

**DEALING WITH THE  
DEATH  
OF A  
LOVED ONE**

Articles prepared by  
members of the  
Estate Planning Council of Portland, Inc.

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## Introduction

The Estate Planning Council of Portland, Inc. (the “Council”) first published *Dealing with the Death of a Loved One* in 2003. It was the first publication of the Council and was based on a publication of the Estate Planning Council of Seattle and used with its permission. This revised version is a collection of articles that addresses questions that may arise when someone dies, and offers practical guidance. It includes a detailed list of where you can find help and a glossary of terms.

This book has two primary goals. The first is to help inform those who are concerned about the death of someone close. The second is to provide a quick reference source for persons who are dealing with a recent death or one that may soon occur.

Several words of caution: Many of the subjects discussed in these articles are more involved than they may appear and entail federal, state, and local laws. Please do not use these articles as a substitute for obtaining timely professional advice. The Council disclaims any responsibility for actions that may be taken based solely on advice offered in this publication.

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## **Immediate Concerns — What to Do First**

### **Emergencies**

Call 911. Ask for police and medical emergency service.

### **Crisis Intervention**

When a death occurs, emotions run high. If you have any reason to suspect that someone's grieving is out of control or may lead to physical harm, seek help immediately. In an emergency, you may obtain help by contacting the police. The following crisis lines are staffed 24 hours per day and offer referrals to local organizations and other services:

Multnomah County (503) 988-4888 TTY (503) 988-5866 Toll Free 1 800 716-9769

Clackamas County (503) 655-8585

Washington County (503) 291-9111

If you are concerned about someone's immediate well-being, do not leave the person alone. Do not let him or her drive. Carefully monitor use of alcohol, sedatives, and other drugs. When people arrive to assist you, make sure they are aware of your concerns and inform them of any drug or alcohol use.

### **Medical Examiners**

If the death was expected and occurs at home, the family physician will be prepared to visit the home to deliver the official death pronouncement and to complete the death certificate. Then contact the funeral home of your choice. For assistance in locating a funeral director, check local yellow pages or contact:

Oregon Funeral Directors Association  
12725 SW 66th Avenue, Suite 105  
Portland, OR 97223  
(503) 639-1186 Toll free 1 (800) 304-5095  
email - [info.ofda.org](mailto:info.ofda.org)

If the death was unexpected, call the county medical examiner or the police. The county medical examiner will take charge of the body. Do not move the body unless it is in a dangerous location. The county medical examiner or police will release the body to the funeral home.

## **Autopsy**

The opening and examination of the body are normally ordered by the medical examiner in cases of death that occurred unexpectedly or when there was no ongoing care by a physician. This is necessary to determine the exact cause of death and often aids in medical research. Once completed and the body is clothed, it should not be apparent that there has been an autopsy.

## **What if You Are Traveling?**

If death occurs in a public place or while traveling, call the police. The decedent will be transported to a hospital, where a physician or medical examiner will be summoned. Then notify a funeral director of the death. If you are traveling in the United States, ask a local funeral director to contact the funeral director you wish to use in your hometown. The two funeral directors will arrange to have the decedent transported. If you are traveling outside the United States, you should contact the nearest U.S. Embassy for assistance.

## **Organ Donations**

You may be asked to donate all or some of the decedent's organs and tissue for transplantation, medical research, or education. The decedent may have made that decision for you by signing a donor card or indicating so in a will. Most states, including Oregon, have donor cards that can be attached to a driver's license.

If the decedent has named a donee, contact that organization and make certain that it will accept a donation. Otherwise, any guardian or health care attorney-in-fact, the surviving spouse, or other listed relations may make the decision under the Oregon Uniform Anatomical Gifts Act. If you want to know who would be interested in a donation, contact the Donate Life Northwest at [donatelifenw.org](http://donatelifenw.org) or at (503) 494-7888 or toll free at 1 (800) 452-1369.

The decision to donate organs must be made immediately after death, since organs deteriorate rapidly. Donations of heart, lungs, liver, pancreas, and kidneys must be made within 12 hours of death and are usually coordinated in the hospital with the agency while the person is alive. Donations of tissue, eyes, bones, skin, and heart valves usually must be made within 24 hours of death. The hospital will discuss organ donations with the family if death appears imminent. You may be able to donate tissue even if the decedent was considered too old or disease-ridden to donate organs.

