

The death of a loved one marks a very challenging time. Not only are you dealing with the emotional side of losing someone important, you are now thrown into the process of settling their estate—a process unfamiliar and daunting to most of us. At Ross Estate Planning, we know the loss of a loved one is a stressful and difficult time. We are dedicated to helping you through the settlement process. We have helped clients navigate the settlement process in trust administration, probate court and intestate succession. Our experienced team will work alongside you, expertly guiding you through the unfamiliar process with sensitivity and compassion.

Our role in the settlement process—

- **Prepare and file all necessary paperwork for probate court**
- **Obtain domiciliary letter or affidavit of successor trustee so that you have authority to act on behalf of the decedent**
- **Obtain necessary forms for IRS, including obtaining EIN for the estate**
- **Take care of notifying beneficiaries and handling distributions**
- **Notify companies of death and complete claim forms on behalf of client**
- **Inventory and arrange for appraisals on estate assets**
- **Work with tax professionals to ensure taxes are done by deadlines**
- **Work with client to put together a complete estate accounting**

It is important not to rush the settlement process. Nothing needs to be done immediately. There are some things to keep in mind initially:

Don't withdraw funds or change accounts;
Don't start distributing cash, jewelry, china, furniture, etc.;
Don't try to use a power of attorney; and
Don't deposit checks or write checks out of their checking account.

We pride ourselves on providing our clients with the highest standard of service



Robert A. Ross is an estate planning attorney and counselor with offices in Northeastern Wisconsin. His practice specializes in Estate Planning and Administration, Business Succession Planning, Charitable Giving, and Retirement Planning. He is a member of the

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Settlement

Our compassionate, experienced team can guide you through this difficult time



I was the power of attorney, can't I just cash out all the accounts and distribute between my siblings and call it a day? No. Any power of attorney terminates the moment a person passes away. Any bank or investment account will likely be closed or frozen the moment they find out about the death. You will not be able to withdraw funds or even deposit a check. You must provide proper documentation that you are in charge of the estate.

Decedent had a will, what's next? Most of the time we can use a process called informal probate. There are numerous forms that must be completed in order to get the probate started in court and have you appointed as Personal Representative (PR). It is not enough that you were named PR in the Will. We also must notify every heir and give them a copy of the Will. We will need to continue to file documents with the court and give copies to all heirs throughout the process. Before you can do anything with the estate, you must be issued Domiciliary Letters from the probate court. This is what gives you authority to act on behalf of the estate.

Decedent had a trust, what's next? Because your loved one did advanced estate planning and used a Trust, your job will be easier as a Successor Trustee than it would be if they used a Will. There are differences in settling a Trust. 1) A lot of the ground work has been done for you. If the Trust was properly set up and funded, we already know what assets exist and where to find them. 2) We do not need to do anything through probate court, which means we will save time on filling out endless forms. We do not need to do things on the court's schedule and the settlement will remain completely private. 3) The attorney fees will only be about half as much. 4) We do not wait for court appointment through Domiciliary Letters. Instead we can complete the Affidavit of Successor Trustee and you can start using the checking account.

How long will this take? We strive to make it a quick and easy process for you. Our goal is to complete all settlements in 9 to 12 months. However, a lot of things are out of our control. For example, if we need to cash in an investment account and the company will not work with us, this will slow down the process. Depending on what time of year someone passed away, taxes might hold up closing the estate. If we find assets after we thought everything was accounted for, it will delay the process. If a home needs to be sold and there are no buyers, it will delay the process.

Now that I am PR or trustee what do I do? The first stage in the settlement process is gathering all of the decedent's financial information. Look through all paperwork at the house for account statements. If there is a safe deposit box, look through that for any important information. Find last year's taxes and bring them to the office. Often, accounts we didn't know about will trickle in as notices come in the mail. Pay attention to the mail you've had forwarded to your house and don't assume anything is junk mail. A statement could come notifying us of an account we did not know existed. The second thing to do is to set up a new estate checking account using the estate EIN. Once this is set up, you can start cashing checks and paying bills. As the appointed PR or Trustee, it is your responsibility to make sure bills are paid, taxes are paid and the home is taken care of.

I got a huge packet in the mail from the insurance company, what do I do with it? If you feel comfortable filling it out, you can do so. However, the forms can be confusing and ask for information you might not have on hand. As part of the settlement process, we are happy to complete any claim forms or assist you with any questions you have in completing this paperwork. We will work with you to make sure all insurance and proceeds are collected.

My loved one was in the nursing home, are they going to take the house? Wisconsin estate recovery must be notified if assets are transferring through any probate process. If everything is being done through a trust, there is currently no obligation to notify the state. However their rules state they can still recover. We will take care of notifying the estate recovery division if necessary.

I don't (or another beneficiary doesn't) want their portion of the inheritance. Can I just give it to someone else? There are two options. First, the inheritance can be given to the beneficiary as written in the will or trust and they can then gift it to their children or other beneficiary. The downside to this distribution is that it will be considered a gift for tax purposes. The second option is to "disclaim" your inheritance. To do this you need to speak with us. The downside is that your portion of the inheritance must go as directed by the will or trust. The upside is that there will not be any gift tax consequences. You can also choose to disclaim a portion or all of your inheritance.

When can I start giving things away? Don't give anything away until you consult with us. Anything with a beneficiary designation or POD will go directly to that person, although sometimes the "person" listed is actually the trust. One of the goals of the settlement is to cash in all the various savings accounts, investments, insurance policies, etc., and have everything deposited into the estate checking account. This is a good idea because it gives us an idea of what funds are available. It also means funds are available to pay expenses. Once we've had a chance to talk, it's likely we can advise you to do a preliminary distribution. This allows you to distribute some funds but ensures you keep enough assets in the checking account to continue to pay expenses. There is a distribution process that requires each beneficiary to sign a receipt, so you should talk to us before you start writing out checks.

This has been a lot of work, do I get paid? Most trusts and wills indicate the PR or trustee is allowed to collect a reasonable fee for their services, in addition to their inheritance. There is also a state statute that says you can collect a fee as personal representative. The document might specify a percentage you can collect. If it says a reasonable fee, our office will help determine what that amount would be. On top of getting a reasonable fee for your service, you can always be reimbursed for any out of pocket expenses. While you should use the estate checking account as much as practical, some things will come up before that is set up. Keep a detailed account of everything you spent out of pocket and how and when you reimbursed yourself.

How much will it cost? We do not charge by the hour or by a percentage of the estate like most law firms. At our first meeting, we will discuss our fee schedule and give you an estimate of how much it will cost. Typically, the same things that cause a settlement to take longer will also cause it to cost more. Numerous beneficiaries, numerous accounts, and a lot of real property will raise the price. A probate administration will always cost more than a trust administration. The probate court will also collect an inventory fee, which is separate from the attorney fee. If the decedent had property located in another state it will likely slow the process and increase the cost.