in place. (Note that the List of Effective Pages should not be in the System at this stage, because they will be used to check all other pages.)
4. After the pages have been checked, insert pages xvii–xx (the List of Effective Pages) in their proper place, immediately after page xvi and before the tab divider for How to Download This System.
5. Occasionally the printer accidentally omits some pages from the supplement, and sometimes pages from the original System will have been lost during use. We will be happy to provide new supplement pages and replacements for 'old' pages. If you don't find your missing pages in the stack of superseded pages you've removed and set aside, photocopy the List of Effective Pages, indicate which pages you're missing, and send the list, together with a label containing your

complete mailing address, to State Bar of Texas, TexasBarBooks, Missing Pages, P.O. Box 12487, Austin, TX 78711-2487; you may also send your request via e-mail to books@texasbar.com or fax to (512) 427-4404.

- When steps 1–4 have been completed, discard the superseded pages. These instructions may be discarded or filed for future reference.

INSTRUCTIONS FOR REMOVING AND INSERTING PAGES

REMOVE OLD PAGES

INSERT NEW PAGES

VOLUME 1

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Title page – director bios

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Doc-1 – Doc-4

Behind tab HOW TO USE THIS SYSTEM

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W-4-1 – W-4-2

W-i – W-1-4
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MIL-127 – MIL-128

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SDL-1 – SDL-6

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F-i – F-xiv
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Behind tab LETTERS

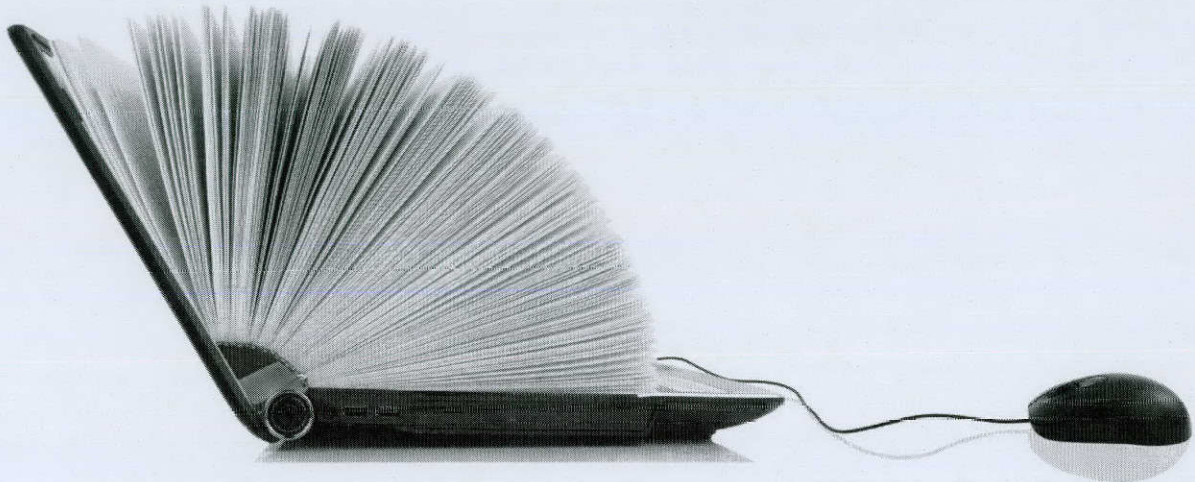
L-iii – L-viii

L-iii – L-viii
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After checking the System contents against the List of Effective Pages, insert the pages numbered xvii–xx (the List of Effective Pages) immediately after page xvi and before the tab divider for How to Download This System.



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TexasBarBooks



TEXAS PROBATE SYSTEM

Fourth Edition

Volume 1



Austin 2014

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The use of the masculine gender in parts of this manual is purely for literary convenience and should, of course, be understood to include the feminine gender as well.

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TEXAS PROBATE SYSTEM

Fourth Edition

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James E. Brill, *Editor and Project Director (1972–2014)*

Jimmy Brill is a 1957 University of Texas Law School graduate and a solo practitioner from Houston whose practice emphasizes probate, estate planning, and real estate. He currently serves as principal author and project director of the *Texas Probate System*, first published by the State Bar in 1972 and updated eight times since. In the 1970s, he chaired the State Bar Continuing Legal Education (CLE) and Professional Efficiency and Economic Research (PEER) Committees.

In 2007 Brill was the recipient of the Dan Rugeley Price Memorial Award from the Texas Bar Foundation. In 2009 the Foundation recognized him with its award as one of the five outstanding fifty-year lawyers in Texas. In 2006, the Real Estate, Probate, and Trust Law Section of the State Bar of Texas presented him with its Distinguished Probate Lawyer Lifetime Achievement Award. He also received the Distinguished Service Award for 2000 from the Estate Planning, Probate and Trust Law Section of the Houston Bar Association.

The State Bar honored Brill with its Presidents' Award in 1978 as the outstanding lawyer in Texas, with the Gene Cavin Award for Excellence in Continuing Legal Education in 1994, and with a Presidential Citation in 2005 for chairing the State Bar Task Force on Starting Practice. The College of the State Bar recognized him with its 1999 Professionalism Award and in 2000 recognized his article 'Dealing With The Death Of A Solo Practitioner' as that year's best article from a State Bar course.

Brill previously served as a director of TLIE (Texas Lawyers' Insurance Exchange), a company that writes malpractice coverage for Texas Lawyers, and was a five-year member of the State Bar of Texas committee that unsuccessfully proposed revisions to the Texas Disciplinary Rules of Professional Conduct.

In 1974 Brill was a founding member of what then was known as the Economics of Law Practice Section of the American Bar Association. He served on the council during its first five years and as an officer for the next three, and then, in 1982, chaired what became the Law Practice Management Section of the American Bar Association. He was honored by that section with its Samuel S. Smith Award for Excellence in Law Practice Management. He was inducted in 1994 into the first class and was elected as an initial trustee of the College of Law Practice Management and later served as an officer. For two and one-half years, he wrote a monthly column for solo practitioners in the *ABA Journal*. He received The General Practice, Solo and Small Firm Section of the American Bar Association Donald C. Rikli Lifetime Achievement Award in 2000.

Starting in 1994 Brill served as mentor to five women lawyers in their first year as solo practitioners and continued the group's monthly meetings for an additional four years. This group became a model for the mentor program of the State Bar of Texas. He has had three other groups, two of which related to probate practice. He was an organizer and for almost twenty years has led monthly meetings of a group of Houston lawyers known as Solos Supporting Solos. This informal group has met each month since September 1994 and provides solos with an opportunity to meet fellow solo practitioners in an informal setting.

Brill has been designated as a Texas "Super Lawyer" by *Texas Monthly* in each of its compilations and is listed in *The Best Lawyers in America*, Trusts and Estates. His firm, James E. Brill, P.C., has been rated as a Tier One Best Law Firm for 2014 by U.S. News and Best Lawyers.

In 2010 Brill was one of five graduates of Lamar High School (Houston) to be recognized as a Distinguished Alumnus. In an unrelated field, he is recognized as an authority on the stamps and postal history of Pitcairn Island and has served as an officer in the international Pitcairn Islands Study Group.

Russell W Hall, *Editor and Project Director (2014–2016)*

Russell W. Hall is a graduate of the University of Houston Law Center with both a J.D. and an LL.M. (Tax), and he holds a Bachelor of Arts degree in Sociology from Rice University. He is board certified in Estate Planning and Probate Law by the Texas Board of Legal Specialization. His firm focuses on estate planning and probate for the moderately wealthy, including foreign nationals.

Hall was on the Planning Committee for the State Bar of Texas 2007 Building Blocks of Wills, Estates and Probate Course and an author and speaker for the State Bar of Texas 2006 and 2007 Building Blocks of Wills, Estates and Probate Courses and 2007 Advanced Estate Planning and Probate Course. He was an author for the American Bar Association 2008 Midyear Meeting, Taxation Section, and served as an author and speaker for the TSCPA CPE Foundation CPE Family Conference, the 2010 Houston Bar Association Family Law Institute, and the 2010 Galveston County Bar Association Electronic Filing, Evidence & Computer Technology seminar. From 2007 to 2012, he was an editorial board member of *The Advocate*, the journal of the State Bar of Texas Litigation Section.

Before attending law school, Hall worked for the Immigration and Naturalization Service (INS) in the Houston District, the last several years as a special agent-criminal investigator. After law school, he joined Gulf Coast Legal Foundation, where he learned eviction and foreclosure defense, consumer litigation, and probate alternatives. He calls the experience ‘a glorious chaos, in which his clients were ‘often wrong, but seldom in doubt. When he happily left to start his own practice, he had a firm foundation in litigation, civil remedies, and client management. Before focusing on estate planning and administration, his private practice included business organizations, real estate, commercial litigation, and intellectual property. Although he does not practice immigration law, his tenure with the INS informs his estate planning practice. Perhaps 40 percent of the households he works with include someone born outside of the United States, often with family or property abroad. His LL.M. thesis considered whether the interest on lottery installments could be tax-free, like municipal bonds and other state obligations, and he frequently advises lottery winners.

Hall is licensed to practice in Texas and before the U.S. District Court for the Southern District of Texas, U.S. Tax Court, the U.S. Court of Appeals for the Fifth Circuit, and the U.S. Supreme Court. He is a member of the State Bar of Texas (International Law; Litigation; Oil, Gas & Energy Resources Law; Real Estate, Probate and Trust Law; and Taxation sections); the Houston Bar Association (International Law; Litigation; Oil, Gas and Mineral Law; Probate, Trusts & Estate; Real Estate Law; and Taxation sections); and the American Bar Association (Solo, Small Firm, and General Practice Division; Section of International Law; Law Practice Division; Section of Real Property, Trust, and Estate Law; and Section of Taxation). He is the president-elect and a director of the Houston Chapter of the Society of Financial Service Professionals and a member of the Houston Business and Estate Planning Council and the Houston Estate and Financial Forum.

Hall’s interest in technology and practice management had its genesis when he was an undergraduate taking differential equations, which he never could pass. Unaware that he was fated for law school, Hall took machine language programming and team programming at Rice University, and for a time served as chief programmer of their Macintosh Development Group. As a young lawyer, his affinity for technology enabled him to make mistakes faster than any of his peers. It also provided him with the

social skills to burn through eight paralegals, which he replaced and retrained, one after another after another.

The *Texas Probate System* was the beginning of wisdom for Hall. It offered a methodical yet flexible approach that might fit any family, useful to any paralegal, that also rewarded the discerning reader with the collective wisdom of a generation of practitioners, all juried by the inimitable Jimmy Brill. What a gift.



How to Download This System

To install this System's digital download, go to

www.texasbarcle.com/probate-2016

For details, see the section below titled "Downloading and Installing."

Texas Probate System (4th Ed.) Digital Product 2016

The complimentary downloadable version of the *Texas Probate System*, fourth edition, contains the entire text of the printed System. If you have questions or problems with this product not covered in the documentation available via the URLs below, please contact TexasBarBooks at (800) 204-2222, ext. 1499, or e-mail books@texasbar.com.

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Downloading and Installing

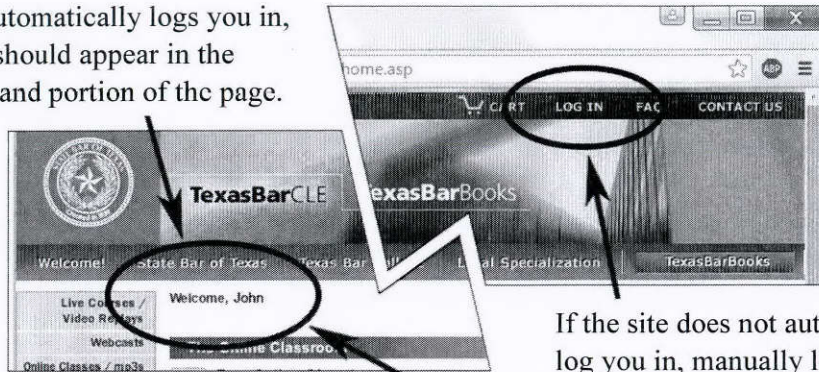
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1. Log in at www.texasbarcle.com:

If the site automatically logs you in, your name should appear in the upper left-hand portion of the page.



If the site does not automatically log you in, manually log in.

Then you should see your name.

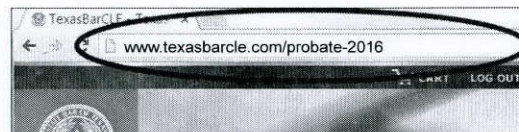
If you are not yet a registered user of the site, on the log-in page, use the “New User? Click here” link to complete the quick, free registration.

2. Go to www.texasbarcle.com/probate-2016:

After logging in, up in the browser's address bar, select all text after “texasbarcle.com/.”

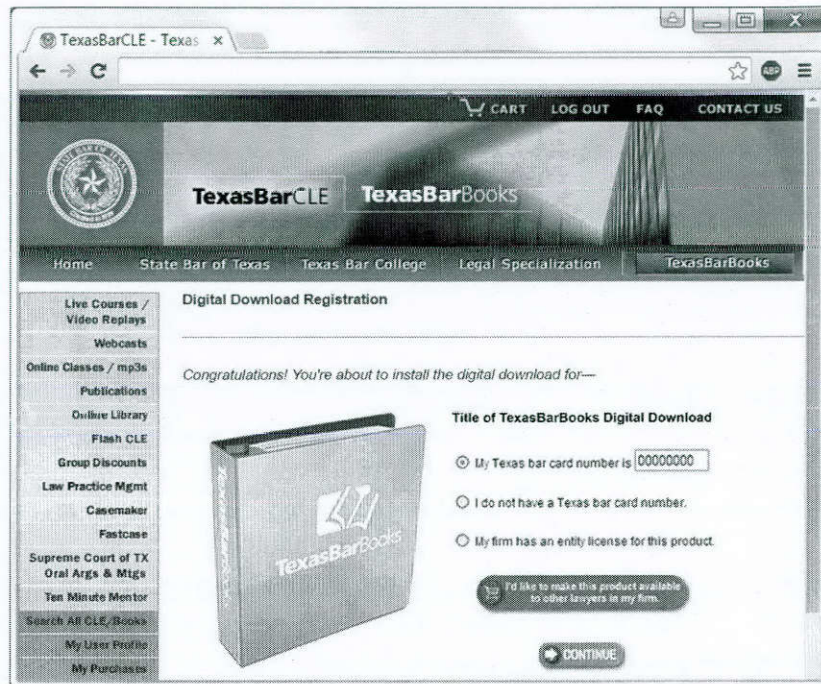


Modify the selected text to make the URL “www.texasbarcle.com/probate-2016” and press your keyboard's “Enter” key.



The “http://” and “www” are optional for most browsers.

3. The initial download web page should look similar to the one below.



See <http://texasbarbooks.net/download-tips/> for more download and installation tips.

TexasBarBooks Navigational Toolbar

When preparing forms in your office using this System's editable text files, the TexasBarBooks Navigational Toolbar enables you to—

- view or hide the instructions embedded in the word-processing forms;
- find and highlight the next variable, instruction, or optional text;
- retain the embedded instructions for viewing while you work on your hard drive but prevent them from printing on your hard copies; and
- delete the embedded instructions entirely on forms you plan to e-mail or file electronically.

View the video tutorial at <http://texasbarbooks.net/tutorials/>. (You may also open “ToolbarTutorial” in the digital product's “Forms” folder.)

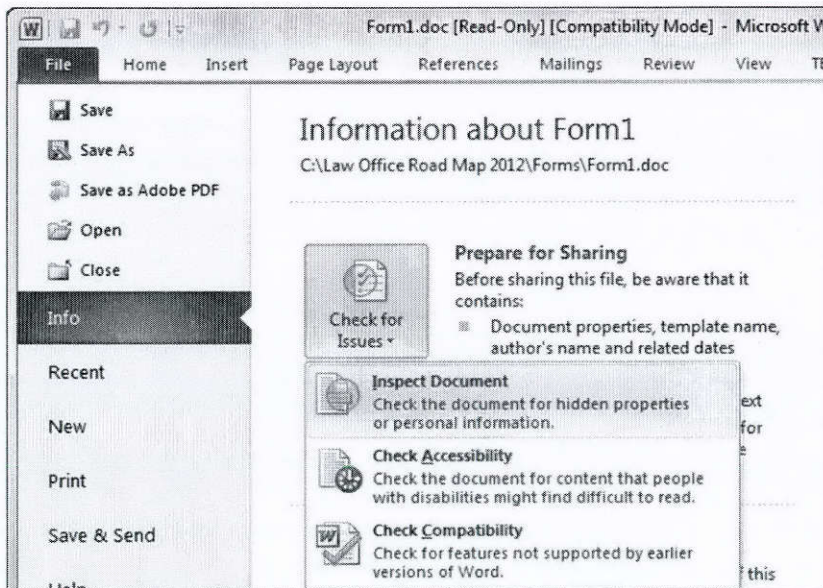
Preparing Word Forms for E-Filing (Windows)

Notes for Other Software

- o *Word for Macintosh:* See the section titled “Remove Metadata” in the document named “Macintosh--How to Use the Word Forms” included with the digital download.
- o *WordPerfect:* To remove metadata from forms saved as WordPerfect files (version X3 or later), launch the “Save Without Metadata” tool (File > Save Without Metadata, or Alt + F + M).

Using Word version 2007 or later, to remove personal information, hidden text, and other metadata before filing or sharing a document electronically, launch the “Inspect Document” tool.

1. Go to File > Info > Check for Issues > Inspect Document (Alt + F + I + I + I).



HOW TO USE THIS SYSTEM

IF ALL ELSE FAILS

Read the Instructions!

HOW TO USE THE SYSTEM

Every trade, every business, and every profession has its own specialized tools and specialized procedures. Although slow to embrace standardization, as though somehow it was demeaning and beneath a lawyer, more and more lawyers have been exposed to the advantages and benefits of organization and standardization.

Probate practice lends itself to systemization because there is a beginning (a death) and an end (closing the estate and distributing assets). Many of the documents and procedures must follow statutory requirements. These factors, coupled with careful analysis and standardization, can provide guidance for the inexperienced and serve as reminders to the seasoned lawyer.

Explaining the Tabs of the System

This System is divided into the following sections:

1. How to Download This System
2. Introduction
3. How to Use This System
4. Worksheets
5. Master Information List
6. Checkplan
7. Special Instructions
8. Significant Date List
9. Furnished Forms
10. Forms
11. Letters

1. How to Download This System provides information on licenses and installing the digital download, using the navigational toolbar to aid in preparing the Word forms and letters (see items 10 and 11 below), and removing metadata from those files before e-filing.

2. The Introduction provides general information concerning the System.

3. How to Use This System gives you the basic steps to follow and tells you how to use the System.

4. Worksheets are designed to guide you through proper decisions, to make calculations, or to maintain a single summary record of multiple related transactions (such as the status of transfers of different securities).

5. The Master Information List or *MIL* is the heart of the System. A separate MIL is used for each estate and is kept in the file for that estate. In some offices the MIL is kept in a notebook for that estate. The MIL is an interview guide that contains a list of questions to ask to obtain required factual information and provides a systematic means for recording that information. It also contains numbered and lettered spaces for the systematic recording of information concerning a decedent, the decedent's family, assets, taxes, debts, probate proceedings, and other affairs. Each fact has its unique number, and these numbers appear throughout this System.

By using the MIL, you will be able to record all information in one place rather than on the numerous scraps of paper you now use. Its use will also ensure that no essential information will be overlooked or be recorded in a haphazard fashion. Since most of this information is factual in nature, much of it can be obtained and recorded by a legal assistant or secretary.

For the System to function at its maximum potential, most of the MIL should be considered and, when applicable, completed before any documents are prepared. When the administration is concluded, the MIL should be preserved in the client's file as a record of the facts that were considered to form the basis for the decisions that were made.

6. There is a single Checkplan containing a comprehensive checklist of all activities to be considered and, if applicable, to be performed in handling a decedent's estate. Through its proper use and coordination with the other parts of the System, the gathering of information, the transfer of assets, and the preparation of forms and letters can be virtually self-administering. The Checkplan is precisely coordinated with the numbering system of the MIL, with the Significant Date List, and with the Letters, Forms, Furnished Forms, and Special Instructions. The Checkplan is a reminder of the common problems to be considered and tells you the routine action to take in most of these situations.

You will be well advised to carefully review the entire Checkplan before beginning action. If an item does not apply to that estate, mark the "NA" column and move on to the next item. If the next item applies to that estate, determine whether it will be performed by you or by a member of your staff and so indicate in the appropriate blank by entering the initials of the person to perform the task. When you follow this procedure, the Checkplan becomes a planning tool. As an activity has been considered and the proper action has been taken, the person taking that action should initial the proper blank and indicate the date that the action was taken. This Checkplan should be maintained in the client's file (or notebook). When the administration is concluded, the Checkplan should be preserved in the client's file as a record of the activities considered, the actions taken, the dates they were taken, and the identities of the persons who performed the services.

7. The Special Instructions provide detailed information concerning particular probate procedures. Essentially, these are footnotes. As you proceed in the administration of an estate, you will be referred to these Special Instructions for additional information or guidance. Since this System is grounded on the establishment of an efficient administrative process, many substantive and technical questions are not covered in detail, and you are cautioned to refer to other appropriate sources for the answers to your questions.

8. To assist you in calculating and recording important dates for all proceedings, there is a Significant Date List (SDL) that is used for each estate. While this SDL reminds you of the critical dates and deadlines, you must dovetail the calculated dates into your regular office reminder system. You should never put your file away until you have entered the next activity in that calendar. As you determine the date for a future activity, you should record it in your office calendar, reminder, or tickler system. This is particularly important as to those dates marked with an asterisk (*). The SDL for the estate is also kept in the file (or notebook) for that estate.

In addition to the Significant Date List and your office reminder system, the Probate Chart (Worksheet 15) can be used to provide a compact summary of all probate matters handled by your office. As you calculate dates for an estate on the SDL, you will post those dates to your reminder system and to this chart. No attempt has been made for overall chronological arrangement, since this is intended to be only a status chart. It should be posted in a conspicuous place in your office (but not where it is readily seen by clients).

9. Furnished Forms (FF) are printed forms furnished by governmental agencies or outside sources. The purpose of each form is printed at the top. To prepare a furnished form, it will be necessary for you to obtain the form from the appropriate agency or other source. In some instances, there is an online version of the furnished form that can be completed and printed.

10. Documents to be prepared for court proceedings are called Forms. The purpose of each form is printed at the top. General instructions for preparing many forms appear in boxes at the beginning of the form, and more specific instructions appear throughout at relevant points. Within many forms, optional paragraphs or items are identified by boxed instructions. Language in boxes is not to be typed in the finished document.

Two typefaces are used in the forms. Material in Times Roman (like most of this page) is appropriate for inclusion in a finished form. In contrast, Arial type is used for instructions. When the Arial type is used within the form itself (rather than in a boxed instruction), it appears in **boldface** for emphasis. Bold-faced Arial type is also used to indicate numbers that are cross-referenced to the numbers in the Master Information List (MIL) where the necessary data is to be recorded. If that portion of the MIL has been completed, the form can be prepared.

Several types of bracketed material appear in the forms. In a bracketed statement such as [executor/administrator], the user must choose between the terms or phrases within the brackets that are separated by forward slash marks. Alternative letters or phrases may also be indicated by the use of brackets. A frequent example that appears in the forms is

“executor[s],” indicating a choice between the words “executor” and “executors.” In a bracketed statement such as [name of heir], the user is to substitute the name of the heir rather than typing the bracketed material verbatim. For a phrase such as “[and codicil],” the user must determine whether to include the phrase. Material such as [include if applicable: . . .] provides instructions for completing the finished form and should not be typed verbatim in the document. Bracketed statements at the beginning of most forms refer the user to Special Instruction 87 for instructions about composing the caption of the form.

Signature lines appear as blank lines. Spaces for dates, times, and amounts that would be filled in *after* the document is prepared also appear as blank lines.

To avoid the necessity of retyping, word-processing files of the forms are provided in the digital download. In those files, instructions and similar parts of the files are formatted in hidden text. Be sure to check behind the *How to Download This System* tab for important information on removing hidden text and other metadata from the forms before e-filing or otherwise electronically sharing them.

11. Letters of a standard, routine, and repetitive nature are contained in that section. The purpose of each letter is printed at the top, and instructions for preparing the letter are reflected in the same manner as in the forms. The letters also contain bold-faced numbers that are cross-referenced to the MIL. Once again, if that portion of the MIL has been completed, the letter can be prepared. (Word-processing files of the letters are also included with the digital download; like the forms, they contain hidden text that must be deleted before the files are electronically shared.)

Every office needs at least one complete Texas Probate System for use in all estates. Each estate needs a Checkplan, a Significant Date List (SDL), a Master Information List (MIL), and a Probate Information List (Form 1). These items, plus the Worksheets and the Texas Lawyer’s Creed, are contained as PDF files with the digital download. You may print out these items for each estate you handle, or you may print them out once and keep those copies as photocopy masters. The digital download also contains word-processing files of most parts of the System and Excel files of the Checkplan, MIL, SDL, and Worksheets. Finally, the digital download includes the entire Texas Probate System as a single PDF file for reference on screen or when the printed System is not readily available. The FAQs at <http://texasbarbooks.net/f-a-q/> explain how to use all these files.

Additional copies of this System may be ordered from the State Bar of Texas, Sales Desk, P.O. Box 12487, Austin, TX 78711-2487, 1-800-204-2222, ext. 1411, or (512) 427-1411, or online at www.TexasBarCLE.com.

How to Begin

To access the proper materials through the use of the systems approach, begin with the Checkplan. The early steps direct you to the appropriate materials for gathering necessary information and determining the proper probate procedure.

Our MIL, numbering system, Checkplan, Forms, and Letters are precisely and delicately coordinated, but none of the content is sacred or to be regarded as Holy Writ. You should feel free to write your own letters and forms or to change ours to adapt to your own practice. If you do so, you must be careful not to destroy the numbering of your blanks, and you must remember to coordinate your blanks with the MIL. If you come up with suggestions for improvements for our System or for additions to it, please let us hear from you.

THIS VOLUME IS NOT JUST A FORM BOOK!

Throughout this System we have tried to guide you to the procedure requiring the least amount of activity to conclude the administration process. This effort on our part is not to be taken as criticism of any of the procedures provided by the Estates Code but is specifically designed to permit you to close the estate and get the assets to the family as rapidly and as inexpensively as possible. Regardless of the particular procedure you follow, you should make every effort to conclude the process as soon as is practicable.

This 2014 Texas Probate System supersedes all earlier versions of the System.

James E. Brill

Worksheets

1	Proper Probate Procedure (Probate Pathfinder)	W-1-1 to W-1-4
2	Insurance on D's Life	W-2-1 to W-2-2
3	Checking and Savings Accounts and Certificates of Deposit.	W-3-1 to W-3-2
4	Reconcile D's Checking Account to Balance Furnished by Bank	W-4-1 to W-4-2
5	Securities Transfer Record	W-5-1 to W-5-2
6	Requirements for Filing Federal Estate (and Generation-Skipping Transfer) Tax Return (IRS Form 706).	W-6-1 to W-6-4
7	Valuing Producing Mineral and Royalty Interests	W-7-1 to W-7-2
8	Eligibility for Special Use Valuation under IRC, Section 2032A	W-8-1 to W-8-2
9	Notice to Beneficiaries	W-9-1 to W-9-2
10	Cash Requirements and Cash Available	W-10-1 to W-10-2
	<i>[Worksheets 11 and 12 are reserved for expansion.]</i>	
13	Claims against Estate	W-13-1 to W-13-2
14	Marital Deduction under Transitional Rule	W-14-1 to W-14-2
15	Probate Chart for All Active Estates.	W-15-1 to W-15-2

[Reserved]

WORKSHEET 1—PROPER PROBATE PROCEDURE (PROBATE PATHFINDER)

Estate of _____

Circle the correct answer to the following questions. The instructions under each question will direct you to materials concerning a specific type of administration that may apply to this estate.

1. Is there a will that has been probated in another state or a foreign country?

If the answer is **YES** see Special Instruction 91—Ancillary Probate (AP) or Recording (RW) of Wills Previously Probated Elsewhere.

If the answer is **NO** or if original probate in Texas is desired (see Special Instruction 15—Jurisdiction and Venue) go on to the next question.

2. Is there an **URGENT AND IMMEDIATE** need for a personal representative of the estate?

If the answer is **YES** go immediately to Special Instruction 57—Temporary Dependent Administration (TDA).

If the answer is **NO** go on to the next question.

3. Is there a will?

If the answer is **NO** go to Question 8.

If the answer is **YES** go on to the next question.

4. Is there a need for administration, and are there debts that are not secured by real estate?

If the answer is **NO** see Special Instruction 73—Muniment of Title (MT).

If the answer is **YES** go on to the next question.

5. Is there an “**INDEPENDENT EXECUTOR WITHOUT BOND**” named in the will who is alive, willing, and qualified?

If the answer is **YES** see Special Instruction 68—Independent Administration (IA).

If the answer is **NO** go on to the next question.

6. Will there be a testate independent administration by agreement?

If the answer is **YES** see Special Instruction 88—Independent Administration by Agreement Where Decedent Left a Will (TBA).

If the answer is **NO** see Special Instruction 17—Testate and Intestate Dependent Administration and then go on to the next question.

7. Is there an executor named in the will who is alive, willing, and qualified but who is not designated in the will as “independent executor without bond”?

If the answer is **YES** see Special Instruction 65—Administration with Dependent Executor (ADE).

If the answer is **NO** see Special Instruction 67—Administration with Will Annexed (AWA).

8. Will there be an intestate independent administration by agreement?

If the answer is **YES** see Special Instruction 89—Independent Administration by Agreement Where There Is No Will (IBA).

If the answer is **NO** go on to the next question.

9. Are you familiar with proceedings in lieu of administration?

If the answer is **YES** go on to the next question.

If the answer is **NO** see Special Instruction 29—Procedures in Lieu of Administration and then go on to the next question.

10. Do the estate assets, excluding eligible homestead and exempt property, exceed \$50,000?

If the answer is **NO** go on to the next question.

If the answer is **YES** go to Question 12.

11. Do the known liabilities of the estate, excluding those secured by eligible homestead and exempt property, exceed the estate assets, excluding eligible homestead and exempt property?

If the answer is **NO** see Special Instruction 63—Small Estates (SE).

If the answer is **YES** go on to the next question.

12. Is there a need for administration, and are there debts that are not secured by real estate?

If the answer is **NO** see Special Instruction 60—Proceedings to Declare Heirship (PDH).

If the answer is **YES** see Special Instruction 69—Regular Dependent Administration (RDA).

[Reserved]

**WORKSHEET 4—RECONCILE D'S CHECKING ACCOUNT TO
BALANCE FURNISHED BY BANK**

Estate of (6.02) _____

Date of death (1.07) _____

Name of bank (11.20) _____

Style of account (11.26) _____

Checking account number (11.11) _____

Determining D's Adjusted Cash Balance

1. Balance in account on date of D's death according to bank statement (11.27) \$ _____
2. Checks dated before D's death and outstanding according to D's check register on date of D's death:

Check Number	Amount

3. Total of checks outstanding (11.28) \$ _____
4. Net adjusted balance (subtract Line 3 from Line 1) (11.29) \$ _____
5. Deposits dated before D's death but not posted to D's account until after D's death:

Amount

6. Total of deposits outstanding \$ _____
7. Adjusted account balance (add Line 6 to Line 4) \$ _____

[Reserved]

- B. Holographic (see Item 2.03)
 - C. Witnessed (see Item 2.10)
- 6.12 Was will self-proved? Yes No (see Item 2.09)
- 6.13 Which of the following describes children born to or adopted by D?
- A. (Reserved)
 - B. None (see Item 3.35)
 - C. One born or adopted (see Item 3.36)
 - D. More than one born or adopted (see Item 3.36)
 - E. If any surviving children were born to or adopted *after* the date of D’s will, specify which one(s) here (see Item 3.52) _____
-
- 6.14 If D left a will (see Item 2.01), state which of the following describes D’s divorces (or other dissolutions of D’s marriages).
- A. No marriage of D was ever dissolved by divorce, annulment, or declaration that the marriage was void (see Item 3.20).
 - B. One or more of D’s marriages had been dissolved (see Items 3.20 through 3.28), and date and place are known.
 - C. One or more of D’s marriages had been dissolved (see Items 3.20 through 3.28), but date and place are not known.
- If D did *not* leave a will (see Item 2.01), state which of the following describes D’s divorces.
- D. D was never divorced (see Item 3.20).
 - E. D had been divorced (see Items 3.20 through 3.28), and date and place are known.
 - F. D had been divorced (see Items 3.20 through 3.28), but date and place are not known.
- 6.15 If will is being filed as a muniment of title, see Item 2.27 and state which of the following describes D’s debts:
- A. No debts at all
 - B. No debts except those secured by liens on real estate
- 6.16 Name of clerk of court _____
- 6.17 Mailing address _____
- 6.18 City, state, zip _____
- 6.19 Phone number _____
- 6.19A Fax number _____
- 6.19B E-mail _____

- 6.19C Website _____
- 6.20 Does clerk prepare citation? Yes No
- 6.21 What officer will post citation? Sheriff Constable
- 6.22 Name of that officer _____
- 6.23 Date of filing application or small estate affidavit _____
- 6.23A E-filing envelope number _____
- 6.23B Date of filing original will _____
- 6.24 Date of scheduled hearing _____
- 6.25 Date of actual hearing _____
- 6.26 Date of signing order or judgment _____
- 6.27 Is bond required for personal representative? Yes No
- 6.28 If yes, state amount of the bond and complete Items 6.29 through 6.37 \$ _____
- 6.29 Name of surety _____
- 6.30 Address _____
- 6.31 City, state, zip _____
- 6.32 Phone number _____
- 6.32A Fax number _____
- 6.32B E-mail _____
- 6.33 Person to contact _____
- 6.34 Will surety's co-signature be required for checks, etc.? Yes No
- 6.35 Date of obtaining bond _____
- 6.36 Date of filing bond _____
- 6.37 Date of approval of bond by judge _____
- 6.38 Date of filing oath _____
- 6.39 Date of qualification (the latest of Items 6.36, 6.37, and 6.38) _____
- 6.40 Were letters testamentary or letters of administration granted? Yes No
If yes, on what date were letters first issued? _____
- 6.40A Date set by court for expiration of temporary administration _____
- 6.41 Were appraisers appointed? Yes No If no, skip to Item 6.47. If yes, complete Items 6.42 through 6.46.

	(A)	(B)	(C)
6.42 Name	_____	_____	_____
6.43 Address	_____	_____	_____
6.44 City, state, zip	_____	_____	_____
6.45 Phone number	_____	_____	_____
6.45A Fax number	_____	_____	_____
6.45B E-mail	_____	_____	_____

6.46 How many appraisers must act? Any one Any two All three

6.47 Is ancillary administration in another jurisdiction required? Yes No If yes, determine whether D's Texas personal representative may so act.

If original probate was had or is anticipated in another jurisdiction, and ancillary probate in Texas is possible, complete Items 2.02A through 2.02L.

Complete Items 6.48 through 6.67 for each other personal representative and for each attorney representing the estate in other states or foreign countries.

	(A)	(B)	(C)
6.48 State or foreign country for which required	_____	_____	_____
6.49 Name of personal representative	_____	_____	_____
6.50 Dear	_____	_____	_____
6.51 Address	_____	_____	_____
6.52 City, state, zip	_____	_____	_____
6.53 Phone number	_____	_____	_____
6.53A Fax number	_____	_____	_____
6.53B E-mail	_____	_____	_____
6.54 Title of personal representative	_____	_____	_____
6.55 Original/ancillary	_____	_____	_____
6.56 - 6.59 (Reserved)			
6.60 Name of attorney	_____	_____	_____
6.61 Dear	_____	_____	_____
6.62 Address	_____	_____	_____
6.63 City, state, zip	_____	_____	_____
6.64 Phone number	_____	_____	_____

6.65 Fax number _____

6.66 E-mail _____

6.67 Name of firm _____

6.68 (Reserved)

6.69 Date for notice to beneficiaries _____

6.70 Will anyone **disclaim benefits** under D's will or under statute of descent and distribution? Yes
 No If no, skip to Item 6.85. If yes, complete Items 6.71 through 6.84B.

(A)

(B)

6.71	Name of disclaimant	_____	_____
6.72	Dear	_____	_____
6.73	Address	_____	_____
6.74	City, state, zip	_____	_____
6.75	Phone number	_____	_____
6.75A	Fax number	_____	_____
6.75B	E-mail	_____	_____
6.76	Relationship to D	_____	_____
6.77	Nature of interest being disclaimed	_____	_____
6.78	Name of person or entity receiving interest being disclaimed	_____	_____
6.79	Dear	_____	_____
6.80	Address	_____	_____
6.81	City, state, zip	_____	_____
6.82	Phone number	_____	_____
6.82A	Fax number	_____	_____
6.82B	E-mail	_____	_____
6.83	Relationship to D	_____	_____
6.84	Is this entity a charity?	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
6.84A	Character of institution or charity	_____	_____
6.84B	Value of benefit	_____	_____
6.85	Due date for inventory	_____	

6.86 Extended due date for inventory _____

6.87 Date inventory was filed _____

6.88 Date inventory was approved _____

6.89 Date affidavit in lieu of inventory was filed _____

6.90 Is sale of **personal property** to be made by order of the court? Yes No If no, skip to Item 6.106. If yes, complete Items 6.91 through 6.99.

6.91 Date of order of sale _____

6.92 "Date of sale" or "date of concluding sale" _____

6.93 Name of purchaser _____

6.94 Total sales price _____

6.95 Costs and expenses of sale _____

6.96 Net sales price (Item 6.94 minus Item 6.95) _____

6.97 Terms of sale _____

6.98 Date of filing report of sale _____

6.99 Date of decree confirming sale _____

6.100 - 6.105 (Reserved)

6.106 Is sale of **real property** to be made by order of the court? Yes No If no, skip to Item 6.120. If yes, complete Items 6.107 through 6.116.

6.107 Date of order of sale _____

6.108 "Date of sale" or "date of concluding sale" _____

6.109 Place of sale _____

6.110 Date of filing report of sale _____

6.111 Name of purchaser _____

6.112 Total sales price _____

6.113 Costs and expenses of sale _____

6.114 Net sales price (Item 6.112 minus Item 6.113) _____

6.115 Terms of sale _____

6.116 Date of order confirming sale _____

6.117 - 6.119 (Reserved)

6.120 Is **mineral lease** to be made by order of the court? Yes No If no, skip to Item 6.125. If yes, complete Items 6.121 through 6.123.

6.121 Name of lessee _____

6.122 Consideration for lease _____

6.123 Date of order granting application to lease _____

6.124 Date of filing heirship application in RDA and IBA _____

6.124A Date of scheduled hearing on heirship application in RDA and IBA _____

6.125 Was an **attorney ad litem** appointed for the unknown heirs? Yes No If no, skip to Item 6.135. If yes, complete Items 6.126 through 6.133.

6.126 Name _____

6.127 State Bar card number _____

6.128 Dear _____

6.129 Address _____

6.130 City, state, zip _____

6.131 Phone number _____

6.132 Fax number _____

6.133 E-mail _____

6.134 (Reserved)

6.135 Is a **guardian ad litem** to be appointed for minor or incompetent heirs and beneficiaries? Yes No If no, skip to Item 6.145. If yes, complete Items 6.136 through 6.142.

6.136 Name _____

6.137 Dear _____

6.138 Address _____

6.139 City, state, zip _____

6.140 Phone number _____

6.141 Fax number _____

6.142 E-mail _____

6.143 - 6.144 (Reserved)

6.145 Due dates for filing **annual accounts** (one year from date shown in Item 6.40 and anniversaries thereof):

A. First year _____

B. Second year _____

C. Third year _____

6.146 Date of filing final account _____

6.147 Date and time for scheduled consideration of final account _____

6.148 Place for scheduled consideration of final account if not same as Item 6.05 _____

6.149 Date of approval of final account _____

6.150 - 6.154 (Reserved)

6.155 Has a will contest or an action to interpret D's will been instituted? Yes No If yes, give details

6.156 Is any such action planned? Yes No If yes, give details _____

7.0 REAL ESTATE

- 7.01 Did D own any real estate? Yes No If no, skip the rest of this Section 7.0.
- 7.02 Did D own any real estate outside of Texas? Yes No If yes, identify the state or country _____

Furnish the following information for each tract. Attach separate sheets for lengthy legal descriptions and for additional properties. Use the following abbreviations for type of property: HS - family homestead; OH - other residential; C - commercial; F - farm; R - ranch; U - unimproved; M - nonproducing mineral or royalty interest; PM - producing mineral or royalty interest.

Do not reduce the indicated asset value by 1/2 when D's interest was a 1/2 community interest, but use the entire value of the property.

Use a separate page for each individual tract of real estate.

- 7.03 Ownership: Separate Community
- 7.04 If D's separate property, was this asset ever held as community property by D and D's surviving spouse?
 Yes No If yes, explain _____

- 7.05 Type of Property: HS OH C F R U M PM
- 7.06 Was this property used in D's trade or business? Yes No
- 7.07 Was there a pending contract for the sale of this property on date of D's death? Yes No

- 7.08 Legal description, including D's interest in the property _____

7.09 Description of improvements _____

7.10 Street address _____

7.11 City, county, state _____

7.12 Names, addresses, and relationships of all co-owners and their percentage interest of ownership

7.13 - 7.14 (Reserved)

21.16 Are any of these liabilities only contingent liabilities? Yes No If yes, give details _____

21.17 (Reserved)

21.18 Will all debts other than those secured by liens on real estate be paid before filing of the will for probate?
 Yes No If yes, see Item 6.15.

Complete Items 21.19 through 21.25 for **newspaper** in which notices and/or citations are to be published.

21.19 Name _____

21.20 Address _____

21.21 City, state, zip _____

21.22 Phone number _____

21.23 Publication deadline _____

21.24 Date of publication _____

21.25 County of publication _____

21.26 Did D have accidental death benefits from credit card companies (e.g., American Express) or travel clubs? Yes No If yes, complete Section 13.0 for benefits from each company.

21.27 Did D have preauthorized drafts (e.g., to pay insurance premiums) that were automatically withdrawn from D's checking accounts? Yes No If yes, give details _____

21.28 If any debts are disputed, contested, or the subject of litigation, give details _____

21.29 For all notes payable, give details, including name of payee, face and unpaid balance at date of D's death, date and term of note, interest rate, date to which interest was paid before death, accrued interest on date of D's death, and exact nature of the claim _____

21.30 If D is liable for debts of another (by guaranty, joint and several liability, or otherwise), give details, including name and financial responsibility of co-obligor _____

21.31 Did the community estate of D and D's spouse have a claim for reimbursement against D's separate estate? Yes No If yes, give details and enter description (in format to be used on probate documents or estate tax return) _____

21.32 Did D's spouse's separate estate have a claim for reimbursement against the community estate of D and D's spouse? Yes No If yes, give details and enter description (in format to be used on probate documents or estate tax return) _____

21.33 Did D's spouse's separate estate have a claim for reimbursement against D's separate estate? Yes No If yes, give details and enter description (in format to be used on probate documents or estate tax return) _____

21.34 Did D apply for and receive Medicaid benefits on or after March 1, 2005? Yes No If yes, complete Item 21.35.

21.35 Has Texas Department of Aging and Disability Services waived any claim against D's estate under MERP? Yes No If no, complete Item 21.36.