It should cost nothing to make a donation. All expenses should be paid by the recipient organization. Making a donation should not delay the funeral, nor should it prevent having an open casket, since the decedent is usually not disfigured by a donation.

## **Taking Care of Survivors**

It is often said that death is harder on the survivors than it is on the decedent. For the one who has died, his or her problems are over. Often the survivors' problems have only begun. This chapter will explain how you can help the survivors as quickly as possible.

### **Emotional and Daily Care of Survivors**

Often the most important concern in the time after a death is the well-being of those deeply affected by it. You should know that there are a number of local agencies, faith-based groups, and grief support groups available to you. The Internet is a helpful tool for finding resources in your area, e.g., the National Bereavement Resource Guide ([www.moyerfoundation.org/nbrg/pdf/OnlineResourceGuide\\_Oregon\\_2011.pdf](http://www.moyerfoundation.org/nbrg/pdf/OnlineResourceGuide_Oregon_2011.pdf)) and the Moyer Foundation's National Grief Resource Guide. In addition to the resources at the end of this section, funeral homes, hospitals, churches, or other faith-based institutions may have additional resources for your reference.

Children left without a custodial parent need immediate adult supervision and direction. Following are some important steps to consider:

- Move them to the home of family or friends.
- If possible, get a letter authorizing someone to provide medical and educational care.
- Notify their schools and teachers. Learn their school hours and plan how to get them to and from school.
- Contact the YMCA or YWCA or other social and mental health agency for day programs when school is not in session.
- A guardian will be named by the court two to four weeks after the will is submitted for probate. Arrange for care in the meantime.
- Arrange medical insurance coverage: either continuation of the decedent's coverage or a new plan.
- Maintain normal daily routines such as meals, bedtime, friend contact, responsibilities, religion, etc.
- Arrange counseling for the children through a church or synagogue, or through a service agency such as The Dougy Center at (503) 775-5683.

Other family members and friends known to the children can often be found in the decedent's address book. Enlist a friend or family member who is willing to contact these people, who can then offer assistance to the child.

## **Elderly or Handicapped Dependents**

The care needed for these family members is generally beyond the abilities and experience of most friends or other family. Immediately contacting a professional support agency through the Department of Human Services is suggested. New legal authority to provide and decide for these dependents may also be needed.

## **Getting Money for the Spouse and Family**

Unfortunately, death can come at the worst time financially. Cash will be in high demand for funeral arrangements, travel, gatherings of family and friends, and bills and daily maintenance. Some sources are more accessible than others, and some sources have tax penalties attached, requiring advice and planning.

The first sources to be considered are savings and checking accounts of which the spouse or other family member is named as a co-owner. No death certificate or court order is needed to withdraw funds. All financial institutions will require some verification of the death and the survivor's right to the funds.

The next fastest sources of money are unpaid wages or company or union death benefits. Be careful to save enough of this money for living expenses for at least two months, since it may take that long to collect funds from remaining sources.

The remaining sources of money will require more time and paperwork. Life insurance companies will require certified copies of the death certificates, completed claim forms, company processing time, and possibly birth certificates of the beneficiaries and court arrangements if the beneficiaries are minors. If the insurance is payable to the decedent's estate, probate may be necessary in order to redeem the policy.

Retirement benefits are normally paid through the employer's personnel department, an employees' union, or a third-party plan administrator. Benefits administrators often require a copy of the death certificate, as well as certain claim forms to be completed. It can often take a number of weeks to receive the funds after providing the necessary materials. This is true for benefits for persons who were employed or who were already drawing a pension.

Getting funds from an individual retirement account ("IRA") is quicker in that you can deal directly with the IRA sponsor. However, a death certificate is still needed. All withdrawals from pension and IRA accounts have tax results, some serious. Contact an attorney, accountant, or other specialist in pension and IRA matters before withdrawing the money.

Selling assets takes time and may require legal authority. This should be one of the last sources of cash. The very last is borrowing. Until a clear picture of the income and liquid reserves is known, avoid getting into debt.

Court proceedings during probate can arrange for funds in a lump sum or in monthly payments. Monthly support can be paid to the spouse or, if there is no spouse, to

a guardian for the support of minor children. Any child of the decedent is entitled to apply for this source of support. Other dependents who are family members may also apply, but the reward is based upon necessity and the discretion of the court.

