

..... Exceptional Care, Exceptionally Close

Welcome!

Boot Camp for the Executor

September 10, 2021

ZOOM webinar

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Torrance Memorial Highlight

38th ANNUAL


Holiday Festival

11/30-12/05



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Holiday Festival

**OPPORTUNITY
DRAWING**

**GRAND PRIZE:
2022 CAMRY XSE**

(Est. MSRP \$40,000) Donated by Toyota Motor North America, Inc.

SECOND PRIZE: SPECIALLY DESIGNED FESTIVAL TREE

THIRD PRIZE: \$500 CASH

CHANCES: 1 for \$50 • 3 for \$100 • 5 for \$150

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Types of Planned Gifts

1. **Bequest** – gift through will, living trust or designation in a qualified retirement plan.
2. **Immediate Charitable Gift Annuity** – Simple contract between donor and the Torrance Memorial Foundation whereby lifetime payments are made to one or two individuals.
3. **Deferred Charitable Gift Annuity** – Annuity payments are deferred until a specified date in the future.
4. **Charitable Remainder Trust** – Trust that provides fixed or variable payments to named beneficiaries for life or a specified term of years.
5. **Retained Life Estate** – Gift of remainder interest in home or farm. Donor keeps the right to live in the home for life.
6. **IRA Beneficiary** – Naming Torrance Memorial as the beneficiary of your retirement accounts (percentages can be designated as desired)

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IRA Charitable Rollover

Also known as IRA Qualified Charitable Distribution (QCD)

- **Gift up to \$100,000 from your IRA to Torrance Memorial**
- **Qualifies as your RMD**
- **Must be 70½ years of age**
- **Donation must come directly to Torrance Memorial from IRA administrator** (check payable to Torrance Memorial Foundation)
- **Become member of Heritage Society**

Not included in your income for your tax return

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Resource for Planned Giving

www.TorranceMemorialFoundation.org/planned-giving

- Learn about the different arrangements available
- Plug in some numbers in the “gift calculator” to get an idea of how this type of gift might work for you
- **Download a FREE estate planning kit**
- Contact Sandy VandenBerge at (310) 784-4843
sandy.vandenberge@tmmc.com



Financial Health articles - www.torrancememorialfoundation.org/News

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How to Donate to Torrance Memorial Medical Center

Online

<https://www.torrancememorialfoundation.org/Donate>

By Phone

Please call Torrance Memorial Foundation at 310-517-4703.

You may charge your gift to your credit card or make a gift pledge.

By Mail

Check or credit card information to: Torrance Memorial Foundation
3330 Lomita Blvd.
Torrance, CA 90505

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Boot Camp for the Executor

PRESENTERS

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Key Definitions

- 1. Probate:** the court-supervised legal process of administering a will that involves marshaling a decedent's assets, collecting income, paying debts, distributing remaining assets
- 2. Decedent:** Person who has died; the person may have died with a will – "Testate" – or without a valid will – "Intestate"
- 3. Executor(-trix)/Personal Representative:** Person named in a will to carry out the directions set forth in the will. **Administrator:** Person appointed by the court for an estate of decedent without a will or without a named Executor
- 4. Trustee:** Person or organization authorized by a trust to hold/manage property for benefit of a beneficiary. In most cases, having a trust is usually a huge cost savings because it usually avoids the need for a costly probate
- 5. Fiduciary:** Person with a legal responsibility to safeguard the interests of another person – e.g. guardian for estate of a minor, conservator of the estate or the person, executor of a will, trustee, power-of-attorney agent, etc.

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Assets That (Usually) Avoid Probate

- Pay-on-death bank accounts
- Transfer-on-death investment accounts
- Transfer-on-death registration for vehicles
- Transfer-on-death grant deed for real estate
- Insurance policies with designated beneficiaries
- Trust assets
- Gifts (provided the transfer was not to avoid creditor claims)
- Jointly-owned assets with rights of survivorship
- Small estates (we'll discuss in a moment)

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When Is Probate Necessary?

Probate *may be* required if:

- No will or if will is “holographic” (handwritten)
- Personal property not included in a will
- Asset held in tenancy-in-common (without right of survivorship)
- Assets only in the name of the decedent (separate property not included in a trust)

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When Is Probate Necessary? (cont'd)

Probate *may be* required if: (cont'd)

- Title dispute
- No beneficiaries or beneficiaries have predeceased the principal
- Ambiguity of rights, duties, terms and conditions
- Trust or will contest (multiple wills, breach of duty, fraud, lack of capacity, etc.)
- Non-trust property valued at more than \$166,250

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Do You Need a Probate Attorney?