21.36 Amount of MERP claim _____

Checkplan

Initial Contact	CP-1
Initial Interview	CP-3
Determining Proper Probate Procedure	CP-12
After Initial Interview	CP-14
Safe Deposit Box	CP-19
Insurance on D's Life	CP-22
Employee and Government Benefits, Annuities, and IRAs	CP-25
Temporary Dependent Administration (TDA)	CP-28
Independent Administration (IA)	CP-36
Muniment of Title (MT)	CP-42
Proceedings to Declare Heirship (PDH)	CP-47
Small Estate (SE)	CP-51
Administration with Dependent Executor (ADE)	CP-53
Administration with Will Annexed (AWA)	CP-59
Regular Dependent Administration (RDA)	CP-65
Independent Administration by Agreement Where D Left a Will (TBA)	CP-69
Independent Administration by Agreement Where There Is No Will (IBA)	CP-76
Ancillary Probate of Will Previously Probated Elsewhere (AP)	CP-80
Recording of Will Previously Probated Elsewhere (RW)	CP-86
Alternate Method of Proving D's Will	CP-87
Notices to Creditors	CP-89
Estate Bank Account and Accounting System	CP-92
Residence	CP-95
Other Leased Property	CP-97
Credit Cards and Charge Accounts	CP-98
Claims against D's Estate	CP-99
Other Insurance	CP-103
Cash	CP-107
Subchapter S Corporations	CP-110
D's Lifetime Tax Liabilities	CP-111
Income Tax Returns for Estate	CP-118

CHECKPLAN CONTENTS

Valuation	CP-119
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Real Estate	CP-121
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Inventory	CP-148
Family Allowance	CP-150
Setting Aside Exempt Property	CP-151
Federal Estate Tax	CP-153
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Annual Accounts	CP-162
Determining Heirship.....	CP-164
Final Account.....	CP-167
Distributing the Estate	CP-170
Closing the Estate.....	CP-173
Winding Up	CP-174

- (9) If you are **not retained**, prepare and send Letter 129 to confirm nonengagement.
- ac. Prepare **Authorization** (Form 2) on attorney’s letterhead or plain paper and have a named executor, surviving spouse, major heir, or beneficiary sign copies (ten is a good starting point) and place in file folder entitled “Authorizations.”
- ad. Prepare **Receipt for Documents** (Form 3) for all original documents you retain and explain their use.
- ae. If not already done:
 - (1) Prepare Beneficiary’s Waiver of Notice (Form 100) for each devisee or legatee who is present at this initial meeting, have the waivers signed, and place them in file folder entitled “Notice to Beneficiaries.”
 - (2) Prepare Worksheet 9 and place in file folder entitled “Notice to Beneficiaries.”

NA	L	S	DATE	INITIALS

- i. If independent administration by agreement where D left a will (TBA) appears to be the proper procedure, determine identity and qualification of proposed executor(s) or administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “TBA” on cover page of MIL and on Probate Chart (Worksheet 15).
- j. If independent administration by agreement where there is no will (IBA) appears to be the proper procedure, determine identity, qualification, and priority rights of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “IBA” on cover page of MIL and on Probate Chart (Worksheet 15).
- k. If ancillary probate of will previously probated elsewhere (AP) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “AP” on cover page of MIL and on Probate Chart (Worksheet 15).
- l. If recording of foreign will (RW) appears to be the proper procedure, enter “RW” on cover page of MIL and on Probate Chart (Worksheet 15).

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(10) If AP with independent executor(s), prepare and send Letter 114 together with a copy of the Texas Lawyer's Creed (Form 99).					
(11) If AP with dependent executor(s), prepare and send Letter 115 together with a copy of the Texas Lawyer's Creed (Form 99).					
(12) If RW, prepare and send Letter 118 together with a copy of the Texas Lawyer's Creed (Form 99).					
c. Sort and classify loose documents and place into separate file folders for the following categories as applicable:					
(1) Will and Codicil(s)					
(2) Authorizations					
(3) Safe Deposit Box					
(4) Life Insurance					
(5) Death Certificates					
(6) Other Insurance					
(7) Employee and Government Benefits, Annuities, and IRAs					
(8) Court Proceedings					
(9) Letters Testamentary or of Administration					
(10) Real Estate (including mineral and royalty interest, leases, and contracts for deed when purchasing)					
(11) Cash					
(12) Securities					
(13) Income Tax Returns					
(14) Gift Tax Returns					
(15) Other Tax Returns					
(16) Fiduciary Income Tax Returns					
(17) Partnerships, Trusts, and Other Unincorporated Businesses					
(18) Personal Property					
(19) Judgments, Notes, Accounts Receivable, and Contracts for Deed					
(20) Transportation Equipment					
(21) Trusts					

	NA	L	S	DATE	INITIALS
(22) Inventory					
(23) Funeral Expenses					
(24) Debts, Claims, and Expenses (Paid)					
(25) Debts, Claims, and Expenses (Unpaid)					
(26) Notice to Beneficiaries					
(27) Federal Estate Tax					
(28) Agreements between D and D's Spouse					
(29) Disclaimers					
(30) Miscellaneous					
d. If you have D's original will and codicil(s), make one copy of each for each client plus six file copies of each. <i>Do not unsta- ple</i> pages or remove from manuscript cover ("blue back"). Place file copies in file folder entitled "Will and Codicil(s)."					
e. If not prepared to file application immediately, file will as re- quired by Estates Code, Section 252.201. Prepare Letter 127, enclose original will and codicil(s), and mail or deliver to clerk of probate court that has jurisdiction of D's estate.					
f. Notify anyone to whom D had given a power of attorney that the power terminated at D's death and, if necessary, prepare termination of power to be recorded.					
g. If any releases, deeds, or mortgages were unrecorded, consid- er recording them.					
h. If any tax returns were not produced by client, try to obtain them from D's tax return preparer or consider requesting tran- scripts or copies from IRS. See Special Instruction 3—In- come Tax Returns Can Lead You to Assets and Liabilities and do the following:					
(1) Determine the address used on the return(s), whether D filed separately or jointly for the year(s) in question, and the Internal Revenue Service Center(s) where filed.					

- (2) If requesting **transcripts only**, prepare IRS Form 4506-T, Request for Transcript of Tax Return (FF 5). The form is available online at **IRS.gov** (click on “Order Transcript”).

Note: If D’s surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain transcripts and there is no executor or administrator.

- (a) Arrange for IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), to be signed by proper person.
- (b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court.
- (c) When signed copy of IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), has been returned and all attachments have been obtained, send to the Internal Revenue Service Center. No cover letter is required.
- (d) On receipt of transcripts from the IRS, place in file folder entitled “Income Tax Returns.”

- (3) If requesting **copies** of tax forms, prepare IRS Form 4506, Request for Copy of Tax Form (FF 1). The form is available online at **IRS.gov/Form 4506**.

Note: If D’s surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain copies of returns and there is no executor or administrator.

- (a) Arrange to have IRS Form 4506, Request for Copy of Tax Form (FF 1), signed by proper person.

NA	L	S	DATE	INITIALS

- (b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.
- (c) When signed copy of IRS Form 4506, Request for Copy of Tax Form (FF 1), has been returned and all attachments have been obtained, determine correct charge, arrange for payment, charge client's account, and send to the Internal Revenue Service Center. No cover letter is required.
- (d) On receipt of copies of tax returns from the IRS, place in file folder entitled "Income Tax Returns."
- i. Review D's check registers for full year before death for record of payments to insurance companies, to brokerage firms, and for rental of safe deposit box and mini-warehouse, and for recurring payments such as mortgages, alimony, and child support.
- j. Determine if there are assets outside Texas that will require ancillary administration or probate proceedings to transfer title.
- k. If D was a lawyer, as shown at MIL1.28, see Special Instruction 78—Death of a Lawyer.

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TEMPORARY DEPENDENT ADMINISTRATION (TDA)

14. If **temporary dependent administration (TDA)** is not the proper probate procedure, mark Items 14 through 18 of this Checkplan as not applicable and go to Item 19. If TDA is the proper probate procedure, do the following:

Note: This System contemplates that for temporary dependent administration, all documents will be hand carried to the courthouse for prompt action, that the applicant will accompany you, that the judge will be available, that the surety will be available to sign the bond, that all steps can be concluded in one day, and that local rules of court do not require different or additional actions.

- a. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and Special Instruction 57—Temporary Dependent Administration (TDA) to determine if applicant qualifies to serve as temporary administrator.
- b. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Temporary Administration (Form 83 if there is no will or Form 84 if D left a will) and Civil Case Information Sheet (FF 16).
- c. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”
- d. Prepare Application for Temporary Administration (Form 83 or Form 84), arrange for proper signature by applicant before a notary, and place in file folder entitled “Court Proceedings.”
Note: Some courts may require the use of separate written testimony at the hearing. Proof of Death and Other Facts (Form 7 or Form 75) can be adapted for local practice. If required, place completed form in file folder entitled “Court Proceedings.”
- e. Prepare Order Appointing Temporary Administrator (Form 85) and place in file folder entitled “Court Proceedings.”
- f. Prepare Oath of Temporary Administrator (Form 87) and place in file folder entitled “Court Proceedings.”
- g. Determine amount of filing fee, arrange for payment, and charge to client’s account.

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	NA	L	S	DATE	INITIALS
i. Obtain <i>new</i> letters of temporary administration. If clerk of court does not prepare them, prepare Letters of Temporary Administration (Form 88) and deliver to clerk of court for approval and signature. In either event, determine that the powers listed in the Letters of Temporary Administration (Form 88 or the letters issued by clerk of court) are identical to the powers specified in the Order Appointing Temporary Administrator (Form 85) plus those in the Order Granting Additional Powers to Temporary Administrator (Form 90).					
j. Order two letters of temporary administration from clerk of court and, if you paid for them, charge to client's account. When received, place in file folder entitled "Letters Testamentary or of Administration."					
k. If you paid the premium for the additional bond, charge to client's account.					
l. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).					
m. Assist temporary administrator in taking appropriate action(s).					
17. If during the temporary administration the court decides to make the administration permanent , do the following:					
a. Prepare Order Making Temporary Administration Permanent (Form 91).					
b. File Order Making Temporary Administration Permanent (Form 91) with clerk of court.					
c. Determine if court hearing will be required and, if so, do the following: <i>Note:</i> It is not necessary to have citation issued.					
(1) Arrange for time and date of hearing.					
(2) Attend hearing and present proof necessary for judge to sign Order Making Temporary Administration Permanent (Form 91).					
d. If hearing will not be required, determine date judge signed Order Making Temporary Administration Permanent (Form 91). Complete Item 82t of SDL.					
e. Prepare <i>new</i> Oath of Administrator (Form 86).					
f. Arrange to have <i>new</i> Oath of Administrator (Form 86) signed by administrator.					
g. File <i>new</i> Oath of Administrator (Form 86) with clerk of court.					

- o. Prepare and send Letter 79 to the surety, together with a copy of Order Closing Temporary Administration (Form 95).
- p. Collect balance due for attorney's fees and expenses.
- q. Review file, locate all original documents that you need not retain, and prepare and send Letter 63 to return all items to person who furnished them. When signed letter has been returned, substitute for file copy.
- r. If representation was limited to temporary administration, close office file. Otherwise, continue to take actions indicated by this Checkplan.

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INDEPENDENT ADMINISTRATION (IA)

19. If **independent administration (IA)** is not the proper probate procedure, mark Items 19 through 21 of this Checkplan as not applicable and go to Item 22. If IA is the proper probate procedure, go to Items 22 through 45 and indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 68—Independent Administration (IA).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor to determine that applicant qualifies to serve as executor.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters Testamentary (Form 5) and Civil Case Information Sheet (FF 16).
- d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) for those preferentially entitled to serve as executor who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client’s account.
- f. File Application for Probate of Will and Issuance of Letters Testamentary (Form 5) and Civil Case Information Sheet (FF 16) with clerk of court. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) was prepared and has been signed, file with application. If original will cannot be located, see Special Instruction 85—Lost Wills.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

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- e. Prepare and send Letter 22 to thank each witness, other than executor(s), who appeared in court.
- f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
- g. Prepare and send Letter 23 to executor(s) to advise of nature and extent of the duties of office and actions that will follow.
- h. Conform file copies of all documents for dates and signatures.
- i. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- j. Skip to Item 55 of this Checkplan.

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- e. File Application for Probate of Will as a Muniment of Title (Form 6) and Civil Case Information Sheet (FF 16) with clerk of court. If original will cannot be located, see Special Instruction 85—Lost Wills.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

- f. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.

- g. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Hearing Date).

Note: If filing for probate more than four years after D’s death, notice by service of process must also be given to D’s heirs as required by Estates Code, Section 258.051. Service may be waived by a statutory affidavit. If seeking waiver, prepare Waiver of Notice under Texas Estates Code, Section 258.051 (Form 132), and send a copy to each heir. For heirs from whom executed waivers are not received, request service of process by clerk.

- h. Arrange for time and date of hearing on the Application for Probate of Will as a Muniment of Title (Form 6) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL. If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.

- (1) Prepare Proof of Death and Other Facts (Form 31) and place in file folder entitled “Court Proceedings.”
- (2) If witness for Proof of Death and Other Facts (Form 31) is *not* the applicant, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 31), to advise of the date and time of the hearing and of the need for the witness to appear in court.

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- b. Prepare and send Letter 66 to client to explain muniment of title procedure and actions that will follow.
- c. Before the date shown in Item 33 of SDL, do the following if required by the order of the court:
 - (1) Determine status of **fulfillment of the terms of D's will**.
 - (2) Prepare Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97).
 - (3) Arrange for client to sign and swear to the Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97). If mailing, prepare and send Letter 48 to client, together with original and all copies of Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97).
 - (4) When Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97) has been properly signed and sworn to by client, file with clerk of court.
- d. Conform file copies of all documents for dates and signatures.
- e. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- f. Skip to Item 62 of this Checkplan.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
p. Determine the identity of two witnesses who will testify as to D’s death and other personal history and also determine if each witness will be available to testify in court.					
(1) For <i>both</i> of these witnesses who will testify in court, do the following:					
(a) Prepare Statement of Facts (Form 80) for each witness and place in file folder entitled “Court Proceedings.”					
(b) Prepare and send Letter 13 to each witness, together with a copy of Statement of Facts (Form 80) for that witness, to advise of the date and time of the hearing and of the need for the witness to appear in court.					
(2) For each witness who will not be available to testify in court, determine an alternate method of proving these facts and take appropriate action (forms not provided in this System).					
q. Prepare Judgment Declaring Heirship (Form 81) and place in file folder entitled “Court Proceedings.”					
r. Prepare and send Letter 57 to attorney ad litem, together with copies of Application to Declare Heirship (Form 77), Motion to Appoint Attorney Ad Litem and Order thereon (Form 78), Statement of Facts (Form 80) for each witness, and Judgment Declaring Heirship (Form 81).					
s. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify client, attorney ad litem, and all witnesses of new date.					
t. One business day before the hearing, call to remind client, attorney ad litem, and all witnesses of time, date, and place of hearing.					
26. For the hearing , do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Statement of Facts (Form 80) for each witness who will testify in court.					
(2) Original copy of Judgment Declaring Heirship (Form 81).					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					

- d. Enter the date judgment was signed by judge as Item 6.26 of MIL and Item 28 of SDL.
- e. Order certified copy of Judgment Declaring Heirship (Form 81) from clerk of court and, if you paid for it, charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86 to clerk of court. When received, place in file folder entitled "Court Proceedings."
- f. Prepare and send Letter 22 to thank each witness, other than client, who appeared in court.
- g. Conform file copies of all documents for dates and signatures.
- h. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- i. Skip to Item 62 of this Checkplan.

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- c. Order certified copy of Small Estate Affidavit and Order (Form 82) from clerk of court and, if you paid for it, charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 89 to clerk of court. When received, place in file folder entitled "Court Proceedings."
- d. Conform file copies of all documents for dates and signatures and send a copy to each heir, distributee, and witness.
- e. **Perfecting title to D's homestead.** Determine if clerk of court automatically prepares certified copy of the Small Estate Affidavit and Order (Form 82) and has it recorded in the official public records of real property (deed records) in the county in which D's homestead is located. If not, do the following:
 - (1) Determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.
 - (2) Record certified copy of Small Estate Affidavit and Order (Form 82) in the official public records of real property (deed records) in the county in which D's homestead is located. If mailing, prepare and send Letter 61 to county clerk of the county in which D's homestead is located.
 - (3) When the Small Estate Affidavit and Order (Form 82) has been recorded, send a copy to each heir and distributee who is entitled to an interest in D's homestead.
- f. Skip to Item 62 of this Checkplan.

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ADMINISTRATION WITH DEPENDENT EXECUTOR (ADE)

29. If **administration with dependent executor (ADE)** is not the proper probate procedure, mark Items 29 through 31 of this Checkplan as not applicable and go to Item 32. If ADE is the proper probate procedure, go to Items 32 through 45, indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 65—Administration with Dependent Executor (ADE).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as executor.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters Testamentary (Form 28) and Civil Case Information Sheet (FF 16).
- d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) for those preferentially entitled to serve as executor who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client’s account.
- f. File Application for Probate of Will and Issuance of Letters Testamentary (Form 28) and Civil Case Information Sheet (FF 16) with clerk of court. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Lost Wills.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

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- (b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date of the hearing and of the need for the witness to appear in court.
- (2) If the witness will not be available to testify in court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 29m for each **attested codicil**.
- n. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.04 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify in court.
 - (1) For *both* of these witnesses who will testify in court, do the following:
 - (a) Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing and of the need for the witness to appear in court.
 - (2) For each witness who will not be available to testify in court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) Repeat procedures in this Item 29n for each **holographic codicil**.
- o. Prepare and send Letter 19 to each named executor, together with a copy of the Application for Probate of Will and Issuance of Letters Testamentary (Form 28), to advise of the date and time of hearing.
- p. Prepare Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33) and place in file folder entitled "Court Proceedings."

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
q. Review Item 2.58 of MIL, determine whether proposed executor will sign oath in court or before a notary, prepare Oath (Form 18 for each individual executor and Form 19 for each corporate executor), and place in file folder entitled "Court Proceedings."					
r. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors and other witnesses of new date.					
s. One business day before the hearing, call to remind all executors and all witnesses of the time, date, and place of hearing.					
30. For the hearing itself, do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 29) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear in court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33).					
(4) Original copies of Oath (Form 18 or Form 19) for each executor who will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Items 29, 31, and 32 of SDL.					
e. Have executors who attend hearing sign their Oaths (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors, complete Item 36 of SDL and Item 6.38 of MIL.					
f. Order two letters testamentary from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					

g. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond):

Note: Bond must be filed within 20 days of the appointment.

- (1) Complete Items 6.27 through 6.34 of MIL.
- (2) Ask insurance agent to prepare the bond for signature by executor. Determine if a power of attorney is required and, if so, that it has been attached to the bond.
- (3) Arrange to have the bond signed by all executors.
- (4) When the bond has been signed by all executors, have it signed by surety.
- (5) When the bond has been signed by all executors and surety, file with clerk of court and obtain approval by judge.
- (6) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.
- (7) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL.
- (8) If you paid the premium for the bond, charge to client’s account.

31. **Follow-up.** Refer to Item 2.58 of MIL. For each Oath (Form 18 or Form 19) that was not signed before a court official, prepare and send Letter 20 to each executor who did not sign the Oath (Form 18 or Form 19) in court, together with the original and one copy of Oath (Form 18 or Form 19).

- a. When all Oaths (Form 18 or Form 19) are returned, file all oaths with clerk of court.
- b. Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 46, 48, and 50 through 52 of SDL and Items 6.85, 6.145, 7.35, and 21.23 of MIL.
- c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:
 - (1) Review D’s will and codicil(s) to identify all devisees and legatees.
 - (2) If not already done, prepare Worksheet 9 and place in folder entitled “Notice to Beneficiaries.”

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(3) Prepare and send by registered or certified mail, return receipt requested, Letter 102 together with appropriate enclosures to all devisees and legatees except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Attach mailing receipt to the copy of Letter 102.					
(5) When received, attach return receipt to file copy of Letter 102.					
(6) As letters are mailed and mailing receipts are returned to office, enter on Worksheet 9.					
d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:					
(1) Determine whether executor will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(a) If executor is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 24.					
(b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
e. Prepare and send Letter 22 to thank each witness, other than executor(s), who appeared in court.					
f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
g. Prepare and send Letter 73 to executor(s) to advise of nature and extent of the duties of office and actions that will follow.					
h. Conform file copies of all documents for dates and signatures.					
i. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).					
j. Skip to Item 55 of this Checkplan.					

ADMINISTRATION WITH WILL ANNEXED (AWA)

32. If **administration with will annexed (AWA)** is not the proper probate procedure, mark Items 32 through 34 of this Checkplan as not applicable and go to Item 35. If AWA is the proper probate procedure, go to Items 35 through 45, indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 67—Administration with Will Annexed (AWA).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as administrator.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69) and Civil Case Information Sheet (FF 16).
- d. Prepare Waiver and Renunciation of Right to Letters of Administration with Will Annexed (Form 70) for those preferentially entitled to serve as administrator who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client’s account.
- f. File Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69) and Civil Case Information Sheet (FF 16) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration with Will Annexed (Form 70) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Lost Wills.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

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- g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
- h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Hearing Date).
- i. Determine if the proposed **administrator** is a **nonresident** of Texas. If so, do the following:
 - (1) Prepare Appointment of Resident Agent (Form 15) and place in file folder entitled "Court Proceedings."
 - (2) Prepare and send Letter 18 to proposed administrator, together with the original and one copy of Appointment of Resident Agent (Form 15).
 - (3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.
- j. Arrange for time and date of hearing on the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL. If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.
 - (1) Prepare Proof of Death and Other Facts (Form 71) and place in file folder entitled "Court Proceedings."
 - (2) If witness for Proof of Death and Other Facts (Form 71) is *not* the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 71), to advise of the date and time of the hearing and of the need for the witness to appear in court.
- k. If D's will is self-proved, skip to Item 32o of this Checkplan.
- l. If D's will is not self-proved or attested, but is holographic, skip to Item 32n of this Checkplan.
- m. If D's **will is attested**, refer to Item 2.11 of MIL to determine the identity of the attesting witness who will testify as to the proper execution of the will and determine if that witness will be available to testify in court.
 - (1) If the witness will be available, do the following:
 - (a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."

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- (b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date of the hearing and of the need for the witness to appear in court.
- (2) If the witness will not be available to testify in court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 32m for each **attested codicil**.
- n. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.04 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify in court.
 - (1) For *both* of these witnesses who will testify in court, do the following:
 - (a) Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing and of the need for the witness to appear in court.
 - (2) For each witness who will not be available to testify in court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) Repeat procedures in this Item 32n for each **holographic codicil**.
- o. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69), to advise of the date and time of hearing.
- p. Prepare Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72) and place in file folder entitled "Court Proceedings."
- q. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath in court or before a notary, prepare Oath (Form 18), and place in file folder entitled "Court Proceedings."

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
r. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and all other witnesses of new date.					
s. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
33. For the hearing itself, do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 71) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear in court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72).					
(4) Original copy of Oath (Form 18) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Items 29, 31, and 32 of SDL.					
e. Have administrator who attends hearing sign the Oath (Form 18) before appropriate court official and file with clerk of court. Complete Item 6.38 of MIL and Item 36 of SDL. If bond was not required, complete Item 6.39 of MIL and Item 39 of SDL.					
f. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					

	NA	L	S	DATE	INITIALS
(3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.					
j. Arrange for time and date of hearing on the Application for Letters of Administration (Form 73) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL.					
(1) Prepare Proof of Death and Other Facts (Form 75) and place in file folder entitled "Court Proceedings."					
(2) If witness for Proof of Death and Other Facts (Form 75) is <i>not</i> the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 75), to advise of the date and time of the hearing and of the need for the witness to appear in court.					
k. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Letters of Administration (Form 73), to advise of the date and time of hearing.					
l. Prepare Order Authorizing Letters of Administration (Form 76) and place in file folder entitled "Court Proceedings."					
m. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath in court or before a notary, prepare Oath (Form 86), and place in file folder entitled "Court Proceedings."					
n. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date.					
o. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
36. For the hearing itself, do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 75) for person who will testify as to death, etc.					
(2) Certified copy of D's death certificate if required by local practice.					
(3) Original copy of Order Authorizing Letters of Administration (Form 76).					
(4) Original copy of Oath (Form 86) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					

- a. When signed Oath (Form 86) is returned, file with clerk of court. If mailing, prepare and send Letter 21 to clerk of court, together with the original Oath (Form 86).
- b. Determine the date on which the Oath (Form 86) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL. Also complete Items 36, 39 through 44, 46, 48, and 50 through 52 of SDL and Items 6.85, 6.145, 7.35, and 21.23 of MIL.
- c. Prepare and send Letter 22 to thank each witness, other than administrator, who appeared in court.
- d. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
- e. Prepare and send Letter 94 to administrator to advise of nature and extent of the duties of office and actions that will follow.
- f. Conform file copies of all documents for dates and signatures.
- g. Collect all of D’s records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- h. Skip to Item 55 of this Checkplan.

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**INDEPENDENT ADMINISTRATION BY AGREEMENT
WHERE D LEFT A WILL (TBA)**

38. If independent administration by agreement where D left a will (TBA) is not the proper probate procedure, mark Items 38 through 40 of this Checkplan as not applicable and go to Item 41. If TBA is the proper probate procedure, go to Items 41 through 45 and indicate that they are not applicable, and return here to do the following:
- a. See Special Instruction 88—Independent Administration by Agreement Where Decedent Left a Will (TBA).
 - b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor to determine that applicant qualifies to serve as executor or administrator.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/ of Independent Administration] (Form 110) and Civil Case Information Sheet (FF 16).
 - d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) or Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as executor or administrator who do not wish to serve and arrange for proper signature before a notary.
 - e. Determine amount of filing fee, arrange for payment, and charge to client’s account.

NA	L	S	DATE	INITIALS

- f. File Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110) and Civil Case Information Sheet (FF 16) with clerk of court. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) or Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Lost Wills.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

- g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
- h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Hearing Date).
- i. Prepare Distributee’s Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee’s Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106). Enclose one copy of the Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110).
- j. On receipt of all properly signed and sworn Distributee’s Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106), file with clerk of court.
- k. Determine if any proposed **executor** or **administrator** is a **nonresident** of Texas. If so, do the following:

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	NA	L	S	DATE	INITIALS
(1) Prepare Appointment of Resident Agent (Form 15 for each nonresident individual executor or administrator and Form 16 for each nonresident corporate executor or administrator) and place in file folder entitled "Court Proceedings."					
(2) Prepare and send Letter 18 to each nonresident executor or administrator, together with the original and one copy of Appointment of Resident Agent (Form 15 or Form 16).					
(3) When signed Appointment of Resident Agent (Form 15 or Form 16) is received, file with clerk of court.					
l. Arrange for time and date of hearing on Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL. If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.					
(1) Prepare Proof of Death and Other Facts (Form 112) and place in file folder entitled "Court Proceedings."					
(2) If witness for Proof of Death and Other Facts (Form 112) is <i>not</i> the proposed executor or administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 112), to advise of the date and time of the hearing and of the need for the witness to appear in court.					
m. If D's will is self-proved, skip to Item 38q of this Checkplan.					
n. If D's will is not self-proved or attested, but is holographic, skip to Item 38p of this Checkplan.					
o. If D's will is attested , refer to Item 2.11 of MIL to determine the identity of the attesting witness who will testify as to the proper execution of the will and determine if that witness will be available to testify in court.					
(1) If the witness will be available, do the following:					
(a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."					
(b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date of the hearing and of the need for the witness to appear in court.					

- (2) If the witness will not be available to testify in court, determine an alternate method of proving D’s will. If D’s will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 38o for each **attested codicil**.
- p. If D’s **will is holographic** and is neither attested nor self-proved, refer to Item 2.04 of MIL to determine the identity of the **two** witnesses who will testify as to D’s handwriting and also determine if each witness will be available to testify in court.
 - (1) For *both* of these witnesses who will testify in court, do the following:
 - (a) Prepare Proof of Decedent’s Handwriting and Signature (Form 14) for each witness and place in file folder entitled “Court Proceedings.”
 - (b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent’s Handwriting and Signature (Form 14) for that witness and a copy of D’s will, to advise witness of the date and time of the hearing and of the need for the witness to appear in court.
 - (2) For each witness who will not be available to testify in court, determine an alternate method of proving D’s will. If D’s will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) Repeat procedures in this Item 38p for each **holographic codicil**.
- q. Prepare and send Letter 19 to each proposed executor or administrator, together with a copy of the Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110), to advise of the date and time of hearing.
- r. Prepare Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111) and place in file folder entitled “Court Proceedings.”
- s. Review Item 2.58 of MIL, determine whether proposed executor or administrator will sign oath in court or before a notary, prepare Oath (Form 18 for each individual executor or administrator and Form 19 for each corporate executor or administrator), and place in file folder entitled “Court Proceedings.”

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
t. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors or administrators and other witnesses of new date.					
u. One business day before the hearing, call to remind all executors or administrators and all witnesses of the time, date, and place of hearing.					
39. For the hearing itself, do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 112) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent’s Handwriting and Signature (Form 14) for each appropriate witness who will appear in court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111).					
(4) Original copies of Oath (Form 18 or Form 19) for each executor or administrator who will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Items 29, 31, and 32 of SDL.					
e. Have executors or administrators who attend hearing sign their Oath (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors or administrators, complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					
f. Order two letters testamentary or letters of administration from clerk of court and, if you paid for them, charge to client’s account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled “Letters Testamentary or of Administration.”					

40. **Follow-up.** Refer to Item 2.58 of MIL. For each Oath (Form 18 or Form 19) that was not signed before a court official, prepare and send Letter 20 to each executor or administrator who did not sign the oath in court, together with the original and one copy of Oath (Form 18 or Form 19).

- a. When all Oaths (Form 18 or Form 19) are signed and returned, file all oaths with clerk of court.
- b. Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 45A through 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL.
- c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:
 - (1) Review D’s will and codicil(s) to identify all devisees and legatees.
 - (2) If not already done, prepare Worksheet 9 and place in folder entitled “Notice to Beneficiaries.”
 - (3) Prepare and send by registered or certified mail, return receipt requested, Letter 102 together with appropriate enclosures to all devisees and legatees except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).
 - (4) Attach mailing receipt to the copy of Letter 102.
 - (5) When received, attach return receipt to file copy of Letter 102.
 - (6) As letters are mailed and mailing receipts are returned to office, enter on Worksheet 9.
- d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:
 - (1) Determine whether executor or administrator will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).
 - (a) If executor or administrator is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 24.
 - (b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).

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- (2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.
- e. Prepare and send Letter 22 to thank each witness, other than executor(s) or administrator(s), who appeared in court.
- f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
- g. Prepare and send Letter 107 to executor(s) or administrator(s) to advise of nature and extent of the duties of office and actions that will follow.
- h. Conform file copies of all documents for dates and signatures.
- i. Collect all of D’s records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- j. Skip to Item 55 of this Checkplan.

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**INDEPENDENT ADMINISTRATION BY AGREEMENT
WHERE THERE IS NO WILL (IBA)**

41. If independent administration by agreement where there is no will (IBA) is not the proper procedure, mark Items 41 through 43 of this Checkplan as not applicable and go to Item 44. If IBA is the proper probate procedure, go to Items 44 and 45, indicate that they are not applicable, and return here to do the following:
- a. See Special Instruction 89—Independent Administration by Agreement Where There Is No Will (IBA).
 - b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as administrator.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108) and Civil Case Information Sheet (FF 16).
 - d. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve and arrange for proper signature before a notary.
 - e. Determine amount of filing fee, arrange for payment, and charge to client’s account.
 - f. File Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108) and Civil Case Information Sheet (FF 16) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 6.23 of MIL and complete Items 18 and 19 of SDL.
 - g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
 - h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Hearing Date).

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
<p>i. Prepare Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106). Enclose one copy of the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108).</p>					
<p>j. On receipt of all properly signed and sworn Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106), file with clerk of court.</p>					
<p>k. Complete steps in Item 209a–209p of this Checkplan. Coordinate steps in Item 209q–209s of this Checkplan with the remainder of this Item 41 so that the heirship order is entered before the Order Authorizing Independent Administration and Letters of Independent Administration (Form 109).</p>					
<p>l. Determine if proposed administrator is a nonresident of Texas. If so, do the following:</p>					
<p>(1) Prepare Appointment of Resident Agent (Form 15) and place in file folder entitled "Court Proceedings."</p>					
<p>(2) Prepare and send Letter 18 to proposed administrator, together with the original and one copy of Appointment of Resident Agent (Form 15).</p>					
<p>(3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.</p>					
<p>m. Arrange for time and date of hearing on the Application for Independent Administration of Intestate Estate and Letters of Independent Administration (Form 108) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL.</p>					
<p>(1) Prepare Proof of Death and Other Facts (Form 75) and place in file folder entitled "Court Proceedings."</p>					
<p>(2) If witness for Proof of Death and Other Facts (Form 75) is <i>not</i> the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 75), to advise of the date and time of the hearing and of the need for the witness to appear in court.</p>					
<p>n. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108), to advise of the date and time of hearing.</p>					

	NA	L	S	DATE	INITIALS
o. Prepare Order Authorizing Independent Administration and Letters of Independent Administration (Form 109) and place in file folder entitled "Court Proceedings."					
p. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath in court or before a notary, prepare Oath (Form 86), and place in file folder entitled "Court Proceedings."					
q. If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date.					
r. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
42. For the hearing itself, do the following:					
a. Assemble the following documents and take to hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 75) for person who will testify as to death, etc.					
(2) Certified copy of D's death certificate if required by local practice.					
(3) Original copy of Order Authorizing Independent Administration and Letters of Independent Administration (Form 109).					
(4) Original copy of Oath (Form 86) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Authorizing Independent Administration and Letters of Independent Administration (Form 109) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Item 29 of SDL.					
e. Have administrator who attends hearing sign the Oath (Form 86) before appropriate court official and file with clerk of court. Complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					

- f. Order two letters of administration from clerk of court and, if you paid for them, charge to client’s account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled “Letters Testamentary or of Administration.”
43. **Follow-up.** Refer to Item 2.58 of MIL. If administrator did not sign Oath (Form 86) before a court official, prepare and send Letter 20 to administrator, together with the original and one copy of Oath (Form 86).
- a. When signed Oath (Form 86) is returned, file oath with clerk of court.
 - b. Determine the date on which the Oath (Form 86) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 45A through 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL.
 - c. Prepare and send Letter 22 to thank each witness, other than administrator, who appeared in court.
 - d. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
 - e. Prepare and send Letter 109 to administrator to advise of nature and extent of the duties of office and actions that will follow.
 - f. Conform file copies of all documents for dates and signatures.
 - g. Collect all of D’s records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
 - h. Skip to Item 55 of this Checkplan.

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**ANCILLARY PROBATE OF WILL PREVIOUSLY
PROBATED ELSEWHERE (AP)**

44. If **ancillary probate of a will previously probated elsewhere (AP)** is not the proper procedure, mark this Item 44 as not applicable and go to Item 45. If AP is the proper procedure, go to Item 45, indicate that it is not applicable, and return here to do the following:

a. See Special Instruction 91—Ancillary Probate (AP) or Recording (RW) of Wills Previously Probated Elsewhere and do the following:

- (1) Send Letter 112 to the court that previously probated the will to obtain properly authenticated copy of will, order admitting it to probate, and letters issued in foreign jurisdiction.
- (2) Prepare Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118) and Civil Case Information Sheet (FF 16).
- (3) Determine amount of filing fee, arrange for payment, and charge to client's account.
- (4) File authenticated copy of will and order admitting it to probate in foreign jurisdiction; authenticated copy of letters testamentary issued in foreign jurisdiction; Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118); and Civil Case Information Sheet (FF 16) with clerk of court.
- (5) Determine from clerk when will and order admitting it to probate in foreign jurisdiction were recorded pursuant to Estates Code, Section 501.004, and complete Items 17B, 31, and 32 of SDL.
- (6) If independent administration by agreement is sought, do the following:
 - (a) Prepare Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119). Enclose one copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118).

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- (b) On receipt of all properly signed and sworn Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119), file with clerk of court.
- b. Determine whether court will require a hearing.
Note: Complete Items 44c through 44f and Item 44j of this Checkplan in every case. If a hearing is required, also complete Items 44g through 44i.
- c. Prepare Oath (Form 18 for individual executor or Form 19 for corporate executor) for each executor.
- (1) If no hearing will be required, do the following:
 - (a) Send Letter 20 to each executor, together with the original and one copy of Oath (Form 18 or Form 19).
 - (b) When all Oaths (Form 18 or Form 19) are returned, file all oaths with clerk of court.
 - (2) If a hearing will be required, place the Oaths (Form 18 or Form 19) in file folder entitled "Court Proceedings."
- d. Determine if any proposed **executor** is a **nonresident** of Texas. If so, do the following:
- (1) Prepare Appointment of Resident Agent (Form 15 for each nonresident individual executor and Form 16 for each nonresident corporate executor) and place in file folder entitled "Court Proceedings."
 - (2) Prepare and send Letter 18 to each nonresident executor, together with the original and one copy of Appointment of Resident Agent (Form 15 or Form 16).
 - (3) When all signed Appointment of Resident Agent (Form 15 or Form 16) forms are returned, file all appointments with clerk of court.
- e. Prepare Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121).
- (1) If no hearing will be required, place Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) with clerk of court.
 - (2) If a hearing will be required, place Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) in file folder entitled "Court Proceedings."

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f. Determine if **bond** will be required and, if so, do the following (see Special Instruction 46—Bond):

Note: Bond must be filed within 20 days of the appointment.

If a hearing will be required, this step should be addressed with Item 44h of this Checkplan.

- (1) Complete Items 6.27 through 6.34 of MIL.
- (2) Ask insurance agent to prepare the bond for signature by executor. Determine if a power of attorney is required and, if so, that it has been attached to the bond.
- (3) Arrange to have the bond signed by all executors.
- (4) When the bond has been signed by all executors and surety, file with clerk of court and obtain approval by judge.
- (5) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.
- (6) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL.
- (7) If you paid the premium for the bond, charge to client's account.

g. If **no hearing** is required, skip to Item 44j of this Checkplan. If **hearing is required**, arrange for time and date of hearing on application for probate and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL.

- (1) Prepare Proof of Death and Other Facts (Form 120) and place in file folder entitled "Court Proceedings."
- (2) If witness for proof of death and other facts is *not* the proposed executor, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 120), to advise of the date and time of hearing.
- (3) Prepare and send Letter 19 to each proposed executor, together with a copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118) to advise of the date and time of hearing.
- (4) If hearing must be rescheduled, enter rescheduled date as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors and other witnesses of new date.
- (5) One business day before the hearing, call to remind all executors and all witnesses of the time, date, and place of hearing.

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- h. For **hearing** itself, if **required**, do the following:
 - (1) Assemble the following documents and take to hearing:
 - (a) Original copy of Proof of Death and Other Facts (Form 120).
 - (b) Original copy of Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121).
 - (c) Original copies of Oath (Form 18 or Form 19) for each executor who will sign oath in court.
 - (2) Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.
 - (3) Attend hearing and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.
 - (4) Enter the date the Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Item 29 of SDL.
 - (5) Have executors who attend hearing sign their Oath (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors or administrators, complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.
 - (6) Order two ancillary letters testamentary from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary."
- i. **After hearing**, refer to Item 2.58 of MIL. If any Oath (Form 18 or Form 19) has not been signed and filed, do the following:
 - (1) Prepare and send Letter 20 to each executor who did not sign the Oath (Form 18 or Form 19) in court, together with the original and one copy of Oath (Form 18 or Form 19).
 - (2) When all Oaths (Form 18 or Form 19) are returned, file all oaths with clerk of court.

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j. Follow-up.

- (1) Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL. If independent executor, also complete Items 45A and 45B of SDL. If dependent executor, also complete Items 50 through 52 of SDL and Item 6.145 of MIL.
- (2) By the date shown in Item 31 of SDL (sixty days after date foreign will and evidence of foreign probate recorded by clerk), do the following:
 - (a) Review D's will and codicil(s) to identify all devisees and legatees.
 - (b) If not already done, prepare Worksheet 9 and place in folder entitled "Notice to Beneficiaries."
 - (c) Prepare and send by registered or certified mail, return receipt requested, Letter 102 together with appropriate enclosures to all devisees and legatees except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).
 - (d) Attach mailing receipt to the copy of Letter 102.
 - (e) When received, attach return receipt to file copy of Letter 102.
 - (f) As letters are mailed and mailing receipts are returned to office, enter on Worksheet 9.
- (3) By the date shown in Item 32 of SDL (ninety days after date foreign will and evidence of foreign probate recorded by clerk), do the following:
 - (a) Determine whether executor will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).
 - (i) If executor is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 24.
 - (ii) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).

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- (b) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.
- (4) If applicable, prepare and send Letter 22 to thank each witness other than executor(s) who appeared in court.
- (5) Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
- (6) Prepare and send Letter 116 (for independent ancillary administration) or Letter 118 (for dependent ancillary administration) to executor(s) to advise of nature and extent of the duties of office and actions that will follow.
- (7) Conform file copies of all documents for dates and signatures.
- (8) Collect all of D’s records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- (9) Skip to Item 55 of this Checkplan.

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**RECORDING OF WILL PREVIOUSLY
PROBATED ELSEWHERE (RW)**

45. If recording of a will previously probated elsewhere (RW) is the proper procedure, do the following:
- a. See Special Instruction 91—Ancillary Probate (AP) or Recording (RW) of Wills Previously Probated Elsewhere.
 - b. Send Letter 112 to the court that previously probated the will to obtain properly authenticated copy of will and order admitting it to probate.
 - c. When the foregoing documents are received, determine amount of recording charges, arrange for payment, charge to client’s account, and enter amount as Item 25.08 of MIL.
 - d. Prepare and send Letter 113 to county clerk to record these documents in the deed records of each Texas county in which D owned real estate, mineral interests, or royalty interests. When the documents have been recorded in one county and have been returned, repeat this procedure until the documents have been recorded in all counties.
 - e. Review engagement agreement for scope of agreed services and see appropriate items in this Checkplan, such as Item 82, Real Estate.

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46. - 53. (Reserved)

ALTERNATE METHOD OF PROVING D'S WILL

54. If the witness will not be available to testify in court, determine an alternate method of proving D's will. If there is no opposing party or attorney of record, and if proving D's will by written interrogatories, do the following after D's original will has been filed with clerk of court:

a. Prepare Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9) and place in file folder entitled "Court Proceedings."