Social Security and veterans death benefits will take longer and may require specific forms in addition to the death certificate, such as Letters Testamentary, Letters of Administration, and veteran service records.

If the decedent was employed at the time of death, check with the employer or union to determine the family's options for continuing medical insurance. Some employers are required by law to allow family members to continue their medical benefits for up to 36 months. The family will need to pay the employer the premiums for this coverage.

Under Oregon law, no one may be turned down for medical insurance or be asked to pay a premium higher than that offered to other individuals of the same age, sex, and smoking status. If the surviving spouse of the decedent has less than a three-month break in insurance coverage and the original insurance covered a preexisting condition, the new insurance carrier may not reimpose a new preexisting-condition clause. Check with your insurance broker or medical insurance provider for additional information.

Contact the Social Security Administration for Medicare benefits. If the family simply does not have any assets or enough income to provide care, you may contact the Oregon Department of Human Services' Oregon Health Plan at (503) 945-5772. More information is available at <http://www.oregon.gov/OHA/healthplan/index.shtml>.

Pension, Social Security, or trust income checks in the name of the decedent may have to be returned or may belong to other beneficiaries. Ask your attorney for advice before attempting to use these funds.

## **Family Pets**

Experience indicates that pets will often run away if not attended to or given affection. Neighbors are usually the best and quickest short-term care solution. Longer-term placement may be necessary. Keep secure control of the animals with leashes, fenced yards, or pens until daily care is arranged. Arrange for daily feeding, water, and cleaning of their area. As with children, take the pets' toys and familiar things with them when they are moved.

Of course, if the decedent left written instructions regarding the pet's care, or has given the pet to a family member or friend under the will, these instructions should be followed if at all possible. When it is not possible to find the pet a permanent new home, you may wish to contact the Oregon Humane Society at (503) 285-7722 or <http://www.oregonhumane.org>. The following Web site lists other animal rescue groups in Oregon and Washington, as well as information regarding placing purebred dogs: <http://www.nwdogrescue.com>.

## **Special Situations**

During winter months, winterize an unoccupied home by keeping some heat on, putting antifreeze in the toilets, and insulating outside faucets. Winterizing sprinkler systems may be necessary as well.

Neighbors can keep an eye on things and take protective action for any of the property. They will be protected in their actions when acting in good faith. If the resident will be left vacant, consider changing the locks on the residence and investing in a home security system. Be sure to research the current homeowner's policy. Many policies have a "vacancy exclusion," which kicks in after a home has been empty for 30 to 60 days, and limits insurance coverage on a vacant residence. Research your options with an insurance company, possibly purchasing an endorsement on the existing homeowner's policy, if available.

Any business operated by the decedent should be contacted so someone can be designated to be in charge and to pay bills and payroll.

The next of kin might have a moral duty to keep track of the decedent's property, but usually they are not legally responsible for it.

Vehicles, boats, etc., should be secured and insured and the keys should be collected.

## **Survivors' Resources**

Oregon Warmline Support Service  
800-698-2393

Clackamas County Crisis Line  
503-655-8585

Clark County Crisis Line  
360-696-9560  
800-686-8137

Multnomah County Crisis Line  
503-988-4888  
800-716-9769

Washington County Crisis Line  
503-291-9111

Hope House  
Astoria OR  
503-325-6754

Hospice of Bend and My Friend's House, Inc.  
Bend OR  
541-382-5882  
<http://www.partnersbend.org/>

South Coast Hospice & Palliative Care Services  
Coos Bay OR  
541-269-2986  
[www.schospice.org](http://www.schospice.org)

Courageous Kids  
Hospice of Sacred Heart  
Eugene OR  
541-461-7577  
<http://www.courageouskidsoregon.org/>

Good Grief  
Lovejoy Hospice  
Grants Pass OR  
541-474-1193  
[www.lovejoyhospice.org](http://www.lovejoyhospice.org)

Mt. Hood Community College  
Grief and Loss Support Groups  
Gresham, OR  
[www.mhcc.edu/StudentServices.aspx?id=496#grief](http://www.mhcc.edu/StudentServices.aspx?id=496#grief)

WinterSpring Center for Living with Loss and Grief  
Medford OR  
541-552-0620  
[www.winterspring.org](http://www.winterspring.org)