Probate counsel *may be* required if:

- Ambiguity of rights, duties, terms and conditions
- Trust or will contest
- Decedent's unfinished contracts: complete or void?
- Complex assets: business interest, royalties/copyrights/patents, revocable or irrevocable trust
- Insolvent estate: debts greater than assets
- Assets in a "foreign" jurisdiction
- Substantial property given to a minor (unless provision to handle this is, such as a custodianship or guardianship, is made in the will)

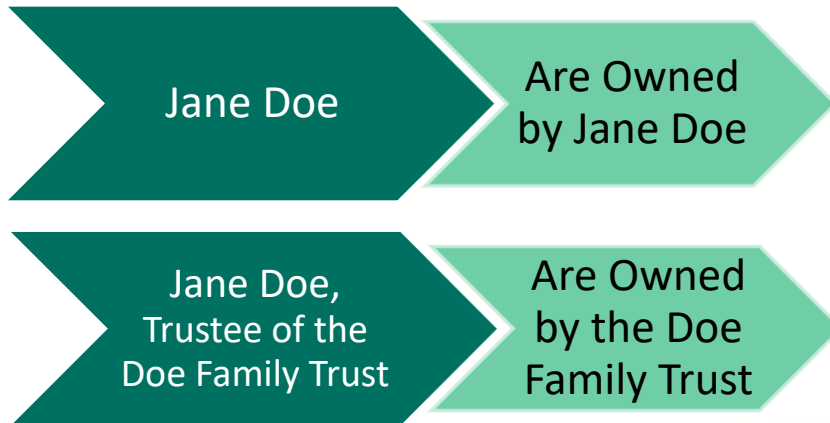
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Ownership of Assets

While Jane is alive, assets titled in the name of:



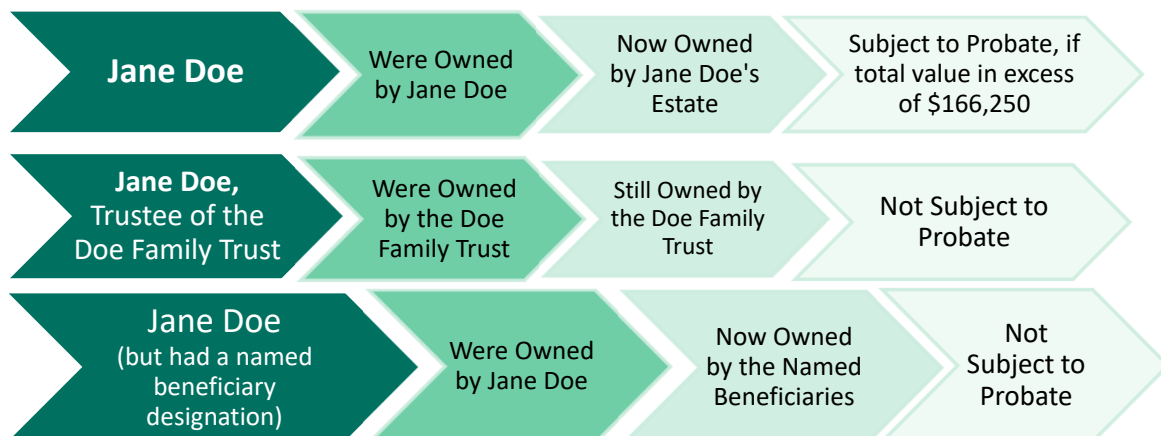
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MEDICAL CENTER

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Ownership of Assets

After Jane dies, assets titled in the name of:

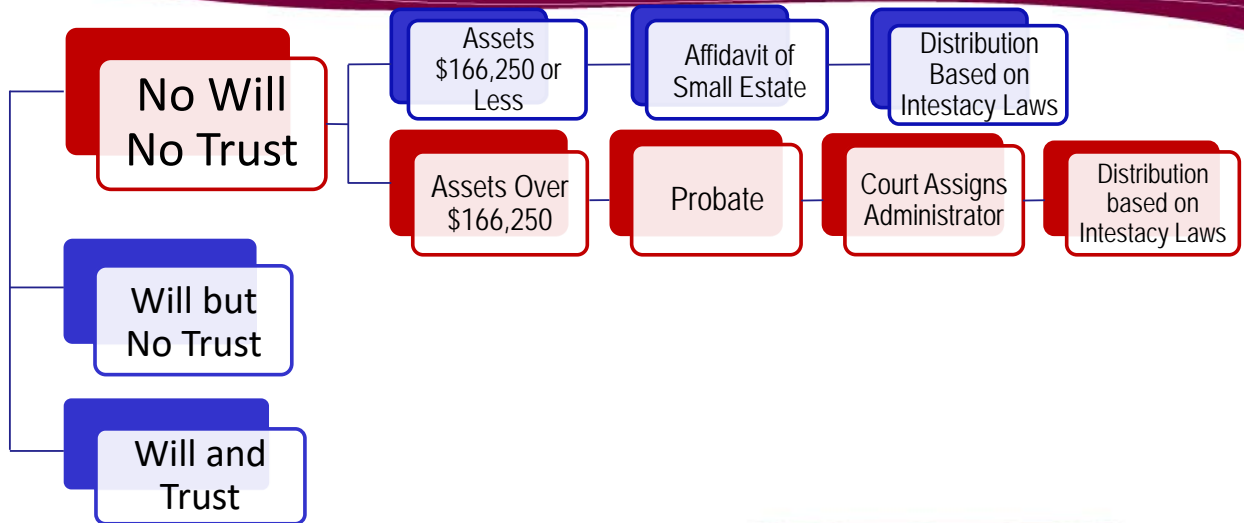


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Decedent Passes Away...

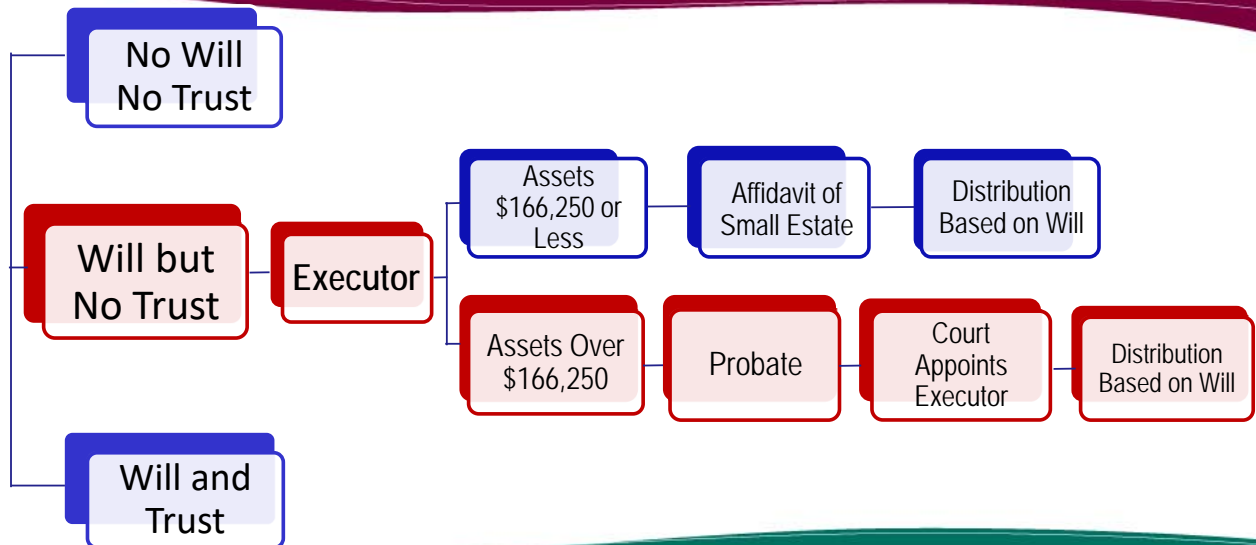


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Decedent Passes Away...