Note: If trying to prove a holographic will, Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9) and other forms must be modified accordingly. See also Estates Code, Chapter 256, Subchapter D.

b. Prepare Notice of Intent to Take Deposition on Written Questions (Form 13), make and attach a copy of the Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9) to each copy of the Notice of Intent to Take Deposition on Written Questions (Form 13), and place in file folder entitled "Court Proceedings."

c. Prepare Answers of Witness to Interrogatories (Form 10) and place in file folder entitled "Court Proceedings."

d. Prepare and send Letter 15 to the witness to forward copies of D's will, the Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9), and the Answers of Witness to Interrogatories (Form 10), to be certain that the witness can testify properly.

e. When you are satisfied that the witness can testify properly, do the following:

- (1) Determine amount of filing fee for Notice of Intent to Take Deposition on Written Questions (Form 13), arrange for payment, and charge to client's account.
- (2) File Notice of Intent to Take Deposition on Written Questions (Form 13) with clerk of court.
- (3) Order a certified copy of D's purported will (the one you recently filed) from clerk of court.
- (4) Determine charge for certified copy, arrange for payment, and charge to client's account.

f. When you have received the certified copy of D's purported will, send copies of Notice of Intent to Take Deposition on Written Questions (Form 13) to applicant.

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(3) When properly signed, these letters <i>must</i> be sent by certified or registered mail, return receipt requested. Attach each mailing receipt to appropriate file copy of Letter 99.					
(4) Enter date of mailing as Item 76a of SDL and on Worksheet 13.					
(5) When received, attach return receipt to file copy of Letter 99, enter date received as Item 76b of SDL, calculate and complete Item 76c of SDL, and enter dates on Worksheet 13.					
(6) For each unsecured creditor with a claim for money who fails to present a claim within the 120-day period shown in Item 76c of SDL, complete Item 21.15 of MIL, prepare and send Letter 100 to advise executor or administrator not to pay any portion of the claim, and change Class on Worksheet 13 to "Barred."					
(7) If claim is presented before date shown in Item 76c of SDL, refer to procedures starting at Item 67h of this Checkplan and take appropriate action.					
56. Secured creditors. By the date shown in Item 7.35 of MIL and Item 43 of SDL (two months after clerk issues letters testamentary or of administration), do the following:					
a. Refer to Items 7.25, 17.37, and 21.05 of MIL and prepare Letter 33 for each creditor shown to be holding a lien on real estate, vehicles, or other estate assets. <i>Note:</i> This letter must be prepared for the signature of and actually be signed by an executor or administrator.					
b. Arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of each Letter 33.					
c. When properly signed, these letters <i>must</i> be sent by certified or registered mail, return receipt requested. Attach mailing receipt to file copy of Letter 33, complete Item 44 of SDL, and enter date of mailing on Worksheet 13.					
d. When received, make photocopy of return receipt; attach photocopy to extra copy of that Letter 33; complete Items 45, 47, and 49 of SDL; and enter date of receipt on Worksheet 13.					
e. Attach return receipt to file copy of Letter 33.					
f. Prepare Proof of Service of Notice on Secured Claimants (Form 21) and attach return receipts from Letter 33 to the original. <i>Note:</i> This proof <i>must</i> be prepared for the signature of and actually be signed by executor or administrator.					

- g. When Proof of Service of Notice on Secured Claimants (Form 21) has been properly signed, file with clerk of court.
- h. Conform file copies of all documents for dates and signatures.

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- b. Determine if appropriate to **change D's address** with IRS and, if so, do the following:
 - (1) Complete IRS Form 8822, Change of Address (FF 13).
 - (2) Arrange to have IRS Form 8822, Change of Address (FF 13) signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
 - (3) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).
- c. To authorize IRS to **deal directly with attorney**, do the following:
 - (1) Prepare IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10).
 - (2) Arrange to have IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10), signed by an executor, administrator, or other proper person. If mailing, prepare and send Letter 24 to such person(s), together with completed IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10).
 - (3) If using this power of attorney for purposes other than estate tax return, prepare and send Letter 97 to IRS, together with completed IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10). Otherwise, place signed copy in file folder entitled "Federal Estate Tax."

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RESIDENCE

- 62. Arrange for adequate security for D's residence and belongings and, unless adequate security exists or there is a responsible person present, arrange for custody of D's personal papers and other records and consider removing D's **valuables** from D's places of business and residence.

- 63. If **D lived alone**, consider the following:
 - a. Arrange for D's mail to be forwarded to executor, administrator, or client (U.S. Postal Service Form 3575 may be used).

 - b. Terminate magazine subscriptions and all home deliveries, such as newspapers, milk, and propane, and obtain refunds. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.

 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.

 - c. Clean out refrigerator and freezer and arrange for care of plants and pets.

 - d. Notify police department and neighbors that residence will be vacant.

 - e. Change locks.

 - f. Terminate utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (1) Electrical
 - (2) Gas
 - (3) Telephone
 - (4) Water
 - (5) Cable television
 - (6) Exterminators
 - (7) Other
 - (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.

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- (b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
- g. Arrange for storage or other disposition of D's personal effects.
- h. Contact D's insurance agent to obtain vacancy endorsement. Consider naming executor or administrator as additional insured. When received, place in file folder entitled "Other Insurance."
- i. Arrange for yard care.
- j. Arrange for night lighting.
- 64. If D's place of **residence** was **leased**, consider the following:
 - a. Obtain copy of lease and review to see if lease can be terminated. Place in file folder entitled "Real Estate."
 - b. Consider terminating lease if in best interests of D's estate or heirs and if possible under lease.
 - c. If lease cannot be terminated, do the following:
 - (1) Enter date of expiration as Item 56a of SDL.
 - (2) Consider subleasing or assignment if permitted.
 - (3) Consider termination of utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate checking account.
 - (b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
 - (4) Be sure that executor, administrator, or client knows name and address of person to whom rent must be paid and amount thereof.
 - d. Contact D's insurance agent to obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance." Consider naming executor or administrator as additional insured.
 - e. On termination of lease, obtain refunds of prepaid rent and security deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.

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OTHER LEASED PROPERTY

65. If D was a tenant of any **other property**, consider all steps listed in Items 62 through 64 of this Checkplan and take appropriate action, enter dates of expiration of leases as Items 56b and 56c of SDL, and do the following:
- a. Obtain copy of lease and review to see if lease can be terminated. Place in file folder entitled "Real Estate."
 - b. Terminate lease if in best interests of D's estate and if possible under lease.
 - c. If lease cannot be terminated, do the following:
 - (1) Consider subleasing or assignment if permitted.
 - (2) Consider termination of utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
 - (3) Be sure that executor, administrator, or client knows name and address of person to whom rent must be paid and amount thereof.
 - d. Contact D's insurance agent to obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance." Consider naming executor or administrator as additional insured.
 - e. On termination of lease, obtain refunds for prepaid rent and security deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.

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CREDIT CARDS AND CHARGE ACCOUNTS

66. Credit cards and charge accounts.

- a. Locate and safeguard all of D’s credit cards.
- b. Request credit report for D. Surviving spouse should request his or her own credit report for comparison.
- c. Determine if D had credit or credit card life insurance. If so, enter in Section 13.0 of MIL and obtain claim forms.
- d. Determine unpaid balance of all of D’s obligations at date of D’s death and enter in Section 21.0 of MIL.
- e. Determine if D’s unsatisfied charitable pledges are enforceable.
- f. Determine whether to cancel orders for or return recently purchased items that D’s family cannot use.
- g. Determine if other members of D’s family had and wish to continue the use of D’s credit cards or charge accounts. If so, have them make appropriate arrangements with those creditors. If not, prepare and send Letter 27 to each creditor listed in Section 21.0 of MIL.
- h. Ensure that all persons who paid D’s debts and claims are repaid before distribution of D’s estate.
- i. Determine if D had a credit balance due for overpayment of any accounts. If refunds are received, list as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
- j. Refer back to Item 55 of this Checkplan and take appropriate action.

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CLAIMS AGAINST D'S ESTATE

Note: Item 67 of this Checkplan does not apply to MT, SE, PDH, or RW.

67. If there are potential claims against the estate, including administration expenses, family allowance, or allowance in lieu of exempt property, do the following:

- a. See Special Instruction 54—Claims of Creditors.
- b. Refer to Item 21.34 of MIL. If D received Medicaid benefits, complete the steps in Item 22b of this Checkplan. If MERP claim is not waived by Texas Department of Aging and Disability Services, complete Item 21.36 of MIL.
- c. If not already done, prepare Worksheet 13 in duplicate and place a copy in file folders entitled “Debts, Claims, and Expenses (Paid)” and “Debts, Claims, and Expenses (Unpaid).”
- d. Indicate whether each creditor is secured or unsecured. Classify all claims and potential claims and determine priority of payment.
- e. If not already done, consider giving permissive notice to unsecured creditors by certified or registered mail. If doing so, follow Item 55b(1)–(5) of this Checkplan before returning to this Item 67e.
- f. If executor or administrator has a claim against D’s estate, it must be verified and filed within six months after date of qualification (Item 48 of SDL), or claim will be barred.
- g. If executor or administrator desires to pay a claim that is not barred and has not yet been presented to the executor or administrator or deposited with clerk of court, and if executor or administrator desires to ensure that the claim will be presented, do the following:
 - (1) Prepare Authenticated Unsecured Claim (Form 58) for each claimant designated by D’s executor or administrator.
 - (2) Prepare and send Letter 75 to claimant’s attorney, together with appropriate copies of the Authenticated Unsecured Claim (Form 58).

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- h. For each claim timely presented to D's executor or administrator or deposited with clerk of court, do the following:
 - (1) Determine the date it was presented, enter on Worksheet 13 and as Item 77a of SDL, and, if a dependent administration, calculate Item 77b of SDL and enter on Worksheet 13.
 - (2) Compare amount of claim with records of executor or administrator and verify amount.
 - (3) Review claim for proper content, form, execution, and verification.
 - (4) Determine whether secured creditor elected to have claim approved as a matured secured claim or as a preferred debt and lien and enter on Worksheet 13.

Note: If election was made late or if no election was made, claim automatically will be preferred debt and lien.

Note: If this is an independent administration of the estate of a decedent who died on or after September 1, 2011, a creditor with a lien on real estate also must have recorded in the deed records of the county in which the real property is located notice of the creditor's election to have the claim regarded as a matured secured claim.

- i. If executor or administrator desires to **allow** the payment of a claim that has been timely presented to D's executor or administrator or deposited with clerk of court, do the following:
 - (1) If claim is for proper amount and is in proper form, arrange to have it allowed by executor or administrator within thirty days after claim was presented or deposited.
 - (a) Prepare Allowance of Claim (Form 123), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Allowance of Claim (Form 123) and attachments.

Note: This form must be prepared for the signature of and actually be signed by an executor or administrator.
 - (b) On allowance by executor or administrator, enter date of allowance as Item 77c of SDL and make entry on Worksheet 13. If an independent administration, arrange for payment to be made unless claim was filed as a secured debt and lien.

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- (c) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of Allowance of Claim (Form 124), attach the properly signed Allowance of Claim (Form 123) (with original claim), and file with clerk of court. Enter date of filing as Item 77d of SDL and on Worksheet 13.
- (d) Mail the creditor a copy of Allowance of Claim (Form 123), and, if applicable, the Memorandum of Allowance of Claim (Form 124) filed with clerk of court.

Note: The following steps (2) and (3) are inapplicable in an independent administration.

- (2) On approval of claim by court, enter date of approval as Item 77e of SDL and make entry on Worksheet 13, advise executor or administrator of approval, and arrange for payment to be made unless claim was filed as a secured debt and lien.
 - (3) If claim was allowed by executor or administrator but disapproved by court, enter date of disapproval as Item 77i of SDL and make entry on Worksheet 13.
- j. If executor or administrator desires to **reject** (disallow) a claim that is in proper form and that has been timely presented to D's executor or administrator or deposited with clerk of court, do the following within thirty days after claim was presented or deposited:

Note: If the claim is not in proper form (e.g., insufficient exhibits or not properly authenticated), skip to Item 67k of this Checkplan and instead object to the claim.

- (1) Prepare Rejection of Claim (Form 125), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Form 125 and attachments.
Note: This form must be prepared for the signature of and actually be signed by an executor or administrator.
- (2) On rejection by executor or administrator, enter date of rejection as Item 77f of SDL and make entry on Worksheet 13. Complete Items 77g and 77h of SDL. Conform entry in S/L Date on Worksheet 13 to 77h of SDL if 77h is earlier.

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- (3) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of Rejection of Claim (Form 126), attach the properly signed Rejection of Claim (Form 125) (with original claim), and file with clerk of court. Enter date of filing on Worksheet 13.
- k. If executor or administrator desires to **object** to the form of a claim that has been timely presented to D’s executor or administrator or deposited with clerk of court, do the following within thirty days after claim was presented or deposited:
- (1) Prepare Objection to Claim (Form 127), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Objection to Claim (Form 127) and attachments.
Note: This form must be prepared for the signature of and actually be signed by an executor or administrator.
 - (2) On objection by executor or administrator, make entry on Worksheet 13.
 - (3) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of Objection to Claim (Form 128), attach the properly signed Objection to Claim (Form 127) (with original claim), and file with clerk of court. Enter date of filing on Worksheet 13.
 - (4) Consider mailing the creditor a copy of Objection to Claim (Form 127) and, if applicable, the Memorandum of Objection to Claim (Form 128) filed with clerk of court.
- l. For each unsecured creditor with a claim *not* for money who fails to file suit before the S/L Date on Worksheet 13, change Class on Worksheet 13 to “Barred.”
- m. If a secured creditor in preferred debt and lien status seeks to collect a deficiency from the other assets of the estate, prepare and send Letter 125 to the creditor.
- n. In a *dependent* administration, for each unsecured creditor with a claim for money who fails to file suit within the 90-day period shown in Item 77h of SDL, change Class on Worksheet 13 to “Barred.”

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OTHER INSURANCE

68. Other Insurance:

- a. For expenses of last illness, obtain all original health, medical, hospitalization, and accident insurance policies insuring D, place them in file folder entitled “Other Insurance,” and file claims under the following types of D’s insurance policies (see Section 15.0 of MIL):
 - (1) Health, medical, and hospitalization
 - (2) Medicare
 - (3) Accident (including automobile and travel clubs)
 - (4) Fire, casualty, liability, etc.
- b. Analyze D’s policies, especially health policies, to determine whether any policies provide for payment of death benefits, medical expenses, or funeral expenses.
- c. Inquire as to circumstances of D’s death to determine if worker’s compensation or accidental death benefits may be payable.
- d. Advise D’s family members to convert or replace D’s medical, hospitalization, and other insurance.

69. Dealing with D’s **accident insurance** policies (see Section 15.0 of MIL). Do the following:

- a. Locate policy and review. Place in file folder entitled “Other Insurance.”
- b. Inquire as to circumstances of D’s death to determine if accidental death benefits may be payable. If so, file appropriate claims.
- c. Determine if D paid any of the premiums of these policies within three years of death.
- d. If death benefits are payable, refer to Section 13.0 of MIL and Item 7 of this Checkplan.

70. Dealing with D’s **homeowner’s and personal property insurance** policies (see Section 15.0 of MIL). Do the following:

- a. Locate policies and review. Pay particular attention to separately scheduled (listed) personal property. Make copy of the list of property and place copy and policy in file folder entitled “Other Insurance.”

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b. Advise D’s agent of fact and date of D’s death. Consider naming executor or administrator as additional insured.					
c. Determine if any benefits are payable under these policies. If so, file appropriate claims.					
d. Determine whether to terminate coverage. If so, collect un-earned premiums and list amounts as accounts receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					
(2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
e. Determine adequacy of coverage. If there is no coverage or existing coverage is inadequate, do the following:					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled “Other Insurance.”					
f. Obtain endorsement to transfer existing coverage to estate or to persons who inherited this property. When received, place in file folder entitled “Other Insurance.”					
71. Dealing with D’s fire and extended coverage insurance policy (see Section 15.0 of MIL). Do the following:					
a. Locate policy and review. Place in file folder entitled “Other Insurance.”					
b. Advise D’s agent of fact and date of D’s death. Consider naming executor or administrator as additional insured.					
c. Determine if any benefits are payable under this policy. If so, file appropriate claims.					
d. Determine whether to terminate coverage. If so, collect un-earned premium and list amount as an account receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.					
(2) If MT, SE, or PDH, distribute refund to appropriate heirs and beneficiaries.					
e. Determine adequacy of coverage. If there is no coverage or existing coverage is inadequate, do the following:					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled “Other Insurance.”					

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- f. Obtain endorsement to transfer existing coverage to estate or to persons who inherited this property. When received, place in file folder entitled "Other Insurance."
72. Dealing with D's **liability insurance** policy (see Section 15.0 of MIL). Do the following:
- a. Locate policy and review. Place in file folder entitled "Other Insurance."
 - b. Advise D's agent of fact and date of D's death. Consider naming executor or administrator as additional insured.
 - c. Determine whether to terminate coverage. If so, collect unearned premium and list amount as an account receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.
 - (2) If MT, SE, or PDH, distribute refund to appropriate heirs and beneficiaries.
 - d. Determine adequacy of coverage. If there is no coverage or existing coverage is inadequate, do the following:
 - (1) Determine kind and amount of coverage needed.
 - (2) Obtain required insurance. When received, place in file folder entitled "Other Insurance."
 - e. Obtain endorsement to transfer existing coverage to estate or to appropriate persons. When received, place in file folder entitled "Other Insurance."
73. Dealing with D's **automobile insurance** policy (see Section 15.0 of MIL). Do the following:
- a. Locate policy and review. Place in file folder entitled "Other Insurance."
 - b. Advise D's agent of fact and date of D's death. Consider naming executor or administrator as additional insured.
 - c. Determine if any benefits are payable under this policy. If so, file appropriate claims.
 - d. Determine whether to terminate coverage. If so, collect unearned premium and list amount as an account receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.
 - (2) If MT, SE, or PDH, distribute refund to appropriate heirs and beneficiaries.

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e. Determine adequacy of coverage. If there is no coverage or existing coverage is inadequate, do the following:					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled "Other Insurance."					
f. Obtain endorsement to transfer existing coverage to estate or to person(s) who inherited the automobile. When received, place in file folder entitled "Other Insurance."					
74. Dealing with D's health and medical insurance policies (see Section 15.0 of MIL). Do the following:					
a. Locate policies and review. Place in file folder entitled "Other Insurance."					
b. Advise D's agent of fact and date of D's death.					
c. Determine if any benefits, including death benefits, are payable under these policies. If so, file appropriate claims.					
d. Determine whether to terminate coverage. If so, collect un-earned premiums and list amounts as accounts receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					
(2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
e. Determine if policy covers other members of D's family and consult with them regarding continuance of coverage.					
<i>Note: Under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272 ("COBRA"), many employers are required to permit D's surviving spouse and certain other dependents to continue coverage under D's group health plan.</i>					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled "Other Insurance."					
(3) Be sure this coverage is paid for by those family members.					
75. Determine whether to obtain other necessary insurance coverage for assets and general public liability insurance coverage for estate, executors, administrator, beneficiaries, or clients, and take appropriate action. When new policies are received, place in file folder entitled "Other Insurance."					

CASH

76. If D had **checking or savings accounts, certificates of deposit, undeposited checks, or currency**, do the following:

a. See Special Instruction 20—Cash Items.

Note: If D was a lawyer, as shown at Item 1.28 of MIL, also see Special Instruction 78—Death of a Lawyer and Item 76u in this Checkplan.

b. Investigate all accounts and certificates of deposit to ensure full coverage under FDIC or other government insurance.

c. Obtain D’s check register and canceled checks, deposit slips, and bank statements for the month before, the month of, and the month following D’s death and also all certificates of deposit and passbooks for savings accounts. Place in file folder entitled “Cash.”

d. If D had certificate of deposit, enter maturity date in office reminder system to determine whether to renew or to collect the proceeds at maturity. If certificate is to be redeemed before maturity, see Special Instruction 20—Cash Items.

e. If there is more than one account and/or certificate of deposit, prepare Worksheet 3 and place in file folder entitled “Cash.”

f. If D was married, prepare and send Letter 28 to each bank, savings and loan association, or credit union where either D or D’s spouse maintained an account, certificate of deposit, safe deposit box, or loan in either or both of their names.

g. If D was not married, prepare and send Letter 29 to each bank, savings and loan association, or credit union where D maintained an account, certificate of deposit, safe deposit box, or loan.

Note: Letter 28 and Letter 29 follow IRS Form 1282, which IRS mails to banks before they audit the estate tax return. If IRS is going to have the information, you should too. Most banks will require you to furnish letters testamentary or letters of administration before furnishing this information and will charge for doing so.

h. Make photocopies of all checks payable to D or D’s spouse that were undeposited on the date of D’s death, list in Section 11.0 of MIL, and place copies in file folder entitled “Cash.”

i. Make photocopies of all traveler’s checks belonging to D or D’s spouse, list in Section 11.0 of MIL, and place copies in file folder entitled “Cash.”

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- j. List currency in possession of D and D’s spouse in Section 11.0 of MIL.
- k. Complete Section 11.0 of MIL.
- l. Prepare Worksheet 4 for each of D’s checking accounts to reconcile D’s records and checks outstanding at D’s death to balance furnished by bank (see Special Instruction 20—Cash Items). Place Worksheet 4 for each account in file folder entitled “Cash.”
- m. If not certain whether D had an account at a particular bank or credit union, prepare and send Letter 30 to each of them you have reason to believe should be contacted to determine the possible existence of such an account. If account exists, take actions indicated in this Item 76 of this Checkplan.
- n. Determine if each cash item was community property or D’s separate property.
- o. Consider transferring community interest in cash to D’s surviving spouse.
- p. If name of account should be changed to eliminate D’s name, take appropriate action.
- q. If account will continue and D’s Social Security number was applicable to the account or certificate, take appropriate action to substitute the Social Security number of the successor to that account. This is particularly helpful if the surviving spouse becomes the owner of all the funds.
- r. Determine if there are any preauthorized withdrawals or automatic bank drafts for any of D’s accounts and, if so, whether to terminate them.
- s. Evaluate cash requirements and arrange for funds necessary to pay debts, taxes, and expenses of administration (see Worksheet 10).
- t. As responses are received, place in file folder entitled “Cash.” As these steps are completed, be sure to enter that information on Worksheet 3.
- u. If D was a lawyer with a trust or escrow account and it is necessary to gain access to such an account, do the following:
 - (1) Determine whether executor or administrator is a duly licensed Texas lawyer in good standing.
 - (2) If so, prepare Statement Pursuant to Chapter 456 of the Texas Estates Code (Form 129) and arrange to have signed by executor or administrator.

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- (3) If not, determine identity of lawyer who will undertake to handle application of funds, prepare Agreement Pursuant to Chapter 456 of the Texas Estates Code (Form 130), and arrange to have signed by executor or administrator and designated lawyer.
- (4) Prepare and send Letter 126 to each institution holding funds, together with a signed copy of Statement (Form 129) or Agreement (Form 130); a copy of Estates Code, Chapter 456 (Form 131); a certified copy of D's death certificate; current original letters testamentary or letters of administration; and proof that lawyer is in good standing.

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SUBCHAPTER S CORPORATIONS

77. Determine if D owned stock in a **Subchapter S corporation** (see Item 10.80 of MIL). If so, do the following:

- a. See Special Instruction 70—Subchapter S Corporations.
- b. Determine if stock was community property or D’s separate property.
- c. Consider transferring community interest to D’s surviving spouse.
- d. Enter date of fiscal year end for Subchapter S Corporation as Item 10.12 of MIL and as Item 57 of SDL and complete Item 58 of SDL.
- e. Review shareholder agreements to determine if there is an obligation to continue the election.
- f. Determine whether to continue or revoke the election. Complete Item 10.81 of MIL.
- g. If the election is to be revoked by action of a majority interest of the shareholders and D’s shares are to be included in the revocation, do the following:
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, for each corporation for which the election will be terminated, arrange for executor or administrator to join in the revocation. Place copies in file folder entitled “Securities.”
 - (2) If MT, SE, or PDH, for each corporation for which the election will be terminated, arrange for signature by person(s) receiving the stock to join in the revocation. Place copies in file folder entitled “Securities.”
- h. Determine amount of income, loss, deductions, and credits attributed to D’s stock for the period before D’s death as prorated on a daily basis and enter as Item 10.82 of MIL.

Note: These items for the remainder of the corporation’s fiscal year will be taxable to D’s estate or to the person(s) acquiring D’s stock. Any of D’s undistributed “previously taxed income” remaining in the corporation at D’s death will lose its right to nondividend treatment.
- i. See Special Instruction 40—Section 303 Redemption and determine whether D’s estate is eligible under IRC Section 303 for redemption and special treatment.

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D'S LIFETIME TAX LIABILITIES

78. Handling **D's lifetime tax liabilities**. Letter 3 and the other representation letters in this System disclaim responsibility for gift and income tax returns and suggest the client use a certified public accountant. However, Letter 3 commits the lawyer to determining the nature and amount of the liabilities of the estate, which includes D's lifetime tax liabilities.

Although addressed to the lawyer preparing income tax returns, this Item 78 is as much for the lawyer reviewing another preparer's work.

Do the following:

- a. See IRS Publication 559, *Survivors, Executors, and Administrators*, for examples of completed forms.
- b. See Special Instruction 21—Helpful Publications Relating to Federal Tax Matters.
- c. If D died between January 1 and April 15, complete Items 59 and 60 of SDL and be sure that D's **income tax return**, prepared on IRS Form 1040 (form not provided in this System) for the prior calendar year, has been filed and the tax paid by April 15 of year of D's death.
 - (1) If tax return cannot be filed by April 15 of year of D's death, do the following:
 - (a) Determine approximate amount of tax due.
 - (b) Prepare Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System).
 - (c) Arrange for signature by D's surviving spouse, executor or administrator, client, or distributee, or by preparer of return.
 - (d) File Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System) with, and pay tax to, IRS by April 15.
 - (e) Enter extended due date as Item 60a of SDL.
 - (2) File the return and pay balance of tax due, if any, within the period of the extension.
 - (3) Place copies in file folder entitled "Income Tax Returns."

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- (4) When finally determined, enter D's share of total income tax liability as Item 26.10 of MIL or D's share of total refund as Item 12.05 of MIL.
- d. Determine whether to continue payments of **estimated income tax** on IRS Form 1040-ES (form not provided in this System), since D's death is not an exception to the penalty for underpayment of those taxes.

Note: After D's death, the surviving spouse should continue to make the required payments out of funds of that spouse rather than from funds from D's estate. This will avoid a possible inadvertent distribution of estate funds and income. If no other funds are available, consider a loan.
 - (1) Enter due dates in office reminder system.
 - (2) File declaration with, and pay tax to, IRS by each due date. No transmittal letter is required.
 - (3) Place copies in file folder entitled "Income Tax Returns."
- e. Consider making contributions to IRA account for D and D's spouse for the year of D's death.
- f. Determine if D engaged in activities that generated **passive activity losses**. If so, do the following:
 - (1) Determine if D had suspended losses from a passive activity. If so, do the following:
 - (a) Determine D's adjusted basis in the asset immediately before D's death and subtract that amount from the fair market value of the asset on the date of D's death.
 - (b) Determine amount of suspended losses as shown on D's income tax return(s).
 - (2) Claim the smaller of the two amounts of the suspended loss on D's final income tax return.
- g. Prepare and file **D's final federal income tax return** on IRS Form 1040 (form not provided in this System) for D's income from January 1 through the date of D's death in the calendar year during which D died. The return must be filed and the taxes paid by April 15 of the calendar year following D's death.
 - (1) Review D's records for year of death for information required for D's final income tax return.

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- (2) If **estimated tax** payments had been made by D and D's spouse for calendar year of D's death, consider revising amounts to be paid by D's spouse by revising and filing IRS Form 1040-ES (form not provided in this System). Enter payment dates in office reminder system. Place copy in file folder entitled "Income Tax Returns."
- (3) If tax return cannot be filed by April 15 of the calendar year following D's death, do the following:
 - (a) Determine approximate amount of tax due.
 - (b) Prepare Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System).
 - (c) Arrange for signature by D's surviving spouse, executor or administrator, client, or distributee, or by preparer of return.
 - (d) File Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System) with, and pay tax to, IRS by April 15.
- (4) Enter extended date as Item 60a of SDL.
- (5) Determine if D or D's spouse had capital loss carryovers. If so, consider selling appreciated property owned by D's surviving spouse and then filing a joint return.
- (6) Determine if D had net operating losses in excess of the combined ordinary income of D and D's spouse. If so *and* if the fiscal year of D's estate closes within the taxable year of the spouses, consider making income distributions to D's spouse from D's estate.
- (7) If D's final return is or was a joint return with D's spouse, compute the deduction for D's share of total income tax liability and enter amount as Item 26.10 of MIL.
- (8) File the return and pay the balance of tax due within the period of the extension.

Note: It is good practice to file a return for the year of D's death even if no tax is due. If D was not married, it would be appropriate to write "FINAL RETURN" at the top of Page 1 of the return.

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- (9) When finally determined, enter D's share of total income tax liability as Item 26.10 of MIL or D's share of total refund as Item 12.05 of MIL.
- (10) Determine whether to request prompt assessment of D's income taxes.
- (11) Place copies in file folder entitled "Income Tax Returns."
- h. If unable to locate copies of D's income tax returns for the three years before death, consider requesting transcripts or copies from IRS. See Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities and do the following:
- (1) Determine the address used on the return(s), whether D filed separately or jointly for the year(s) in question, and the Internal Revenue Service Center(s) where filed.
 - (2) If requesting **transcripts only**, prepare IRS Form 4506-T, Request for Transcript of Tax Return (FF 5). The form is available online at **IRS.gov** (click on "Order Transcript").
Note: If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain transcripts and there is no executor or administrator.
- (a) Arrange for IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), to be signed by proper person.
 - (b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.
 - (c) When signed copy of IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), has been returned and all attachments have been obtained, send to the Internal Revenue Service Center. No cover letter is required.
 - (d) On receipt of transcripts from the IRS, place in file folder entitled "Income Tax Returns."

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- (3) If requesting **copies** of tax forms, prepare IRS Form 4506, Request for Copy of Tax Form (FF 1). The form is available online at **IRS.gov/Form 4506**.
- Note:* If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain copies of returns and there is no executor or administrator.
- (a) Arrange to have IRS Form 4506, Request for Copy of Tax Form (FF 1), signed by proper person.
 - (b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.
 - (c) When signed copy of IRS Form 4506, Request for Copy of Tax Form (FF 1), has been returned and all attachments have been obtained, determine correct charge, arrange for payment, charge client's account, and send to the Internal Revenue Service Center. No cover letter is required.
 - (d) On receipt of copies of tax returns from the IRS, place in file folder entitled "Income Tax Returns."
- (4) Determine if D had not filed income tax returns for prior year(s) and, if not, arrange for missing returns to be prepared.
- Note:* Old tax forms are at **IRS.gov/Forms-&-Pubs** and **www.unclefed.com**.
- i. Determine if D was liable for filing a **gift tax return** for unreported gifts. If so, prepare and file IRS Form 709, United States Gift Tax Return (form not provided in this System), pay tax due, and enter the amount as Item 26.52 of MIL.
- Note:* D's gift tax returns must be filed no later than the date for filing D's federal estate tax return.
- (1) Determine if any gift tax returns are presently under audit.

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(2) If unable to determine if D ever filed gift tax returns or if all returns cannot be located, and if executor, administrator, client, heir, beneficiary, or distributee has even the slightest grounds for believing such returns may have been filed, request copies of D's gift tax returns filed for periods after December 31, 1975, to avoid personal liability when relying on returns obtained from IRS. IRS Form 4506, Request for Copy of Tax Form (FF 1), may be modified and used for this purpose.

Note: It is not wise to file the federal estate tax return before investigating the existence of and then reviewing all of D's gift tax returns.

- (3) If gifts were made to third parties by D's surviving spouse before D's death, consider making election to split those gifts.
- (4) Determine whether to request prompt assessment of gift taxes.
- (5) Place copies of all gift tax returns in file folder entitled "Gift Tax Returns."

j. Determine if D was liable for filing **employer quarterly tax returns**. If so, prepare and file final return on IRS Form 941, Employer's Quarterly Federal Tax Return (form not provided in this System), pay tax due, and enter the amount as Item 26.51 of MIL. Place copy of return(s) in file folder entitled "Other Tax Returns."

- k. Pay particular attention to the following items:
 - (1) Medical expenses unpaid on date of D's death may be deducted as medical expenses on D's income tax return for the year in which paid or as a debt on federal estate tax return (see Special Instruction 22—Federal Tax Elections and Deductions).
 - (2) Accrued interest from U.S. Series E and EE bonds may be reported as income on D's final income tax return.
 - (3) A joint income tax return may be filed for D and D's surviving spouse (see Special Instruction 9—Surviving Spouse's Federal Income Tax Elections).
 - (4) D's capital losses and net operating losses expire in the year of D's final income tax return. Determine whether to increase income on a joint return in the final year to absorb any such losses.

- l. See Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities and review D's income tax returns for the three years before D's death to determine nature of business and itemized deductions and income from businesses and investments, that all income taxes have been paid, if any returns are presently under audit, if claims for refund are pending or should be filed, and if there are unused loss carryovers.

- m. Determine whether to notify IRS of change of address for D. If so, do the following:
 - (1) Determine new address (such as the address of the executor, administrator, surviving spouse, or other person to whom IRS notices should be sent).
 - (2) Complete IRS Form 8822, Change of Address (FF 13).
 - (3) Arrange to have IRS Form 8822, Change of Address (FF 13), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
 - (4) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).

- n. If any executor or administrator has a change of address, do the following:
 - (1) Complete IRS Form 8822, Change of Address (FF 13), to report a change of address for any executor or administrator.
 - (2) Arrange to have IRS Form 8822, Change of Address (FF 13), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
 - (3) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).

- o. Determine if D owned a **partnership** interest in which the **tax basis** of D's interest should be **adjusted** under IRC Section 743 (see Item 16.53 of MIL). If so, see that the partnership makes the election under IRC Section 754 for the taxable year of the partnership during which D's death occurred. Place copy in file folder entitled "Partnerships, Trusts, and Other Unincorporated Businesses."

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INCOME TAX RETURNS FOR ESTATE

Note: Item 79 of this Checkplan does not apply to MT, SE, or PDH proceedings.

79. Fiduciary income tax returns. In any fiscal year in which any beneficiary is a nonresident alien or D's estate has gross income of \$600 or more, IRS Form 1041, U.S. Fiduciary Income Tax Return (form not provided in this System) must be prepared and filed.

- a. See Special Instruction 21—Helpful Publications Relating to Federal Tax Matters, Special Instruction 22—Federal Tax Elections and Deductions, Special Instruction 19—Fiscal Years, and Special Instruction 74—Income Taxation of Estate.
- b. Advise client to ensure that IRS Form 1041, U.S. Income Tax Return for Estates and Trusts (form not provided in this System), is prepared and filed.
- c. If D's estate will not be closed before the end of the second fiscal year, advise client to ensure that IRS Form 1041-ES (form not provided in this System) for D's estate and appropriate vouchers for each fiscal year thereafter are prepared.
- d. If any executor or administrator has a change of address, ensure that executor or administrator files IRS Form 8822, Change of Address (FF 13).

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VALUATION

80. Begin **valuation** of all assets (see Special Instruction 24—General Rules for Valuation of Assets).

- a. Obtain valuation of assets on date of D’s death (Item 1.07 of MIL).
- b. Obtain valuation of each asset on alternate valuation date (Item 26.22 of MIL) or on date asset was sold or distributed if before regular alternate valuation date.
- c. Consider the impact of valuations on marital and charitable deductions and on estate tax liability in general.

Note: Alternate valuation is not necessary, and its election will not be recognized for federal tax purposes unless IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, must be filed and not then unless it results in a decrease in the value of the gross estate and a decrease in the amount of taxes due.

- d. Obtain written appraisals of real estate, closely held businesses, vehicles, and valuable items of personal property. When received, place in file folders entitled “Real Estate,” “Securities,” “Partnerships, Trusts, and Other Unincorporated Businesses,” and “Personal Property” as applicable.

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DISCLAIMERS

81. Disclaimers (see Special Instruction 25—Disclaimers).

NOTE: DISCLAIMERS ARE NOT NORMALLY USED IN CONNECTION WITH MUNIMENT OF TITLE OR SMALL ESTATE PROCEEDINGS OR IN PROCEEDINGS TO DECLARE HEIRSHIP. IN THOSE SITUATIONS, IF YOU PROPOSE FOR SOMEONE TO DISCLAIM AN INTEREST IN PROPERTY, MAKE APPROPRIATE ADJUSTMENTS TO THE ITEMS IN THIS SECTION.

NOTE: THE PROCEDURES IN THIS SYSTEM APPLY ONLY TO THE COMPLETE DISCLAIMER BY AN ADULT OF ALL PRESENT RIGHTS IN AN ESTATE WITH NO PROPERTY LOCATED OUTSIDE THE STATE OF TEXAS. In other situations (e.g., the disclaimer of nonprobate assets), the procedures will have to be modified significantly.

- a. If it has been determined that a disclaimer will be made by any heir or beneficiary, prepare Disclaimer (Form 23) for each person disclaiming an interest.
- b. Prepare and send Letter 34 to each person disclaiming an interest, together with original and two copies of Disclaimer (Form 23).

Note: For a tax-qualified disclaimer, the heir or beneficiary must deliver the disclaimer within nine months after D's death.

- c. On receipt of properly signed and acknowledged Disclaimer (Form 23), furnish a copy of the Disclaimer (Form 23) to each executor or administrator. If mailing, prepare and send Letter 35 to each executor or administrator, together with a copy of the Disclaimer (Form 23).

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REAL ESTATE

82. If D owned **real estate**, do the following:
 - a. See Special Instruction 26—Real Estate.
 - b. Obtain copies of and review deeds, contracts for deeds, title policies, plats, appraisals, mortgages, leases, tax statements and receipts, division orders, and other documents relating to each tract of land owned or being purchased by D or D's spouse. Place in file folder entitled "Real Estate."
 - c. Complete Section 7.0 of MIL.
 - d. Determine if there was a contract for the purchase or sale of any real estate pending on date of D's death.
 - e. Obtain appraisal of each tract as of date of D's death, with improvements valued separately from the land. Place in file folder entitled "Real Estate."
 - f. Obtain copies of royalty stubs and other statements for producing mineral interests covering payments made during twelve months before D's death, prepare calculation of value of each producing mineral interest (Worksheet 7), complete Items 7.15, 7.16, and 7.104 of MIL, and place in file folder entitled "Real Estate."
 - g. If property was leased, prepare and send Letter 36 to each tenant to notify of the place and manner of making payments.
 - h. If D lived alone, see Item 63 of this Checkplan and take appropriate action.
 - i. If improved property becomes vacant, contact insurance agent and obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance."
 - j. Determine if D had claimed the ad valorem tax homestead exemption for all applicable years and, if not, take appropriate action through the appraisal district in the county where D's homestead is located.
 - k. Determine if D's spouse is eligible for homestead exemption and, if so, take appropriate action with all taxing jurisdictions.

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- l. Prepare and send Letter 37 to the central appraisal district for each tract.

Note: Almost all property is subject to taxation by the county and by a school district and may also be subject to taxation by water districts and other special jurisdictions. The central appraisal district and the county tax assessor can tell you which other jurisdictions are taxing the particular property.

- m. Update account information with each taxing jurisdiction.
- n. If payment status of ad valorem taxes is unknown for prior years, obtain tax certificates from each taxing jurisdiction. If there are any delinquent taxes, enter amount as Items 26.46 and 26.47 of MIL and arrange for payment. When certificates are received, place in file folder entitled "Real Estate."
- o. If D's estate is likely to exceed the federal exclusion amount (Item 26.21 of MIL) (see Special Instruction 80—Federal Estate Tax), obtain reappraisal of each tract as of alternate valuation date (Item 26.22 of MIL). Place in file folder entitled "Real Estate."
- p. If D owned real estate in a county in Texas *other than* county of probate, be sure to complete Item 201 of this Checkplan.
- q. Determine whether each tract was community property or D's separate property.
- r. Consider conveying community interest in real estate to D's surviving spouse.
- s. If property is to be sold before obtaining full release of estate tax liens, it may be necessary to obtain a release of those liens. If so, obtain and file IRS Form 4422, Application for Certificate Discharging Property Subject to Estate Tax Lien (form not provided in this System).

Note: Release will be given only when necessary (usually to raise funds to pay debts, expenses, and taxes) and then only for a specific tract.
- t. Determine whether any tract will qualify for and whether to elect special use valuation for federal estate tax (see Special Instruction 27—Special Use Valuation for Certain Real Estate). If so, do the following:
 - (1) Consider the effect on the marital and charitable deductions and on the estate tax liability in general.
 - (2) Obtain necessary appraisal.
 - (3) Obtain consent of all necessary parties.
 - (4) Prepare required statements.

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- u. If D owned real estate outside Texas, do the following:
 - (1) Arrange for out-of-state attorney to handle necessary administration (“ancillary administration”) in each state and foreign country.
 - (2) If necessary, see that ancillary administrator is appointed and qualifies in each state and foreign country.
 - (3) See that all death taxes are paid for each state and foreign country. If paid to a foreign country and if IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, will be filed, complete Schedule P of that return and IRS Form 706-CE, Certificate of Payment of Foreign Death Tax (form not provided in this System).
 - (4) See that ancillary administrator files a separate IRS Form 1041, U.S. Income Tax Return for Estates and Trusts (form not provided in this System), with the Internal Revenue Service office for that state with respect to income of D’s estate that is attributable to property being so administered.
 - (5) See that title to the property is vested in rightful owners.
- v. If D or D’s spouse was purchasing any real estate pursuant to a contract for deed, complete Items 7.171 through 7.187 of MIL and place a copy of the contract in file folder entitled “Real Estate.”

83. If **real estate** is to be **sold by private sale** during administration, and if Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court, but power of sale of real property is not specified in D’s will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:
- a. See Special Instruction 47—Sale of Real Property During Administration.
 - b. Prepare Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Real Property (Form 42).
 - c. Determine amount of filing fee, arrange for payment, and charge to client’s account.
 - d. File Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Real Property (Form 42) with clerk of court.
 - e. Determine if court hearing is required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.

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- (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
- (3) Attend hearing, present proof necessary for court's approval, and have Order of Sale of Real Property (Form 42) signed by judge.
- f. If hearing will not be required, determine date judge signed Order of Sale of Real Property (Form 42) and obtain certified copy of order (Form 42) and of Application for Sale of Real Property (Form 39).
- g. Determine if existing general bond is sufficient and, if not, obtain an additional bond in the amount indicated by the court.
- h. Enter date Order of Sale of Real Property (Form 42) was signed as Item 65b of SDL and Item 6.107 of MIL.
- i. Conclude sale and enter date it was concluded as Item 65c of SDL and Item 6.108 of MIL. Complete Item 65d of SDL.
- j. Prepare Report of Sale of Real Property (Form 43).
- k. Arrange for executor or administrator to sign and swear to Report of Sale of Real Property (Form 43). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Report of Sale of Real Property (Form 43).
- l. File Report of Sale of Real Property (Form 43) with clerk of court.
- m. Determine date of filing Report of Sale of Real Property (Form 43), enter as Item 65e of SDL, and complete Items 65f and 65g of SDL and Item 6.110 of MIL.
- n. Prepare Order Confirming Sale of Real Property (Form 44).
- o. File Order Confirming Sale of Real Property (Form 44) with clerk of court.
- p. Determine date judge signed Order Confirming Sale of Real Property (Form 44) and enter as Item 65h of SDL and Item 6.116 of MIL.
- q. Prepare Deed (Form 45) and arrange for signature and acknowledgment by executor or administrator. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Deed (Form 45). If sale was on terms, prepare note(s) and deed of trust (forms not provided in this System).
- r. Obtain certified copy of Report of Sale (Form 43) and Order Confirming Sale of Real Property (Form 44).