St. Anthony Hospital Hospice  
Pendleton OR  
541-276-5121  
[www.sahpendleton.org/svc-hospice.html](http://www.sahpendleton.org/svc-hospice.html)

The Dougy Center  
Portland OR  
503-775-5683  
[www.dougy.org](http://www.dougy.org)

Oregon Hospice Association  
Portland OR  
503-228-2104  
[www.oregonhospice.org](http://www.oregonhospice.org)

Redmond Hospice  
Redmond OR  
541-548-7483  
[www.redmondhospice.org](http://www.redmondhospice.org)  
Wings of Hope Mercy Medical Center  
Roseburg OR  
541-673-0611  
[www.mercyrose.org](http://www.mercyrose.org)

Willamette Valley Hospice  
Salem OR  
503-588-3600  
[www.wvh.org/](http://www.wvh.org/)

Child Grief  
[www.childgrief.org](http://www.childgrief.org)

Kidsaid  
[www.kidsaid.com](http://www.kidsaid.com)

National Alliance for Grieving Children  
<http://nationalallianceforgrievingchildren.org>

### **Taking Care of Funeral Arrangements**

Funerals are a formal recognition of death in most cultures and play a significant role in the life cycle of the person who has died, as well as his or her survivors. Cultural, spiritual, and emotional influences shape the nature of funeral plans, and sometimes this can overwhelm someone experiencing this for the first time. This chapter will help you understand what to expect as you make these arrangements.

Options include the traditional funeral as well as a home funeral. A home funeral is a family or community-centered response to death and after-death care. Families and communities may play a key role in:

- Planning and carrying out after-death rituals or ceremonies (such as laying out the decedent and home visitation of the body)
- Preparing the body for burial or cremation
- Filing of death-related paperwork such as the death certificate
- Transporting the decedent to the place of burial or cremation
- Facilitating the final disposition such as digging the grave in natural burial

- Home funerals may occur within the family home or not. (Some nursing homes, for example, may allow the family to care for the decedent after death.)
- The emphasis is on minimal, non-invasive, and environmentally-friendly care of the body.
- Support and assistance to carry out after-death care may come from home funeral educators or guides, but their goal is to facilitate the maximal involvement of the family and its social network.
- Organ and tissue donation.

### **Funeral Directions for a Traditional Funeral**

Once death has occurred, you will need to contact a funeral home. Try to determine if the decedent made advance plans with a funeral home. Look for burial insurance contracts with an insurance company or prearrangement funeral contracts with a funeral home or memorial association. Information may be found among invoices or canceled checks or in a personal letter kept with the will. If nothing is found, contact the funeral home of your choice. Most are staffed 24 hours a day.

The funeral director will offer assistance and comfort and will take care of most of the details.

### **Funeral Choices**

You may want to start by asking friends and family if they know if the decedent had any preferences. You will be asked to make several decisions:

- Choice of disposition, such as burial or cremation.
- Type of casket for burial or urn for cremation. You may select interment before a memorial service when burial is the preferred disposition.
- Choice of cemetery and lot for burial or niche for cremation. Burial need not be in the cemetery affiliated with the funeral home.
- Religious content of any service.
- Church, chapel, or graveside services. You may elect to have no funeral service.
- Choice of headstone or marker.
- Viewing and related embalming, if desired.
- Processional and escort to graveside service, if desired.

## **What to Expect from Your Funeral Director**

The funeral director will assist you with the many details of planning the funeral. Among the more common details, the funeral director can assist the family with the following:

- Transporting the remains from the hospital, residence, nursing home, or other location to the funeral home.
- Obtaining the physician's signature on the death certificate, filing it with the various authorities, and obtaining certified copies of the death certificate for the family and personal representative to use in organizing the decedent's financial affairs.
- Preparing death notices for the various newspapers.
- Coordinating other elements of the service including clergy, newspaper announcements, florists, printers, vehicle processions, musicians, and cemetery or crematorium arrangements.
- Providing a chapel and viewing area at the funeral home itself.
- Providing funeral coach, family limousine, and other necessary transportation services.
- Forwarding the remains to another funeral home or receiving the remains from another funeral home.
- Filing claims for veterans benefits, and handling of Social Security or insurance forms.
- Coordinating and forwarding an honorably discharged veteran or spouse to a national cemetery for interment. The nearest one is Willamette National Cemetery in Portland at (503) 273-5250.
- Offering follow-up bereavement programs for the family. These programs can be very helpful when dealing with the various stages of the grieving process.
- Assist with organ and tissue donation.