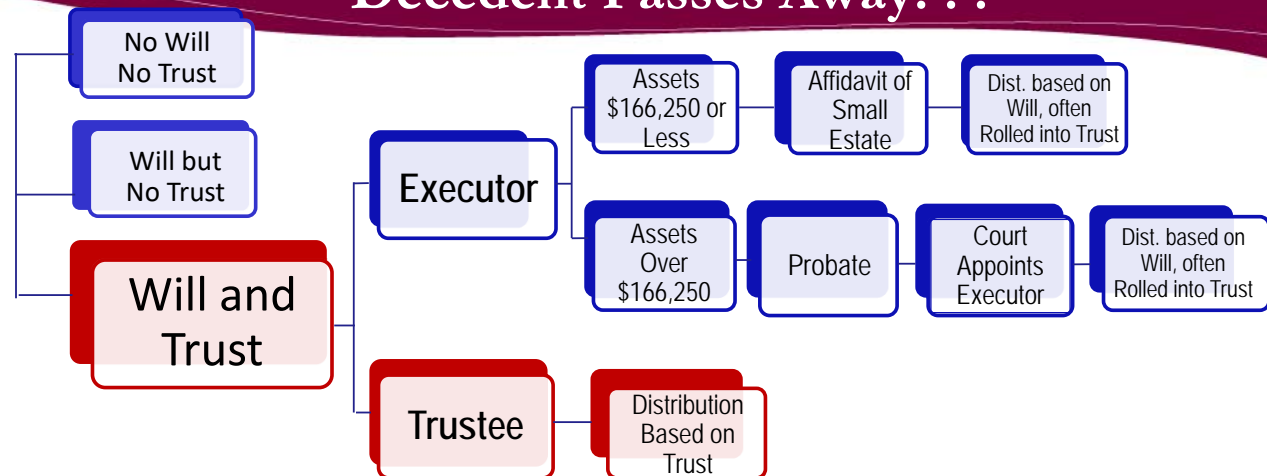


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Decedent Passes Away...



It's also possible to have a Trust but no Will, but it happens so rarely it's not worth discussing.

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Initial Steps to Settling an Estate

- Obtain 10+ certified copies of death certificate(s)
- Locate the Will: inquire of decedent's attorney, examine safes and safe deposit boxes
- Determine who should act as Executor or Administrator (more on this later)
- Obtain basic estate information: Letters of Administration (if Probate opened), Tax EIN
- Determine the heirs and beneficiaries
- Determine the location and ownership of decedent's real estate
- Collect decedent's mail

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Initial Steps to Settling an Estate (cont'd)

- **Cancel credit cards and subscriptions**
- **Notify government agencies**
- **Get bank accounts released, if possible**
- **Collect life insurance proceeds and annuity benefits**
- **Collect (or return) Social Security, Veteran's and railroad retirement benefits**
- **Prepare final (and any unfiled) income tax returns**
- **Collect other death benefits**

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Gather Information

- **Check mail/email, financial statements, credit card bills**
- **Unclaimed property websites in any state decedent lived or worked**
- **Scour the house for clues to assets and liabilities**
- **Credit checks**
- **Review tax returns**

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Marshal Assets and . . .

- Bank accounts
- Investment accounts and retirement plans
- Social Security
- Safe deposit box
- Stocks & bonds held in decedent's name, transfer-on-death or as nominee
- Insurance
- Personal property: autos, art & collectibles, furniture, jewelry, etc.
- Real estate
- Perishable assets: livestock, harvested crops
- Family business
- Incentive Stock Options, Rights and Warrants
- Decedent's conservatorship assets
- Debts owed decedent: beneficiaries, 3rd parties
- Lawsuits initiated by decedent
- Nonprobate assets (if needed for estate tax)
- Digital assets

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Marshal Assets and Liabilities (cont'd)

Liabilities (pre-death creditor claims and post-death expenses)

- Mortuary, funeral, burial and memorial expenses
- Credit cards
- Utilities
- Social Security overpayments
- Medi-Cal recovery (discussed later)
- Mortgages and trust deeds
- Loans, margin accounts and unpaid fees from investment accounts and retirement plans
- Promissory notes issued by decedent
- Income, property, sales & use, estate and gift taxes
- Contingent liabilities and personal guarantees
- Business debts
- Employee-related income tax and unemployment insurance withholding

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Small Estate Affidavit

Affidavit for Collection of Personal Property California Probate Code Section 13100

The undersigned state(s) as follows:

1. _____ died on _____, 20____, in the County of _____, State of California.

2. At least 40 days have elapsed since the death of the decedent, as shown in a certified copy of the decedent's death certificate attached to this affidavit or declaration.