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- s. Deliver or mail certified copies of Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Real Property (Form 42), Report of Sale of Real Property (Form 43), Order Confirming Sale of Real Property (Form 44), and Deed (Form 45) to title company and to attorney representing purchaser.
- t. If proof of absence of debts or unpaid taxes is required by purchaser or title company, prepare Affidavit Regarding Debts and Taxes (Form 37). Arrange for signature by affiant and for proper delivery.
- u. Close sale of property, collect proceeds, and complete Item 65i of SDL.
- v. If sale is not consummated, prepare and file Application to Set Aside Report of Sale and Order Confirming Sale and the proposed Order thereon (Form 46) and follow local rules of procedure concerning hearings.

Note: Public sales are not covered by this System.

84. If **property** is to be **leased for mineral exploration** or development through private negotiations, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by the court, but power to lease is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:
- a. See Special Instruction 53—Mineral Leases.
 - b. Prepare Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56).
 - c. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56).
 - d. Determine amount of filing fee, arrange for payment, and charge to client's account.
 - e. File Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56) with clerk of court, enter date of filing as Item 66a of SDL, and complete Items 66b and 66c of SDL.
 - f. Obtain date for hearing, enter as Item 66d of SDL, and notify executor or administrator of time and date of hearing.

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- g. Prepare Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57).
- h. Attend hearing and do the following:
 - (1) Take original Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) to the hearing.
 - (2) Present proof necessary for court's approval of lease of property and have Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) signed by judge.
- i. Determine if existing general bond is sufficient and, if not, obtain an additional bond in the amount indicated by court.
- j. Enter date that Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) was signed as Item 66e of SDL and Item 6.123 of MIL. Complete Item 66f of SDL.
Note: This date is considered for all purposes as the date of the authorized lease if the lease form approved by the court was not dated.
- k. Arrange for executor or administrator to sign and swear to lease. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of lease.
- l. Deliver or mail copies of Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56) and Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) to proposed mineral lessee.
- m. Deliver lease and other documents, collect fee, and complete Item 66g of SDL.

Note: Public leasing is not covered by this System.

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SECURITIES

85. If D owned publicly traded securities, do the following:
- a. See Special Instruction 28—Stocks, Bonds, and Other Securities.
 - b. Obtain actual certificates for shares of stock, mutual funds, and bonds that are owned by D or D’s spouse, that are in bearer form, or for which the name of D or D’s spouse appears as one or more of the registered owners.
 - (1) Determine dates for expiration of puts, calls, and options and dates for payment of interest on coupon bonds and enter into office reminder system.
 - (2) Place in file folder entitled “Securities.”
 - c. Obtain most recent statement from each brokerage firm where D or D’s spouse maintained an account. Place in file folder entitled “Securities.”
 - d. Determine if D participated in a dividend reinvestment program. If so, do the following:
 - (1) Place statements of account in file folder entitled “Securities.”
 - (2) Prepare and send Letter 58 to custodian to request information regarding unissued shares and requirements for transfer.
 - e. Determine whether to exercise options, puts, and calls.
 - f. Prepare Worksheet 5 and place in file folder entitled “Securities.”
 - g. If D had an account with stockbroker, prepare and send Letter 38 to stockbroker to cancel and settle open orders and accounts. If stockbroker requires the letter to be signed by an executor, administrator, client, heir, beneficiary, or distributee, add appropriate signature line and have signed. If mailing, prepare and send Letter 24 to that person, together with original Letter 38 to stockbroker.
 - h. Determine if there is accrued interest as of the date of D’s death or if there are dividends declared before but payable after the date of D’s death.
 - i. Determine whether each security was community property or D’s separate property.

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j. Consider transferring community interest in securities to D’s surviving spouse.					
k. Prepare and send Letter 39 to stockbroker to obtain values on date of death.					
l. Complete Section 9.0 of MIL and be sure to obtain Committee on Uniform Security Identification Procedure (CUSIP) number for each security. Determine maturity dates of notes and bonds and payment dates for interest and dividends and enter into office reminder system.					
m. Prepare Letter 40 for each company for which dividend or interest payment address is to be changed.					
n. Arrange for signature by client. If mailing, prepare and send Letter 24 to client, together with original and one copy of Letter 40.					
o. When signed copy of Letter 40 is received from client, forward it to company.					
p. Prepare and send Letter 39 to stockbroker to obtain values on alternate valuation date (Item 26.22 of MIL). When seeking to determine the alternate value, this letter should not be sent until at least six months following the date of death. When answer is received, place in file folder entitled “Securities.”					
q. Determine whether each security, including those in a dividend reinvestment program, will be sold, transferred to D’s estate, or transferred directly to the beneficiaries under D’s will and codicil(s) or to D’s heirs or distributees.					
r. Prepare Irrevocable Stock Power (Form 24) for each stock and mutual fund certificate and Irrevocable Bond Power (Form 25) for each bond certificate registered in D’s name.					
s. Prepare Affidavit of Domicile (Form 26) for each security registered in D’s name.					
t. Prepare IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), for each transferee of each security registered in D’s name.					
u. Prepare and send Letter 42 to executor, administrator, heir, devisee, or distributee, together with all IRS Forms W-9, Request for Taxpayer Identification Number and Certification (FF 15), that are to be signed by that person, original Irrevocable Stock Power (Form 24) and/or Irrevocable Bond Power (Form 25), and Affidavit of Domicile (Form 26), to have signature guaranteed.					

v. Obtain appropriate documents from clerk of court:

(1) If MT, do the following:

(a) Order one certified copy of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of copies and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 69.

(b) Prepare and send by certified or registered mail Letter 68 to transfer agent for each security to be sold or transferred, together with original certificates, certified copies of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32), Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and death certificate.

(c) Attach mailing receipt to file copy of Letter 68.

(d) Attach return receipt to file copy of Letter 68.

(2) If PDH, do the following:

(a) Order one certified copy of Judgment Declaring Heirship (Form 81) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86.

(b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and Judgment Declaring Heirship (Form 81).

(c) Attach mailing receipt to file copy of Letter 43.

(d) Attach return receipt to file copy of Letter 43.

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- (3) If SE, do the following:
 - (a) Order one certified copy of Small Estate Affidavit and Order (Form 82) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client’s account. If ordering by mail, determine correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 89.
 - (b) Prepare and send by certified or registered mail Letter 88 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and Small Estate Affidavit and Order (Form 82).
 - (c) Attach mailing receipt to file copy of Letter 88.
 - (d) Attach return receipt to file copy of Letter 88.
- (4) In all other proceedings (IA, TBA, IBA, ADE, AWA, RDA, AP, and TDA), do the following:
 - (a) Order one copy of letters testamentary or letters of administration (must be dated within sixty days of proposed date of sale or transfer) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client’s account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court.
 - (b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and letters testamentary or letters of administration.
 - (c) Attach mailing receipt to file copy of Letter 43.
 - (d) Attach return receipt to file copy of Letter 43.
- w. On receipt of transferred securities, do the following:
 - (1) Verify that correct number of shares has been transferred to each transferee.
 - (2) Verify that name of transferee has been properly spelled.

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(3) Verify that transferee's correct Social Security or employer identification number appears on certificate.					
(4) Verify that CUSIP number is the same as for the transferred securities.					
(5) Make a record of the new certificate number(s).					
(6) Prepare and send by certified or registered mail Letter 44 and new certificate(s) to each transferee to forward certificates (or let transferee pick up at office).					
(7) If mailed, attach mailing receipt to file copy of Letter 44.					
(8) If mailed, attach return receipt to copy of Letter 44 signed and returned by transferee.					
(9) When signed copy of Letter 44 is received, substitute for file copy.					
x. As responses are received and other steps are completed, be sure to enter that information on Worksheet 5.					
86. If D owned closely held securities , do the following:					
a. See Special Instruction 28—Stocks, Bonds, and Other Securities.					
b. Complete Section 10.0 of MIL.					
c. Obtain actual certificates for shares of stock and bonds issued by closely held corporations for which the name of D or D's spouse appears as one or more of the registered owners and place in file folder entitled "Securities."					
d. Determine whether to exercise options, puts, and calls.					
e. Prepare Worksheet 5 and place in file folder entitled "Securities."					
f. Determine if there is accrued interest as of the date of D's death or if there are dividends declared before but payable after date of D's death.					
g. Determine whether each security was community property or D's separate property.					
h. Consider transferring community interest in securities to D's surviving spouse.					
i. If D owned an interest in a closely held corporation, determine if D's estate is eligible under IRC Section 303 for redemption and special treatment (see Special Instruction 40—Section 303 Redemption).					

- j. If D's estate is likely to exceed the federal exclusion amount (Item 26.21 of MIL) (see Special Instruction 80—Federal Estate Tax), obtain values on alternate valuation date (Item 26.22 of MIL). When obtained, place in file folder entitled "Securities."
- k. Determine whether each security will be sold, transferred to D's estate, or transferred directly to the beneficiaries under D's will and codicil(s) or to D's heirs or distributees.
- l. Prepare Irrevocable Stock Power (Form 24) for each stock certificate and Irrevocable Bond Power (Form 25) for each bond certificate registered in D's name.
- m. Prepare Affidavit of Domicile (Form 26) for each security registered in D's name.
- n. Prepare IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), for each transferee of each security registered in D's name.
- o. Prepare and send Letter 42 to executor, administrator, heir, devisee, or distributee, together with all IRS Forms W-9, Request for Taxpayer Identification Number and Certification (FF 15), that are to be signed by that person, original Irrevocable Stock Power (Form 24) and/or Irrevocable Bond Power (Form 25), and Affidavit of Domicile (Form 26), to have signature guaranteed.
- p. Obtain appropriate documents from clerk of court:
 - (1) If MT, do the following:
 - (a) Order one certified copy of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of copies and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 69.
 - (b) Prepare and send by certified or registered mail Letter 68 to transfer agent for each security to be sold or transferred, together with original certificates, certified copies of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32), Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, and IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15).
 - (c) Attach mailing receipt to file copy of Letter 68.

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- (d) Attach return receipt to file copy of Letter 68.
- (2) If PDH, do the following:
 - (a) Order one certified copy of Judgment Declaring Heirship (Form 81) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86.
 - (b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and Judgment Declaring Heirship (Form 81).
 - (c) Attach mailing receipt to file copy of Letter 43.
 - (d) Attach return receipt to file copy of Letter 43.
- (3) If SE, do the following:
 - (a) Order one certified copy of Small Estate Affidavit and Order (Form 82) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 89.
 - (b) Prepare and send by certified or registered mail Letter 88 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and Small Estate Affidavit and Order (Form 82).
 - (c) Attach mailing receipt to file copy of Letter 88.
 - (d) Attach return receipt to file copy of Letter 88.

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- (4) In all other proceedings (IA, TBA, IBA, ADE, AWA, RDA, AP, and TDA), do the following:
 - (a) Order one copy of letters testamentary or letters of administration (must be dated within sixty days of proposed date of sale or transfer) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.
 - (b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and letters testamentary or letters of administration.
 - (c) Attach mailing receipt to file copy of Letter 43.
 - (d) Attach return receipt to file copy of Letter 43.
- q. On receipt of transferred securities, do the following:
 - (1) Verify that correct number of shares have been transferred to each transferee.
 - (2) Verify that name of transferee has been properly spelled.
 - (3) Verify that transferee's correct Social Security or employer identification number appears on certificate.
 - (4) Make a record of the new certificate number(s).
 - (5) Prepare and send by certified or registered mail Letter 44 and new certificate(s) to each transferee to forward certificates (or let transferee pick up at office).
 - (6) If mailed, attach mailing receipt to file copy of Letter 44.
 - (7) If mailed, attach return receipt to copy of Letter 44 signed and returned by transferee.
 - (8) When signed copy of Letter 44 is received, substitute for file copy.
- r. As responses are received and other steps are completed, be sure to enter that information on Worksheet 5.

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87. If securities are to be sold by private sale during administration, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by court, but power of sale of securities is not specified in D’s will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:
- a. See Special Instruction 48—Sale of Personal Property During Administration.
 - b. Prepare an Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48).
 - c. Determine amount of filing fee, arrange for payment, and charge to client’s account.
 - d. File Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) with clerk of court.
 - e. Determine if court hearing is required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court’s approval, and have Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) signed by judge.
 - f. If hearing will not be required, determine date judge signed Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) and obtain certified copy of order.
 - g. Enter date Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) was signed as Item 64b of SDL and Item 6.91 of MIL.
 - h. Conclude sale and enter date concluded as Item 64c of SDL and Item 6.92 of MIL.
 - i. Prepare Report of Sale of Personal Property (Form 49) and arrange for signature and verification by executor or administrator.
 - j. File Report of Sale of Personal Property (Form 49) with clerk of court.

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- k. Determine date of filing Report of Sale of Personal Property (Form 49), enter as Item 64d of SDL and Item 6.98 of MIL, and complete Items 64e and 64f of SDL.
- l. Prepare Order Confirming Sale of Personal Property (Form 50).
- m. File Order Confirming Sale of Personal Property (Form 50) with clerk of court.
- n. Determine date judge signed Order Confirming Sale of Personal Property (Form 50) and enter as Item 64g of SDL and Item 6.99 of MIL.
- o. Deliver or mail copies of Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48), Report of Sale of Personal Property (Form 49), and Order Confirming Sale of Personal Property (Form 50) to attorney representing purchaser.
- p. Deliver evidence of title properly endorsed for transfer, along with any other certificate, obtain receipt, and collect proceeds.

Note: Public sales are not covered by this System.

- 88. If D owned U.S. **savings bonds** (see Special Instruction 33—U.S. Government Savings Bonds), complete Section 8.0 of MIL. Place in file folder entitled “Securities.” Further coverage is beyond the scope of this System.

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INSURANCE ON LIFE OF ANOTHER

89. If D owned an interest in a policy of **insurance on the life of another** (e.g., community property interest owned by deceased husband on life of surviving wife), do the following:
- a. See Special Instruction 30—Insurance Owned by Decedent on Life of Another.
 - b. Obtain and review all such policies, especially policies insuring life of D’s spouse and D’s children. Place in file folder entitled “Life Insurance.”
 - c. Prepare and send Letter 45 to each insurance company that issued a policy on life of another as indicated in Item 14.07 of MIL.
 - d. On receipt of IRS Form 712, Life Insurance Statement (FF 2), from company, complete Section 14.0 of MIL. Place form in file folder entitled “Life Insurance.”
 - e. See that premiums are promptly paid so that policies will not lapse.
 - f. Determine whether each policy was community property or D’s separate property.
 - g. Transfer ownership of policies to persons entitled to them.
 - h. Change beneficiary if desired.

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JUDGMENTS, NOTES, ACCOUNTS RECEIVABLE, AND CONTRACTS FOR DEED

90. If D owned **judgments, notes, accounts receivable, or contracts for deed**, do the following:
- a. See Special Instruction 31—Notes and Accounts Receivable.
 - b. Obtain and review all such judgments, notes, and accounts receivable and complete Section 12.0 of MIL. Place in file folder entitled “Judgments, Notes, Accounts Receivable, and Contracts for Deed.”
 - c. Determine maturity dates and dates on which claims are barred by applicable statutes of limitations and enter in office reminder system.
 - d. Determine whether each item was community property or D’s separate property.
 - e. Determine whether each judgment, note, and account receivable is to be collected or transferred.
 - (1) If judgments, notes, and accounts receivable are to be collected, take appropriate action.
 - (2) If judgments are to be transferred, prepare appropriate documents.
 - (3) If notes are to be transferred, prepare appropriate endorsements.
 - (4) If accounts receivable are to be transferred, prepare appropriate assignments.
 - f. If D or D’s spouse was selling any real estate pursuant to a contract for deed, complete Items 12.30 through 12.45 and Items 12.22 through 12.26 of MIL and place a copy of the contract in file folder entitled “Judgments, Notes, Accounts Receivable, and Contracts for Deed.” If contract is to be assigned, prepare appropriate assignment.
 - g. Prepare and send Letter 46 to each debtor to notify of place to make future payments.

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TRANSPORTATION EQUIPMENT

91. If D owned **automobiles** or other transportation equipment, do the following:
- a. See Special Instruction 32—Motor Vehicles.
 - b. Obtain and review each title and description of vehicle and complete Section 17.0 of MIL. Place in file folder entitled “Transportation Equipment.”
 - c. Determine whether each vehicle was community property or D’s separate property.
 - d. For each vehicle, determine if disposition of ownership is controlled by a right of survivorship set forth on the certificate of title or other agreement. For any such vehicle, skip the remainder of this Item 91.
 - e. Determine whether each vehicle is to be sold or transferred to D’s beneficiaries.
 - f. For each vehicle do the following:
 - (1) Prepare assignment of each vehicle title (form not provided in this System).
 - (2) Arrange to have each vehicle title and assignment signed by the executor, administrator, or person who inherits the vehicle.
 - (3) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, obtain one certified copy of letters testamentary or letters of administration for each vehicle to be sold. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court.
 - (4) Deliver all documents to transferee.

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i. Prepare Report of Sale of Personal Property (Form 49) and arrange for signature and verification by executor or administrator. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Report of Sale of Personal Property (Form 49).					
j. File Report of Sale of Personal Property (Form 49) with clerk of court.					
k. Determine date of filing Report of Sale of Personal Property (Form 49), enter as Item 64d of SDL and Item 6.98 of MIL, and complete Items 64e and 64f of SDL.					
l. Prepare Order Confirming Sale of Personal Property (Form 50).					
m. File Order Confirming Sale of Personal Property (Form 50) with clerk of court.					
n. Determine date judge signed Order Confirming Sale of Personal Property (Form 50) and enter as Item 64g of SDL and Item 6.99 of MIL.					
o. Deliver or mail copies of Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48), Report of Sale of Personal Property (Form 49), and Order Confirming Sale of Personal Property (Form 50) to attorney representing purchaser.					
p. Deliver property and evidence of title, obtain receipt, and collect proceeds. <i>Note:</i> Estates Code, Section 356.105(c), permits D's executor or administrator to issue a bill of sale without warranty as evidence of title, but the expense thereof must be borne by the purchaser. <i>Note:</i> Public sales are not covered by this System.					
93. If D owned personal property that is not wanted by family members and that has no commercial value , and if Inventory, Appraisalment, and List of Claims (Form 22) has been filed and approved by the court, but power to dispose of such property is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:					
a. If such property is to be disposed of before termination of administration, prepare Application to Dispose of Personal Effects and Order thereon (Form 51).					
b. Determine amount of filing fee, arrange for payment, and charge to client's account.					

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c. File Application to Dispose of Personal Effects and Order thereon (Form 51) with clerk of court.					
d. Determine if court hearing will be required and, if so, do the following: (1) Obtain a time and date for hearing and enter in office reminder system. (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator. (3) Attend hearing, present proof necessary for court's approval, have order signed by judge approving Application to Dispose of Personal Effects (Form 51), and complete Item 62 of SDL and Item 6.91 of MIL.					
e. If hearing will not be required, determine date judge signed order approving Application to Dispose of Personal Effects (Form 51) and complete Item 62 of SDL and Item 6.91 of MIL.					
f. When judge has signed order approving Application to Dispose of Personal Effects (Form 51), have executor or administrator deliver property to proper parties and obtain receipt.					
<i>Note:</i> Public sales are not covered by this System.					
94. If D owned personal property that is likely to perish , waste or deteriorate or to be an unnecessary expense or disadvantage to D's estate, and if Inventory, Appraisalment, and List of Claims (Form 22) has been filed and approved by the court, but power to dispose of such property is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following: a. See Special Instruction 50—Sale of Personal Property Likely to Perish, Waste, Etc. b. Prepare Application for Sale of Personal Property under Section 356.051 of the Estates Code and Order thereon (Form 52). c. Determine amount of filing fee, arrange for payment, and charge to client's account. d. File Application for Sale of Personal Property under Section 356.051 of the Estates Code and Order thereon (Form 52) with clerk of court. e. Determine if court hearing is required and, if so, do the following: (1) Obtain a time and date for hearing and enter in office reminder system.					

- (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
- (3) Attend hearing, present proof necessary for court's approval, have order signed by judge approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52), and complete Item 63 of SDL.
- f. If hearing will not be required, determine date judge signed order approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52) and complete Item 63 of SDL.
- g. When judge has signed order approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52), have executor or administrator deliver property and evidence of title to proper parties, obtain receipt, and collect proceeds.

Note: Public sales are not covered by this System.

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OTHER MATTERS

95. Handling other assets and matters:

- a. Determine whether each other asset was community property or was D’s separate property.
- b. Other **tangible personal property** (see Special Instruction 34—Personal Property).

Note: If D’s estate will be subject to federal estate tax and if sale or disposition is desired before IRS audit of the estate tax return, furnish appropriate statement contemplated in Treasury Regulations, Section 20.2031-6 (form not provided in this System).

- (1) Arrange for distribution of D’s personal property.
- (2) If sale is contemplated, determine whether to request release of estate tax lien on IRS Form 4422 (form not provided in this System).
- c. Determine if D owned **other assets**. See Special Instruction 35—Valuing and Describing Other Assets and complete Sections 16.0 and 18.0 of MIL. Place valuations and descriptions in the separate file folders entitled “Partnerships, Trusts, and Other Unincorporated Business” and “Personal Property” as appropriate.
 - (1) Arrange for adequate funds to provide for payment of household salaries and expenses and for salaries and other expenses of D’s sole proprietorships and other closely held businesses.
 - (2) Obtain realistic valuations of all interests in unincorporated businesses, including those subject to redemption or buy-sell agreements.

d. If D owned any **partnership interests**, do the following:

- (1) Determine if D’s death terminates any partnerships.

Note: The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates by reason of death.
- (2) Determine whether D’s executors, administrator, heirs, or beneficiaries are entitled to and do elect to adjust the basis in D’s partnership interests.
- (3) Determine whether executor, administrator, heir, beneficiary, or distributee can or should elect to become a substituted partner.

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- (iv) Deliver files and obtain receipts for each.
- (13) Determine if D was resident agent for any executor or administrator or was registered agent for any corporation or other business entity and, if so, arrange for substitution of new agent.
- (14) If a client, a member of D’s family, or D’s executor or administrator wishes for you to undertake representation or dispose of D’s practice, read Special Instruction 78—Death of a Lawyer again, paying particular attention to Part XIII of the rules of disciplinary procedure and to disciplinary rules and ethics opinions.
- g. If D was engaged in another type of **professional practice**, consider purchase of “tail coverage” for errors and omissions.
- h. Determine if there is any **pending litigation**. If so, take appropriate action.
- i. Review all of D’s **other claims** and causes of action.
 - (1) Determine dates on which claims are barred by applicable statutes of limitations and enter into office reminder system.
 - (2) Determine whether to abandon or pursue such claims and take appropriate action.

Note: Under Section 16.062 of the Texas Civil Practice and Remedies Code, the statutes of limitation for suits by or against D are suspended for one year after date of D’s death or until date of qualification of D’s executor or administrator, whichever is earlier.
- j. If D was a **custodian under the Uniform Gifts to Minors Act**:
 - (1) Obtain appointment of a successor custodian.
 - (2) Determine if D made gift(s) of all or part of the custodial property. If so, its entire value must be included in D’s estate for federal estate tax purposes.
- k. Investigate **club memberships** to determine if surviving spouse and other family members receive special benefits, if memberships can be sold, and whether to cancel memberships and collect unearned dues.
- l. If will establishes one or more **testamentary trusts**, do the following:
 - (1) Determine when to fund each trust.
 - (2) Obtain an employer identification number for each trust (see Item 57 of this Checkplan).

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- m. If D owned **copyrights**, determine if a right of renewal exists. If so, take appropriate action.

Note: D's spouse and children may have this right if D dies during the initial term.

- n. Determine if other items will be taxable in D's estate (see and complete Section 20.0 of MIL).

- o. Determine if D was entitled to **unclaimed property** held by the Comptroller of Public Accounts and, if so, take appropriate action.

- p. Determine if D's spouse, child, or parent has a cause of action for D's **wrongful death**. If so, do the following:

- (1) Refer to Item 7A of SDL to ensure their timely filing of petition.
- (2) If not filed timely by them, take appropriate action to bring such a suit (Civil Practice & Remedies Code, Section 71.004).

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INVENTORY

Note: If SE or PDH, or if MT and court waived requirement of filing inventory, omit Items 96 through 99 of this Checkplan.

96. Prepare Inventory, Appraisement, and List of Claims (Form 22) (see Special Instruction 23—Inventory, Appraisement, and List of Claims and Special Instruction 24—General Rules for Valuation of Assets). Place in file folder entitled “Inventory.”

Note: In many counties an inventory is not required. We recommend that one be prepared and filed to provide evidence of the assets owned by D and to assist future title examinations.

97. Unless Inventory, Appraisement, and List of Claims (Form 22) can be completed and filed within ninety days from date of qualification (Item 6.39 of MIL and Item 39 of SDL) or from date of admission of D’s will to probate as a muniment of title (Item 6.26 of MIL and Item 28 of SDL), do the following:

- a. Prepare Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27).

Note: In Harris County, the application must be designated as first application, second application, and so forth, and must show the date the executor or administrator qualified, the date the inventory would have been due, and the date on which the inventory will be due if the extension is granted. Determine local practice and make necessary modifications.

- b. File Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27) with clerk of court.

- c. On approval of order, complete Item 6.86 of MIL and Item 32a(1) or 46a of SDL as appropriate.

98. If Inventory, Appraisement, and List of Claims (Form 22) cannot be completed within the extended time, repeat the procedure described in Item 97 of this Checkplan until the inventory is actually filed, and complete Item 32a or 46 of SDL as appropriate.

Note: Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27) will have to be modified for the length of time and basis for this additional request.

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99. When Inventory, Appraisalment, and List of Claims (Form 22) has been completed, do the following:

a. Arrange for executor, administrator, heir, or beneficiary to sign and swear to Inventory, Appraisalment, and List of Claims (Form 22). If mailing, prepare and send Letter 48 to executor, administrator, heir, or beneficiary, together with original and a copy of Inventory, Appraisalment, and List of Claims (Form 22), and repeat for each executor, administrator, heir, or beneficiary until the original has been signed and sworn to by all parties.

b. If this is IA, TBA, IBA, or AP (independent) *and* there are no unpaid debts except for secured debts, taxes, and administrative expenses *and* D died on or after September 1, 2011, *and* you do not want the inventory to become a public record, do the following:

(1) When Inventory, Appraisalment, and List of Claims (Form 22) has been properly signed and sworn to by all independent executors or administrators, prepare and send Letter 104, together with a copy of the inventory, to all beneficiaries except those who have signed waivers (Form 122) or as otherwise provided by Estates Code, Section 309.056(b-1).

(2) Prepare Affidavit in Lieu of Inventory, Appraisalment, and List of Claims (Form 103), have it signed by the independent executor(s) or administrator(s), and file with clerk of court. Enter date of filing as Item 61 of SDL and Item 6.89 of MIL.

c. If this is not IA, TBA, IBA, or AP (independent), or if Affidavit in Lieu of Inventory, Appraisalment, and List of Claims (Form 103) will not be used, when Inventory, Appraisalment, and List of Claims (Form 22) has been properly signed and sworn to by all executors, administrators, heirs, or beneficiaries, file Inventory, Appraisalment, and List of Claims (Form 22) with clerk of court.

d. When Inventory, Appraisalment, and List of Claims (Form 22) has been signed by the judge, enter the date as Item 61 of SDL and Item 6.88 of MIL.

Note: After order approving inventory has been signed, newly discovered assets are shown by a Supplemental Inventory (Form 36) and errors are corrected by an Amended Inventory (forms not provided in this System). If Affidavit in Lieu of Inventory, Appraisalment, and List of Claims (Form 103) was filed, provide all beneficiaries with copies of the Supplemental Inventory (Form 36) and then file a Supplemental Affidavit in Lieu of Inventory (form not provided in this System) with the court.

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FAMILY ALLOWANCE

100. After Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) has been filed, review financial situation of family and determine if a **family allowance** should be requested. If so, do the following:
- a. See Special Instruction 51—Family Allowance.
 - b. Prepare Application for Family Allowance and Order thereon (Form 53).
 - c. Determine amount of filing fee, arrange for payment, and charge to client’s account.
 - d. File Application for Family Allowance and Order thereon (Form 53) with clerk of court.
 - e. Determine if court hearing is required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court’s approval, and have order signed by judge approving Application for Family Allowance (Form 53).
 - f. If hearing will not be required, determine date judge signed order approving Application for Family Allowance (Form 53).
 - g. When judge has signed order approving Application for Family Allowance (Form 53), have executor or administrator pay allowance in accordance with order of the court.

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SETTING ASIDE EXEMPT PROPERTY

101. After Inventory, Appraisalment, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisalment, and List of Claims (Form 103) has been filed, review financial situation of family and determine if **exempt property** should be **set aside**. If so, do the following:
- a. See Special Instruction 52—Exempt Property, Setting Aside Exempt Property, and Allowance in Lieu of Exempt Property.
 - b. Prepare Application to Set Aside Exempt Property and Order thereon (Form 54).
 - c. Determine amount of filing fee, arrange for payment, and charge to client’s account.
 - d. File Application to Set Aside Exempt Property and Order thereon (Form 54) with clerk of court.
 - e. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court’s approval, and have order signed by judge approving Application to Set Aside Exempt Property (Form 54).
 - f. If hearing will not be required, determine date judge signed order approving Application to Set Aside Exempt Property (Form 54).
 - g. When judge has signed order approving Application to Set Aside Exempt Property (Form 54), have executor or administrator deliver exempt property to proper parties.
102. After Inventory, Appraisalment, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisalment, and List of Claims (Form 103) has been filed, review financial situation of family and determine whether to seek an **allowance in lieu of exempt property**. If so, do the following:
- a. See Special Instruction 52—Exempt Property, Setting Aside Exempt Property, and Allowance in Lieu of Exempt Property.

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- b. Prepare Application for Allowance in Lieu of Exempt Property and Order thereon (Form 55).

Note: This form contemplates payment to D's surviving spouse when no homestead was owned. In other situations, appropriate revisions must be made.

- c. Determine amount of filing fee, arrange for payment, and charge to client's account.
- d. File Application for Allowance in Lieu of Exempt Property and Order thereon (Form 55) with clerk of court.
- e. Determine if court hearing will be required, and if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Allowance in Lieu of Exempt Property (Form 55).
- f. If hearing will not be required, determine date judge signed order approving Application for Allowance in Lieu of Exempt Property (Form 55).
- g. When judge has signed order approving Application in Lieu of Exempt Property (Form 55), have executor or administrator pay allowance in accordance with order of the court.

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FEDERAL ESTATE TAX

Note: If total value of all of D’s assets including insurance on D’s life and D’s retirement benefits is less than the applicable exclusion amount (Item 26.21 of MIL) and D had no history of making taxable gifts, a federal estate tax return is probably unnecessary. Regardless, for decedents dying on or after January 1, 2011, the surviving spouse may file an estate tax return, even if the estate is nontaxable, to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount. See Special Instruction 80—Federal Estate Tax.

WARNING: Sections 2701 through 2704 of the Internal Revenue Code were enacted in an attempt to halt the use of “estate freezes.” Not surprisingly, the changes are broadly worded and vague, and there are many uncertainties. All intrafamily transactions must be scrutinized in light of those provisions. There are too many variables for coverage in this System.

103. Complete Worksheet 6 to determine if IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, must be filed for D’s estate.

104. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is not mandatory, determine whether the executor desires to file the return to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount.

- a. If the executor is the surviving spouse, prepare and send Letter 122.
- b. If the executor is *not* the surviving spouse, prepare and send Letter 123.
- c. On receipt of the client’s initialed copy indicating whether to elect portability, place in file folder entitled “Federal Estate Tax.”

105. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is neither required nor desired, skip to Item 201 of this Checkplan.

106. If a return is to be filed, take appropriate action. No Checkplan, Furnished Forms, or specific instructions for preparing IRS Form 706 are included in this System.

107. If a return is filed and IRS closing letter is received, file it with clerk of court.

108. - 199. (Reserved)

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TEXAS INHERITANCE TAX

200. **Texas inheritance tax** (see Special Instruction 44—Texas Inheritance Tax).

Note: If D died after December 31, 2004, no Texas inheritance tax or return will be due.

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TEXAS REAL ESTATE *NOT* IN COUNTY OF PROBATE

201. Only if D owned **real estate** or a **mineral** or **royalty interest** in a Texas county other than in the county of probate, then after United States Estate (and Generation-Skipping Transfer) Tax Return has been audited or approved or a closing letter has been obtained, do the following:

Note: This procedure is not applicable to a small estate proceeding (SE). If recording a will previously probated in another state or a foreign country, use the procedure in Item 45 of this Checkplan (RW).

a. Obtain certified copies from clerk of court:

Note: It is always correct to obtain and record certified copies of the *entire* probate proceedings, and in some situations this is the only safe procedure to follow.

Note: It is sometimes possible to substitute an affidavit from the executor, the administrator, an heir, a beneficiary, or a distributee in lieu of any tax release. If using an affidavit regarding debts and taxes, prepare Affidavit Regarding Debts and Taxes (Form 37) and arrange for signature by executor, administrator, heir, beneficiary, or distributee.

- (1) If MT, order from clerk of court one certified copy of the Application for Probate of Will as a Muniment of Title (Form 6); D's will and codicil(s); Order Admitting Will to Probate as a Muniment of Title (Form 32); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 69 to clerk of court.
- (2) If PDH, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); the IRS closing letter, if any; and, if applicable, D's will and codicil(s) and order admitting will and codicil(s) to probate. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 86 to clerk of court.
- (3) If RDA, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); Application for Letters of Administration (Form 73); Order Authorizing Letters of Administration (Form 76); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 91 to clerk.

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(4) If AWA, order from clerk of court one certified copy of the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69); will and codicil(s); Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(5) If IA or ADE, order from clerk of court one certified copy of the Application for Probate of Will and Issuance of Letters Testamentary (Form 5 or Form 28); will and codicil(s); each Distributee's Agreement to Power of Sale (Form 106), if any; Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 17 or Form 33); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(6) If TBA, order from clerk of court one certified copy of the Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110); will and codicil(s); each Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106), if any; Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(7) If IBA, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108); each Distributee's Agreement to Independent Administration and Power of Sale (Form 106); Order Authorizing Independent Administration and Letters of Independent Administration (Form 109); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 105 to clerk.					

- (8) If AP, order from clerk of court one certified copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118); will and codicil(s); each Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119), if any; Order Admitting Foreign Will to Ancillary Probate [Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 124 to clerk.

Note: In a court-supervised administration (RDA, AWA, ADE, AP (dependent)), the better practice is not to record these documents until the estate is closed and the court has signed the Order Closing Estate and Discharging Personal Representative (Form 68). Once that order has been signed, obtain a certified copy to record with the other documents.

- b. Assemble all the foregoing documents, determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.
- c. Prepare and send Letter 61 to county clerk to record these documents in the deed records of each county in which D owned real estate, mineral interests, or royalty interests, other than the county in which the probate proceedings are pending. When the documents have been recorded in one county and have been returned, repeat this procedure until the documents have been recorded in all counties.

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COURT AUTHORIZATION TO SPEND FUNDS

Note: Items 202 through 205 of this Checkplan do not apply to IA, TBA, IBA, MT, SE, PDH, and AP (independent).

202. If the specific power to spend funds of D's estate for the desired purpose is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and executor or administrator desires to obtain **authority to spend funds** belonging to D's estate at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application for Authority to Expend Funds and Order thereon (Form 59).
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Authority to Expend Funds and Order thereon (Form 59).
- c. File Application for Authority to Expend Funds and Order thereon (Form 59) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Authority to Expend Funds (Form 59).
- e. If hearing will not be required, determine date judge signed order approving Application for Authority to Expend Funds (Form 59).
- f. When judge has signed order approving Application for Authority to Expend Funds (Form 59), have executor or administrator expend funds of D's estate for the purposes and in the amounts specified in the Application for Authority to Expend Funds and Order thereon (Form 59).

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203. If the specific power to spend funds of D's estate for the particular purpose for which executor or administrator has already personally advanced payment is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and the executor or administrator desires to be **reimbursed** at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application for Reimbursement and Order thereon (Form 60).
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Reimbursement and Order thereon (Form 60).
- c. File Application for Reimbursement and Order thereon (Form 60) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Reimbursement (Form 60).
- e. If hearing will not be required, determine date judge signed Order approving Application for Reimbursement (Form 60).
- f. When judge has signed order approving Application for Reimbursement (Form 60), reimburse executor or administrator from funds of D's estate in the amounts specified in the Application for Reimbursement and Order thereon (Form 60).

204. If the specific power to pay **attorney's fees** is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and D's executor or administrator desires to pay all or a part of the attorney's fees at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application to Pay Attorney's Fees and Order thereon (Form 61).

Note: The original and a copy of a detailed and itemized statement from the attorney is to be designated as Exhibit A and *must* be attached to this form.

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b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application to Pay Attorney's Fees and Order thereon (Form 61).					
c. File Application to Pay Attorney's Fees and Order thereon (Form 61) with clerk of court.					
d. Determine if court hearing will be required and, if so, do the following:					
(1) Obtain a time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application to Pay Attorney's Fees (Form 61).					
e. If hearing will not be required, determine date judge signed order approving Application to Pay Attorney's Fees (Form 61).					
f. When judge has signed order approving Application to Pay Attorney's Fees (Form 61), have executor or administrator expend funds of D's estate for the purposes and in the amounts specified in the Application to Pay Attorney's Fees and Order thereon (Form 61).					
205. Determine if D's executor or administrator is entitled to and desires to claim a commission . If so, do the following:					
a. Review D's will to determine if D provided a method for determining compensation for D's executor or administrator and, if so, determine amount.					
b. If no will or if will does not provide a method for determining compensation, determine amount of compensation for executor or administrator in accordance with Estates Code, Chapter 352, Subchapter A.					
c. If ADE, AWA, RDA, or AP (dependent), prepare Application for Authority to Expend Funds and Order thereon (Form 59).					
d. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Authority to Expend Funds and Order thereon (Form 59).					
e. File Application for Authority to Expend Funds and Order thereon (Form 59) with clerk of court.					

- f. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Authority to Expend Funds (Form 59).
- g. If hearing will not be required, determine date judge signed order approving Application for Authority to Expend Funds (Form 59).
- h. When judge has signed order approving Application for Authority to Expend Funds (Form 59), have executor or administrator pay the fees to all executors and administrators.

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ANNUAL ACCOUNTS

Note: Items 206 through 208 of this Checkplan do not apply to IA, TBA, IBA, MT, SE, PDH, and AP (independent).

206. Annual account. If D’s estate is still open one year from date letters were first issued, as shown in Item 50 of SDL, an annual accounting will be required. If so, do the following:

- a. See Special Instruction 55—Annual Account.
- b. Prepare Annual Account and Order thereon (Form 62), Verification of Funds on Deposit (Form 63), and Confirmation of Safekeeping (Form 64).

Note: If securities have not been deposited for safekeeping, see Special Instruction 55—Annual Account for alternative supporting documents.

- c. Prepare and send Letter 76 to each depository in which funds of D’s estate are on deposit, together with the original and a copy of Verification of Funds on Deposit (Form 63).
- d. Prepare and send Letter 77 to each depository in which funds or other properties of D’s estate are held in safekeeping, together with the original and a copy of Confirmation of Safekeeping (Form 64).
- e. When Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) have been properly signed and returned, attach the original of each Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) to Annual Account and Order thereon (Form 62).
- f. Arrange for executor or administrator to sign and swear to the Annual Account and Order thereon (Form 62). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Annual Account and Order thereon (Form 62).
- g. File Annual Account and Order thereon (Form 62) with clerk of court.
- h. Determine date of filing first Annual Account and Order thereon (Form 62), enter as Item 78a of SDL, and complete Item 78b of SDL (complete Items 79a and 79b of SDL for second annual account or Items 80a and 80b of SDL for third annual account).

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- i. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter as Item 78c of SDL (Item 79c of SDL for second annual account or Item 80c of SDL for third annual account).
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, have order signed by judge approving Annual Account (Form 62), and enter date of order as Item 78d of SDL (Item 79d of SDL for second annual account or Item 80d of SDL for third annual account).
 - j. If hearing will not be required, determine date of approval of Annual Account (Form 62) and enter as Item 78d of SDL (Item 79d of SDL for second annual account or Item 80d of SDL for third annual account).
 - k. When judge has signed order approving Annual Account (Form 62), have executor or administrator promptly pay all claims and expenses specified in the Annual Account and Order thereon (Form 62).
 - l. Prepare and send Letter 78 to the surety, together with a copy of the Annual Account and Order thereon (Form 62).
 - m. Conform file copies of all documents for dates and signatures.
207. If D's estate is still open two years from date letters were first issued (Item 51 of SDL), repeat the procedure described in Item 206 of this Checkplan.
208. If D's estate is still open three years from date letters were first issued (Item 52 of SDL), repeat the procedure described in Item 206 of this Checkplan.

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- i. Calculate return date for citation by publication by determining date of newspaper in which notice was published and enter as Item 81c of SDL and complete Items 81d and 81e of SDL.
- j. Prepare [Distributee’s/Defendant’s] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Prepare and send Letter 48 to each distributee other than applicant and to any owner of a real property interest not a distributee (“Defendant”), together with two copies of [Distributee’s/Defendant’s] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Enclose one copy of the Application to Declare Heirship (Form 77).
- k. On receipt of all properly signed and sworn [Distributee’s/Defendant’s] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107), file with clerk of court.
- l. Review clerk’s file to ensure that a copy of all citations required by Estates Code, Chapter 202, and proof of delivery have been filed. **If D died on or after January 1, 2014, do the following:**
 - (1) Determine whether applicant will sign the Affidavit of Service of Citation (Form 104) or if attorney will sign the Certificate of Service of Citation (Form 105).
 - (a) If applicant is to sign, prepare Affidavit of Service of Citation (Form 104). If mailing, prepare and send with Letter 24.
 - (b) If attorney is to sign, prepare Certificate of Service of Citation (Form 105).
 - (2) File signed Affidavit of Service of Citation (Form 104) or Certificate of Service of Citation (Form 105) with clerk of court.
- m. Coordinate schedules with client(s), other witnesses, and attorney ad litem. Arrange for date and time for hearing on Application to Declare Heirship (Form 77), provide notice to all affected parties, and complete Items 81f and 81g of SDL and Item 6.124A of MIL.
- n. Determine the identity of **two** witnesses who will testify as to D’s death and other personal history and also determine if each witness will be available to testify in court.
 - (1) For *both* of these witnesses who will testify in court, do the following:
 - (a) Prepare Statement of Facts (Form 80) for each witness and place in file folder entitled “Court Proceedings.”