## **Funeral Costs**

The cost of a funeral and related services can vary widely. Following is an estimate of some of the charges relating to funerals and burial according to 2009 figures compiled by the National Funeral Directors Association.

|  |                 |
|--|-----------------|
| Non-declinable basic service fee             | \$ 1,817        |
| Removal/transfer of remains to funeral home  | \$ 250          |
| Embalming                                    | \$ 628          |
| Other preparation of the body                | \$ 200          |
| Use of facilities/staff for viewing          | \$ 395          |
| Use of facilities/staff for funeral ceremony | \$ 450          |
| Use of a hearse                              | \$ 275          |
| Use of a service car/van                     | \$ 125          |
| Basic Memorial printed package               | \$ 125          |
| <i>Subtotal without casket:</i>              | <i>\$ 4,265</i> |
| Metal casket                                 | \$ 2,295        |
| <b>AVERAGE COST OF A FUNERAL</b>             | <b>\$ 6,560</b> |
| Vault  | \$ 1,195        |
| <b>TOTAL COST OF FUNERAL WITH VAULT</b>      | <b>\$ 7,755</b> |

Cemetery plots range from \$900 to \$4,800 or more. This may not include opening and closing of the grave, cemetery equipment and tent, a grave outer-burial container (liner or vault), and a marker. State law requires that at least 10 percent of the cost of the lot, niche, or crypt be charged and held in an endowment care fund by the cemetery in a depository that is open to audit by the Oregon Mortuary and Cemetery Board.

Another option is above-ground entombment in a mausoleum. Prices vary based on crypt height and location, with eye-level crypts being the most expensive. Prices range from \$1,700 to \$7,600 for a single and \$3,200 to \$16,500 for a double. Many people are surprised to find that entombment in a crypt can be more cost effective than ground burial. This is partially true because no concrete interment container is required.

State law requires that at least 10 percent of the cost of the lot, niche, or crypt be charged and held in an endowment care fund by the cemetery in a depository that is open to audit by the Oregon Mortuary and Cemetery Board.

### **Green Burial**

Green, or natural, burial is an environmentally sensitive burial option that allows for the natural decomposition of the body that requires the use of sustainable, natural products for caskets such as wood, bamboo, and sea grass. The practice eliminates or drastically reduces the use of non-natural products such as embalming fluid, steel,

copper, bronze and concrete typically used in traditional in-ground burials. Natural burials can be inexpensive or costly, depending on the materials chosen, but it is a common belief that they cost roughly half of what conventional burials cost.

## **Medicaid Issues**

Although Medicaid itself does not pay for funerals, cremations, or burials, it does have rules that allow you to set aside money for your own funeral and burial without having that money "count" as part of your assets when Medicaid determines your eligibility for medical or long-term care coverage. Medicaid coverage is only available to people with little money and few other assets. In counting up your assets, though, Medicaid does not count the value of a burial plot you own. Also, Medicaid allows you to put money aside, in a separate account, to pay for your funeral and burial expenses. Or, you may have a prepaid funeral plan without the value of the plan being counted regarding Medicaid eligibility.

The amount permitted for this funeral/burial account is around \$1,500 but the exact amount, and the rules for keeping it separate from your other funds, varies a bit from state to state. To find out the exact amount and rules in your state, you can go onto your state's Medicaid Web site.

## **Getting Organized**

When a loved one dies, one of the biggest tasks is getting organized and determining what estate planning has been done by the decedent and the extent of the decedent's estate.

For the most part, the job of collecting important documents and determining the extent of a deceased's estate will fall to the person with legal authorization to manage the decedent's estate, such as the personal representative, executor or successor trustee.

At this point, you should just collect and safeguard any items or information found. For more information on what to do once you have collected the items, refer to the next four sections in this Guide: (1) Legal Matters- How Property Passes at Death, (2) Informal Procedures, (3) Life Insurance and Other Death Benefits, and (4) Taxes. If you are a personal representative, executor and/or successor trustee, refer to the Portland Estate Planning Council's Publication titled "*Oregon Fiduciary Guide*" for more in depth information on how to manage the decedent's assets and bills.

## **General Dos and Don'ts**

Do contact friends, family and employers to alert them of the death.