3. No proceeding is now being or has been conducted in California for administration of the decedent's estate.

OR

The decedent's personal representative has consented in writing to the payment, transfer, or delivery to

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Steps for a Simple Probate

- **Prepare Probate Case Coversheet and Certificate of Grounds for Assignment to District**
- **Prepare Petition for Probate**
- **Prepare Notice of Death and Petition to Administer Estate**
- **File Petition for Probate**
- **Prepare Order for Probate**
- **Study and respond to Probate Calendar Notes**
- **Prepare Duties and Liabilities of PR Form**
- **Prepare Application Appointing Probate Referee**

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Steps for a Simple Probate (cont'd)

- **Prepare Notice of Proposed Action, if necessary: real estate and investment securities**
- **Prepare Inventory and Appraisal**
- **Notify Creditors and deal with creditors' claims and other debts**
- **Prepare Petition for Final Distribution**
- **Prepare Notice of Hearing**
- **Prepare Order of Final Distribution**
- **Transfer assets and obtain court receipts**
- **Request Discharge from duties**

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NOTE: This is a very simplified diagram of the probate process and is not intended to cover all possible situations arising in a particular estate. Please consult a qualified attorney if you have any questions about what is required in your particular estate

Diagram of the Probate Process

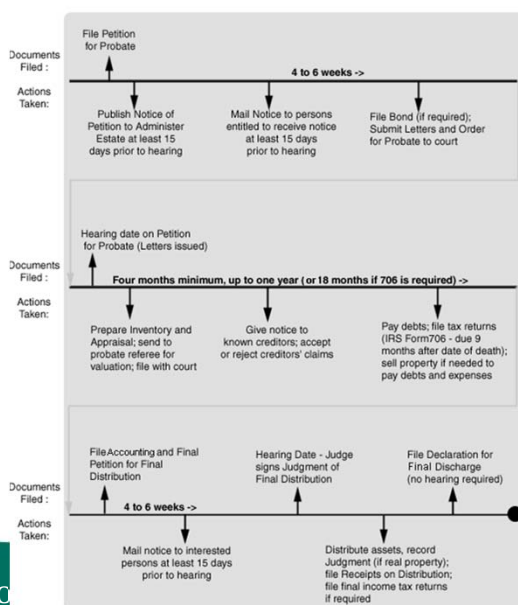


Diagram of the Probate Process

PRO

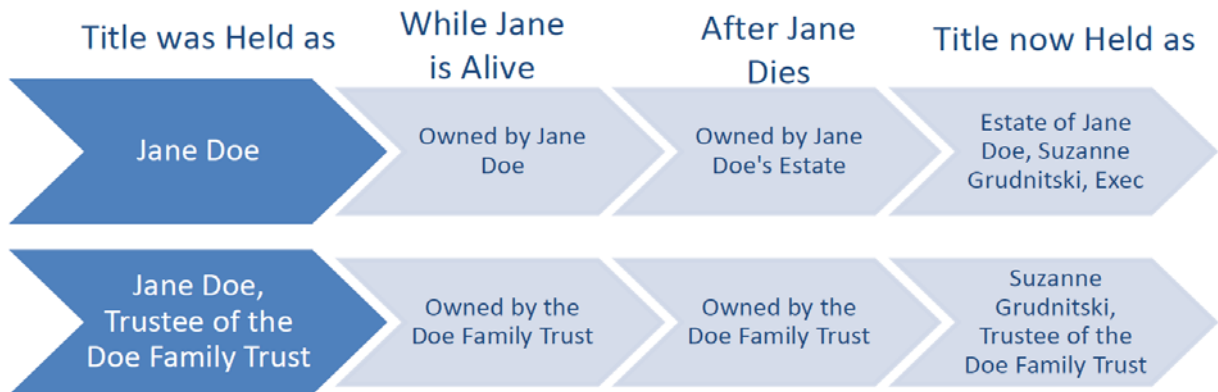


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Real Property

Secure & Insure all Real Property

- **Verify insurance coverage IMMEDIATELY**
 - **Change ownership to estate**



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Real Property (cont'd)

Secure & Insure all Real Property

- **Verify insurance coverage IMMEDIATELY**
 - **Change ownership to estate**
- **Preliminary Change of Ownership Statement**
- **Claim for reassessment exclusion for transfer from parent to child**
- **Property Taxes**

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Medi-Cal Recovery (aka “Claw-Back”)