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- (b) Prepare and send Letter 13 to each witness, together with a copy of Statement of Facts (Form 80) for the witness, to advise of the date and time of the hearing and of the need for the witness to appear in court.
- (2) For each witness who cannot testify in court, determine an alternate method of proving these facts and take appropriate action.
- o. Prepare Judgment Declaring Heirship (Form 81) and place in file folder entitled "Court Proceedings."
- p. Prepare and send Letter 57 to attorney ad litem, together with copies of Application to Declare Heirship (Form 77), Motion to Appoint Attorney Ad Litem and Order thereon (Form 78), Statement of Facts (Form 80) for each witness, and Judgment Declaring Heirship (Form 81).
- q. If hearing must be rescheduled, enter rescheduled date as Item 81h of SDL, revise Item 81g of SDL, and notify administrator, attorney ad litem, and all witnesses of new date.
- r. One business day before the hearing, call to remind administrator, attorney ad litem, and each witness of the time, date, and place of hearing.
- s. For the **hearing**, do the following:
 - (1) Assemble the following documents and take to hearing:
 - (a) Original copy of Statement of Facts (Form 80) for each witness who will appear in court.
 - (b) Original copy of Judgment Declaring Heirship (Form 81).
 - (2) Attend hearing and enter actual date of hearing as Item 81i of SDL.
 - (3) Enter the date judgment was signed by judge as Item 81j of SDL.
 - (4) Conform file copies of all documents for dates and signatures.

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FINAL ACCOUNT

Note: Item 210 of this Checkplan does not apply to IA, TBA, IBA, MT, SE, PDH, or AP (independent).

210. Final account. When all assets have been assembled, all debts and claims have been paid, and there is no further need for administration, do the following:

- a. See Special Instruction 56—Final Account.
- b. Prepare Account for Final Settlement (Form 65), Verification of Funds on Deposit (Form 63), Confirmation of Safekeeping (Form 64), and Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).

Note: If securities have not been deposited for safekeeping, see Special Instruction 55—Annual Account for alternative supporting documents.

- c. Prepare and send Letter 76 to each depository in which funds of D’s estate are on deposit, together with the original and a copy of Verification of Funds on Deposit (Form 63).
- d. Prepare and send Letter 77 to each depository in which funds or other properties are being held for safekeeping, together with the original and a copy of Confirmation of Safekeeping (Form 64).
- e. When Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) have been properly signed and returned, attach the original of each Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) to original of Account for Final Settlement (Form 65).
- f. Prepare final bill to describe legal services provided for D’s estate. Determine if local practice requires a separate application, hearing, or the use of another attorney to testify as to the reasonableness of this fee. If so, refer to Item 204 of this Checkplan.
- g. Arrange for executor or administrator to sign and swear to the Account for Final Settlement (Form 65). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Account for Final Settlement (Form 65). Do not send copies to anyone else at this time, but after it has been signed by executor or administrator, make one copy for each heir and beneficiary.

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- p. If hearing was not required, determine date Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66) was signed, enter date as Item 83d of SDL and Item 6.149 of MIL, and complete Item 83e of SDL.
- q. When judge has signed Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66), have executor or administrator promptly pay all claims and expenses authorized by Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).
- r. Prepare and send Letter 78 to the surety, together with copies of the Account for Final Settlement (Form 65) and Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).
- s. Conform file copies of all documents for dates and signatures.

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DISTRIBUTING THE ESTATE

Note: Although Item 211 of this Checkplan does not apply technically to IA, TBA, IBA, MT, SE, PDH, or AP (independent), these are important steps to consider.

211. **Distributing the estate.** After the Account for Final Settlement (Form 65) has been approved by the court and the authorized expenses and claims have been paid, do the following:

- a. Ensure that all persons who paid D's debts and claims are repaid before distribution of D's estate.
- b. Plan time to close estate with particular consideration to income tax effects of making final distributions in the particular fiscal year.
- c. Arrange to have title to assets transferred to heirs and beneficiaries. If title companies, insurers, or others require more than probate proceedings to clear title to real property, see Special Instruction 66—Distribution Deeds and do the following for each such item of property:
 - (1) Prepare Distribution Deed (Form 117).
 - (2) If desired, obtain signature of grantee. If mailing, prepare and send Letter 48 with Distribution Deed (Form 117).
 - (3) Obtain signature of grantor (when signed Distribution Deed (Form 117) has been received from grantee, if sent). If mailing, prepare and send Letter 48 with Distribution Deed (Form 117) (signed by grantee, if applicable).
 - (4) When signed Distribution Deed (Form 117) has been received from grantor, determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.
 - (5) Prepare and send Letter 119 to county clerk to record the deed.
- d. Close estate savings accounts into estate checking account.
- e. Redeem certificates of deposit and deposit proceeds into estate checking account.
- f. Prepare estate checks for distribution.
- g. Prepare a separate Receipt and Release (Form 30) for each heir and beneficiary of D's estate.

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- (b) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
- (c) Attend hearing and have order signed. Enter date order is signed as Item 83Aa of SDL and complete Item 83Ab of SDL.
- (5) If hearing is not required, determine date on which order is signed, enter date as Item 83Aa of SDL, and complete Item 83Ab of SDL.
- (6) Withdraw funds from registry.
- (7) Deliver funds to Comptroller and obtain receipt. If mailing, prepare and send Letter 111.
- (8) File receipt from Comptroller with clerk of court before Item 83Ab of SDL.

Note: Failure to pay the unclaimed funds to the Comptroller within thirty days after the date of the order to deliver the funds subjects the executor or administrator to significant penalties.

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CLOSING THE ESTATE

Note: Item 212 of this Checkplan does not apply to MT, SE, or PDH. Most practitioners do not follow this procedure for IA, TBA, IBA, or AP (independent). Estates Code, Sections 405.004-.007, provide for closing an independent administration by Closing Report or Notice of Closing Estate. These procedures are not covered by this System.

212. Closing the estate. After all property has been distributed and all receipts have been filed, do the following:

- a. Prepare Application to Close Estate and to Discharge Personal Representative (Form 67) and Order Closing Estate and Discharging Personal Representative (Form 68).
- b. File Application to Close Estate and to Discharge Personal Representative (Form 67) and Order Closing Estate and Discharging Personal Representative (Form 68) with clerk of court. Enter date of filing as Item 84a of SDL.
- c. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a time and date for hearing and enter date as Item 84b of SDL.
 - (2) Notify executor or administrator of time and date of hearing. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, have Order Closing Estate and Discharging Personal Representative (Form 68) signed by judge closing estate, and enter date order signed as Item 84e of SDL.
- d. If hearing was not required, determine date Order Closing Estate and Discharging Personal Representative (Form 68) was signed and enter date as Item 84e of SDL.
- e. Prepare and send Letter 79 to the surety, together with a copy of the Order Closing Estate and Discharging Personal Representative (Form 68).
- f. Conform file copies of all documents for dates and signatures.

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- (2) Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).
- (3) Prepare and send Letter 62 to IRS, together with signed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).
- q. Review file, locate all original documents that you need not retain, and prepare and send Letter 63 to return all items to person who furnished them. When signed letter is returned, it should be substituted for your file copy.

Note: Many lawyers do not file any documents with the clerk of the court to close an independent administration, because of the frequency with which additional assets are discovered. If in doubt, we advise against a formal closing.
- r. Determine whether to have independent administration terminated by court order and take appropriate action under Estates Code, Section 405.003 (forms not provided in this System).
- s. Indicate date on which all steps have been concluded as Item 85 of SDL.
- t. Close office file.

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<p>7. 100 shares NRC Corp., 6% preferred, ASE (CUSIP No. 4177422). Unit value \$16</p>	<p>\$1,600</p>	<p>10. 1,000 (all of the issued and outstanding) shares, Harry D. Green, P.C., a professional corporation. Unlisted. Unit value \$33.48. Copies of income statements and balance sheets attached. Valued at book value</p>	<p>\$33,478</p>
<p>Dividend of \$.30 per share declared on October 28, 2007, payable on December 1, 2010, to stockholders of record on November 15, 2010</p>	<p>\$30</p>	<p>11. 100 shares, Blue Smoke Minerals, Inc. Unit value \$0. Company out of business since 1995. Right to do business forfeited in 1996.</p>	<p>\$0</p>
<p>8. 22,619.18 unissued shares, held in the name of Harry D. Green in account number XXX0277, U.S. Government Money Market Trust. Unit value \$1</p>	<p>\$22,619</p>		
<p>9. 13.7455 unissued shares, dividend reinvestment plan, El Paso Industries, common, NYSE, held in name of Mary Lee Green, Commerce National Bank, Fort Worth, Texas. Unit value \$19.32</p>	<p>\$266</p>		

SPECIAL INSTRUCTION 29—PROCEDURES IN LIEU OF ADMINISTRATION

The Estates Code provides four separate and distinct procedures whereby the administration of an estate may be avoided if a court determines that there is no necessity for the administration of the estate. Three of these procedures are covered in this System: muniment of title (MT), proceedings to declare heirship (PDH), and small estates (SE).

Muniment of title proceedings are authorized by Estates Code, Section 257.001. These proceedings are available only if a person had a will and there are no unpaid debts owed by that person's estate except for those secured by liens on real property. If unpaid and unsecured debts exist, this shortcut procedure is not available. More detailed information about these proceedings appears in Special Instruction 73—Muniment of Title (MT).

Proceedings to declare heirship are provided for by Estates Code, Chapter 202, and are sometimes referred to as heirship determination procedures. If an application is filed within four years of decedent's death and if decedent died intestate and there are no unsecured debts at the time the application is filed with the court, it is possible to obtain an order that no administration is necessary. Such an order will protect persons dealing with the heirs. If unpaid and unsecured debts exist, this shortcut procedure is available but is impractical because of the lack of protection for purchasers of assets. More detailed information about these proceedings appears in Special Instruction 60—Proceedings to Declare Heirship (PDH).

Two separate provisions in the Estates Code relate to small estates. In this System we have included only the

small estate procedures provided by Estates Code, Chapter 205, which is available only if decedent died intestate. To qualify, the nonexempt assets must exceed the known liabilities of the estate, and the *gross* value of the estate *must not* be more than \$50,000 exclusive of eligible homestead and other exempt property. Since September 1, 2015, adult children have been unable to use these procedures to transfer title to the homestead, as the definition of homestead has been limited to exclude them. Estates Code, Sections 205.009, 353.051(a)(1). This proceeding is sometimes referred to as collection of small estates upon affidavit or as a small estate affidavit. More detailed information on both procedures relating to small estates appears in Special Instruction 63—Small Estates (SE).

This System does not cover the proceeding under Estates Code, Section 301.153(b)–(d), involving a judicial finding that there is no necessity for administration. Under the provisions of that section, an application for letters of administration is filed and, at a hearing, the court enters an order that refuses the application and recites that there is no necessity for administration of the estate. After such an order is entered, persons dealing with the heirs specified in the order may do so without liability to them or to creditors of the estate, but they apparently are not given protection against the claims of unknown heirs of an intestate decedent. Because of this danger, we do not recommend following the procedures under Estates Code, Section 301.153(b)–(d), but do recommend, in appropriate situations, proceedings to declare heirship and collection of small estates by affidavit.

SPECIAL INSTRUCTION 46—BOND

Bond is required of the executor or administrator in all dependent administrations unless the representative is an authorized corporate fiduciary or decedent's will directs that no bond is required. Estates Code, Section 305.101.

In an independent administration created by agreement, bond is required unless the court waives bond on application. Estates Code, Section 401.005. In this System we have assumed that bond has been waived in an independent administration created by agreement. Check your court's policy if any distributee is a minor, disabled, or under a guardianship. Some will not waive bond if any distributee is an incapacitated person (see Estates Code, Section 22.016).

At the hearing, you should present evidence as to the amount of cash on hand and estimated to be needed for administrative purposes, revenue anticipated for the next twelve months, estimated value of securities, face value of life insurance or other policies payable to decedent or decedent's estate, estimated value of other personal property, and estimated amount of debts owed by the estate. Estates Code, Section 305.152. The amount of the bond is fixed by the court in an amount equal to the estimated value of personal property of decedent's estate, together with an additional amount sufficient to cover revenue anticipated to be derived during the next twelve months. Revenue includes interest, dividends, collectible claims, rentals, and installment payments other than Social Security payments. Estates Code, Section 305.153(a). The bond is to be secured by sureties or by deposits of cash or securities approved by the court in lieu of sureties. Estates Code, Section 305.156(a).

If the executor or administrator is also entitled to all of decedent's estate, the bond may be in an amount sufficient to pay creditors if that amount is less. Estates Code, Section 305.151(b).

Likewise, the amount of the bond may be reduced if the executor or administrator deposits funds or securities in safekeeping where their withdrawal is not permitted without an order from the court. Estates Code, Section 305.155.

Before coming to court, you should have the applicant prequalify with the surety company to ensure that the applicant is bondable.

The bond is to be filed within twenty days after the order granting letters. The court is to promptly review the filed bond and approve it if acceptable. Estates Code, Section 305.004(a), (b). However, in a temporary dependent administration (TDA) the bond must be filed no later than the third business day after the date of the order. Estates Code, Section 452.004(b).

You must determine the local custom concerning individual sureties, because in some counties individual sureties are acceptable, while in other counties they are not permitted. Even where they are permitted, the court cannot consider a bond with individual sureties until each proposed individual surety executes an affidavit stating the amount by which assets of that surety reachable by creditors exceed his liabilities. The total net worth of the sureties must equal at least double the amount of the bond. The affidavits must be presented to the court for consideration and, if approved, are attached to and made a part of the bond. Estates Code, Section 305.203. The bond is signed by decedent's executor or administrator as the principal and by the corporate or individual sureties. Estates Code, Section 305.107.

Additional procedures are specified for bonds and sureties in other situations. See Estates Code, Chapter 305.

Check with the clerk to determine the proper procedure for filing the bond.

SPECIAL INSTRUCTION 47—SALE OF REAL PROPERTY DURING ADMINISTRATION

Most wills grant a power of sale of real property of an estate, in which case no court order is required, although specific provisions of the will relating to sale must be followed. Estates Code, Section 356.002. If decedent left no will or the will does not authorize the executor to sell real property, the court may grant an independent executor or independent administrator any power of sale agreed to by all the interested distributees. Estates Code, Section 401.006. Otherwise, real property of an estate may be sold only by order of the court. Estates Code, Section 356.001.

Even without the power of sale's being granted in decedent's will or by agreement, real property may be sold pursuant to the provisions of Estates Code, Section 356.251, when it is necessary or advisable to do so to pay expenses of the administration, funeral expenses, expenses of last illness, allowances, and claims against decedent's estate or when selling the interest is considered in the estate's best interest.

Sales in lieu of a partition as permitted under Estates Code, Section 360.202, are not covered by this System. Likewise, public sales are beyond the scope of this System.

Private sales are covered and the procedures are set forth in Estates Code, Chapter 356, Subchapters F, G, J, and L. A private sale may be conducted after decedent's inventory has been filed and approved by the court. It begins with the filing of the Application for Sale of Real Property (Form 39) with Verified Exhibit Showing Condition of the Estate (Form 40). The clerk then issues a citation informing all persons interested in the estate of the right to file an opposition within the time prescribed by the court. Estates Code, Section 356.253. A hearing is required only if an opposition is timely filed, but the court may determine in its discretion that a hearing is necessary even if no opposition is filed. The date of the hearing is set by the court. Estates Code, Section 356.255. If the court finds the sale is necessary or advisable, the court will authorize the sale of the property by signing the Order of Sale of Real Property (Form 42). See Estates Code, Section 356.256.

Following this order, decedent's executor or administrator may enter into a contract to sell the property. Note that the cash down payment must be at least 20

percent of the purchase price, and any credit sale must be evidenced by a note bearing interest of not less than 4 percent per year, with installments due at least annually, providing for acceleration of maturity on default, and secured by a retained vendor's lien and a deed of trust with foreclosure provisions. Estates Code, Section 356.302. Note that IRC, Section 1274, may bear on the interest rate.

After the contract has been signed, a report of sale is filed with the court. In some Texas counties the court also may require an appraisal of the property by a court-appointed or other appraiser. The Report of Sale of Real Property (Form 43) must state the purchase price and terms of the sale (Estates Code, Section 356.551) and must be on file with the court for at least five days before the court may enter any order concerning the property. Estates Code, Section 356.552. If the details of the sale are approved by the court following the expiration of this five-day period, the judge will sign an Order Confirming Sale of Real Property (Form 44). Estates Code, Section 356.556. When the judge signs this order, the Deed (Form 45) may be executed by decedent's executor or administrator and title to the property passes to the purchaser. Estates Code, Sections 356.557 and 356.558. Note that a general warranty deed should not be given, because decedent's executor or administrator does not have the power to bind decedent's estate or its beneficiaries. A deed without warranty or a special warranty deed should be used.

Careful note should be made of the need for an accurate description of the property in the application, order of sale, report of sale, order confirming sale, and deed. The most accurate means is to photocopy the property description and attach it to each of these documents.

Attaching copies of the earnest money contract, appraisal, and tentative HUD settlement to the report of sale is recommended. If the administrator has a bond, it will be increased to cover the cash proceeds from the sale.

Should the sale fall through and not be consummated, the order of the court authorizing the sale should be set aside by the filing of Application to Set Aside Report of Sale and Order Confirming Sale and the proposed

Example

Nonannuitant spouse died August 6, 2007. Annuitant spouse's age was seventy-two years and nine months on that date. Section 7520 rate for August 2007 was 6.0 percent. Monthly annuity was \$8,238, annualized to \$98,856. Annuity factor from *Actuarial Valuations Version 3A* (Rev. 5-2009), Table S (6.0) was 7.4811. Adjustment factor for monthly payments was 1.0272.

Calculation

1. Annual section 7520 rate	6%
2. Annualized annuity	\$98,856
3. Age of annuitant (rounded)	73

4. Annuity factor	7.4811
5. Annuity (annual payment) [Line 2 × Line 4]	\$739,551.62
6. Adjustment factor for monthly payments	1.0272
7. Full value of annuity [Line 5 × Line 6]	\$759,667.42
8. Community one-half [Line 7 × .5]	\$379,833.71

SPECIAL INSTRUCTION 63—SMALL ESTATES (SE)

Two proceedings for “small estates” are authorized under the Estates Code. The first is the collection of small estates on affidavit as authorized by Estates Code, Chapter 205. This procedure is included in this System. The second is the order of no administration authorized under Estates Code, Chapter 451, which is not included in this System.

The collection of small estates by making an affidavit and following the procedures of Chapter 205 of the Estates Code is one simple method to entirely dispense with the administration of a small intestate estate. This procedure is limited to estates of decedents who died intestate. Estates Code, Section 205.001. If a decedent’s eligible homestead is the only real property in the estate, title to the homestead may be transferred under the affidavit. Estates Code, Sections 205.006(a), 205.009. Thus, a Chapter 205 affidavit generally is not available if a decedent had a will, and it transfers no real estate if decedent had any nonhomestead real property—for example, a mineral interest.

To qualify as a small estate, the gross (not net) value of the probate assets as of the date of death, exclusive of eligible homestead and exempt property, cannot exceed \$50,000. Additionally the value of the probate assets, exclusive of eligible homestead and exempt property, must exceed the known liabilities exclusive of liabilities secured by eligible homestead and exempt property. These are mandatory requirements, and unless the estate is within these limits this proceeding cannot be used. Estates Code, Section 205.001.

The utility of these procedures to adult children is limited. Since September 1, 2015, references in Chapter 205 to “homestead” or “exempt property” mean only those assets that would be “eligible” to be set aside under Estates Code, Section 353.051, if the estate were being administered. Estates Code, Section 205.009. Exempt personal property may be set aside for certain adult children (Estates Code, Section 353.051(a)(2)), but a homestead may not (Estates Code, Section 353.051(a)(1)). Because the “eligible” homestead excludes adult children, even if incapacitated or unmarried, only decedent’s surviving spouse or minor children may transfer title to the homestead using this procedure. Worse, rarely is the homestead worth less than \$50,000. If its value must be included absent a surviving spouse or minor child, adult children may

qualify for a small estate affidavit only if there is no homestead.

This procedure cannot be used if a petition for the appointment of a personal representative is pending or has previously been granted, and in any event the affidavit cannot be filed until at least thirty days have elapsed since the date of death of decedent. Estates Code, Section 205.001(1), (2). This procedure does not transfer title to any real estate except the homestead. Estates Code, Sections 205.006(a) and 205.008(b).

Finally, this procedure should not be used if a survivorship action to recover damages is contemplated.

Not only must the affidavit include a complete listing of all known estate assets and liabilities (indicating which assets the applicant claims are exempt), but it also must include the names and addresses of the distributees and the relevant family history facts concerning heirship that identify and show the rights of all of the “distributees” (heirs, beneficiaries, devisees, or assignees of an interest in the estate) to receive money or property from decedent’s estate, and the affidavit must be sworn to and signed by all of these people, the natural guardians or next of kin of minors, the guardians of any other incapacitated distributees, and two disinterested witnesses. Estates Code, Section 205.002.

Approval of this affidavit by the judge is normally routine and is frequently, if not generally, acted on without a hearing. However, approval is discretionary, giving the judge an opportunity to question the distributees and even to require that all debts be paid before the affidavit is approved. Estates Code, Section 205.003.

Once the affidavit has been approved by the judge, it is recorded as an official public record (in the Small Estates Records of counties that have not adopted a microfilm or microphotographic process). Estates Code, Section 205.005. A certified copy of this affidavit and order is then obtained and is furnished to a debtor or transfer agent (Estates Code, Section 205.004), who may safely rely on the truthfulness of the representations contained in the affidavit in transferring funds or delivering assets to the distributees. Estates Code, Section 205.007. Section 205.007 also provides a means for the distributees to force payment

in an action against any person who does not deliver the assets in accordance with the affidavit and order.

Procedures for collection of small estates on affidavit begin at Item 27 of the Checkplan.

The second possible small estate proceeding, generally referred to as an order of no administration, is not covered in this System. This procedure, permitted by Estates Code, Chapter 451, is an alternative method for avoiding an administration. It involves more judicial action than the collection of the estate on affidavit as described above.

The proceeding under Chapter 451 is available only if a decedent is survived by a spouse or minor children (or, if decedent died on or after September 1, 2011, adult incapacitated children), and then only if the value of the assets of the estate, exclusive of homestead and exempt property, does not exceed in value the amount of the family allowance to which the surviving spouse and children are entitled. Estates Code, Section 451.001(a). It is quite difficult to determine with certainty the amount of the family allowance before having a hearing, and this is one reason for the difficulty in determining if this procedure is applicable.

When this procedure is followed, the application is to be filed in a court having venue for purposes of administration in general and is to contain a request that the court fix the amount of the family allowance and enter an order that no administration is necessary. Estates Code, Section 451.001. This procedure may be used even if a proceeding for the appointment of a personal representative has already been filed but not granted. Although the court may hear the application at once and without notice (Estates Code, Section 451.002(a)), it is better practice to give notice and have a hearing to determine the appropriate facts. Citation should be

required to permit creditors and others to have the opportunity to contest the family allowance or the claim that no administration is necessary.

If the court concludes that the facts contained in the application are true and that the expenses of the last illness, funeral charges, and expenses of the proceeding have been paid, the court must make a family allowance, and if the entire estate, not including homestead and exempt property, is exhausted, the court enters its order that no administration is necessary and that the entire estate is to be set aside to the surviving spouse and eligible children. Estates Code, Section 451.002(b). Since funeral expenses and expenses of last illness and of administration are the only expenses that take precedence over the family allowance, if non-exempt assets are consumed by these expenses and by the family allowance, there is no longer any need to have an administration for general creditors.

Although the proceeding under Chapter 451 of the Estates Code is available if a decedent dies with or without a will, we do not recommend following that procedure if there was a will.

Perhaps the biggest danger in the use of this second proceeding arises from the provisions of Estates Code, Section 451.004. This section authorizes a proceeding to revoke an order of no administration within one year after its entry on proper application by a creditor who can show that the property described was incorrectly valued, that property was omitted from the application, or that other property has been discovered. In such a case, the court will inquire into such claims. If the court sustains the claim of the creditor, the order of no administration can be set aside and a full administration of the estate can then be required. The problems thus created should be obvious.

SPECIAL INSTRUCTION 64—TRANSFER ON DEATH DEEDS

A variety of deeds pass title to real estate on death without probate, including deeds retaining a life estate, deeds retaining a life estate with a power of appointment (“Ladybird deeds”), and joint tenancy deeds. See “What Real Estate Attorneys Need to Know about Wills and Probate” by Patricia Flora Sitchler, 2015 Advanced Real Estate Law Course, State Bar of Texas.

Effective September 1, 2015, the Texas Real Property Transfer on Death Act authorizes a new deed with unique characteristics that are markedly different from other deeds. See “Legislative Update” by Richard A. Crow, 2015 Advanced Real Estate Law Course, State Bar of Texas. The Act applies to only a deed that is executed and acknowledged on or after September 1, 2015, by a grantor who dies on or after September 1, 2015. Estates Code, Section 114.003. The Act expressly excludes prior deeds, as well as subsequent ones that do not comply with the Act. See Estates Code, Section 114.002(a)(6).

Unfortunately, the new form is statutorily defined as a “transfer on death deed,” inviting confusion with other deeds that enjoy none of the attributes of the new form. The Act neither invalidates nor enhances other deeds that transfer real property on death. Estates Code, Section 114.002(a)(6), 114.004.

In addition to the September 1, 2015, requirements described above, a statutory transfer on death deed must (1) contain the essential elements and formalities of a recordable deed, (2) state that the transfer of an interest in real property to the designated beneficiary is to occur at the transferor’s death, and (3) be recorded before the transferor’s death in the deed records where the property is located. Estates Code, Section 114.055.

In this System, “transfer on death deed” or “TOD deed” means the statutory transfer on death deed defined by Estates Code, Section 114.002(a)(6).

Contractual, not testamentary, capacity is required. Estates Code, Section 114.054(a). A TOD deed may not be created with a power of attorney. Estates Code, Section 114.054(b).

During the owner’s lifetime, the beneficiary of a TOD deed has no interest in the property and the owner retains full power to transfer or encumber the property or to revoke the deed. Estates Code, Section 114.101. Divorce revokes a TOD deed in favor of a former spouse if the judgment is recorded in the deed records before the transferor’s death. Estates Code, Section 114.057(c). Inter vivos transfers, including a subsequent TOD deed, effectively revoke a TOD deed if the conveyance is recorded in the deed records before the transferor’s death. Estates Code, Section 114.102. A will, however, may not revoke a TOD deed. Estates Code, Section 114.057(b).

Passage of title to the designated beneficiary is subject to survival by 120 hours and other requirements. Estates Code, Section 114.103.

Title passes subject to all encumbrances. The TOD deed is considered recorded at death, allowing creditors to perfect liens even after the TOD deed is recorded. Estates Code, Section 114.104(a). Although property subject of a TOD deed is not considered a probate asset, the usual claims process applies to secured creditors. Estates Code, Section 114.104(b).

Property subject of a TOD deed is liable for the claims of unsecured creditors, expenses of administration, estate taxes, allowance in lieu of exempt property, and the family allowance, but only if the probate estate is insufficient. Proceedings to enforce those liabilities are subject to a two-year limitations period. Otherwise, property subject of a TOD deed is not considered a probate asset and is not subject to Medicaid Recovery. Estates Code, Section 114.106.

SPECIAL INSTRUCTION 81—IDENTIFICATION INFORMATION IN PLEADINGS

The Civil Practice and Remedies Code provides that the initial pleadings of a party in a civil action filed in a district court, county court, or statutory county court include the last three numbers of the party's driver's license number and of the party's Social Security number. Civil Practice & Remedies Code, Section 30.014(a). On its own motion or that of a party, the court may order that an initial pleading be amended to include that information, and the court may find a party who does not amend the pleading as ordered to be in contempt. Civil Practice & Remedies Code, Section 30.014(b).

The provision does not apply to proceedings in statutory probate courts. Inclusion of this sensitive personal information appears to serve no useful purpose in *any* probate proceeding, and we recommend that the information be omitted from applications unless, in a non-statutory probate court proceeding, the applicant is ordered to amend the application.

Texas Rules of Civil Procedure, Rule 21c, as worded when it became effective on January 1, 2014, provides privacy protection for that identification information and for financial account numbers, home addresses, birth dates, and the names of persons who were minors when an underlying suit was filed. Unless inclusion of this sensitive data is required by statute, court rule, or administrative regulation, the data must be redacted before the document is filed. If the document must contain the sensitive data, the clerk must be notified that the document contains sensitive data. A document that is not electronically filed must contain, on the upper left-hand side of the first page, the phrase "NOTICE: THIS DOCUMENT CONTAINS SENSITIVE DATA." If the document is electronically filed, it must be designated as containing sensitive data when it is filed. Practitioners have reported difficulties in designating these e-filed documents in such a way that court clerks actually become aware of the designation. For this reason we recommend that the notice be placed on the first page of the document even if it is e-filed.

SPECIAL INSTRUCTION 82—E-FILING

The Texas Supreme Court has ordered electronic filing in all civil, family, and probate cases, excepting only municipal or justice courts and juvenile civil cases. A rolling phase-in began with the largest counties on January 1, 2014, adding more counties each July and January until July 1, 2016, when no county will be exempt from the e-filing mandate. See http://www.txcourts.gov/All_Archived_Documents/SupremeCourt/AdministrativeOrders/miscdocket/13/13909200.pdf.

Local electronic filing rules are preempted by new Texas Rules of Civil Procedure, Rule 21c, and amended Texas Rules of Civil Procedure, Rules 4, 21, 21a, and 502.1, effective January 1, 2014. See http://www.txcourts.gov/All_Archived_Documents/SupremeCourt/AdministrativeOrders/miscdocket/13/13916500.pdf.

Generally, all documents must be e-filed, except wills. Texas Rules of Civil Procedure, Rule 21(f)(4). Read alone, Rule 21 permits but does not mandate e-filing of wills. Regardless, the original will should always be filed with the court clerk. Estates Code, Section 252.201. When an application to probate a document as an original will is electronically filed, the original will must be filed with the clerk within three business days thereafter. Texas Rules of Civil Procedure, Rule 21(f)(12). The clerk may designate an electronically filed document as the official court record and is generally not required to keep both paper and electronic

versions; however, the clerk must retain an original will filed for probate in a numbered file folder. Texas Rules of Civil Procedure, Rule 21(f)(13).

These changes would end the practice of filing original wills and applications together, since the application must be e-filed and the will cannot be.

E-filed documents may be signed with either (1) an electronic or scanned digital image of the signature or (2) “/s/” and name typed in the space where the signature would otherwise appear. Texas Rules of Civil Procedure, Rule 21(f)(7).

Some documents must still be signed by hand. Even if e-filing, “/s/” and a typed name do not suffice for notarized or sworn documents. Texas Rules of Civil Procedure, Rule 21(f)(7)(A).

Absent approved provisions for e-filing at the courthouse, counsel must apparently return to the office to scan and e-file proofs and oaths.

Documents e-filed before midnight in the court’s time zone are considered filed that day, except, if transmitted on a Saturday, Sunday, or legal holiday, the document is deemed filed on the next business day. Texas Rules of Civil Procedure, Rule 21(f)(5).

E-filed documents must be in PDF format, text searchable, and, if possible, printed to PDF rather than scanned. Texas Rules of Civil Procedure, Rule 21(f)(8).

SPECIAL INSTRUCTION 83—DIGITAL ASSETS

Digital assets include e-mail, voicemail, websites, social media (blogs, Facebook, Twitter), music, photos, and files (iTunes, iCloud, Dropbox), online backups (Mozy, Carbonite, Skydrive), and the online accounts to manage offline assets and liabilities such as bank accounts, investments, U.S. savings bonds, employee benefits, life, health, and property insurance, frequent flyer and other rewards programs, PayPal, debit and credit cards, Social Security, and recurring expenses like phone, Internet, gas, water, electric, and alarm systems, newspaper and magazine subscriptions, mortgage and credit payments, and prescription drugs. The user IDs and passwords to access these things (“credentials”) are themselves valuable digital assets.

Letters testamentary do not always enable access to decedent’s credentials. Social media terms of service may prohibit postmortem access to a user’s account. State and federal privacy laws may require the user’s consent; if so, not even a fiduciary’s consent may suffice. Some hosts rely on private key encryption technology: they never possess decedent’s credentials in the first instance.

The need for access can be acute. Rewards programs may be documented online and nowhere else. Decedent may have elected paperless statements for investment or retirement assets. Recurring payments may need to be cancelled online. Blog or other copyrighted material can waste if infringers run rampant before the content is removed. Social media invites postmortem identity theft, including financial transactions through applications linking one site to others that have stored decedent’s credit card (for example, Facebook Connect).

Some credentials expire every sixty days, others survive until the autorenew finally fails, perhaps a year or more following death or cancellation of decedent’s debit and credit cards. An executor may be tempted to ignore digital assets, but it’s important to assert control before someone malevolent does. Until each of decedent’s accounts can be closed, the executor should log in and replace each of decedent’s credentials with new ones, including user IDs, passwords, e-mail addresses, challenge questions, mailing address, and phone number. Gaining control of decedent’s e-mail accounts is highest priority, because (1) inbox messages can identify other digital assets and (2) an e-mail address is

often sufficient to reset passwords to other accounts (thank the ubiquitous “Forgot password” button).

A thoughtful decedent will have used a password manager (LastPass, 1Password, KeePass) and left those credentials in a safe deposit box, enabling access to all of the decedent’s digital assets. Others may use escrow services such as Legacy Locker or AssetLock, especially for confidential content such as an unpublished book or software. Finally, always look for a typed or handwritten list of credentials.

Some decedents leave all their credentials in a password-protected file on their computer. A computer forensics expert may be able to find and unlock those files to recover the credentials within. To locate one, visit Microsoft Pinpoint at pinpoint.microsoft.com/en-US/home and search “forensic.”

Commercial password recovery software is available at modest prices—for example, Passware Kit Standard at www.lostpassword.com/kit-standard.htm (resets Outlook, Adobe, Excel, and Word passwords; recovers e-mail login details). Such software allows anyone to search for protected files and unlock them, even if the name and location of decedent’s password file is unknown.

When resetting passwords, be aware the new credentials may be mailed to decedent’s address. For that reason, a forwarding order or change of address with the U.S. Postal Service should be in place first.

If passwords cannot be recovered, social media hosts should be informed of decedent’s death. If nothing else, the terms of service may compel the host to restrict account access and to suspend financial transactions.

If decedent or the estate is in litigation, the executor may have a duty to retrieve and retain social media and other digital assets and to instruct vendors to preserve data. See Joshua Briones & Ana Tagvoryan, *Social Media as Evidence: Cases, Practice Pointers, and Techniques* ch. 2 (2013) (Retrieval and Retention of Social Media Data).

Every executor is challenged with how to identify, marshal, administer, safeguard, and distribute digital assets. Resources on estate planning with digital assets are thus equally relevant to estate administration, for example, Gerry W. Beyer, *Planning in the Digital Age*

(Nov. 11, 2012) (available at SSRN: <http://ssrn.com/abstract=2166422>) (model information form), and Jim Lamm's www.digitalpassing.com.

Computer-savvy executors will find a password manager—for example, LastPass at www.lastpass.com—

the most efficient, safest way to manage an estate's digital assets. Best practice is to use multifactor authentication—for example, a YubiKey—so that something more than a user ID and password is required to access all the estate's credentials.

SPECIAL INSTRUCTION 84—EXECUTION OF DOCUMENTS

Administration of an estate requires execution of documents by the executor or administrator, individual distributees, and sometimes heirs, trustees, and the surviving spouse, to name a few.

The same individual—for example, the surviving spouse—may play multiple roles. Matters are further confused when individuals sign for corporations and other business entities.

When executing documents, care is needed to distinguish the capacity of the individual signing and to avoid technical errors that bring the transaction into question. Each document begins with the challenge, “How do we sign this?”

The answer is complicated by the human condition, which includes the foreign, the disabled, the blind, the illiterate, minors, the bankrupt, and, recently, the digital.

Estate administration also requires scrutiny of others’ documents to answer the question, “Is this signature effective?”

Subscription, acknowledgment, delivery, acceptance, and completeness all bear examination, but few attorneys know what to look for.

An executor’s counsel needs a desk reference and a trouble-shooting manual. Both are available in “Execution of Documents” by James Noble Johnson, 2012 Real Estate Law 101, State Bar of Texas. Look for the most recent version in the Online Library at www.texasbarcle.com.

Identification

I, **2.45 or 2.76 or 2.91**, as **2.85** of the Estate of **6.02**, Deceased

Subscription

2.45 or 2.76 or 2.91, as **2.85** of the Estate of **6.02**,
Deceased

A useful complement, especially for distribution deeds, is the *Texas Title Examination Standards*, by the Title Standards Editorial Board of the Section of Real Estate, Probate and Trust Law and the Oil, Gas and Energy Resources Law Section of the State Bar of Texas. The *Texas Title Examination Standards* may be found in the Cumulative Annual Pocket Part to 1 Vernon’s Texas Codes Annotated, Property Code, and at <http://static.legalsolutions.thomsonreuters.com/static/pdf/texas/TXTitleExamStandards.pdf>.

Family settlement agreements present particular challenges. They may secure beneficiaries’ consent to an independent administration or settle a will contest or trust suit. Proper parties may include named beneficiaries, heirs at law, successor trustees, and contingent, unborn, and unascertained beneficiaries. Mistakes in identifying parties and defining capacities, critical elements of any agreement, may prove fatal. For a thorough discussion with detailed examples, including signature blocks, see “Settlement Agreements: Considerations when Negotiating, Drafting and Enforcing Settlement Agreements Involving Probate, Trust and Guardianship Disputes” by Sarah Patel Pacheco and Mickey R. Davis, 2009 Advanced Estate Planning and Probate Course, State Bar of Texas. Further coverage is beyond the scope of this System.

A basic model for execution of documents by the estate’s personal representative:

SPECIAL INSTRUCTION 85—LOST WILLS

If the original will is not available, additional information and steps are required for probate. Estates Code, Sections 256.054 and 257.053 (application), 258.002 (citation), 256.156 (proof), and 256.203 (findings).

The basic procedure for each application is generally still followed, but the will proponent must supplement this System's application, proof, and order forms and offer additional evidence.

The clerk must issue different citation, and personal service on decedent's resident heirs is required. Estates Code, Section 258.002. The will may not be probated before the required service, and so the clerk's file should be reviewed to confirm compliance. Estates Code, Section 258.003.

When a lost will was last seen in the testator's possession, additional evidence that the will was not revoked is required to overcome the presumption of revocation. Estates Code, Section 256.152(a)(1); *In re Estate of Glover*, 744 S.W.2d 939 (Tex. 1988).

Once a will not produced is admitted, certified copies of the contents as established by the order have the same dignity as certified copies of original wills and may be recorded in other counties and used in evidence. Estates Code, Section 256.203.

These rules apply only where the will is offered for probate. A will not produced may be offered in evidence to prove revocation of a prior will even if it cannot be admitted to probate. Estates Code, Sections 253.002 and 256.156; *In re Estate of Page*, 544 S.W.2d 757, 761 (Tex. Civ. App.—Corpus Christi 1976, writ ref'd n.r.e.).

For wills not produced, the application forms in this System must be supplemented with (1) the reason the will cannot be produced, (2) the contents of the will, and (3) the name, address, and relationship to decedent of each devisee and of each heir at law and whether the person is an adult or a minor. *See* Estates Code, Sections 256.054 and 257.053.

The proof forms in this System must be supplemented with (1) the cause of nonproduction, (2) evidence that the will was not revoked, and (3) the contents of the will. The cause of nonproduction must satisfy the court that the will cannot be produced by any reasonable diligence. Contents must be proved by testimony from someone who read the original or a copy of the will,

heard it read, or can identify a copy. *See* Estates Code, Section 256.156; *Glover*, 744 S.W.2d 939.

"Reasonable diligence" generally includes searching the testator's books and papers, searching any safe deposit box, reviewing a copy of the will for the drafting attorney (the State Bar may have an address and phone number for the attorney or the law firm), reviewing a copy of the will for the notary (the secretary of state may have an address or insurance agency for the notary), checking with each county clerk where the testator resided after making the will, and checking with clerks of each court that may have jurisdiction of the testator's estate.

Clerks accept wills under a variety of statutes. No search is exhaustive that stops with the county clerk where the testator resided at death. Estates Code, Section 252.001, allows a testator to deliver his will to the county clerk of the testator's then-current residence. Post mortem, Estates Code, Section 252.201, requires the custodian to deliver the will to the clerk of the court with jurisdiction of the testator's estate. Where a safe deposit box is examined under court order, Estates Code, Section 151.002, requires delivery of the will to the clerk of the court with probate jurisdiction where the examination order issued. Where a safe deposit box is examined without court order, Estates Code, Section 151.004, permits delivery to the named executor or else to the clerk of the court with probate jurisdiction where the testator resided.

The order forms in this System must be supplemented with the contents of the will. *See* Estates Code, Section 256.203.

When a copy of the will is available, it may simply be attached to the application and order and incorporated by reference. If the copy is signed, some courts instead require that it be handled as an original—and both mailed and e-filed—so that the judge may present the "original" copy to the witness for identification.

Special Instruction 18—What to Do at Hearing remains a useful model but should be modified accordingly and edited to include testimony establishing (1) the cause of nonproduction (and the futility of any reasonable diligence), (2) that the will was not revoked, and (3) the contents of the will. For example:

- Q. Are you Mrs. Harry D. Green, the decedent's widow?

- A. Yes.
- Q. Do you have your husband's original will?
- A. No.
- Q. Why not?
- A. I can't find it.
- Q. Where was it last seen?
- A. In my husband's desk drawer at home. He filed it there the day we signed it, and he showed me where.
- Q. Did you and your husband live in that same house until the day he died?
- A. Yes.
- Q. Did you look in the desk drawer after he died?
- A. Yes, but all I found was the copy
- Q. Where else did you look?
- A. We looked everywhere. The kids and I looked in his office, in our safe deposit box, and we went through the entire house.
- Q. Did you ask anyone about the will?
- A. Yes, I called our lawyer, I talked to his banker, and I even spoke with his doctor.
- Q. I now show you a document dated July 10, 2007, which purports to be a copy of Mr. Green's last will and testament. Do you recognize this document?

- A. Yes, it is a copy of his will.
- Q. How do you recognize this document?
- A. It's similar to the one I signed the same day, and I recognize my husband's signature.
- Q. Did Mr. Green mean to revoke this will?
- A. No. When he was in the hospital the last time he told me that I would get everything and that I would find his will in his desk drawer.

Too often, lulled by decedent's reassurances, family is confident the original will is safe, only to discover a copy instead of the original. This testimony includes evidence required when the will was last seen in the testator's possession—that is, that the will was not revoked.

Absent a court order to examine a safe deposit box, the testimony that the testator did not change his residence precludes the possibility that the clerk of another court might have been authorized to accept the testator's will.