Do allow friends and family to assist you in alerting other friends and family.

Don't give away or sell any of the decedent's personal items before meeting with an attorney to determine how the items should pass either under the decedent's will or trust, or the intestate laws of Oregon.

Don't pay any bills of the decedent until you have met with an attorney and you know the extent of the decedent's legitimate bills.

### **Whom to Contact First**

**Attorney.** Your first instinct may be that you need to locate all important documents before contacting an attorney. However, if you know the decedent's attorney, he or she may be able to provide you with copies or originals of the decedent's estate planning documents. If you do not know who is the decedent's attorney, it is still better to contact an attorney sooner rather than later. The attorney may be able to locate the decedent's attorney for you and locate the decedent's estate planning documents. The attorney may also be able to assist you in obtaining authorization to begin managing the decedent's estate, even if you are unable to locate any estate documents.

**CPA.** If you know who was the decedent's CPA, accountant or tax preparer, this person should be able to provide you with financial information that will be helpful in administering the estate and locating assets. If you are unable to locate the decedent's tax information, a CPA will be able to assist you in obtaining this information from the State and the IRS. The CPA may also know the name of the decedent's attorney, if you do not already have this information.

**Guardian, Conservator or Agent Under a Power of Attorney.** The powers under a guardianship, conservatorship and power of attorney terminate at the decedent's death, so these people should be alerted immediately.

### **Others to Contact**

**Social Security Administration.** To stop the monthly check, if any, and learn of potential benefits for the surviving spouse or dependents. It is best to call the Social Security Administration and make an appointment to meet with a representative. When speaking with the Social Security Administration representative, have the decedent's Social Security number as well as those of the spouse or any dependents of the decedent. You may need birth certificates, marriage licenses, self-employment tax returns (if appropriate), and a recent Form W-2. See the Chapter titled Life Insurance and Other Death Benefits for contact information and possible benefits available.

**Department of Veterans Affairs.** To stop the monthly check, if any, and to learn of potential benefits for the surviving spouse or dependents. See the Chapter titled Life Insurance and Other Death Benefits for contact information and possible benefits available.

**Post Office.** If you have been appointed personal representative, executor or successor trustee, it is appropriate to pick up mail already delivered to the decedent's home and have future mail forwarded to you. You may either visit the local post office to fill out and submit the necessary paperwork, or complete the process online at: <https://moversguide.usps.com>.

**Employer.** To notify the employer of the death. Also inquire about sick leave pay, vacation pay, and other wages, as well as any death benefits from life insurance or retirement plans.

**Banks.** To locate accounts, certificates, joint accounts and safe deposit boxes. Also inquire with the bank if any accounts, including mortgages, carried life insurance to pay off balances.

**Trustee.** The trustee or successor trustee of any trust in which the decedent was a beneficiary. This should include pension, IRA, or other retirement plan trustees to determine what, if any, benefits are due.

**Investment Professionals, Financial Planners, Stockbrokers.** To request information on stock, bond, and mutual fund account balances. Also inquire in whose name these accounts appear and ask about life insurance death benefits associated with these accounts.

**Insurance Agents.** To determine if the decedent had any life, medical, disability, automobile and/or homeowners insurance. Request claim forms for any benefits that are due. Request termination of coverage that is no longer needed and return of any unearned premiums.

**Department of Motor Vehicles.** To determine what forms may be necessary to transfer titles to vehicles.

**Credit Card Companies.** To cancel credit cards held by the decedent individually. If a credit card is owned jointly with a spouse, the company may discontinue the credit card and require the spouse to open a new account. Also, to determine if there was credit card insurance that may pay for the outstanding balance, if any, or if there was an additional life insurance benefit.

**Credit Reporting Agencies.** To place a "deceased alert" to help prevent identity theft of the decedent.

**Utility Companies.** To alter or discontinue service.

**Newspaper/Magazines/Other Subscription Services.** To alter or discontinue service.

**Doctors.** To notify them of the decedent's death and determine what medical bills are due, if any.

**Clubs/Business Organizations.** To request refund of prepaid dues.

It is common for things to be overlooked or forgotten. Make a list of who was contacted, when they were contacted, and what was discussed.

## **What to Look For**

Once you have legal authorization to manage the decedent's estate, you should search the decedent's home, office, and safe deposit box for the items listed below.