- California wants to be reimbursed for Medi-Cal costs incurred by seniors
- Those persons 55 years or older at the time they receive Medi-Cal benefits or who (at any age) received benefits in a nursing home, ***unless there is a surviving spouse, RDP* or a minor, blind or disabled child***
- Look-back period is **30 months in California** (60 months elsewhere)
- Recovery limited to amount of benefits paid or value of beneficiary’s estate, whichever is less ***Paid before distributions to beneficiaries!***

*RDP = Registered Domestic Partner

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Medi-Cal Recovery (aka “Claw-Back”) – cont’d

- Real property reduced by amount of trust deed (mortgage)
- Recovery reduced by burial costs and estate settlement costs
- ***Liens*** can be placed on Medi-Cal beneficiary’s estate while living; ***claims*** can be made against the Medi-Cal beneficiary’s estate after death
- For purposes of Medi-Cal recovery, California’s definition of “estate” includes living trusts, joint tenancies, tenancies in common, life estates, annuities purchased after 9/1/2004 and real or personal property in which beneficiary had any legal title or interest at the time of death
Note: trust assets aren’t protected against Medi-Cal recovery liens and claims unless a Special Needs Trust is used

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Inventory & Appraisal

- DE-160
- DE-161
- You appraise cash assets only
- Probate Referee: the person appointed by the court to appraise non-cash assets and liabilities
- See handout

SUMMARY OF ACCOUNT, Estate of Wiley E. Coyote

For Period: 1/1/2020 - 12/31/2020

CHARGES	SCHEDULE		CARRY VALUE	MARKET VALUE
ASSETS ON HAND, BEGINNING OF PERIOD	I&A - A1		7,101,742.10	7,101,742.10
ADDITIONS TO ESTATE			0.00	
INCOME		0.00		
PRINCIPAL		0.00		
RECEIPTS	A		31,323.37	40,000.00
INCOME		8,607.68		
PRINCIPAL		22,715.69		
CHANGE IN FORM OF ASSETS	X			
GAINS ON SALES	B		0.00	
	TOTAL CHARGES		7,133,065.47	7,141,742.10
CREDITS				
DISBURSEMENTS	C		500,000.00	500,000.00
INCOME		0.00		
PRINCIPAL		500,000.00		
LOSSES ON SALES	D		0.00	
DISTRIBUTIONS	E		1,000,000.00	1,000,000.00
INCOME				
PRINCIPAL		1,000,000.00		
ASSETS ON HAND, END OF PERIOD	F		5,633,065.47	5,641,742.10
INCOME				
PRINCIPAL				
	TOTAL CREDITS		7,133,065.47	7,141,742.10
ADDITIONAL SCHEDULES				
CHANGES IN FORM OF ASSETS	G			
LIABILITIES	H		1,200,000.00	

Accounting

Notifications

- Heirs
 - Financial institutions
 - Employers
 - Medicare
 - Social Security Administration
- Department of Health Services
 - Creditors
 - Landlords
 - Mortgage Holders
 - Utilities

California Statutory Fees & Commissions

Computations

4% on first	\$100,000
3% on next	\$100,000
2% on next	\$800,000
1% on next	\$ 9,000,000

Illustrative Fees

(no deduction for loans or set-offs)

Gross Value of Estate	Executor / Atty Fees**
\$ 250,000	\$ 8,000
\$ 500,000	\$ 13,000
\$ 750,000	\$ 18,000
\$ 1,000,000	\$ 23,000
\$ 1,250,000	\$ 25,500
\$ 1,500,000	\$ 28,000
\$ 2,000,000	\$ 33,000

**This amount for just one fee. If *both* executor & attorney take statutory fees, this amount is doubled.
Note: Added are court filing fees which vary, but start at \$320.00

Don't Distribute Assets. . .

- Even if you've done everything above . . .
- **You can't distribute ANYTHING until the Court approves your Accounting**
- No Quitclaim Deeds
- No Private Access
- Don't spend any money without Judge's Blessing
- Keep RECORDS

Probate Forms Part 1

Form	Form Number
Probate Case Cover Sheet	PRO-010
Petition for Probate	DE-111
Notice of Death and Petition to Administer Estate	DE-121
Proof of Subscribing Witness	DE-131
Proof of Holographic Instrument	DE-135
Order for Probate	DE-140
Letters	DE-150
Duties and Liabilities of Personal Representative	DE-147
Confidential Supplement to Duties and Liabilities	DE-147S
Application and Order Appointing Probate Referee	PRO-001
Inventory and Appraisement	DE-160
Schedules to Inventory	DE-161