Note: Imagine that the widow Green did not probate her husband's will and, following her death, her children consult you regarding both husband's and wife's wills. If probate of Mr. Green's will proves unnecessary, you should advise the children of their duty to deliver the original to the clerk of the probate court that has jurisdiction of Mr. Green's estate. Estates Code, Section 252.201. The same advice applies to both wills if the children do not retain you.

SPECIAL INSTRUCTION 86—SIGNATURE BLOCKS

Pleadings signed by attorneys must name the attorney and identify the attorney's State Bar number, address, phone, and fax. Texas Rules of Civil Procedure, Rules 57 and 191.3(a)(1).

If the pleading is e-filed, the attorney's e-mail address is also required. Texas Rules of Civil Procedure, Rule 21(f)(2).

E-filed documents may be signed with either (1) an electronic or scanned digital image of the signature or (2) "/s/" and name typed in the space where the signature would otherwise appear. Texas Rules of Civil Procedure, Rule 21(f)(7).

A basic format for the solo attorney's e-filing signature block:

/s/ 5.02

5.02

Attorney for Applicant
State Bar No. **5.03**

5.08A

5.05

5.06

5.07

Fax **5.08**

Some documents must still be signed by hand. Even if e-filing, "/s/" and a typed name do not suffice for notarized or sworn documents. Texas Rules of Civil Procedure, Rule 21(f)(7)(A).

Basic formats for signature blocks for a law firm and for a solo attorney appear below.

As the client's role (applicant, movant, executor, and so forth) changes, so should the description of the client in the signature block. Refer to each form to determine the appropriate description.

A basic format for the law firm's e-filing signature block:

5.01

By: /s/ 5.02

5.02

Attorneys for Applicant
State Bar No. **5.03**

5.08A

5.05

5.06

5.07

Fax **5.08**

SPECIAL INSTRUCTION 87—CAPTIONS AND TITLES

Pleadings begin with the cause number, the parties, the court, the county, and a title.

The caption contains the cause number, parties, court, and county.

The title identifies the document—for example, *Original Application for Probate of Will and Issuance of Letters Testamentary*. If supplemented or amended, the title must reflect the change, so the court and other parties can order the pleadings—for example, *First Supplemental Original Application for Probate of Will and Issuance of Letters Testamentary*, or *First*

Amended Application for Probate of Will and Issuance of Letters Testamentary. Texas Rules of Civil Procedure, Rules 78, 64, and 83.

In some courts the form is prescribed by law—for example, divorce or adoption in the family courts. Family Code, Sections 6.401(a) and 102.008(1). In probate, custom and the local rules are the main guides.

A basic format for the caption and title in uncontested probate matters:

	No. 6.01	
	§	
IN THE ESTATE OF	§	
	§	IN THE 6.03 OF
6.02,	§	
	§	6.04 COUNTY, TEXAS
DECEASED	§	

ORIGINAL APPLICATION FOR PROBATE OF WILL AND ISSUANCE OF LETTERS TESTAMENTARY

SPECIAL INSTRUCTION 88—INDEPENDENT ADMINISTRATION BY AGREEMENT WHERE DECEDENT LEFT A WILL (TBA)

Independent administration is the administration of an estate without supervision by a court.

Independent administration is far more convenient, efficient, and inexpensive than any other kind of administration. There is more flexibility in the management of the estate, and there usually will be substantial savings in court costs and attorney's fees. However, if the estate is insolvent or potentially insolvent, an independent administration might not be the best procedure.

Independent administration may be created by agreement in a testate estate where the will did not provide for independent administration or where it did but no named executor is available or willing to serve. Estates Code, Section 401.002.

Where the will names a qualified executor but does not provide for independent administration, the court may allow independent administration and appoint the named executor as independent executor, provided all the distributees agree and consent. Estates Code, Section 401.002(a).

Where no executor is named, or, if named, is not available or qualified, the court may allow independent administration and appoint any qualified person agreed by the distributees as independent administrator. Estates Code, Section 401.002(b). The term "independent executor" includes an independent administrator. Estates Code, Section 22.017.

The court may not allow independent administration by agreement if the procedure or the agreed personal representative would not be in the best interest of an incapacitated distributee. Estates Code, Section 401.004(c). Check your court's policy if any distributee is a minor, disabled, or under a guardianship—that is, an incapacitated person as defined by Estates Code, Section 22.016.

Whenever independent administration is created by agreement, service of citation and notice of the application is required on each distributee who does not waive citation or enter an appearance. The definitions of distributee and the means of establishing consent are detailed, and they should be reviewed carefully. See Estates Code, Section 401.004, which enables a representative to consent to independent administra-

tion under some circumstances. Estates Code, Chapter 51, sets out procedures regarding notice that are unique to probate.

Following decedent's death, the independent executor or administrator appointed under these provisions files the will for probate, has it admitted, and takes and files the oath. On filing the oath, the independent executor or administrator is qualified and, unless limited by the will, has the power to perform any act necessary to settle the estate that might be done under the authority of a court in an administration where no will existed. In addition to those powers, the independent executor or administrator has any additional discretionary authority granted by the will. Estates Code, Section 401.006, enables a power of sale by agreement. Although there is no provision for a representative's consent, Property Code, Section 114.032(c), may permit a parent to agree for a minor.

After the will has been probated and the executor or administrator has qualified by taking the oath, the executor or administrator must prepare and file an inventory, appraisement, and list of claims, to be approved by the court. Estates Code, Section 309.051. Alternatively, in some circumstances for the estate of a decedent who died on or after September 1, 2011, the independent executor or administrator may file an affidavit in lieu of the inventory. Estates Code, Section 309.056. After such approval or filing, as long as the estate is represented by an independent executor or administrator, there is no further action of any nature to be taken in court except where the Estates Code specifically provides for some other action. Estates Code, Section 402.001. Estates Code, Chapters 308 and 404, are exceptions to that rule.

Most of the general Estates Code provisions for giving notice to creditors and for establishing claims against an estate apply to independent administrations. These provisions require an independent executor or administrator to observe all provisions of the Estates Code regarding notice to creditors and classification and priority of claims once such claims have been presented. Similarly, the Code requires an independent executor or administrator to set aside and deliver exempt property and allowances as if under court order. See Estates Code, Chapter 403.

Special Instruction 88 Independent Administration by Agreement Where Decedent Left a Will (TBA)

Procedures for independent administration by agreement in a testate estate begin at Item 38 of the Check-plan.



SPECIAL INSTRUCTION 89—INDEPENDENT ADMINISTRATION BY AGREEMENT WHERE THERE IS NO WILL (IBA)

Independent administration is the administration of an estate without supervision by a court.

Independent administration is far more convenient, efficient, and inexpensive than any other kind of administration. There is more flexibility in the management of the estate, and there usually will be substantial savings in court costs and attorney's fees. However, if the estate is insolvent or potentially insolvent, an independent administration might not be the best procedure.

Independent administration may be created by agreement in an intestate estate under Estates Code, Section 401.003. In such an estate, the court may allow independent administration and appoint any qualified person agreed by the distributees as independent administrator. The term "independent executor" includes an independent administrator. Estates Code, Section 22.017.

The court may not allow independent administration by agreement if the procedure or the agreed personal representative would not be in the best interest of an incapacitated distributee. Estates Code, Section 401.004(c). Check your court's policy if any distributee is a minor, disabled, or under a guardianship—that is, an incapacitated person as defined by Estates Code, Section 22.016.

For decedents dying on or after September 1, 2011, a proceeding to declare heirship is required before creation of the independent administration. Estates Code, Section 401.003(b). The application for independent administration may be heard and granted in the same proceeding, provided the judgment declaring heirship precedes the order authorizing independent administration. See Special Instruction 60—Proceedings to Declare Heirship (PDH).

Applications for letters of administration in an intestate estate, whether independent or dependent, require different information from those for independent administration of a testate estate, including applicant's relation to decedent and decedent's heirs, children, and divorces. Compare Estates Code, Section 301.052 (Contents of Application for Letters of Administration) with Estates Code, Section 256.052 (Contents of Application for Probate of Will Generally).

Whenever independent administration is created by agreement, service of citation and notice of the application is required on each distributee who does not waive citation or enter an appearance. The definitions of distributee and the means of establishing consent are detailed, and they should be reviewed carefully. See Estates Code, Section 401.004, which enables a representative to consent to independent administration under some circumstances. Estates Code, Chapter 51, sets out procedures regarding notice that are unique to probate.

On filing the oath, the independent administrator is qualified and has the power to perform any act necessary to settle the estate that might be done under the authority of a court in a regular administration where no will existed. Estates Code, Section 401.006, enables a power of sale by agreement. Although there is no provision for a representative's consent, Property Code, Section 114.032(c), may permit a parent to agree for a minor.

After the administrator has qualified by taking the oath, the administrator must prepare and file an inventory, appraisal, and list of claims, to be approved by the court. Estates Code, Section 309.051. Alternatively, in some circumstances for the estate of a decedent who died on or after September 1, 2011, the independent administrator may file an affidavit in lieu of the inventory. Estates Code, Section 309.056. After such approval or filing, as long as the estate is represented by an independent administrator, there is no further action of any nature to be taken in court except where the Estates Code specifically provides for some other action. Estates Code, Section 402.001. Estates Code, Chapters 308 and 404, are exceptions to that rule.

Most of the general Estates Code provisions for giving notice to creditors and for establishing claims against an estate apply to independent administrations. These provisions require an independent administrator to observe all provisions of the Estates Code regarding notice to creditors and classification and priority of claims once such claims have been presented. Similarly, the Code requires an independent administrator to set aside and deliver exempt property and allowances as if under court order. See Estates Code, Chapter 403.

Procedures for independent administration by agreement in an intestate estate begin at Item 41 of the Checkplan.



SPECIAL INSTRUCTION 90—MISSING HEIRS

Following the court's settlement of the final account, the executor or administrator is ready to make distributions of the assets remaining in the estate. From time to time, however, an heir is missing and cannot be located. This is especially likely if decedent was elderly, died without a will, and had a large family or multiple marriages.

Assuming that the estate assets have been liquidated and the only asset remaining is cash, the easiest method of distribution is to obtain cashier's checks from the estate's bank for the heirs who can be located. Good practice indicates mailing the checks and proposed receipt and release by certified mail, return receipt requested, to all known heirs. When a receipt and release is returned, it will be filed with the court.

If a check is returned unclaimed, or if heirs are unknown or cannot be located, further steps are required. The court must order the executor or administrator to deposit in the court's registry all money to which a person who is unknown or missing is entitled. Estates Code, Section 362.011(c).

If an heir (other than a resident minor without a guardian) has not demanded that heir's share within six months after the date of the settlement of the final account, the court must order the executor or administrator to pay to the Comptroller of Public Accounts that heir's share, including any portion that had been deposited in the court's registry. Estates Code, Section 551.001(a). The executor or administrator must obtain from the comptroller a receipt for the payment, with an official seal attached, and file the receipt with the clerk of the court. Estates Code, Section 551.006. Failure to pay the funds to the comptroller within thirty days after the date of the order subjects the executor or administrator to a significant penalty. *See* Estates Code, Section 551.102.

If the estate assets have not been liquidated before the order to deposit funds into the court's registry, the court must order the executor or administrator to convert into money any remaining nonmonetary assets to which a missing or unknown heir is entitled. Estates Code, Section 362.011(b). This procedure for conversion of nonmonetary assets is not covered in this System.

SPECIAL INSTRUCTION 91—ANCILLARY PROBATE (AP) OR RECORDING (RW) OF WILLS PREVIOUSLY PROBATED ELSEWHERE

The will of a decedent who was not domiciled in Texas at the time of death may be admitted to probate in Texas pursuant to Estates Code, Chapters 501 and 502, if the will affects property in Texas, including litigation here. Estates Code, Sections 501.001(1) and 502.001(a)(1). If administration is necessary and the will has been probated in another state or a foreign country, it may be admitted to ancillary probate in Texas. *See* Estates Code, Chapter 501 (Ancillary Probate of Foreign Will). Original probate is also available in certain circumstances. *See* Estates Code, Chapter 502 (Original Probate of Foreign Will), and the discussion in Special Instruction 15—Jurisdiction and Venue.

If no administration is necessary and the only concern is to have the Texas real property records reflect the ownership of bequeathed real estate, a simple procedure for recording a will that has been probated in another state or a foreign country can be used. *See* Estates Code, Chapter 503 (Recording of Foreign Testamentary Instrument).

Informative coverage of considerations and procedures involving foreign wills is contained in “Administration of the Estate with Cross Border Issues” by R. Glenn Davis, 2014 Advanced Estate Planning and Probate Course, State Bar of Texas.

Ancillary Probate

The will of a decedent who was not domiciled in Texas at the time of death that would affect any real or personal property in Texas may be admitted to ancillary probate at any time on proof that it was probated or otherwise established in another state or a foreign country. Estates Code, Section 501.001. The general four-year limit does not apply to a foreign will. Estates Code, Section 256.003. The procedure for ancillary probate depends on whether the will was probated in the jurisdiction in which decedent was domiciled at time of death or in another jurisdiction. Ancillary probate of a will probated in a nondomiciliary jurisdiction is beyond the scope of this System.

If the will was admitted to probate in decedent’s domiciliary jurisdiction, the application need only indicate that Texas probate is requested on the basis of the

authenticated copy of the foreign probate proceedings, and no citation or notice is required. Estates Code, Sections 501.002(a) and 501.003(a). The application must include a copy of the foreign will and the order admitting it to probate, attested and certified as required by Estates Code, Section 501.002(c).

The clerk must record in the judge’s probate docket, without the necessity of a court order, the foreign will and evidence of its probate. Estates Code, Section 501.004(a), (c). When the foreign will has been filed and recorded in the probate docket, it is considered to be admitted to probate and has the same effect as if the original will had been admitted to probate by a Texas court. Estates Code, Section 501.005.

When dealing with foreign estates or beneficiaries, U.S. banks, brokers, and life insurance companies may insist on an apostille or acknowledgment before a U.S. consular official before distributing nonprobate assets to named beneficiaries. Either an apostille or acknowledgment before a U.S. consular official is also sufficient when authenticating a will or order from another country: It is permissible, and simpler, however, to use a local notary. Whenever a will, order, or other document is in a foreign language, attach sworn translations of the document and each notarial certificate or stamp. *Cf.* Civil Practice & Remedies Code, Section 121.001; Property Code, Section 11.002. More cumbersome procedures will be necessary in a contest, where the rules of evidence may be strictly enforced. *See* “Administration of the Estate with Cross Border Issues” by R. Glenn Davis, 2014 Advanced Estate Planning and Probate Course, State Bar of Texas, at 9 (Probate of Wills Written in a Foreign Language).

An executor named in a foreign will admitted to ancillary probate in Texas is entitled to ancillary letters testamentary on proof that the executor has qualified in the foreign jurisdiction and is not disqualified from serving in Texas (Estates Code, Section 501.006(a)(1), (2)) and that there is a necessity for administration in Texas. If the will is admitted to ancillary probate in Texas after the fourth anniversary of decedent’s death, proof must also be made that the executor continues to serve as executor in the foreign jurisdiction. Estates Code, Section 501.006(a)(3). A court order directing

issuance of ancillary letters testamentary to the executor is to be entered when that proof is made. Estates Code, Section 501.006(b). This System calls for attaching to the application for ancillary letters an authenticated copy of the letters testamentary from the original jurisdiction to prove the executor's qualification. Other facts may be established by affidavit. Local practice may require a hearing. The Estates Code does not.

If the will does not appoint the executor as an independent executor but the foreign jurisdiction allowed the personal representative to serve independently, the Texas court generally will also allow an independent administration. If the foreign jurisdiction does not allow independent administration but independence is warranted, the appropriate procedure would be to obtain consent of all the distributees pursuant to Estates Code, Sections 401.002 and 401.004 through 401.006.

The Code is unclear, but this System assumes that on issuance of ancillary letters testamentary to the executor the usual requirements and exceptions apply for an oath, bond, inventory, and notice to beneficiaries and creditors.

Following ancillary probate under Estates Code, Section 501.002, a foreign personal representative need not apply for letters testamentary under Estates Code, Section 501.006, to prosecute a wrongful death or survival action. Civil Practice & Remedies Code, Sections 71.012 and 71.022. If ancillary letters are not sought, the relevant forms, letters, and procedures in the System must be altered accordingly.

Procedures for ancillary administration begin at Item 44 of the Checkplan.

Recording in Deed Records

A copy of a will that conveys or disposes of Texas real estate and that has been probated in another state or a foreign country, together with a copy of the order admitting it to probate in the foreign jurisdiction, may be filed in the deed records in any Texas county in which the real estate is located. Estates Code, Section 503.001(a). Certified copies are inadequate. Instead, both the will and the order should be authenticated according to Estates Code, Section 501.002(c). Estates Code, Section 503.001(b). The original signatures required by Section 501.002(c) are not required, however, for this recordation procedure. Estates Code, Section 503.002. The recorded documents function as a conveyance and as notice of title. Estates Code, Sections 503.051 through 503.052.

Review "Ancillary Probate," above, for considerations in authenticating and, if necessary, translating the will and order.

If the recorded will gives the executor the power to sell property located in Texas, no court order is needed to authorize a sale and conveyance by the executor, although any specific directions in the will concerning the sale of estate property must be followed unless annulled or suspended by court order. Estates Code, Section 505.052.

Procedures for recording the will in the deed records are at Item 45 of the Checkplan.

[Reserved]

REMEMBER: When date for future action has been determined, be sure to enter it in your calendar or other tickler system. Those marked with an asterisk (*) are critical dates. We recommend that you also prepare reminders for one month, one week, and one day before due dates for the inventory and for estate and income tax returns. As a date is determined, it should also be entered at the indicated place in the Master Information List (MIL) and on the Probate Chart (Worksheet 15).

SIGNIFICANT DATE LIST (SDL)

NAME OF DECEDENT (D) _____

Determination of Date of Document, Event, or Action	Actual Date
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1. <u>Date of will</u> —as shown on will itself (Item 2.02 of MIL).	_____
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Note: **Item 1 is not applicable to RDA, IBA, or PDH**

2. <u>Date of codicil</u> —as shown on codicil itself (Item 2.17 of MIL).	_____
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Note: **Item 2 is not applicable to RDA, IBA, or PDH**

3. <u>Date of death</u> —as shown on death certificate (Item 1.07 of MIL).	_____
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4. <u>Date exactly ten years before date of D's death</u> —This is the beginning date of the period for credit for previously taxed property.	_____
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5. <u>Date exactly three years before date of D's death</u> —This is the beginning date for including taxable gifts made by D, and the gift tax thereon, in the gross valuation of D's estate for federal estate tax purposes.	_____
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6. <u>Date five days (actually one hundred and twenty hours) after date of D's death</u> —This is the date to which D's heirs and beneficiaries (including life insurance beneficiaries) must have survived or they will be deemed to have predeceased D unless D's will directs otherwise.	_____
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7. <u>Date thirty days after date of D's death</u> —This is the earliest date on which the small estate affidavit may be filed with clerk of court.	_____
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7A. <u>Date three months after date of D's death</u> —This is the date by which D's spouse, children, or parents must bring an action for wrongful death. Civil Practice & Remedies Code, Section 71.004.	_____
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8. <u>Date six months after date of D's death</u> —Enter this date as Item 26.22 of MIL. This is the date for—	_____
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a. Determining the alternate valuation of D's assets for federal estate tax purposes.

b. Beginning to prepare United States Estate (and Generation-Skipping Transfer) Tax Return.

c. Determining whether necessary to prepare and file Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes (FF 11).

Note: **If requesting an extension to pay the tax, this application should be filed at least forty days before due date (Item 26.28 of MIL). If requesting only an extension to file the return, the application may be filed on or before the due date.**

*9. <u>Date nine months after date of D's death</u> —Enter this date as Item 26.28 of MIL. This is the date for—	_____
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Significant Date List

- a. Delivering a tax-qualified disclaimer to executor or administrator.
 - b. Filing the United States Estate (and Generation-Skipping Transfer) Tax Return and paying the taxes unless an extension is granted.
 - (1) First extended date (Item 26.29 of MIL). *Note:* A filing extension generally requires both a request and timely payment of the estimated estate tax.
 - c. Filing D's final gift tax return unless due on an earlier date (refer to Items 59 and 60 of this SDL).
10. Date one year from last day of calendar month before date of D's death—This is the last possible date for the end of the first fiscal year for D's estate.
 11. Date of fiscal year end for estate—as established by executor or administrator and as used on initial federal income tax return filed for estate on IRS Form 1041 (Item 26.14 of MIL).
 12. Date sixty-five days after fiscal year end—This is the date by which an executor or administrator may elect to have certain distributions made during these first sixty-five days treated as having been made on the last day of the previous fiscal year.
 13. Date one year from end of first fiscal year for D's estate—If D's estate has not been closed by this date, estimated income tax payments may be required for all future years.
 14. Date one year after date of D's death—This is the last date for obtaining family allowance and the last possible date on which the statutes of limitation are no longer suspended for suits by or against D.
 - 14A. September 30 of year following D's death—This is the beneficiary finalization date for individual retirement arrangement.
 - 14B. December 31 of year following D's death—This is the deadline for creating separate IRA accounts.
 15. Date two years after date of D's death—Payment of estimated income taxes by estate will be required for all fiscal years ending after this date.
 16. Date three years and nine months after date of D's death—This is the date on which the statute of limitations runs with respect to an unextended, timely filed United States Estate (and Generation-Skipping Transfer) Tax Return.
 17. Date four years after date of D's death—This is the last date on which original letters testamentary (IA, TBA, or ADE) or letters of administration (AWA, TBA, IBA, or RDA) can be authorized, the last date on which a request can be filed for the court to determine whether a necessity for administration exists (PDH), and the last date for filing D's will as a muniment of title unless good cause can be shown.
 - 17A. Date four years and nine months after date of D's death—This is the date on which the statute of limitations runs with respect to an extended, timely filed United States Estate (and Generation-Skipping Transfer) Tax Return.
 - 17B. Date foreign will and evidence of foreign probate recorded in Texas judge's probate docket (AP)—This is the date on which the will is considered to be admitted to probate in Texas.
 18. Date of filing application (IA, TBA, IBA, MT, PDH, ADE, AWA, RDA, or AP) or small estate affidavit and order (SE) (Item 6.23 of MIL).

Note: For SE, this date must be after the date shown in Item 7 of this SDL.

- 19. Date one hundred and twenty days after filing application—This is the date following which fees must be paid for all instruments filed with the clerk of the court if inventory has not been approved previously. See also Item 61 of this SDL. _____
- 20. Return date for citation by posting—First Monday following expiration of ten days’ notice by posting. _____
- 21. Date of newspaper in which application to declare heirship is published if there is citation by publication—as shown in newspaper. _____
- 22. Return date for citation by publication—First Monday following expiration of ten days from date of publication in newspaper. _____
- 23. Date that is the later of Items 20 and 22—No hearing may be held before this date. _____
- 24. Date scheduled for hearing on application—as scheduled by clerk of court (Item 6.24 of MIL). _____
- 25. One business day before scheduled date for hearing on application—Call witnesses on this date. _____
- 26. If hearing on application is rescheduled—Enter new date and remember to remind witnesses one business day before new date. _____
- 27. Actual date of hearing on application—as furnished by attorney who appeared in court (Item 6.25 of MIL). _____
- 28. Date of order or judgment—as shown on order or judgment signed by judge (Item 6.26 of MIL). _____
- *29. Date twenty days after date of order or judgment—All oaths and bonds must be filed with the clerk of the court by this date. _____
- 30. Date six months after date of order granting letters as shown in Item 28—This date relates to claims of creditors. See Item 49 of this SDL. _____
- 31. Date sixty days after date of order admitting D’s will to probate as shown in Item 28 (IA, TBA, ADE, AWA) or date foreign will and evidence of foreign probate recorded as shown in Item 17B (AP)—Enter this date as Item 6.69 of MIL. This is the last day to give notice to beneficiaries under D’s will and codicil(s). _____
- 32. Date ninety days after date of order admitting D’s will to probate as shown in Item 28 (IA, TBA, MT, ADE, AWA) or date foreign will and evidence of foreign probate recorded as shown in Item 17B (AP). _____
 - a. If MT, this is due date for filing the inventory, if required, unless time is extended. Complete Item 6.85 of MIL. If time is extended, enter new date(s) below.
 - (1) Extended due date. _____
 - (2) Second extended due date. _____
 - b. If IA, TBA, ADE, AWA, or AP, this is the last day to file the affidavit or the certificate of giving notice to devisees and legatees under D’s will and codicil(s). _____

Significant Date List

- 33. Date one hundred and eighty-one days after date D's will was admitted to probate as MT as shown in Item 28—This is the last date to file a sworn affidavit stating the terms of the will that have been fulfilled and those that have not been fulfilled. If time is extended, enter new date below.
 - a. First extended due date.
- 34. - 35. (Reserved)
- 36. Date of filing all oaths—as shown by clerk's file stamp (Item 6.38 of MIL).
Note: This is the date of qualification for independent executors or independent administrators.
- 37. Date of filing bond—as shown by clerk's file stamp (Item 6.36 of MIL).
- 38. Date of approval of bond by judge—as shown on order signed by judge (Item 6.37 of MIL).
- 39. Date that is the latest of Items 36, 37, and 38—This is the date of qualification of executor or administrator (Item 6.39 of MIL).
- 39A. Date that is the earlier of Items 14 and 39—This is the date on which the statutes of limitation are no longer suspended for suits by or against D.
- 40. Date that clerk first issues letters testamentary or letters of administration—as determined from clerk of court.
- 41. (Reserved)
- 42. Date one month after date that clerk first issues letters as shown in Item 40—This is the last date for publishing notice to creditors and furnishing copy to Comptroller of Public Accounts (Item 21.23 of MIL).
- 43. Date two months after date that clerk first issues letters as shown in Item 40—This is the last date for giving certified or registered mail notice to secured creditors (Item 7.35 of MIL and Section 21.0 of MIL).
- 44. Date notice was actually mailed to secured creditor.
- 45. Date notice was received by secured creditor—as determined from mailing return receipt.
- 45A. Date fifteen months after date that clerk first issues letters as shown in Item 40—This is the date following which an independent executor or independent administrator can be required to make an accounting under Estates Code, Section 404.001.
- 45B. Date two years after date that clerk first issues letters as shown in Item 40—This is the date following which an independent executor or independent administrator can be required to make an accounting and distribution under Estates Code, Section 405.001.
- 46. Date ninety days after date of qualification shown in Item 39 (Item 6.39 of MIL)—This is the due date for filing the inventory or affidavit in lieu thereof unless the time is extended. Complete Item 6.85 of MIL. If time is extended, enter new date(s) below:
 - a. First extended due date (complete Item 6.86 of MIL).
 - b. Second extended due date (revise Item 6.86 of MIL).
- 47. Date four months after date notice was received by secured creditor as shown in Item 45.

- 48. Date six months after date of qualification shown in Item 39 (Item 6.39 of MIL)—This is the last date for an executor or administrator to file an individually owned claim against D’s estate or the claim will be barred. _____
- 49. Date that is the later of Items 30 and 47—This is the last date for a secured creditor to notify an executor or administrator of the creditor’s election to have claim approved as a matured secured claim to be paid in the course of administration. _____
- 50. Date one year after date that clerk first issues letters as shown in Item 40—This is the last date for filing the first annual account with the court in a dependent administration (Item 6.145 of MIL). See also Item 78 of this SDL. _____
- 51. Date two years after date that clerk first issues letters as shown in Item 40—This is the due date for the second annual account in a dependent administration if the estate has not been closed (Item 6.145 of MIL). See also Item 79 of this SDL. _____
- 52. Date three years after date that clerk first issues letters as shown in Item 40—This is—
 - a. the due date for the third annual account in a dependent administration if the estate has not been closed (Item 6.145 of MIL) and _____
 - b. the date on which the executor or administrator in a dependent administration can be removed if final settlement of the estate has not been made. See also Item 80 of this SDL. _____
- 53. (Reserved)
- *54. Fifteenth day of fourth month following end of first fiscal year for estate (April 15th if tax year is calendar year)—This is the last date to file the first federal income tax return for the estate on IRS Form 1041. Note that payment of tax in quarterly installments is no longer permitted. _____
 - a. Date one year following above date. This is the due date for the return for the following year. _____
 - b. Date one year following date in Item 54a. This is the due date for the return for the next following year. _____
 - c. Date one year following date in Item 54b. This is the due date for the return for the next following year. _____
- 55. Ending date of second fiscal year for estate (one year after date shown in Item 11)—For fiscal years commencing after this date, estimated tax payments are required. If fiscal year is a calendar year, these payments will be due on April 15, June 15, September 15, and January 15 next following this ending date. If fiscal year is not a calendar year, corresponding months of the fiscal year are substituted. _____
 - a. First installment due (fifteenth day of fourth month). _____
 - b. Second installment due (fifteenth day of sixth month). _____
 - c. Third installment due (fifteenth day of ninth month). _____
 - d. Fourth installment due (fifteenth day of thirteenth month). _____
- 56. Date of expiration of D’s leases.
 - a. Residence _____

Significant Date List

b. Office

c. Other

57. Date of current fiscal year end of a Subchapter S corporation in which D was a shareholder (Item 10.12 of MIL).

58. Date two months and fifteen days after date of current fiscal year end of Subchapter S corporation as shown in Item 57—This is normally the last date for a majority of shareholders to revoke a previously filed Subchapter S election for that fiscal year (see Item 10.81 of MIL).

*59. Date for filing D's income tax and gift tax returns for tax year before year of death—(Fifteenth day of fourth month following end of tax year—April 15th if tax year is calendar year.) (Refer to Item 9 of this SDL.) If time is extended, enter new date below:

a. First extended due date.

*60. Date for filing D's income tax and gift tax returns for tax year of D's death—(Fifteenth day of fourth month following end of D's tax year—April 15th if tax year is calendar year.) If time is extended, enter new date below:

a. First extended due date.

61. Date inventory is approved (as shown in Item 6.88 of MIL) or affidavit in lieu of inventory is filed (as shown in Item 6.89 of MIL)—This is the date following which fees must be paid for all instruments filed with the clerk of the court. It also is the earliest date on which proper applications may be made to the court to do the following:

- a. Set aside exempt property.
- b. Obtain allowance in lieu of exempt property.
- c. Obtain family allowance.

Note: An independent executor or independent administrator ordinarily does not have to have court approval or wait to take the following actions.

- d. Dispose of items with no commercial value.
- e. Dispose of personal property that is likely to perish, etc.
- f. Sell personal property.
- g. Sell real property.
- h. Enter into mineral and other leases.
- i. Obtain approval of final account.

62. Date disposition of personal property having no commercial value is authorized by court—as shown on order signed by judge (Item 6.91 of MIL).

63. Date sale of perishable property is authorized by court—as shown on order signed by judge (Item 6.91 of MIL).

64. If there is sale of personal property and court approval is required, complete the following:

FURNISHED FORM 1—REQUEST COPY OF D'S TAX RETURN(S)

Form 4506

(Rev. September 2015)

Department of the Treasury Internal Revenue Service

Request for Copy of Tax Return

- Do not sign this form unless all applicable lines have been completed. Request may be rejected if the form is incomplete or illegible. For more information about Form 4506, visit www.irs.gov/form4506.

OMB No. 1545-0429

Tip. You may be able to get your tax return or return information from other sources. If you had your tax return completed by a paid preparer, they should be able to provide you a copy of the return. The IRS can provide a Tax Return Transcript for many returns free of charge.

1a Name shown on tax return. 1b First social security number on tax return. 2a If a joint return, enter spouse's name shown on tax return. 2b Second social security number or individual taxpayer identification number if joint tax return. 3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions). 4 Previous address shown on the last return filed if different from line 3 (see instructions). 5 If the tax return is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.

Caution: If the tax return is being mailed to a third party, ensure that you have filled in lines 6 and 7 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy.

6 Tax return requested. Form 1040, 1120, 941, etc. and all attachments as originally submitted to the IRS. Note: If the copies must be certified for court or administrative proceedings, check here. 7 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format.

8 Fee. There is a \$50 fee for each return requested. Full payment must be included with your request or it will be rejected. Make your check or money order payable to "United States Treasury." Enter your SSN, ITIN, or EIN and "Form 4506 request" on your check or money order. a Cost for each return \$ 50.00 b Number of returns requested on line 7 c Total cost. Multiply line 8a by line 8b \$ 9 If we cannot find the tax return, we will refund the fee. If the refund should go to the third party listed on line 5, check here.

Caution: Do not sign this form unless all applicable lines have been completed. Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax return requested. If the request applies to a joint return, at least one spouse must sign.

Signatory attests that he/she has read the attestation clause and upon so reading declares that he/she has the authority to sign the Form 4506. See instructions. Phone number of taxpayer on line 1a or 2a

Sign Here Signature (see instructions) Date Title (if line 1a above is a corporation, partnership, estate, or trust) Spouse's signature Date

[Reserved]

FURNISHED FORM 5—REQUEST TRANSCRIPT OF D’S TAX RETURN(S)

Form 4506-T (Rev. September 2015) Department of the Treasury Internal Revenue Service

Request for Transcript of Tax Return

- Do not sign this form unless all applicable lines have been completed. Request may be rejected if the form is incomplete or illegible. For more information about Form 4506-T, visit www.irs.gov/form4506t.

OMB No. 1545-1872

Tip. Use Form 4506-T to order a transcript or other return information free of charge. See the product list below. You can quickly request transcripts by using our automated self-help service tools. Please visit us at IRS.gov and click on "Get a Tax Transcript..." under "Tools" or call 1-800-908-9946. If you need a copy of your return, use Form 4506, Request for Copy of Tax Return. There is a fee to get a copy of your return.

1a Name shown on tax return. 1b First social security number on tax return, individual taxpayer identification number, or employer identification number (see instructions) 2a If a joint return, enter spouse's name shown on tax return. 2b Second social security number or individual taxpayer identification number if joint tax return 3 Current name, address (including apt., room, or suite no.), city, state, and ZIP code (see instructions) 4 Previous address shown on the last return filed if different from line 3 (see instructions) 5 If the transcript or tax information is to be mailed to a third party (such as a mortgage company), enter the third party's name, address, and telephone number.

Caution: If the tax transcript is being mailed to a third party, ensure that you have filled in lines 6 through 9 before signing. Sign and date the form once you have filled in these lines. Completing these steps helps to protect your privacy. Once the IRS discloses your tax transcript to the third party listed on line 5, the IRS has no control over what the third party does with the information. If you would like to limit the third party's authority to disclose your transcript information, you can specify this limitation in your written agreement with the third party.

6 Transcript requested. Enter the tax form number here (1040, 1065, 1120, etc.) and check the appropriate box below. Enter only one tax form number per request. a Return Transcript, which includes most of the line items of a tax return as filed with the IRS. b Account Transcript, which contains information on the financial status of the account, such as payments made on the account, penalty assessments, and adjustments made by you or the IRS after the return was filed. c Record of Account, which provides the most detailed information as it is a combination of the Return Transcript and the Account Transcript. 7 Verification of Nonfiling, which is proof from the IRS that you did not file a return for the year. 8 Form W-2, Form 1099 series, Form 1098 series, or Form 5498 series transcript.

Caution: If you need a copy of Form W-2 or Form 1099, you should first contact the payer. To get a copy of the Form W-2 or Form 1099 filed with your return, you must use Form 4506 and request a copy of your return, which includes all attachments.

9 Year or period requested. Enter the ending date of the year or period, using the mm/dd/yyyy format. If you are requesting more than four years or periods, you must attach another Form 4506-T. For requests relating to quarterly tax returns, such as Form 941, you must enter each quarter or tax period separately.

Caution: Do not sign this form unless all applicable lines have been completed.

Signature of taxpayer(s). I declare that I am either the taxpayer whose name is shown on line 1a or 2a, or a person authorized to obtain the tax information requested. If the request applies to a joint return, at least one spouse must sign. If signed by a corporate officer, 1 percent or more shareholder, partner, managing member, guardian, tax matters partner, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute Form 4506-T on behalf of the taxpayer. Note: For transcripts being sent to a third party, this form must be received within 120 days of the signature date.

Signatory attests that he/she has read the attestation clause and upon so reading declares that he/she has the authority to sign the Form 4506-T. See instructions. Signature (see instructions) Date Title (if line 1a above is a corporation, partnership, estate, or trust) Spouse's signature Date

For Privacy Act and Paperwork Reduction Act Notice, see page 2. Cat. No. 37667N Form 4506-T (Rev. 9-2015)

[Reserved]

FURNISHED FORM 6—EMPLOYER IDENTIFICATION NUMBER FOR ESTATE

Form SS-4 Application for Employer Identification Number (Rev. January 2010) OMB No. 1545-0003

1 Legal name of entity (or individual) for whom the EIN is being requested
2 Trade name of business (if different from name on line 1)
3 Executor, administrator, trustee, "care of" name
4a Mailing address (room, apt., suite no. and street, or P.O. box)
5a Street address (if different) (Do not enter a P.O. box.)
4b City, state, and ZIP code (if foreign, see instructions)
5b City, state, and ZIP code (if foreign, see instructions)
6 County and state where principal business is located

7a Name of responsible party
7b SSN, ITIN, or EIN
8a Is this application for a limited liability company (LLC) (or a foreign equivalent)?
8b If 8a is "Yes," enter the number of LLC members
8c If 8a is "Yes," was the LLC organized in the United States?

9a Type of entity (check only one box). Caution. If 8a is "Yes," see the instructions for the correct box to check.
Sole proprietor (SSN)
Partnership
Corporation (enter form number to be filed)
Personal service corporation
Church or church-controlled organization
Other nonprofit organization (specify)
Other (specify)
Estate (SSN of decedent)
Plan administrator (TIN)
Trust (TIN of grantor)
National Guard
Farmers' cooperative
REMIC
State/local government
Federal government/military
Indian tribal governments/enterprises
Group Exemption Number (GEN) if any

9b If a corporation, name the state or foreign country (if applicable) where incorporated
State
Foreign country

10 Reason for applying (check only one box)
Started new business (specify type)
Hired employees (Check the box and see line 13.)
Compliance with IRS withholding regulations
Other (specify)
Banking purpose (specify purpose)
Changed type of organization (specify new type)
Purchased going business
Created a trust (specify type)
Created a pension plan (specify type)

11 Date business started or acquired (month, day, year). See instructions.
12 Closing month of accounting year

13 Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.
Agricultural
Household
Other
14 If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. (Your employment tax liability generally will be \$1,000 or less if you expect to pay \$4,000 or less in total wages.) If you do not check this box, you must file Form 941 for every quarter.

15 First date wages or annuities were paid (month, day, year). Note. If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year).

16 Check one box that best describes the principal activity of your business.
Construction
Rental & leasing
Transportation & warehousing
Accommodation & food service
Other (specify)
Health care & social assistance
Wholesale-agent/broker
Wholesale-other
Retail
Real estate
Manufacturing
Finance & insurance

17 Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.

18 Has the applicant entity shown on line 1 ever applied for and received an EIN?
If "Yes," write previous EIN here

Third Party Designee
Complete this section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.
Designee's name
Designee's telephone number (include area code)
Address and ZIP code
Designee's fax number (include area code)

Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.
Name and title (type or print clearly)

Signature
Date
Applicant's telephone number (include area code)
Applicant's fax number (include area code)

[Reserved]

FURNISHED FORM 7—NOTIFY IRS OF FIDUCIARY RELATIONSHIP

Form 56 (Rev. December 2015) Department of the Treasury Internal Revenue Service

Notice Concerning Fiduciary Relationship

Information about Form 56 and its separate instructions is at www.irs.gov/form56. (Internal Revenue Code sections 6036 and 6903)

OMB No. 1545-0013

Part I Identification

Name of person for whom you are acting (as shown on the tax return) identifying number Decedent's social security no.

Address of person for whom you are acting (number, street, and room or suite no.)

City or town, state, and ZIP code (If a foreign address, see instructions.)

Fiduciary's name

Address of fiduciary (number, street, and room or suite no.)

City or town, state, and ZIP code

Telephone number (optional) ()

Section A. Authority

- 1 Authority for fiduciary relationship. Check applicable box: a Court appointment of testate estate... b Court appointment of intestate estate... c Court appointment as guardian or conservator... d Valid trust instrument and amendments... e Bankruptcy or assignment for the benefit or creditors... f Other. Describe... 2a If box 1a or 1b is checked, enter the date of death... b If box 1c-1f is checked, enter the date of appointment, taking office, or assignment or transfer of assets...

Section B. Nature of Liability and Tax Notices

- 3 Type of taxes (check all that apply): Income Gift Estate Generation-skipping transfer Employment Excise Other (describe)... 4 Federal tax form number (check all that apply): a 706 series b 709 c 940 d 941, 943, 944 e 1040, 1040-A, or 1040-EZ f 1041 g 1120 h Other (list)... 5 If your authority as a fiduciary does not cover all years or tax periods, check here and list the specific years or periods... 6 If the fiduciary has a CAF number and wants a copy of notices and correspondence (see the instructions) check this box and enter the year(s) or period(s) for the corresponding line 4 item checked.

Complete only if the line 6 box is checked.

Table with 4 columns: If this item is checked, Enter year(s) or period(s), If this item is checked, Enter year(s) or period(s). Rows include 4a, 4c, 4e, 4g, 4h and 4b, 4d, 4f, 4h.

Part II Revocation or Termination of Notice

Section A—Total Revocation or Termination

- 7 Check this box if you are revoking or terminating all prior notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship Reason for termination of fiduciary relationship. Check applicable box:
 - a Court order revoking fiduciary authority
 - b Certificate of dissolution or termination of a business entity
 - c Other. Describe

Section B—Partial Revocation

- 8a Check this box if you are revoking earlier notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship
- b Specify to whom granted, date, and address, including ZIP code.

Section C—Substitute Fiduciary

- 9 Check this box if a new fiduciary or fiduciaries have been or will be substituted for the revoking or terminating fiduciary and specify the name(s) and address(es), including ZIP code(s), of the new fiduciary(ies)

Part III Court and Administrative Proceedings

Name of court (if other than a court proceeding, identify the type of proceeding and name of agency)		Date proceeding initiated	
Address of court		Docket number of proceeding	
City or town, state, and ZIP code	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Place of other proceedings

Part IV Signature

I certify that I have the authority to execute this notice concerning fiduciary relationship on behalf of the taxpayer.

Please Sign Here	<p>_____</p> <p>Fiduciary's signature</p>
	<p>_____</p> <p>Title, if applicable</p>
	<p>_____</p> <p>Date</p>

Furnished Form 8 is reserved.

FURNISHED FORM 9—TAX INFORMATION AUTHORIZATION

Form 8821 (Rev. March 2015) Department of the Treasury Internal Revenue Service

Tax Information Authorization Information about Form 8821 and its instructions is at www.irs.gov/form8821. Do not sign this form unless all applicable lines have been completed. Do not use Form 8821 to request copies of your tax returns or to authorize someone to represent you.

OMB No. 1545-1185 For IRS Use Only Received by: Name Telephone Function Date

1 Taxpayer information. Taxpayer must sign and date this form on line 7. Taxpayer name and address Taxpayer identification number(s) Daytime telephone number Plan number (if applicable)

2 Appointee. If you wish to name more than one appointee, attach a list to this form. Check here if a list of additional appointees is attached. Name and address CAF No. PTIN Telephone No. Fax No. Check if new: Address Telephone No. Fax No.

3 Tax Information. Appointee is authorized to inspect and/or receive confidential tax information for the type of tax, forms, periods, and specific matters you list below. See the line 3 instructions. Table with columns (a) Type of Tax Information, (b) Tax Form Number, (c) Year(s) or Period(s), (d) Specific Tax Matters.

4 Specific use not recorded on Centralized Authorization File (CAF). 5 Disclosure of tax information (you must check a box on line 5a or 5b unless the box on line 4 is checked). 6 Retention/revocation of prior tax information authorizations. To revoke a prior tax information authorization(s) without submitting a new authorization, see the line 6 instructions.

7 Signature of taxpayer. If signed by a corporate officer, partner, guardian, executor, receiver, administrator, trustee, or party other than the taxpayer, I certify that I have the authority to execute this form with respect to the tax matters and tax periods shown on line 3 above.

IF NOT COMPLETE, SIGNED, AND DATED, THIS TAX INFORMATION AUTHORIZATION WILL BE RETURNED. DO NOT SIGN THIS FORM IF IT IS BLANK OR INCOMPLETE.

Signature Date Print Name Title (if applicable)

[Reserved]

FURNISHED FORM 10—PERMIT ATTORNEY TO DEAL DIRECTLY WITH IRS

Form **2848**
(Rev. Dec. 2015)
Department of the Treasury
Internal Revenue Service

Power of Attorney and Declaration of Representative

OMB No. 1545-0150

For IRS Use Only

Received by: _____

Name _____

Telephone _____

Function _____

Date / /

► Information about Form 2848 and its instructions is at www.irs.gov/form2848.

Part I Power of Attorney

Caution: A separate Form 2848 must be completed for each taxpayer. Form 2848 will not be honored for any purpose other than representation before the IRS.

1 Taxpayer information. Taxpayer must sign and date this form on page 2, line 7.

Taxpayer name and address		Taxpayer identification number(s)	
		Daytime telephone number	Plan number (if applicable)

hereby appoints the following representative(s) as attorney(s)-in-fact:

2 Representative(s) must sign and date this form on page 2, Part II.

Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
Check if to be sent copies of notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
Check if to be sent copies of notices and communications <input type="checkbox"/>	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
(Note: IRS sends notices and communications to only two representatives.)	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

Name and address	CAF No. _____ PTIN _____ Telephone No. _____ Fax No. _____
(Note: IRS sends notices and communications to only two representatives.)	Check if new: Address <input type="checkbox"/> Telephone No. <input type="checkbox"/> Fax No. <input type="checkbox"/>

to represent the taxpayer before the Internal Revenue Service and perform the following acts:

3 Acts authorized (you are required to complete this line 3). With the exception of the acts described in line 5b, I authorize my representative(s) to receive and inspect my confidential tax information and to perform acts that I can perform with respect to the tax matters described below. For example, my representative(s) shall have the authority to sign any agreements, consents, or similar documents (see instructions for line 5a for authorizing a representative to sign a return).

Description of Matter (Income, Employment, Payroll, Excise, Estate, Gift, Whistleblower, Practitioner Discipline, PLR, FOIA, Civil Penalty, Sec. 5000A Shared Responsibility Payment, Sec. 4980H Shared Responsibility Payment, etc.) (see instructions)	Tax Form Number (1040, 941, 720, etc.) (if applicable)	Year(s) or Period(s) (if applicable) (see instructions)

4 Specific use not recorded on Centralized Authorization File (CAF). If the power of attorney is for a specific use not recorded on CAF, check this box. See the instructions for **Line 4. Specific Use Not Recorded on CAF**

5a Additional acts authorized. In addition to the acts listed on line 3 above, I authorize my representative(s) to perform the following acts (see instructions for line 5a for more information):

Authorize disclosure to third parties; Substitute or add representative(s); Sign a return; _____

Other acts authorized: _____

For Privacy Act and Paperwork Reduction Act Notice, see the instructions.

Cat. No. 11980J

Form **2848** (Rev. 12-2015)

- b Specific acts not authorized.** My representative(s) is (are) not authorized to endorse or otherwise negotiate any check (including directing or accepting payment by any means, electronic or otherwise, into an account owned or controlled by the representative(s) or any firm or other entity with whom the representative(s) is (are) associated) issued by the government in respect of a federal tax liability.
List any other specific deletions to the acts otherwise authorized in this power of attorney (see instructions for line 5b): _____

- 6 Retention/revocation of prior power(s) of attorney.** The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same matters and years or periods covered by this document. If you **do not** want to revoke a prior power of attorney, check here **YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.**

- 7 Signature of taxpayer.** If a tax matter concerns a year in which a joint return was filed, each spouse must file a separate power of attorney even if they are appointing the same representative(s). If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the legal authority to execute this form on behalf of the taxpayer.
▶ IF NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THIS POWER OF ATTORNEY TO THE TAXPAYER.

Signature	Date	Title (if applicable)
Print Name	Print name of taxpayer from line 1 if other than individual	

Part II Declaration of Representative

Under penalties of perjury, by my signature below I declare that:

- I am not currently suspended or disbarred from practice, or ineligible for practice, before the Internal Revenue Service;
- I am subject to regulations contained in Circular 230 (31 CFR, Subtitle A, Part 10), as amended, governing practice before the Internal Revenue Service;
- I am authorized to represent the taxpayer identified in Part I for the matter(s) specified there; and
- I am one of the following:
 - a Attorney—a member in good standing of the bar of the highest court of the jurisdiction shown below.
 - b Certified Public Accountant—licensed to practice as a certified public accountant is active in the jurisdiction shown below.
 - c Enrolled Agent—enrolled as an agent by the Internal Revenue Service per the requirements of Circular 230.
 - d Officer—a bona fide officer of the taxpayer organization.
 - e Full-Time Employee—a full-time employee of the taxpayer.
 - f Family Member—a member of the taxpayer’s immediate family (spouse, parent, child, grandparent, grandchild, step-parent, step-child, brother, or sister).
 - g Enrolled Actuary—enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Internal Revenue Service is limited by section 10.3(d) of Circular 230).
 - h Unenrolled Return Preparer—Authority to practice before the IRS is limited. An unenrolled return preparer may represent, provided the preparer (1) prepared and signed the return or claim for refund (or prepared if there is no signature space on the form); (2) was eligible to sign the return or claim for refund; (3) has a valid PTIN; and (4) possesses the required Annual Filing Season Program Record of Completion(s). **See Special Rules and Requirements for Unenrolled Return Preparers in the instructions for additional information.**
 - k Student Attorney or CPA—receives permission to represent taxpayers before the IRS by virtue of his/her status as a law, business, or accounting student working in an LITC or STCP. See instructions for Part II for additional information and requirements.
 - r Enrolled Retirement Plan Agent—enrolled as a retirement plan agent under the requirements of Circular 230 (the authority to practice before the Internal Revenue Service is limited by section 10.3(e)).

▶ IF THIS DECLARATION OF REPRESENTATIVE IS NOT COMPLETED, SIGNED, AND DATED, THE IRS WILL RETURN THE POWER OF ATTORNEY. REPRESENTATIVES MUST SIGN IN THE ORDER LISTED IN PART I, LINE 2.

Note: For designations d-f, enter your title, position, or relationship to the taxpayer in the "Licensing jurisdiction" column.

Designation— Insert above letter (a-r).	Licensing jurisdiction (State) or other licensing authority (if applicable).	Bar, license, certification, registration, or enrollment number (if applicable).	Signature	Date

FURNISHED FORM 11—APPLY FOR EXTENSION OF TIME TO FILE RETURN OR PAY ESTATE TAX

Form 4768

(Rev. August 2012) Department of the Treasury Internal Revenue Service

Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes

OMB No. 1545-0181

Part I Identification

Form with fields: Decedent's first name and middle initial, Decedent's last name, Date of death, Name of executor, Name of application filer, Decedent's social security number, Address of executor, Estate tax return due date, City, state, and ZIP code, Domicile of decedent, Daytime telephone number.

Part II Extension of Time To File Form 706, 706-A, 706-D, 706-NA, or 706-QDT (Section 6081)

Automatic Extension

If you are applying for an automatic 6-month extension of time to file:

- Form 706, check here
Form 706-A, 706-D, 706-NA, or 706-QDT, indicate the form by checking the appropriate box below.
Form 706-A, Form 706-D, Form 706-NA, Form 706-QDT

Additional Extension

If you are an executor out of the country applying for an extension of time to file in excess of 6 months, check here. Also you must attach a statement explaining in detail why it is impossible or impractical to file Form 706 by the due date. See instructions.

Part III Extension of Time To Pay (Section 6161)

You must attach your written statement to explain in detail why it is impossible or impractical to pay the full amount of the estate (or GST) tax by the return due date. If the taxes cannot be determined because the size of the gross estate is unascertainable, check here and enter "-0-" or other appropriate amount on Part IV, line 3. You must attach an explanation.

- If this request is for the tax that will be or was due with the filing of Form 706, check here
If this request is for the tax that will be due as a result of an amended or supplemental Form 706, check here
If this request is for additional tax due as a result of an examination of your Form 706, check here
If this request is for a section 6166 installment payment, check here

Part IV Payment To Accompany Extension Request

Table with 3 rows: 1 Amount of estate and GST taxes estimated to be due, 2 Amount of cash shortage (complete Part III), 3 Balance due (subtract line 2 from line 1)

Signature and Verification

If filed by executor—Under penalties of perjury, I declare that I am an executor of the estate of the above-named decedent and that to the best of my knowledge and belief, the statements made herein and attached are true and correct.

Executor's signature Title Date

If filed by someone other than the executor—Under penalties of perjury, I declare that to the best of my knowledge and belief, the statements made herein and attached are true and correct, that I am authorized by an executor to file this application, and that I am (check box(es) that apply(ies)):

- A member in good standing of the bar of the highest court of (specify jurisdiction)
A certified public accountant duly qualified to practice in (specify jurisdiction)
A person enrolled to practice before the Internal Revenue Service.
A duly authorized agent holding a power of attorney. (The power of attorney need not be submitted unless requested.)

Filer's signature (other than the executor) Date

For Paperwork Reduction Act Notice, see separate instructions. Cat. No. 41984P Form 4768 (Rev. 8-2012)

Form 4768 (Rev. 8-2012)

Page 2

Decedent's first name and middle initial	Decedent's last name	Decedent's social security number
--	----------------------	-----------------------------------

Part V Notice to Applicant—To be completed by the Internal Revenue Service

Note. If applying for an extension of time to pay, file this page in duplicate.

The application for extension of time to pay (Part III) is:

- Approved
- Not approved because (see instructions for your appeal rights)

.....

.....

.....

.....

.....

- Other
-
-
-

Internal Revenue Service official	Address	Date
Name (print)		
Title (print)		
Signature:		

Form 4768 (Rev. 8-2012)

Furnished Form 12 is reserved.

FURNISHED FORM 13—CHANGE OF ADDRESS TO IRS

Form 8822 (Rev. October 2015) Department of the Treasury Internal Revenue Service

Change of Address (For Individual, Gift, Estate, or Generation-Skipping Transfer Tax Returns) Please type or print. See instructions on back. Do not attach this form to your return. Information about Form 8822 is available at www.irs.gov/form8822.

OMB No. 1545-1163

Part I Complete This Part To Change Your Home Mailing Address

Check all boxes this change affects:

1 Individual income tax returns (Forms 1040, 1040A, 1040EZ, 1040NR, etc.) If your last return was a joint return and you are now establishing a residence separate from the spouse with whom you filed that return, check here

2 Gift, estate, or generation-skipping transfer tax returns (Forms 706, 709, etc.) For Forms 706 and 706-NA, enter the decedent's name and social security number below.

Decedent's name Social security number

3a Your name (first name, initial, and last name) 3b Your social security number

4a Spouse's name (first name, initial, and last name) 4b Spouse's social security number

5a Your prior name(s). See instructions.

5b Spouse's prior name(s). See instructions.

6a Your old address (no., street, apt. no., city or town, state, and ZIP code). If a P.O. box, see instructions. If foreign address, also complete spaces below, see instructions.

Foreign country name Foreign province/county Foreign postal code

6b Spouse's old address, if different from line 6a (no., street, apt. no., city or town, state, and ZIP code). If a P.O. box, see instructions. If foreign address, also complete spaces below, see instructions.

Foreign country name Foreign province/county Foreign postal code

7 New address (no., street, apt. no., city or town, state, and ZIP code). If a P.O. box, see instructions. If foreign address, also complete spaces below, see instructions.

Foreign country name Foreign province/county Foreign postal code

Part II Signature

Daytime telephone number of person to contact (optional)

Sign Here Your signature Date Signature of representative, executor, administrator/if applicable Date Title

For Privacy Act and Paperwork Reduction Act Notice, see back of form.

Cat. No. 12081V

Form 8822 (Rev. 10-2015)

Furnished Form 14 is reserved.

[Reserved]

TEXAS PROBATE SYSTEM

Fourth Edition

Volume 2



Austin 2014

The State Bar of Texas, through its TexasBarBooks Department, publishes practice books prepared and edited by knowledgeable authors to give practicing lawyers and judges as much assistance as possible. The competence of the authors ensures outstanding professional products, but, of course, neither the State Bar of Texas, the editors, nor the authors make either express or implied warranties in regard to the use or freedom from error of this publication. In the use or modification of these materials, each lawyer must depend on his or her own expertise and knowledge of the law.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that (1) this written material was not intended or written by the author(s) to be used for the purpose of avoiding federal penalties that may be imposed on a taxpayer; (2) this written material cannot be used by a taxpayer for the purpose of avoiding penalties that may be imposed on the taxpayer; (3) this written material cannot be used in promoting, marketing, or recommending to another party any tax-related transaction or matter; and (4) a taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

The use of the masculine gender in parts of this manual is purely for literary convenience and should, of course, be understood to include the feminine gender as well.

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- 132 Of notice under Estates Code, section 258.051

[Reserved]

FORM 6—APPLICATION FOR PROBATE OF WILL (MT)

This is a combination form that is not to be completely copied; rather, appropriate alternative paragraphs are to be selected. Each application *must* have paragraphs that are numbered 1 through 13, *but* only one of each numbered paragraph is to be used.

Leave blanks in the caption unless the docket number and court assignment appear on prior pleadings or orders of the court.

If the will cannot be produced in court, supplement this application as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

Application for Probate of [Will/Will and Codicil] as a Muniment of Title

2.29 (“Applicant”) furnishes the following information to the Court for the probate of the [will/will and codicil] of **1.01** (“Decedent”) as a muniment of title:

1. Applicant is an individual interested in this estate, domiciled in and residing at **2.31**, **2.32**, **2.33** County, [state].
2. Decedent died on **1.07** in **1.09**, **1.09** County, **1.09**, at the age of **1.10** years.

Use the following as ¶3 if the answer to 6.08 of MIL is *yes*; if the answer is *no*, refer to Special Instruction 15 and substitute the appropriate paragraph.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.
4. Decedent owned [personal/real and personal] property described generally as **6.09** [e.g., home, cash, securities, automobiles, livestock, household goods, personal effects] of a probable value in excess of **\$6.10**.

5. Decedent left a valid will (“Will”) dated **2.02**, which was never revoked and [is filed herewith/was previously delivered to the clerk of this Court]. [**Include if applicable:** Decedent left a valid codicil (“Codicil”) dated **2.17**, which was never revoked and [is filed herewith/was previously delivered to the clerk of this Court].]

¶6—There are three separate paragraphs, but only the first two are numbered. Refer to 6.11 of MIL. Use the first alternative if 6.11C is applicable; use the second alternative if 6.11B is applicable. Then refer to 6.12 of MIL and, if the answer is *yes*, add the unnumbered paragraph; if the answer is *no*, omit the unnumbered paragraph. If there is a codicil, information should be added here, substituting “Codicil” for “Will.”

6. The subscribing witnesses to the Will are **2.11** [**list all such witnesses**].

Or

6. The Will was wholly in the handwriting of Decedent, and Decedent’s signature is subscribed thereto.

Include the following paragraph if applicable.

The Will was made self-proved in the manner prescribed by law.

¶7—Refer to 6.13 of MIL. Use the first alternative if 6.13B is applicable; use the second alternative if 6.13E is applicable.

7. No child or children were born to or adopted by Decedent after the date of the Will.

Or

7. After the date of the Will **3.52**, who survived Decedent, [was/were] [born to/adopted by] Decedent.

¶8—Refer to 6.14 of MIL. Use the first alternative if 6.14A is applicable or if 6.14B is applicable and the answer to 3.25B is *no*; use the second alternative if 6.14B is applicable and the answer to 3.25B is *yes*. Repeat the second alternative if required for additional dissolved marriages.

8. After the date of Decedent's Will, no marriage of Decedent was dissolved.

Or

8. On or about **3.25A**, which date is after the date of Decedent's Will, Decedent's marriage to **3.21** was dissolved.

9. There are no unpaid debts owed by Decedent that are not secured by liens on real estate, and there is no necessity for any administration of this estate.

¶10—Refer to 3.53 of MIL. If the answer is *no*, use the first alternative; if the answer is *yes*, use the second alternative. Repeat the second alternative if required for multiple devisees.

10. The [Will/Will and Codicil] did not name either the State of Texas, a governmental agency of the State of Texas, or a charitable organization as a devisee.

Or

10. The [Will/Codicil] named **3.58**, **3.61C**, [the State of Texas/a governmental agency of the State of Texas/a charitable organization], as a devisee.

¶11—Refer to 21.34 and 21.35 of MIL. If the answer to 21.34 is *no*, use the first alternative; if the answer to 21.35 is *yes*, use the second alternative.

11. Decedent did not apply for and receive Medicaid benefits on or after March 1, 2005.

Or

11. The Texas Department of Aging and Disability Services has waived any claim against Decedent's estate.

¶12—Refer to 2.45 of MIL. Use the first alternative if an executor was named in D's will; use the second alternative if no executor was named in D's will.

12. 2.45, who resides in [state], was named in the [Will/Codicil] to be executor. The physical address at which service may be had is [address].

Or

12. No one was named in the [Will/Will or Codicil] to be executor.

¶13—Use the first alternative if four years have not elapsed since D died. Use the second alternative if filing will [and codicil] for probate more than four years after date of D's death.

13. Four years have not elapsed since Decedent's death.

Or

13. Although it has been more than four years since Decedent died, Applicant is not in default in failing to present the Will for probate within four years of Decedent's death. The names and physical addresses where service can be had of all of Decedent's heirs, the relationship of each heir to Decedent, and whether each heir is an adult or a minor are as follows:

<i>Name</i>	<i>Address</i>	<i>Relationship</i>	<i>Adult/Minor</i>
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¶14 is recommended but optional.

14. Applicant asks the Court not to require Applicant to file a sworn statement stating specifically the terms of the [Will/Will and Codicil] that have been fulfilled and the terms of the [Will/Will and Codicil] that have been unfulfilled.

Applicant prays that citation issue as required by law to all persons interested in this estate; that the [Will/Will and Codicil] be admitted to probate as a muniment of title and without any administration thereon; and that all other orders be signed as the Court may deem proper.

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

[Reserved]

FORM 22—INVENTORY, APPRAISEMENT, AND LIST OF CLAIMS

The list of claims is a listing of the claims owed *to* the estate and not the claims owed *by* the estate.

Note: This form of inventory, appraisal, and list of claims illustrates two formats in which the required information may be presented. See Special Instruction 23 regarding the choice between using schedules or including the information in the body of the form.

[Caption. See Special Instruction 87.]

Inventory, Appraisal, and List of Claims

Date of Death: **1.07**

The following is a full, true, and complete inventory and appraisal of all real property located in Texas and all personal property regardless of where located, together with a list of claims due and owing to this estate as of the date of death, that have come to the possession or knowledge of the undersigned.

[All the items listed were the separate property of the decedent./All the items listed were the community property of the decedent and the decedent's spouse./All the items listed were separate or community property as indicated.]

Inventory and Appraisal

Select one of the following formats.

Real Property (See Schedule A)	\$[amount]
Stocks and Bonds (See Schedule B)	\$[amount]
Mortgages, Notes, and Cash (See Schedule C)	\$[amount]
Insurance Payable to Estate (See Schedule D)	\$[amount]

Miscellaneous Property (See Schedule F)		\$[amount]
	Total	\$[amount]

Or

Community Property *Value*

Examples of some of the most common assets are listed below. For additional assets, see Index to Special Instructions.

1. *Real Property*

See Special Instruction 26 for further information and additional examples. Only real property located in Texas is included on the inventory. A deeded timeshare is real property. See Property Code, Section 221.002(24). A right-to-use timeshare is not. Texas Attorney General Opinion Number MW-407. A right-to-use timeshare should be listed among Miscellaneous Property, even if located in another state or country.

Parcel #1

LEGAL DESCRIPTION:

House and lot, 6544 Valley, Houston, Texas, residence of Decedent, described as Lot 6, Block 7, Champions West, an addition in Harris County, Texas, per Harris County Appraisal District.

Land: \$15,000.00

Improvements: \$70,000.00

Total value of asset: \$85,000.00

2. *Stocks and Bonds*

See Special Instruction 28 for further information and additional examples.

Account #1

LEGAL DESCRIPTION:

2,119 shares, Metropolitan Industries Incorporated, common, NYSE (CUSIP No. 442161 10 5). Unit value \$30.00. Securities account number XXX3334 styled "Harry D. Green" at Edward Jones.

Total value of asset: \$63,570.00

Dividend of \$.30 declared on October 28, 2007, payable on December 1, 2010, to stockholders of record on November 15, 2010.

Total value of dividend: \$30.00

3. *Mortgages, Notes, and Cash*

See Special Instruction 20 for further information and additional examples.

Account #1

Checking account number XX3-333 styled "Harry D. or Mary L. Green" at First National Bank of Bellaire, Texas. Balance per bank on date of death \$1,202.95 less outstanding checks totaling \$362.15. Adjusted balance.

Total value of asset: \$841.00

Account #2

Savings account number X-X3702 styled "Mary L. Green" at Dallas Federal Savings Association, Dallas, Texas. Balance per association on date of death including accrued interest of \$12.00.

Total value of asset: \$7,462.00

Account #3

Certificate of deposit number XX1559 in the name of "Harry David Green" issued by Champions Bank, Austin, Texas. Face amount \$10,000.00. Accrued interest to date of death \$663.65.

Total value of asset: \$10,664.00

4. *Insurance Payable to Estate*

See Special Instruction 7 for further information and additional examples.

Account #1

American General Life Insurance Company, ordinary life insurance policy number XX4322 insuring life of Decedent; beneficiary Estate of Harry D. Green; face amount \$75,000. Net proceeds.

Total value of asset: \$75,000.00

5. *Miscellaneous Property*

See Special Instructions 34 and 35 for further information and additional examples.

Item #1

Household goods, furniture, furnishings, clothing, and personal items.

Total value of asset: \$1,000.00

See Special Instruction 14 for further information and additional examples. IRAs are generally nonprobate assets.

Item #2

Paid to D's estate

IRA Account XX9325, Prudent Bank of Houston, Texas, in the name of Harry D. Green. Beneficiary is Decedent's estate.

Total value of asset: \$13,206.00

Item #3

IRA of surviving spouse

IRA Account XX6325, Prudent Bank of Houston, Texas, in the name of Mary L. Green. Beneficiary is Harry D. Green, Decedent.

Total value of asset: \$4,337.00

See Special Instruction 32 for further information and additional examples.

Item #4

Description: 2006 Oldsmobile four-door sedan,
VIN# XXXXXXXXXXXXXXX0000.

Total value of asset: \$935.00

Item #5

Personal loan to Ronald L. Smith, residing at 122 Main St., Houston, Texas, on January 1, 2005. 0% interest rate. Due on January 1, 2015.

Total value of asset: \$5,000.00

Total: \$267,045.00

Less surviving spouse share: <\$133,522.50>

Community Property: \$133,522.50

Separate Property

Value

1. *Real Property*

See Special Instruction 26 for additional examples.

Parcel #1

.0051735 royalty interest in 80 acres of land, part of Addie Jo Taylor Gas Unit No. 1, Duncan Field Wharton County, Texas. Robert Massey, Operator, D/N 5195-04-01.

Total value of asset: \$1,450.00

Separate Property: \$1,450.00

Total Community and Separate Property: \$134,972.50

Continue with the following.

List of Claims

There are no claims due or owing to the estate other than those shown on the foregoing inventory and appraisal.

Include the following paragraph unless affidavit in lieu of inventory will be filed.

The foregoing Inventory, Appraisal, and List of Claims should be approved and ordered entered of record.

Continue with the following.

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

Insert the following affidavit for each individual.

STATE OF TEXAS)(
COUNTY OF _____)(

I, **2.29 or 2.45 or 2.76 or 2.91**, having been duly sworn, hereby state on my oath that the foregoing Inventory, Appraisal, and List of Claims is a true and complete statement of all the property and claims of the estate that have come to my knowledge.

2.29 or 2.45 or 2.76 or 2.91, 2.85

SUBSCRIBED AND SWORN TO BEFORE ME by **2.29 or 2.45 or 2.76 or 2.91** on

_____.

Notary Public, State of Texas

Insert the following affidavit for a corporate fiduciary.

STATE OF TEXAS)
)
COUNTY OF _____)
)

I, **2.61**, having been duly sworn, hereby state on oath that I am a **2.63** of **2.45**, that I have been fully authorized to act herein for and on behalf of said corporate fiduciary, and that the foregoing Inventory, Appraisal, and List of Claims is a true and complete statement of all the property and claims of the estate that have come to the knowledge of said corporate fiduciary.

2.45, 2.85

By _____
2.61, 2.63

SUBSCRIBED AND SWORN TO BEFORE ME by **2.61** on _____

_____.

Notary Public, State of Texas

Include the following unless affidavit in lieu of inventory will be filed.

Order

The foregoing Inventory, Appraisal, and List of Claims of the above estate having been filed and presented, and the Court having considered and examined the same and being satisfied that it should be approved, and there having been no objections made thereto, it is in all respects APPROVED and ORDERED entered of record.

SIGNED on _____.

Judge Presiding

[Reserved]

FORM 31—PROOF OF DEATH AND OTHER FACTS (MT)

This is a combination form that is not to be completely copied; rather, appropriate alternative paragraphs are to be selected. Each Proof of Death and Other Facts *must* have paragraphs that are numbered 1 through 8, *but* only one of each numbered paragraph is to be used.

If the will cannot be produced in court, supplement this proof as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

Proof of Death and Other Facts

On this day, **2.29 or 2.36 or 3.83** (“Affiant”) personally appeared in open court and, after being duly sworn, stated the following:

¶1—Use the first alternative if filing will (and codicil) for probate within four years of D’s death; use the second alternative if filing will (and codicil) for probate more than four years after date of D’s death.

1. **6.02** (“Decedent”) died on **1.07** in **1.09**, **1.09** County, **1.09**, at the age of **1.10** years, and four years have not elapsed since the date of Decedent’s death.

Or

1. **6.02** (“Decedent”) died on **1.07** in **1.09**, **1.09** County, **1.09**, at the age of **1.10** years. Although it has been more than four years since Decedent’s death, Applicant is not in default in failing to present Decedent’s [will/will and codicil] for probate within four years of Decedent’s death.

Use the following as ¶2 if the answer to 6.08 of MIL is yes; if the answer is *no*, refer to Special Instruction 15 and substitute the appropriate paragraph.

2. Decedent was domiciled and had a fixed place of residence in this county at the date of death.

3. The document dated **2.02**, now shown to me and which purports to be Decedent's will ("Will"), was never revoked as far as I know. [Include if D had a codicil: The document dated **2.17**, now shown to me and which purports to be Decedent's codicil ("Codicil"), was never revoked as far as I know.]

¶4—Refer to 6.13 of MIL. Use the first alternative if 6.13B is applicable; use the second alternative if 6.13E is applicable.

4. No child or children were born to or adopted by Decedent after the date of the Will.

Or

4. After the date of the Will **3.52**, who survived Decedent, [was/were] [born to/ adopted by] Decedent.

¶5—Refer to 6.14 of MIL. Use the first alternative if 6.14A is applicable or if 6.14B is applicable and the answer to 3.25B is *no*; use the second alternative if 6.14B is applicable and the answer to 3.25B is *yes*. Repeat the second alternative if required for additional dissolved marriages.

5. After the date of Decedent's Will, no marriage of Decedent was dissolved.

Or

5. On or about **3.25A**, which date is after the date of Decedent's Will, Decedent's marriage to **3.21** was dissolved.

¶6—Refer to 21.34 and 21.35 of MIL. If the answer to 21.34 is *no*, use the first alternative; if the answer to 21.35 is *yes*, use the second alternative.

6. Decedent did not apply for and receive Medicaid benefits on or after March 1, 2005.

Or

6. The Texas Department of Aging and Disability Services has waived any claim against Decedent's estate.

7. I have personal and full knowledge of the financial affairs of Decedent. There is no necessity for any administration of Decedent's estate, because there are no debts owed by Decedent that are not secured by liens on real estate.

8. Citation has been served and returned in the manner and for the length of time required by the Texas Estates Code.

SIGNED on _____.

2.29 or 2.36 or 3.83, Affiant
2.31 or 2.38 or 3.85
2.32 or 2.39 or 3.86

SUBSCRIBED AND SWORN TO BEFORE ME by 2.29 or 2.36 or 3.83 on

_____.

6.16
Clerk of the 6.03 Court of 6.04 County, Texas

By _____
Deputy

[Reserved]

FORM 32—ORDER ADMITTING WILL TO PROBATE (MT)

Note: An increasing number of judges are requiring practitioners to include other or additional language in the orders for their courts. Determine local practice and comply with their idiosyncratic terminology.

If the will could not be produced in court, supplement this order as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

Order Admitting [Will/Will and Codicil] to Probate as a Muniment of Title

On this day the Court heard the Application for Probate of [Will/Will and Codicil] as a Muniment of Title filed by **2.29** (“Applicant”) in the Estate of **6.02**, Deceased, (“Decedent”).

The Court heard the evidence and reviewed the will [**include if applicable:** , the codicil,] and the other documents filed herein and finds that the allegations contained in the application are true; that notice and citation have been given in the manner and for the length of time required by law; that Decedent is dead; that this Court has jurisdiction and venue of Decedent’s estate; that Decedent left a will (“Will”) dated **2.02**, [**include if applicable:** and a codicil (“Codicil”) dated **2.17**, each] executed with the formalities and solemnities and under the circumstances required by law to make a valid [will/will and codicil]; that on **2.02** Decedent had attained the age of eighteen years and was of sound mind; that the [Will was/Will and Codicil were] not revoked by Decedent; [**include only if filing will for probate more than four years after D’s death:** that Applicant was not in default in failing to present the [Will/Will and Codicil] for probate within four years of Decedent’s death and that the requirements of Texas Estates Code, Chapter 258, have been satisfied;] that no objection to or contest of the probate of the [Will/Will or Codicil] has been filed; that all the necessary proof required for the probate of the [Will/Will and Codicil] has been made; that the [Will is/Will and Codicil are] entitled to probate; that

[Decedent did not apply for and receive Medicaid benefits on or after March 1, 2005/the Texas Department of Aging and Disability Services has waived any claim against Decedent’s estate]; that there are no unpaid debts owing by the estate of Decedent other than those secured by liens on real estate; and that there is no necessity for administration of the estate.

It is ORDERED that the [Will is/Will and Codicil are] admitted to probate as a muniment of title only, and the clerk of this Court is ORDERED to record the [Will/Will and Codicil], together with the application, in the minutes of this Court, and this order shall constitute sufficient legal authority to all persons purchasing from or otherwise dealing with Decedent’s estate and to those persons owing any money, having custody of any property, or acting as registrar or transfer agent of any evidence of interest, indebtedness, property, or right belonging to Decedent’s estate, for payment or transfer by them, without liability, to the persons described in the [Will/Will and Codicil].

The Court waives the filing of a sworn affidavit stating specifically the terms of the [Will/Will and Codicil] that have been fulfilled and the terms of the [Will/Will and Codicil] that have been unfulfilled. It is ORDERED that, upon the payment of taxes, if any are due, this estate shall be dropped from the docket.

SIGNED on _____.

Judge Presiding

Add signature block at left margin. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

FORM 54—APPLICATION TO SET ASIDE EXEMPT PROPERTY

This is a combination form that is not to be completely copied; rather, appropriate paragraphs are to be selected, and only one of each numbered paragraph is to be used.

[Caption. See Special Instruction 87.]

Application to Set Aside Exempt Property

2.45 or 2.76 or 2.91, 2.85 of this estate, (“Applicant”) furnishes the following information to the Court:

¶1—Refer to 6.88 and 6.89 of MIL. Use the first alternative if 6.88 is applicable; use the second alternative if 6.89 is applicable.

1. The Inventory, Appraisalment, and List of Claims of this estate has been approved.

Or

1. The Affidavit in Lieu of Inventory, Appraisalment, and List of Claims of this estate has been filed.

¶2—If D’s surviving spouse is *not* the parent of all of the children or if some children are adults and some are minors, appropriate changes must be made.

2. **6.02** (“Decedent”) was survived by **3.03** (“Decedent’s Surviving Spouse”)/**3.37**, [child/children]/**3.03** (“Decedent’s Surviving Spouse”) and by **3.37**, [child/children]]. [Include if D’s surviving spouse was the parent of the child[ren]: Decedent’s Surviving Spouse is the parent of the [child/children].]

Include ¶3 through ¶5 if D left a homestead and is survived by a spouse or minor child.

3. The following real property (“the Homestead”) belonging to the estate is exempt property described by Section 41.001 of the Texas Property Code:

Give the legal description of the homestead.

4. The Homestead should be set aside for the use and benefit of [Decedent’s Surviving Spouse/**3.37**, Decedent’s minor [child/children],/Decedent’s Surviving Spouse and **3.37**, Decedent’s minor[child/children],] pursuant to Section 353.051(a)(1) of the Texas Estates Code.

5. The Homestead should be delivered to [Decedent’s Surviving Spouse/the guardian of Decedent’s minor [child/children]].

6. The following personal property (“the Other Exempt Property”) belonging to the estate is exempt property described by Section 42.002(a) of the Texas Property Code:

Give a general description of the exempt personal property.

7. The Other Exempt Property should be set aside for the use and benefit of [**include as applicable:** Decedent’s Surviving Spouse/[and]/**3.37**, Decedent’s minor [child/children],/[and]/**3.37**, Decedent’s unmarried adult [child/children] remaining with Decedent’s family,/[and]/**3.37**, other adult incapacitated [child/children] of Decedent,] pursuant to Section 353.051(a)(2) of the Texas Estates Code.

8. The Other Exempt Property should be delivered to [**include as applicable:** Decedent’s Surviving Spouse/[and]/the guardian of Decedent’s minor [child/children]/[and]/Decedent’s unmarried adult [child/children] remaining with the family/[and]/the guardian of Decedent’s adult incapacitated [child/children] or other appropriate person as determined by the Court].

Applicant requests the Court to enter an order setting aside the Homestead and Other Exempt Property for the use and benefit of Decedent’s [Surviving Spouse/[child/children]/Surviving Spouse and [child/children].

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

Order

On this day the Court heard the foregoing Application to Set Aside Exempt Property, and the Court finds that the application is true and correct and should be granted.

Include the following two paragraphs if D left a homestead and surviving spouse and/or minor child.

It is ORDERED that the Homestead is hereby set aside for the use and benefit of Decedent's [Surviving Spouse/minor [child/children]/Surviving Spouse and minor [child/children]]:

Describe the homestead to be set aside.

It is ORDERED that the Homestead shall be delivered by the 2.85, without delay, to [Decedent's Surviving Spouse/the guardian of Decedent's minor [child/children]].

Continue with the following.

It is ORDERED that the Other Exempt Property is hereby set aside for the use and benefit of Decedent's [**include as applicable:** Surviving Spouse/[and]/minor [child/children]/[and]/unmarried adult [child/children] remaining with Decedent's family/[and]/adult incapacitated [child/children]]:

Describe the other exempt property to be set aside.

That Other Exempt Property shall be delivered by the 2.85, without delay, as follows:

Specify to whom the other exempt property is to be delivered.

SIGNED on _____.

Judge Presiding

FORM 82—SMALL ESTATE AFFIDAVIT AND ORDER

This affidavit *must* be signed and sworn to by all distributees who have legal capacity, by the natural guardian or next of kin of any minor distributee, and by the guardian of any other incapacitated distributee.

This is a combination form that is not to be completely copied; rather, appropriate paragraphs are to be selected, and only one of each numbered paragraph is to be used. In the case of paragraph 5, certain modifications may be necessary.

Leave blanks in the caption unless the docket number and court assignment appear on prior pleadings or orders of the court.

[Caption. See Special Instruction 87.]

Small Estate Affidavit and Order

STATE OF TEXAS)(
COUNTY OF 6.04)(

Each of the undersigned ("Distributees"), being first duly sworn, states on oath and furnishes the following information to the Court:

- 1. I have personal knowledge of all facts set forth herein, and they are true and correct.
2. 6.02 ("Decedent") died on 1.07 in 1.09, 1.09 County, 1.09. To the best of my knowledge, Decedent died intestate.
3. Decedent's domicile was in 1.11 County, Texas, where the principal part of Decedent's property at the time of death was situated.

¶4—Refer to 3.01 of MIL. Use the first alternative if D was married; use the second alternative if D was not.

- 4. Decedent was married to and was survived by 3.03 on the date of Decedent's death.

Or

4. Decedent was not married on the date of Decedent's death.

¶5—Set forth a complete listing of children born to or adopted by D. Be sure to include references to the children who predeceased D and account for their descendants, if any. Refer to 3.35 of MIL. Use the first alternative if the answer is *no*; use the second alternative if the answer is *yes and* D was survived by an only child; use the third alternative if the answer is *yes and* D's only child predeceased D; use the fourth alternative if the answer is *yes and* D had two or more children. Some modification of the fourth alternative may be necessary.

5. No child was born to or adopted by Decedent.

Or

5. Only one child, **3.37**, who survived Decedent, was born to or adopted by Decedent.

Or

5. Only one child, **3.37**, who predeceased Decedent, was born to or adopted by Decedent. No children were born to or adopted by this child.

Or

5. Only **3.36** children, **3.37**, who survived Decedent, were born to or adopted by Decedent.

If there is no surviving spouse, include ¶6, selecting the applicable sentences, if seeking to exclude exempt property from the value of the estate assets or to qualify for transfer of title to homestead under the affidavit.

6. [**3.37** [is a minor child/are minor children] of Decedent./**3.37** [is an unmarried adult child/are unmarried adult children] of Decedent remaining with Decedent's family./**3.37** [is an incapacitated adult child/are incapacitated adult children] of Decedent.]

7. No petition for the appointment of a personal representative is pending or has been granted for Decedent's estate.

8. More than thirty days have elapsed since the death of Decedent.

9. The value of the estate assets, exclusive of homestead and exempt property, does not exceed \$50,000, and the estate assets, excluding the homestead and exempt property, exceed the known liabilities of the estate, excluding any liabilities secured by homestead and exempt property. "Homestead" and "exempt property" mean only a homestead or other exempt property that would be eligible to be set aside under Section 353.051 of the Texas Estates Code if Decedent's estate were being administered.

10. The names and addresses of all the distributees, heirs, devisees, and assignees of the money or property of the estate of Decedent, and their right to receive the same, are as follows:

<i>Name</i>	<i>Address</i>	<i>Relationship to Decedent</i>	<i>Share of Estate</i>
-------------	----------------	---------------------------------	------------------------

Set forth the relevant family history facts concerning heirship that show the rights of the distributees to receive D's money or property. This should include a complete listing of such persons, their residences, their rights to receive property, their relationship to D, whether they are heirs, devisees, or assignees, and their share of the estate. If any are minors or incapacitated persons, so state. See 3.03, 3.37, 3.58, and 3.72 of MIL.

11. The known assets and liabilities of Decedent's estate are as follows:

Assets

Set forth a complete description of each item of property with estimated values and encumbrances. Indicate whether separate or community property and whether or not eligible. See 7.0-18.0 of MIL inclusive. If D's homestead is included in the listing, be sure to specify that it was D's homestead. "Eligible" means property eligible to be set aside under Estates Code, Section 353.051, if D's estate were being administered. The homestead is not eligible unless D was survived by a spouse or minor child. Estates Code, Section 353.051(a)(1). Other exempt property may be eligible if D was survived by a spouse, minor child, unmarried adult child remaining with D's family, or adult child who is incapacitated. Estates Code, Section 353.051(a)(2).

Liabilities

Creditor

Amount of Liability

Set forth a complete listing and description of each debt. See 21.0 of MIL.

12. Distributees pray that this affidavit and application be approved by the Court and recorded in the Small Estate Records and that the Clerk issue certified copies thereof, in order to allow Distributees to present the same to persons owing money to the estate, having custody or possession of property of the estate, or acting as registrar, fiduciary, or transfer agent of anyone having evidences of money, property, or other right belonging to the estate in order for those persons to pay, deliver, issue, or transfer the property.

Repeat the following signature line and jurat for each distributee who is not a minor or incapacitated.

[Name of distributee], Distributee

SUBSCRIBED AND SWORN TO BEFORE ME by [name of distributee] on _____.

Notary Public, State of Texas

Repeat the following signature block and jurat for each distributee who is a minor. See 3.37 and 3.43B of MIL if minor distributee is D's child.

[Name of minor distributee], Distributee

By _____
[Name], [natural guardian/next of kin]

SUBSCRIBED AND SWORN TO BEFORE ME by [name], [natural guardian/next of kin] of [name of minor distributee], Distributee, on _____.

Notary Public, State of Texas

Repeat the following signature block and jurat for each distributee who is an incapacitated person. See 3.37 and 3.43B of MIL if incapacitated distributee is D's child.

[Name of incapacitated distributee], Distributee

By _____
[Name of guardian], guardian

SUBSCRIBED AND SWORN TO BEFORE ME by [name of guardian], guardian of [name of incapacitated distributee], Distributee, on _____.

Notary Public, State of Texas

Repeat the following paragraph, signature line, and jurat for each of the two disinterested witnesses.

The undersigned witness, being first duly sworn, states on oath that:

I have no financial or beneficial interest in the estate of Decedent under the laws of descent and distribution or otherwise. I have read the document to which my affidavit is attached and have personal knowledge of all matters set forth therein, and the facts therein set forth are true.

3.83, Witness

SUBSCRIBED AND SWORN TO BEFORE ME by 3.83 on

_____.

Notary Public, State of Texas

Add signature block at left margin. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

Order

On this day the Court considered the affidavit of the distributees of this estate. The Court finds that the above affidavit complies with the terms and provisions of the Texas Estates Code, that this Court has jurisdiction and venue, that this estate qualifies under the provisions of the Texas Estates Code as a small estate, that the appointment of a personal representative is not necessary, and that the affidavit should be approved.