Probate Forms Part 2

Form	Form Number
Bid in Open Court on Sale of Real Property	PRO-009
Consent to Serve	PRO-026
Ex Parte' Petition for Release of the Remains of a Decedent	PRO-017
Ex Parte' Order for Release of the Remains of a Decedent	PRO-018
Financial Documents Cover Sheet	PRO-021
Examination of Original Will/Codicil(s)	PRO-065
Status Report of Administration	PRO-039
Order Upon Hearing of Status Report of Administration	PRO-040
Affidavit Re Real Property of Small Value (Less than \$55,425)	DE-305
Petition to Determine Succession to Real and Personal Property (\$166,250 or Less)	DE-310
Petition to Terminate Proceedings and Discharge Personal Representative	PRO-054
Order Terminating Proceedings and Discharging Personal Representative	PRO-055

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County Assessor Forms

Form	Form Number
Change in Ownership Statement - Death of Real Property Owner	BOE-502-D
Change in Ownership Statement	BOE-502-AH
Claim for Reassessment Exclusion for Transfer Between Parent and Child	BOE-58-AH
Claim for Reassessment Exclusion for Transfer Between Parent and Child Occurring On and After February 16, 2021	BOE-19-P
Claim for Reassessment Exclusion for Transfer Between Grandparent and Child	BOE-58-G
Claim for Reassessment Exclusion for Transfer Between Grandparent and Child Occurring On and After February 16, 2021	BOE-19-G
Claim of Person(s) at Least 55 Years of Age for Transfer of Base Year Value to Replacement Dwelling	BOE-60-AH
Claim for Homeowners' Property Tax Exemption	BOE-266
Claim for Transfer of Base Year Value to Replacement Primary Residence for Persons at Least 55 Years of Age	BOE-19-B
<p>P Many, many more exclusion/exemption forms: disabled, indigent, veterans, aircraft, boats, and so on</p>	

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Naming Executors and Successor Trustees

- **What is required of the Executor and Successor Trustee?**
 - **No requirements, but many duties and responsibilities**
- **What are good prerequisites?**
 - **Good at math; good at recordkeeping; financially stable and strong; trustworthy; not easily influenced**
- **Who would be a good prospect to serve, and why?**
- **Who might not be a good choice, and why?**

Estate Planning Guide

1. Set up great estate plan & keep it updated (cont'd)

E. Are the correct provisions included?

- ✓ Sibling buy-out of real property without reassessment
- ✓ Are you interested in sharing retirement plans with children?
- ✓ Asset-protection features for beneficiaries – bankruptcy, divorce, creditor claims, spendthrift & substance abuse issues, minors, disabled
- ✓ Are the gifts appropriately described?
- ✓ Who are the beneficiaries? All family? Extended family?

F. Tax issues may become more important with new tax legislation

Estate Planning Guide

1. Set up a great estate plan and keep it updated
- 2. Settling a decedent's estate is hard – consider appointing professionals**
 - A. Professionals will pay for themselves
 - B. Not emotionally involved or grieving
 - C. Time consuming

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Estate Planning Guide

1. Set up a great estate plan and keep it updated
2. Settling a decedent's estate is hard – consider appointing professionals
- 3. Clean up your affairs now rather than leaving a mess for others**
 - A. Have you created or updated your balance sheet?
Where is it? Password protected?
 - B. What are you leaving for others? Do they know?
 - C. Funeral Ideas – Burial vs. Cremation

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Estate Planning Guide

1. Set up a great estate plan and keep it updated
2. Settling a decedent's estate is hard – consider appointing professionals
3. Clean up your affairs now rather than leaving a mess for others
- 4. California Estate & Trust Law continues moving in direction of greater transparency among family members**

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Estate Planning Guide

1. Set up a great estate plan and keep it updated
2. Settling a decedent's estate is hard – consider appointing professionals
3. Clean up your affairs now rather than leaving a mess for others
4. California Estate & Trust Law continues moving in direction of greater transparency among family members
- 5. Have critical conversations**

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Thank you!

Questions?

Disclosure

This material is for general information only and is not intended to provide specific advice or recommendations for any individual. To determine what is appropriate for you, please consult a qualified professional.

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Follow-up questions

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www.torrancememorial.org/news
(click on Financial Health at left)

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