It is ORDERED that the foregoing affidavit be and the same is hereby APPROVED and shall forthwith be recorded as an official public record under Chapter 194, Texas Local Government Code, that each of the distributees named therein is entitled to that portion of Decedent's estate as set forth in the affidavit, and that the clerk of this Court shall issue certified copies thereof to all persons entitled thereto.

SIGNED on _____.

Judge Presiding

**FORM 108—APPLICATION FOR INDEPENDENT ADMINISTRATION
OF INTESTATE ESTATE BY AGREEMENT (IBA)**

This is a combination form that is not to be completely copied; rather, appropriate alternative paragraphs are to be selected. Each application *must* have paragraphs that are numbered 1 through 12, *but* only one of each numbered paragraph is to be used.

Leave blanks in the caption unless the docket number and court assignment appear on prior pleadings or orders of the court.

Note: All heirs must be before the court by either (1) signing the application, (2) being personally served, (3) filing an answer, or (4) filing a waiver of citation.

[Caption. See Special Instruction 87.]

**Application for Independent Administration of Intestate Estate by
Agreement and Letters of Independent Administration under
Texas Estates Code, Section 401.002**

2.45 (“Applicant”) furnishes the following information to the Court concerning the Estate of **6.02**, Deceased, (“Decedent”) and for issuance of letters of independent administration to Applicant:

1. Applicant is an individual interested in this estate, domiciled in and residing at **2.47**, **2.48**, **2.52** County, [state], is entitled to letters of independent administration, is not disqualified by law, and is Decedent’s **2.50**.
2. Decedent died intestate on **1.07** in **1.09**, **1.09** County, **1.09**, at the age of **1.10** years.

Use the following as ¶3 if the answer to 6.08 of MIL is yes; if the answer is *no*, refer to Special Instruction 15 and substitute the appropriate paragraph.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

4. Decedent owned [personal/real and personal] property described generally as 6.09 [e.g., home, cash, securities, automobiles, livestock, household goods, personal effects] of a probable value in excess of \$6.10.

5. The name and address, whether the heir is an adult or a minor, and the relationship to Decedent of each heir is as follows:

<i>Name</i>	<i>Address</i>	<i>Adult/Minor</i>	<i>Relationship to Decedent</i>
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State information for each heir.

¶6—Refer to 6.13 of MIL. Use the first alternative if 6.13B is applicable; use the second alternative if 6.13C is applicable; use the third alternative if 6.13D is applicable.

6. No child or children were born to or adopted by Decedent.

Or

6. The only child born to or adopted by Decedent was 3.37, born 3.43 at 3.44.

Or

6. The children born to or adopted by Decedent were:

<i>Name</i>	<i>Date of Birth</i>	<i>Place of Birth</i>
-------------	----------------------	-----------------------

State information for each child.

¶7—Refer to 6.14 of MIL. Use the first alternative if 6.14D is applicable; use the second alternative if 6.14E is applicable; use the third alternative if 6.14F is applicable. Repeat the second or third alternative if required for additional divorces.

7. Decedent was never divorced.

Or

7. Decedent was divorced from **3.21** and **3.25A**.

Or

7. Decedent was divorced from **3.21**, the date and place of which divorce are not known to Applicant.

8. A necessity exists for the administration of this estate.

9. Applicant requests that the Court appoint Applicant to serve without bond or other security as independent administrator. Applicant would not be disqualified by law from serving as such or from accepting letters of independent administration, and Applicant would be entitled to such letters.

Include the following paragraph if applicable.

The written waiver of the right of **2.43** to be appointed as administrator will be filed with the clerk of this Court.

10. All Decedent's distributees agree on the advisability of having an independent administration, collectively designate Applicant to serve as independent administrator, and request that no other action shall be had in this Court in relation to the settlement of Decedent's estate other than the return of an inventory, appraisalment, and list of claims or affidavit in lieu of inventory.

11. Applicant requests that the Court grant the independent administrator general authority to sell property without the further consent of Decedent's distributees. All Decedent's distributees agree to this request.

12. An application to declare heirship, motion to appoint attorney ad litem, and each distributee's consent will be filed with the clerk of this Court.

Applicant prays that citation issue as required by law to all persons interested in this estate; that Applicant be appointed independent administrator of this estate; that the independent administrator be granted general authority to sell property without the consent of Decedent's distributees; that letters of independent administration be issued to Applicant; that appraisers not be appointed; and that all other orders be signed as the Court may deem proper.

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

**FORM 109—ORDER AUTHORIZING LETTERS OF INDEPENDENT
ADMINISTRATION (IBA)**

Note: An increasing number of judges are requiring practitioners to include other or additional language in the orders for their courts. Determine local practice and comply with their idiosyncratic terminology.

Note: No appointment of appraisers is made in this order, and although this patronage system has been eliminated in almost all Texas counties you should check to see if it still exists in the county in which the proceedings have been filed.

[Caption. See Special Instruction 87.]

Order Authorizing Independent Administration and Letters of Independent Administration

On this day the Court heard the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration under Texas Estates Code, Section 401.002, filed by **2.45** (“Applicant”) in the Estate of **6.02**, Deceased, (“Decedent”).

The Court heard the evidence and reviewed the documents filed herein and finds that the allegations contained in the application are true; that notice and citation have been given in the manner and for the length of time required by law; that Decedent is dead and that four years have not elapsed since the date of Decedent’s death; that this Court has jurisdiction and venue of Decedent’s estate; that Decedent died intestate; that all Decedent’s distributees agree on the advisability of having an independent administration and collectively designate Applicant to serve as independent administrator, who is duly qualified and not disqualified by law to act as such and to receive letters of independent administration; [**include if applicable:** that all Decedent’s distributees consent to the grant to the independent administrator of the general authority to sell property without the further consent of Decedent’s distributees;] that there is a necessity

for the administration of this estate; that the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration under Texas Estates Code, Section 401.002, should be granted; that Applicant is entitled by law to be appointed independent administrator of this estate and is not disqualified from acting as such independent administrator and is qualified to receive letters of independent administration; and that no interested person has applied for the appointment of appraisers and none are deemed necessary and appointment of appraisers is waived by the Court.

It is ORDERED that no bond or other security is required and that, upon the taking and filing of the oath required by law, letters of independent administration shall issue to Applicant, who is appointed as independent administrator of this estate, and no other action shall be had in this Court other than the return of an inventory, appraisalment, and list of claims or an affidavit in lieu thereof. [**Include if applicable:** It is further ORDERED that the independent administrator shall have the general authority to sell real and personal property without order of this Court or the consent of Decedent's distributees.]

SIGNED on _____.

Judge Presiding

Add signature block at left margin. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant.

**FORM 110—APPLICATION FOR PROBATE OF WILL AND
INDEPENDENT ADMINISTRATION BY AGREEMENT (TBA)**

This is a combination form that is not to be completely copied; rather, appropriate alternative paragraphs are to be selected. Each application *must* have paragraphs that are numbered 1 through 12 and 14, *but* only one of each numbered paragraph is to be used.

Leave blanks in the caption unless the docket number and court assignment appear on prior pleadings or orders of the court.

If the will cannot be produced in court, supplement this application as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

**Application for Probate of [Will/Will and Codicil], Independent
Administration by Agreement, and Issuance of Letters [Testamentary/
of Independent Administration] under Texas Estates Code, Section 401.003**

[Name[s] of applicant[s]; see 2.45(A), 2.45(B), 2.66(A)] [(“Applicant”) furnishes/(“Applicants”) furnish] the following information to the Court for the probate of the [will/will and codicil] of 1.01 (“Decedent”) and for issuance of letters [testamentary/of independent administration] to Applicant[s]:

¶1—Refer to 2.45 and 2.66(A) of MIL. If only one individual is named as executor or applicant, select the first alternative; if only a corporate fiduciary is named, select the second alternative; if two individuals are named, select the third alternative; if an individual and a corporate fiduciary are named, select the fourth alternative. For names, addresses, counties, and states of domicile, refer to 2.45–2.52 and 2.66(A) of MIL.

1. Applicant is an individual interested in this estate, domiciled in and residing at [address], [county] County, [state], the physical address at which service can be had on Applicant.

Or

1. Applicant is interested in this estate and is a [bank/trust company] domiciled in and situated at [address], [county] County, [state], the physical address at which service can be had on Applicant, and is acting herein by and through its duly authorized representative.

Or

1. [Name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, [state], the physical address at which service can be had on [name], and [name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, [state], the physical address at which service can be had on [name].

Or

1. [Name] is an individual interested in this estate, domiciled in and residing at [address], [county] County, [state], the physical address at which service can be had on [name], and [name] is interested in this estate and is a [bank/trust company] domiciled in and situated at [address], [county] County, [state], the physical address at which service can be had on [name], and is acting herein by and through its duly authorized representative.

2. Decedent died on 1.07 in 1.09, 1.09 County, 1.09, at the age of 1.10 years.

Use the following as ¶3 if the answer to 6.08 of MIL is yes; if the answer is *no*, refer to Special Instruction 15 and substitute the appropriate paragraph.

3. This Court has jurisdiction and venue because Decedent was domiciled and had a fixed place of residence in this county on the date of death.

4. Decedent owned [personal/real and personal] property described generally as 6.09 [e.g., home, cash, securities, automobiles, livestock, household goods, personal effects] of a probable value in excess of \$6.10.

5. Decedent left a valid will ("Will") dated **2.02**, which was never revoked and [is filed herewith/was previously delivered to the clerk of this Court]. [Include if applicable: Decedent left a valid codicil ("Codicil") dated **2.17**, which was never revoked and [is filed herewith/was previously delivered to the clerk of this Court].]

¶6—There are three separate paragraphs, but only the first two are numbered. Refer to 6.11 of MIL. Use the first alternative if 6.11C is applicable; use the second alternative if 6.11B is applicable. Then refer to 6.12 of MIL and, if the answer is yes, add the unnumbered paragraph; if the answer is *no*, omit the unnumbered paragraph. If there is a codicil, information should be added here, but substituting "Codicil" for "Will."

6. The names of the subscribing witnesses to the Will are **2.11** [list all such witnesses].

Or

6. The Will was wholly in the handwriting of Decedent, and Decedent's signature is subscribed thereto.

Include the following paragraph if applicable.

The Will was made self-proved in the manner prescribed by law.

¶7—Refer to 6.13 of MIL. Use the first alternative if 6.13B is applicable; use the second alternative if 6.13E is applicable.

7. No child or children were born to or adopted by Decedent after the date of the Will.

Or

7. After the date of the Will **3.52**, who survived Decedent, [was/were] [born to/adopted by] Decedent.

¶8—Refer to 6.14 of MIL. Use the first alternative if 6.14A is applicable or if 6.14B is applicable and the answer to 3.25B is *no*; use the second alternative if 6.14B is applicable and the answer to 3.25B is *yes*. Repeat the second alternative if required for additional dissolved marriages.

8. After the date of Decedent's Will, no marriage of Decedent was dissolved.

Or

8. On or about **3.25A**, which date is after the date of Decedent's Will, Decedent's marriage to **3.21** was dissolved.

9. A necessity exists for the administration of this estate.

¶10—If the will does not provide for independent administration, use the first alternative to request letters testamentary for an independent executor. Estates Code, Section 401.002(a).

If the will names no executor, use the second alternative to request letters of independent administration for an independent administrator. Estates Code, Section 401.002(b).

If each named executor is deceased or disqualified or waives the right to serve, use the third alternative to request letters of independent administration for an independent administrator. Estates Code, Section 401.002(b). Add the optional sentence only if the reason given for an appointee includes "desire(s) to waive the right to be so appointed."

10. The [Will/Codicil] named Applicant[s] to serve as [executor/executrix/executors/co-executors/executor and executrix, respectively,/executrices] but did not provide for independent administration. [Applicant requests/Applicants request] that the court appoint Applicant[s] to serve without bond or other security as independent executor[s]. Applicant[s] would not be disqualified by law from serving as such or from accepting letters testamentary, and Applicant[s] would be entitled to such letters.

Or

10. No executor is named in the [Will/Codicil]. [Applicant requests/Applicants request] that the court appoint Applicant[s] to serve without bond or other security as independent administrator[s]. Applicant[s] would not be disqualified by law from serving as such or from accepting letters of independent administration, and Applicant[s] would be entitled to such letters.

Or

10. The [Will/Codicil] named [name[s] of person[s] appointed in will or codicil; see 2.43, 2.45(A), 2.45(B), 2.66(A)] to serve without bond or other security as [state the appropriate designation[s] exactly as designated in the will or codicil, e.g., executor, executrix, independent executor], but [state the reason that each person named will not or cannot serve, e.g., John Smith is deceased; Margaret Brown is not qualified to serve as such; Richard Jones is not willing to serve as such and desires to waive the right to be so appointed]. [Include if applicable: The written waiver of the right of 2.43 to be appointed as [independent] executor will be filed with the clerk of this Court.] Applicant[s] would not be disqualified by law from serving as such or from accepting letters of independent administration, and Applicant[s] would be entitled to such letters.

¶11—Refer to 3.53 of MIL. If the answer is *no*, use the first alternative; if the answer is *yes*, use the second alternative. Repeat the second alternative if required for multiple devisees.

11. The [Will/Will and Codicil] did not name either the State of Texas, a governmental agency of the State of Texas, or a charitable organization as a devisee.

Or

11. The [Will/Codicil] named 3.58, 3.61C, [the State of Texas/a governmental agency of the State of Texas/a charitable organization], as a devisee.

12. All Decedent's distributees agree on the advisability of having an independent administration, collectively designate Applicant[s] to serve as independent [executor/executors/administrator/administrators], and request that no other action shall be had in this Court in relation to the settlement of Decedent's estate other than the probating and recording of the Will and the return of an inventory, appraisal, and list of claims or affidavit in lieu of inventory.

Include ¶13. only if D's will does not provide power of sale. See Special Instruction 47 and Special Instruction 48.

13. Decedent's Will does not contain a power of sale or language sufficient to grant the independent [executor/executors/administrator/administrators] that authority. Applicant requests that the Court grant the independent [executor/executors/administrator/administrators] general authority to sell property without the further consent of Decedent's distributees. All Decedent's distributees agree to this request.

14. Each distributee's consent will be filed with the clerk of this Court.

[Applicant prays/Applicants pray] that citation issue as required by law to all persons interested in this estate; that the [Will/Will and Codicil] be admitted to probate; that independent administration be granted; [**include if applicable:** that the independent [executor/executors/administrator/administrators] be granted general authority to sell property without the consent of Decedent's distributees;] that letters [testamentary/of independent administration] be issued to Applicant[s]; and that all other orders be signed as the Court may deem proper.

Respectfully submitted,

Add signature block. See Special Instruction 86—Signature Blocks. On this form you are attorney(s) for Applicant(s).

FORM 111—ORDER ADMITTING WILL TO PROBATE (TBA)

Note: An increasing number of judges are requiring practitioners to include other or additional language in the orders for their courts. Determine local practice and comply with their idiosyncratic terminology.

Note: No appointment of appraisers is made in this order, and although this patronage system has been eliminated in almost all Texas counties you should check to see if it still exists in the county in which the proceedings have been filed.

If the will could not be produced in court, supplement this order as instructed in Special Instruction 85—Lost Wills.

[Caption. See Special Instruction 87.]

**Order Admitting [Will/Will and Codicil] to Probate and Authorizing
Independent Administration and Letters [Testamentary/of Independent
Administration]**

On this day the Court heard the Application for Probate of [Will/Will and Codicil], Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] under Texas Estates Code, Section 401.003, filed by [name[s] of applicant[s]; see 2.45(A), 2.45(B), 2.66(A)] (“Applicant[s]”) in the Estate of 6.02, Deceased, (“Decedent”).

The Court heard the evidence and reviewed the will [include if applicable: , the codicil,] and the other documents filed herein and finds that the allegations contained in the application are true; that notice and citation have been given in the manner and for the length of time required by law; that Decedent is dead and that four years have not elapsed since the date of Decedent’s death; that this Court has jurisdiction and venue of Decedent’s estate; that Decedent left a will (“Will”) dated 2.02, [include if applicable: and a codicil (“Codicil”) dated 2.17, each] executed with the formalities and solemnities and under the circumstances required by law to

make a valid [will/will and codicil]; that on **2.02** Decedent had attained the age of eighteen years and was of sound mind; that the [Will was/Will and Codicil were] not revoked by Decedent; that no objection to or contest of the probate of the [Will/Will or Codicil] has been filed; that all the necessary proof required for the probate of the [Will/Will and Codicil] has been made; that the [Will is/Will and Codicil are] entitled to probate; that all Decedent's distributees agree on the advisability of having an independent administration and collectively designate Applicant[s] to serve as independent [executor/executors/administrator/administrators], who [is/are] duly qualified and not disqualified by law to act as such and to receive letters [testamentary/of independent administration]; [**include if applicable:** that all Decedent's distributees consent to the grant to the independent [executor/executors/administrator/administrators] of the general authority to sell property without the further consent of Decedent's distributees;] that a necessity exists for the administration of this estate; and that no interested person has applied for the appointment of appraisers and none are deemed necessary and appointment of appraisers is waived by the Court.

It is ORDERED that the [Will is/Will and Codicil are] admitted to probate, and the clerk of this Court is ORDERED to record the [Will/Will and the Codicil], together with the application, in the minutes of this Court.

It is ORDERED that no bond or other security is required and that, upon the taking and filing of the oath required by law, letters [testamentary/of independent administration] shall issue to Applicant[s], who [is/are] appointed as independent [executor/executors/administrator/administrators] of Decedent's will [**include if applicable:** , codicil,] and estate, and no other action shall be had in this Court other than the return of an inventory, appraisement, and list of claims or an affidavit in lieu thereof and compliance with Chapter 308 of the Texas Estates Code as required by law. [**Include if applicable:** It is further ORDERED that the independent [executor/executors/administrator/administrators] shall have the general authority to sell real and personal property without order of this Court or the consent of Decedent's distributees.]

FORM 130—AGREEMENT REGARDING DECEDENT'S TRUST AND ESCROW ACCOUNTS

Agreement Pursuant to Chapter 456 of the Texas Estates Code

6.02, Deceased ("Decedent") was a lawyer who established one or more trust or escrow accounts for client funds or the funds of third parties in connection with legal representation by Decedent. Decedent's estate is being administered by **2.45 or 2.76 or 2.91** ("Personal Representative") under Docket Number **6.01** in the **6.03** Court of **6.04** County, Texas.

Personal Representative hereby engages **2.141** ("Designee"), a lawyer authorized to practice law in Texas, to do the following pursuant to Chapter 456 of the Texas Estates Code:

- (1) be the authorized signer on the trust or escrow account;
- (2) determine who is entitled to receive the funds in the account;
- (3) disburse the funds to the appropriate persons or to Decedent's estate; and
- (4) close the account.

DATED _____.

2.45 or 2.76 or 2.91, Personal Representative

ACCEPTED

2.141, Designee
 State Bar card number: **2.147**

[Reserved]

FORM 131—TEXAS ESTATES CODE, CHAPTER 456

Texas Estates Code, Chapter 456**Disbursement and Closing of Lawyer Trust or Escrow Accounts****§ 456.001 Definition**

In this chapter, “eligible institution” means a financial institution or investment company in which a lawyer has established an escrow or trust account for purposes of holding client funds or the funds of third persons that are in the lawyer’s possession in connection with representation as required by the Texas Disciplinary Rules of Professional Conduct.

§ 456.002 Authority to Designate Lawyer on Certain Trust or Escrow Accounts

(a) When administering the estate of a deceased lawyer who established one or more trust or escrow accounts for client funds or the funds of third persons that are in the lawyer’s possession in connection with representation as required by the Texas Disciplinary Rules of Professional Conduct, the personal representative may hire through written agreement a lawyer authorized to practice in this state to:

- (1) be the authorized signer on the trust or escrow account;
- (2) determine who is entitled to receive the funds in the account;
- (3) disburse the funds to the appropriate persons or to the decedent’s estate; and
- (4) close the account.

(b) If the personal representative is a lawyer authorized to practice in this state, the personal representative may state that fact and disburse the trust or escrow accounts funds of a deceased lawyer in accordance with Subsection (a).

(c) An agreement under Subsection (a) or a statement under Subsection (b) must be made in writing, and a copy of the agreement or statement must be delivered to each eligible institution in which the trust or escrow accounts were established.

§ 456.003 Duty of Eligible Institutions

Within a reasonable time after receiving a copy of a written agreement under Section 456.002(a) or a statement from a personal representative under Section 456.002(b) and instructions from the lawyer identified in the agreement or statement, as applicable, regarding how to disburse the funds or close a trust or escrow account, an eligible institution shall disburse the funds and close the account in compliance with the instructions.

§ 456.004 Liability of Eligible Institutions

An eligible institution is not liable for any act respecting an account taken in compliance with this chapter.

§ 456.005 Rules

The supreme court may adopt rules regarding the administration of funds in a trust or escrow account subject to this chapter.

**FORM 132—WAIVER OF NOTICE UNDER TEXAS ESTATES CODE,
SECTION 258.051**

Waiver of Notice under Texas Estates Code, Section 258.051

STATE OF TEXAS)
)
 COUNTY OF _____)

BEFORE ME, the undersigned authority, on this day personally appeared [name of heir] and, after being duly sworn, stated that:

My name is [name of heir] (“Heir”). I am an heir of **6.02**, Deceased (“Testator”).

Heir has received a copy of the [title of application] and a copy of the purported will filed by [name[s] of applicant[s]] (“Applicant[s]”) about **6.23**.

Heir acknowledges that:

(A) Testator’s property will pass to Testator’s heirs if the will is not admitted to probate; and

(B) the person offering Testator’s will for probate may not be in default for failing to present the will for probate during the four-year period immediately following Testator’s death.

Heir does not object to the offer of Testator’s will for probate.

Heir waives notice of hearing and trial and the making of a record.

[Name of heir]

SUBSCRIBED AND SWORN TO BEFORE ME by [name of heir] on

Notary Public, State of Texas

73	Advise of Duties and Actions to Follow (ADE, AWA)	L-73-1 to L-73-6
74	Confirm Representation and Fee and Outline Anticipated Services (TDA)	L-74-1 to L-74-6
75	Claim Form to Creditor.	L-75-1 to L-75-2
76	Verification of Funds on Deposit	L-76-1 to L-76-2
77	Confirmation of Safekeeping of Funds, Securities, and Other Items	L-77-1 to L-77-2
78	Copy of Account to Surety	L-78-1 to L-78-2
79	Discharge of Surety	L-79-1 to L-79-2
	<i>[Letters 80 and 81 are reserved for expansion.]</i>	
82	Notice to Comptroller	L-82-1 to L-82-2
83	Confirm Representation and Fee and Outline Anticipated Services (RDA)	L-83-1 to L-83-6
84	Citation to Newspaper	L-84-1 to L-84-2
85	Confirm Representation and Fee and Outline Anticipated Services (PDH).	L-85-1 to L-85-6
86	Order Certified Copies (PDH)	L-86-1 to L-86-2
87	Confirm Representation and Fee and Outline Anticipated Services (SE)	L-87-1 to L-87-6
88	Transfer of Securities (SE)	L-88-1 to L-88-2
89	Order Certified Copies (SE)	L-89-1 to L-89-2
	<i>[Letter 90 is reserved for expansion.]</i>	
91	Order Certified Copies (RDA)	L-91-1 to L-91-2
92	Affidavit for Signature (SE)	L-92-1 to L-92-2
93	Account for Final Settlement	L-93-1 to L-93-2
94	Advise of Duties and Actions to Follow (RDA).	L-94-1 to L-94-6
	<i>[Letters 95 and 96 are reserved for expansion.]</i>	
97	Power of Attorney to IRS	L-97-1 to L-97-2
98	Notice of Appointment of Temporary Administrator (TDA).	L-98-1 to L-98-2
99	Permissive Notice to <i>Unsecured</i> Creditor	L-99-1 to L-99-2
100	Advise <i>Not</i> to Allow Claim	L-100-1 to L-100-2
	<i>[Letter 101 is reserved for expansion.]</i>	
102	Notify Beneficiary under Decedent’s Will	L-102-1 to L-102-2
	<i>[Letter 103 is reserved for expansion.]</i>	
104	Inventory to Beneficiary	L-104-1 to L-104-2
105	Order Certified Copies (IBA).	L-105-1 to L-105-2
106	Confirm Representation and Fee and Outline Anticipated Services (TBA).	L-106-1 to L-106-6
107	Confirm Representation and Fee and Outline Anticipated Services (IBA)	L-107-1 to L-107-6

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119 Record Distribution Deed. L-119-1 to L-119-2

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124 Order Certified Copies (AP). L-124-1 to L-124-2

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127 File Will without Application. L-127-1 to L-127-2

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- 18 Forward appointment of registered agent to nonresident executor or administrator
- 19 Forward copy of application and advise of hearing
- 20 Forward oath to be signed before a notary
- 24 Forward document for signature
- 35 Forward copy of disclaimer
- 42 Forward documents required for transfer of securities
- 48 Forward document for signature before a notary
- 59 Confirm representation and fee and outline anticipated services (ADE) (AWA)
- 73 Advise of nature and extent of duties of office (ADE) (AWA)
- 83 Confirm representation and fee and outline anticipated services (RDA)
- 93 Forward copy of account for final settlement
- 94 Advise of nature and extent of duties of office (RDA)
- 100 Advise not to pay claim
- 106 Confirm representation and fee and outline anticipated services (TBA)
- 107 Confirm representation and fee and outline anticipated services (IBA)
- 108 Advise of nature and extent of duties of office (TBA)
- 109 Advise of nature and extent of duties of office (IBA)
- 118 Confirm representation and fee and outline anticipated services (RW)
- 122 Advise of portability election (surviving spouse)
- 123 Advise of portability election (*not* surviving spouse)

APPLICANT

- 19 Forward copy of application and advise of hearing

ATTORNEY AD LITEM

- 57 Forward documents and advise of time and date of hearing

BANK OR OTHER CORPORATE FIDUCIARY

- 28 Inquire about account of married D
- 29 Inquire about account of unmarried D

- 30 Determine if an account or safe deposit box exists
- 76 Verify balance in account for annual/final accounting
- 77 Confirm safekeeping of funds, securities, and other items

BENEFICIARY, HEIR, OR TRANSFEREE

- 8 Forward life insurance proceeds
- 34 Forward disclaimer for signature
- 42 Forward documents required for transfer of securities
- 44 Forward new certificates for securities
- 48 Forward document for signature before a notary
- 92 Forward small estate affidavit for signature before a notary
- 93 Forward copy of account for final settlement
- 98 Notice of appointment of temporary administrator (TDA)
- 102 Notify beneficiary under D's will
- 104 Forward inventory to beneficiary
- 110 Forward distribution to heirs and beneficiaries
- 120 Forward MERP form for signature

CENTRAL APPRAISAL DISTRICT

- 37 Change address

CLIENT

- 1 Forward copy of Probate Information List
- 3 Confirm representation and fee and outline anticipated services (IA)
- 24 Forward document for signature
- 48 Forward document for signature before a notary
- 59 Confirm representation and fee and outline anticipated services (ADE) (AWA)
- 63 Return all items
- 64 Confirm representation and fee and outline anticipated services (MT)
- 66 Explain muniment of title procedure and actions to follow
- 74 Confirm representation and fee and outline anticipated services (TDA)
- 83 Confirm representation and fee and outline anticipated services (RDA)
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- 87 Confirm representation and fee and outline anticipated services (SE)
- 93 Forward copy of account for final settlement
- 106 Confirm representation and fee and outline anticipated services (TBA)
- 107 Confirm representation and fee and outline anticipated services (IBA)
- 114 Confirm representation and fee and outline anticipated services (AP—-independent)
- 115 Confirm representation and fee and outline anticipated services (AP—dependent)
- 118 Confirm representation and fee and outline anticipated services (RW)
- 129 Confirm nonengagement

COMPTROLLER OF PUBLIC ACCOUNTS

- 82 Forward notice to creditors
- 111 Forward unclaimed funds

CORPORATE FIDUCIARY

- 28 Inquire about account of married D
- 29 Inquire about account of unmarried D
- 30 Determine if an account or safe deposit box exists
- 76 Verify balance in account for annual/final accounting
- 77 Confirm safekeeping of funds, securities, and other items

COUNTY CLERK

- 61 Record proceedings in deed records of county other than county of probate
- 113 Record will previously probated elsewhere
- 119 Record distribution deed

CREDIT UNION

- 28 Inquire about account of married D
- 29 Inquire about account of unmarried D
- 30 Determine if an account or safe deposit box exists
- 76 Verify balance in account for annual/final accounting
- 77 Confirm safekeeping of funds, securities, and other items

CREDITOR

- 27 Cancel credit card or charge account
- 33 Notice to secured creditor
- 75 Forward claim form
- 99 Permissive notice to file claim

- 125 Respond to attempt to collect deficiency

CUSTODIAN OF DIVIDEND REINVESTMENT PROGRAM

- 58 Determine number of unissued shares and requirements for transfer

DEBTOR

- 46 Notify of place to make future payments

DEPARTMENT OF HEALTH

- 6 Order death certificates

DEPOSITORY

- 77 Confirm safekeeping of funds, securities, and other items

ELIGIBLE INSTITUTION

- 126 Forward instructions regarding trust or escrow account

EMPLOYER

- 12 Request information as to death benefits

EXECUTOR

- 3 Confirm representation and fee and outline anticipated services (IA)
- 18 Forward appointment of registered agent to nonresident executor or administrator
- 19 Forward copy of application and advise of hearing
- 20 Forward oath to be signed before a notary
- 23 Advise of nature and extent of duties of office (IA)
- 24 Forward document for signature
- 35 Forward copy of disclaimer
- 42 Forward documents required for transfer of securities
- 48 Forward document for signature before a notary
- 59 Confirm representation and fee and outline anticipated services (ADE) (AWA)
- 73 Advise of nature and extent of duties of office (ADE) (AWA)
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- 100 Advise not to pay claim
- 106 Confirm representation and fee and outline anticipated services (TBA)
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- 114 Confirm representation and fee and outline anticipated services (AP—*independent*)
- 115 Confirm representation and fee and outline anticipated services (AP—*dependent*)
- 116 Advise of nature and extent of duties of office (AP—*independent*)
- 117 Advise of nature and extent of duties of office (AP—*dependent*)
- 118 Confirm representation and fee and outline anticipated services (RW)
- 122 Advise of portability election (*surviving spouse*)
- 123 Advise of portability election (*not surviving spouse*)

HEIR

- 34 Forward disclaimer for signature
- 42 Forward documents required for transfer of securities
- 48 Forward document for signature before a notary
- 92 Forward small estate affidavit for signature before a notary
- 93 Forward copy of account for final settlement
- 98 Notice of appointment of temporary administrator (TDA)
- 120 Forward MERP form for signature

INSURANCE COMPANY

- 4 Request IRS Form 712 for policy already sent for collection
- 5 Request claim forms
- 7 Collect benefits
- 9 Request information when seeking to exclude insurance policy from D's gross estate
- 45 Request IRS Form 712 for policy on life of another

INTERNAL REVENUE SERVICE

- 25 Request employer identification number
- 26 Notify of fiduciary relationship
- 31 Change of address
- 62 Notice of termination of fiduciary relationship
- 97 Forward power of attorney

MERCHANT

- 27 Cancel credit card or charge account

MERP CONTRACTOR

- 121 Forward MERP form

NEWSPAPER

- 32 Forward notice to creditors
- 84 Forward citation

PROBATE CLERK

- 2 Order letters testamentary or letters of administration
- 21 Forward document to be filed
- 47 Forward document to be signed by judge
- 60 Order certified copies (IA, ADE, AWA, TBA)
- 69 Order certified copies (MT)
- 86 Order certified copies (PDH)
- 89 Order certified copies (SE)
- 91 Order certified copies (RDA)
- 105 Order certified copies (IBA)
- 124 Order certified copies (AP)
- 127 File will without application
- 128 File will following application

PROBATE CLERK OF FOREIGN COURT

- 112 Order copies of will

SAVINGS ASSOCIATION

- 28 Inquire about account of married D
- 29 Inquire about account of unmarried D
- 30 Determine if an account or safe deposit box exists
- 76 Verify balance in account for annual/final accounting
- 77 Confirm safekeeping of funds, securities, and other items

SOCIAL SECURITY ADMINISTRATION

- 10 Return check

STOCKBROKER

- 38 Terminate brokerage accounts
- 39 Obtain valuation of securities

SURETY

- 78 Forward copy of annual account or account for final settlement
- 79 Advise of discharge from bond

TAX ASSESSOR

- 37 Change address

TENANT

36 Notify of place and method of making payment

TRANSFER AGENT

40 Change address for payment of dividends or interest

43 Forward securities for transfer (IA, ADE, AWA, RDA, PDH, TBA, IBA)

68 Forward securities for transfer (MT)

88 Forward securities for transfer (SE)

VETERANS ADMINISTRATION

11 Return check

WITNESS

13 Forward copy of testimony and advise of hearing

14 Forward copy of D's will to subscribing witness who will testify in court

15 Forward copy of D's will and interrogatories to subscribing witness who will not testify in court (initial letter)

16 Forward interrogatories to subscribing witness who will not testify in court (follow-up letter)

17 Forward copy of D's will to subscribing witness who will testify as to D's handwriting and signature

22 Thank for appearing in court

92 Forward small estate affidavit for signature before a notary

LETTER 127—FILE WILL WITHOUT APPLICATION

[Today's date]

6.16

6.17

6.18

Re: Estate of 1.01, Deceased

Dear Sir or Madam:

I represent 2.45.

I have received notice of the death of 1.01, who died on 1.07 and was a resident of 6.04 County at date of death.

Enclosed please find the testator's will. Pursuant to Section 252.201 of the Texas Estates Code, I am delivering it to you as the clerk of the court with jurisdiction of the testator's estate.

Include the following paragraph if applicable.

It is not anticipated that the will will be offered for probate.

Continue with the following.

Yours very truly,

[Attorney's name]

Enclosures

[Name or description of testator's will]

[Reserved]

LETTER 128—FILE WILL FOLLOWING APPLICATION

[Today's date]

6.16

6.17

6.18

Re: 6.01, Estate of 6.02, Deceased

Dear Sir or Madam:

I represent 2.45, who electronically filed an application to probate the testator's [will/will and codicil].

The application was filed on 6.23 under envelope no. 6.23A.

The original [will is/will and codicil are] enclosed, pursuant to Rule 21(f)(12), (13) of the Texas Rules of Civil Procedure.

Yours very truly,

[Attorney's name]

Enclosures

[List each will and codicil]

[Reserved]

LETTER 129—CONFIRM NONENGAGEMENT

[Today's date]

CERTIFIED MAIL NO. [number]

RETURN RECEIPT REQUESTED

[Addressee name and address]

Re: [style or description of case]

Dear [name]:

Thank you for [visiting our office/your call/your letter] regarding administration of the estate of your [relationship, name].

This letter confirms our conversation of [date], in which [you decided not to engage our firm/we decided it is premature to engage counsel/I concluded our firm will not be able to represent you]. [Include if applicable: I have [enclosed/previously returned] your documents [include if applicable: , including the original will].]

Probate may become necessary later. Please be aware that four years from the date of death is the usual deadline to probate a will. It should be offered for probate several months before then, to allow time for a hearing before the deadline.

Include the following paragraph if the prospective client has the will.

If you do not probate the will now, Section 252.201 of the Texas Estates Code requires you to file it anyway with the clerk of court with jurisdiction, typically in the county where the decedent resided.

Continue with the following.

Nine months following death is the tax deadline for a qualified disclaimer or an estate tax return. September 30 of the year following death is the deadline to determine IRA or other plan beneficiaries. These techniques can fix broken estate plans but are lost if not timely used.

Thank you for considering our firm, and we wish you the best. [**Include if unable to represent prospective client:** I urge you to contact another attorney as soon as possible.] [**Include if willing to represent prospective client:** If circumstances change and you think we can help, please contact us promptly.] Unless we exchange a written engagement, our firm does not represent you and will not remind you of any deadlines.

Yours very truly,

[Attorney's name]

Enclosures

[Itemize enclosures, especially an original will]

LIST OF EFFECTIVE PAGES

This list shows the current version of each sheet that should be in the *Texas Probate System*, after incorporating into it the 2016 supplement. After this supplement has been inserted, use this list to check the completeness of the System. Only the right-hand pages are listed; next to each page number is the date of the current version of that sheet, which should be the same as the date printed in the lower right corner of the page, underneath the page number, in the System. Pages that have not been replaced by supplementation do not bear dates. The first sixteen pages in volume 1 (half-title through Contents page) and the first six pages in volume 2 (half-title through Contents page) do not bear dates. Please note that pages xvii through xx are the List of Effective Pages and will be inserted in the manual after you have checked all other pages against this list.

Every page that is printed in a supplement bears the supplement date underneath the page number if that page includes a page number, even if the page contains no changed substantive content. It is often necessary to reprint pages with unchanged content because of the reflow of text following added, amended, or deleted text, and occasionally pages are reprinted to simplify the task of removing and replacing pages.

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F-29-3 —	F-78-1 (12/15)	F-120-1 (12/15)	L-35-1 (12/15)
F-30-1 —	F-80-1 (12/15)	F-121-1 (12/15)	L-36-1 —
F-31-1 (12/16)	F-81-1 (12/15)	F-122-1 (12/15)	L-37-1 —
F-31-3	..... (12/16)	F-81-3	..... (12/15)	F-123-1	..... (12/15)	L-38-1 —
F-32-1	..... (12/16)	F-82-1	..... (12/16)	F-124-1	..... (12/15)	L-39-1 —
F-33-1	..... —	F-82-3	..... (12/16)	F-124-3	..... (12/15)	L-40-1 —
F-33-3	..... —	F-82-5	..... (12/16)	F-125-1	..... (12/15)	L-42-1 —
F-36-1	..... —	F-83-1	..... (12/15)	F-126-1	..... (12/15)	L-43-1 —
F-36-3	..... —	F-83-3	..... (12/15)	F-127-1	..... (12/15)	L-44-1 —
F-37-1	..... —	F-83-5	..... (12/15)	F-128-1	..... (12/15)	L-45-1 —
F-39-1	..... —	F-84-1	..... (12/15)	F-129-1	..... (12/15)	L-46-1 —
F-39-3	..... —	F-84-3	..... —	F-130-1	..... (12/16)	L-47-1 —
F-40-1	..... —	F-84-5	..... —	F-131-1	..... (12/16)	L-48-1	..... (12/15)
F-42-1	..... —	F-85-1	..... —	F-132-1	..... (12/16)	L-57-1 —
F-43-1	..... —	F-86-1	..... —			L-58-1 —
F-44-1	..... —	F-87-1	..... —			L-59-1 —
F-45-1	..... —	F-88-1	..... —			L-59-3 —
F-45-3	..... —	F-89-1	..... —			L-59-5 —
F-46-1	..... —	F-90-1	..... —			L-60-1 —
F-47-1	..... —	F-91-1	..... (12/15)			L-61-1 —
F-47-3	..... —	F-92-1	..... —			L-62-1 —
F-48-1	..... —	F-93-1	..... —			L-63-1 —
F-49-1	..... —	F-94-1	..... —			L-64-1 —
F-50-1	..... —	F-95-1	..... —			L-64-3 —
F-51-1	..... —	F-96-1	..... —			L-64-5 —
F-52-1	..... —	F-97-1	..... —			L-66-1 —
F-53-1	..... —	F-99-1	..... —			L-66-3 —
F-54-1	..... (12/16)	F-99-3	..... —			L-66-5 —
F-54-3	..... (12/16)	F-99-5	..... —			L-68-1 —
F-55-1	..... —	F-99-7	..... —			L-68-3 —
F-55-3	..... —	F-100-1	..... (12/15)			L-69-1 —
F-56-1	..... —	F-101-1	..... (12/15)			L-73-1 —
F-57-1	..... —	F-101-3	..... (12/15)			L-73-3 —
F-58-1	..... —	F-102-1	..... (12/15)			L-73-5 —
F-59-1	..... —	F-103-1	..... (12/15)			L-74-1 —
F-60-1	..... —	F-104-1	..... —			L-74-3 —
F-61-1	..... —	F-104-3	..... —			L-74-5 —
F-62-1	..... —	F-105-1	..... —			L-75-1	..... (12/15)
F-62-3	..... —	F-106-1	..... —			L-76-1 —
F-62-5	..... —	F-106-3	..... —			L-77-1 —
F-63-1	..... —	F-107-1	..... —			L-78-1 —
F-64-1	..... —	F-108-1	..... (12/16)			L-79-1 —
F-65-1	..... —	F-108-3	..... (12/16)			L-82-1 —
F-65-3	..... —	F-109-1	..... (12/16)			L-83-1 —
F-65-5	..... —	F-110-1	..... (12/16)			L-83-3 —
F-66-1	..... —	F-110-3	..... (12/16)			L-83-5 —
F-67-1	..... —	F-110-5	..... (12/16)			L-84-1 —
F-68-1	..... —	F-111-1	..... (12/16)			L-85-1 —
F-69-1	..... (12/15)	F-111-3	..... (12/15)			L-85-3 —
F-69-3	..... —	F-112-1	..... —			L-85-5 —
F-70-1	..... —	F-112-3	..... —			L-86-1 —
F-71-1 —	F-113-1 —			L-87-1 —

Letters

L-i (12/15)
L-iii (12/16)
L-v (12/16)
L-vii (12/16)
L-1-1 —
L-2-1 —
L-3-1 —
L-3-3 —
L-3-5 —
L-4-1 —
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L-23-1 —
L-23-3 —
L-23-5 —
L-23-7 —
L-24-1 —
L-25-1 —
L-26-1 —

LIST OF EFFECTIVE PAGES

L-87-3 —	L-106-1 —	L-114-1 (12/15)	L-118-3 (12/15)
L-87-5 —	L-106-3 —	L-114-3 (12/15)	L-118-5 (12/15)
L-88-1 —	L-106-5 —	L-114-5 (12/15)	L-119-1 (12/15)
L-89-1 —	L-107-1 —	L-114-7 (12/15)	L-120-1 (12/15)
L-91-1 —	L-107-3 —	L-115-1 (12/15)	L-121-1 (12/15)
L-92-1 —	L-107-5 —	L-115-3 (12/15)	L-122-1 (12/15)
L-93-1 —	L-108-1 —	L-115-5 (12/15)	L-122-3 (12/15)
L-94-1 —	L-108-3 —	L-115-7 (12/15)	L-123-1 (12/15)
L-94-3 —	L-108-5 —	L-116-1 (12/15)	L-124-1 (12/15)
L-94-5 —	L-108-7 —	L-116-3 (12/15)	L-125-1 (12/15)
L-97-1 —	L-109-1 —	L-116-5 (12/15)	L-126-1 (12/15)
L-98-1 —	L-109-3 —	L-116-7 (12/15)	L-127-1 (12/16)
L-99-1 —	L-109-5 —	L-117-1 (12/15)	L-128-1 (12/16)
L-100-1 (12/15)	L-110-1 —	L-117-3 (12/15)	L-129-1 (12/16)
L-102-1 (12/15)	L-111-1 —	L-117-5 (12/15)	
L-104-1 —	L-112-1 (12/15)	L-117-7 (12/15)	
L-105-1 —	L-113-1 (12/15)	L-118-1 (12/15)	