When looking through personal papers and records, be very careful not to destroy or lose papers that may seem unimportant initially. Often, seemingly unimportant information may be used to find other, very important information.

## **Going into the Home**

If you are not the personal representative, trustee or do not have other legal authority to enter the home, please do not go into the home without permission from a person with legal authority to enter the home. Once you have legal authority to enter the home, one of the first steps will be to locate important documents.

You can delegate necessary actions such as care of pets and plants to any trusted person who is willing to help. It is appropriate for the person entering the house to pick up mail and give it to the personal representative as soon as possible. Inform the post office of the person's death and have mail forwarded to the personal representative. It may be appropriate for someone to go into the decedent's home and look for address books or telephone directories in order to contact relatives and friends.

When entering the decedent's home, try not to remove items unless necessary for their safe keeping. It is best to take a trusted second person with you when you enter the house and stay with that person at all times. Keep a written list of any items that you do need to remove, indicating where these items have been placed. If you find important papers in your search for telephone numbers and addresses, make note of what papers you found and where you found them. Do not remove any important papers. Make sure the residence is securely locked when you leave.

## **Home and Personal Belongings**

**House.** The house should be insured. If nobody is living in the house, you may need to obtain vacant house insurance. Take steps such as regularly visiting the house, collecting the mail and changing the locks to protect the house from burglary or vandalism. Make sure the residence is securely locked when you leave.

**Household belongings.** Jewelry, silverware, paintings, and other portable items of value sometimes wander off after the owner's death. If there is no trusted person in the house, you should change locks and remove and secure items of special value.

**Cash and Checks.** The personal representative should deposit these in an account set up in the estate's name.

**Vehicles.** Cars, boats, planes. These items should be insured, stored, and perhaps disabled.

**Pets.** Make arrangements to care for pets until you are able to determine if the decedent left instructions on who should care for the pet.

**Documents.** Attempt to locate the documents described below. The more information that you have about the decedent's estate plan, debts and assets, the easier it will be to administer the decedent's estate. Much of this information will be useful to the lawyer, accountant and other professionals assisting you with the administration of the estate.

**Final Instructions of the Decedent.** Often, the decedent will leave instructions for his or her estate. These instructions tell where other documents may be located. This could be a letter (often sealed) or a more formal document.

**Will.** May include a signed and/or unsigned copy of the will. (If you do not already have a lawyer, the will or unsigned copy of the will may show the name of the law firm that can assist you with the administration of the decedent's estate.)

**Trust Documents.** May include trust documents that name the decedent as a settlor, beneficiary, or a trustee.

**Funeral/Burial Plans.** The decedent may have prepaid for funeral and/or burial arrangements.

**Safe Deposit Rental Agreement and Keys.** If the decedent had a safe deposit box, it may contain not only items of value but documents relating to other property.

**Insurance Policies.** May include life, health, medical, property, or casualty insurance. See the Chapter titled "Life Insurance and Other Death Benefits" for steps to take to find life insurance policies.

**Unopened Mail.** May include checks, bills or other important correspondence.

**Deeds and Titles.** May include property deeds, mortgage documents, and other loan agreements; vehicle registration and title; stock and bond certificates; membership certificates; property appraisals; property tax statements, and mortgage cancellation insurance.

**Personal Documents.** May include Social Security card or Social Security number, birth certificates of all family members, marriage license, prenuptial and other marital property agreements, military discharge papers, divorce papers, bankruptcy documents, citizenship papers, and adoption papers. Occasionally, some of this information is recorded in the family religious books.

**Financial Documents.** May include business financial statements and business agreements, bank statements and checkbooks, pension, IRA and

retirement statements, certificates of deposit, notes receivable and payable, leases, income tax returns (up to six years), and gift tax returns (all years). An accountant can assist you in obtaining copies of income tax returns and gift tax returns directly from the IRS.

**Unpaid Bills.** May include medical, credit card, and other invoices.

**Computer accounts and documents.** More and more people are storing important documents online. Review the decedent's computers, hard drives, USB flash drives and CDs to find important financial records. Check to see if the decedent kept a list of usernames and passwords.

### **Other Items to Look For**

**Digital Assets.** Consider whether the decedent had PayPal, EBay, Amazon or other accounts where the decedent was either actively buying or selling items or where there may be credit.

**Email, Facebook and Other Accounts.** Consider whether the decedent had any email, Facebook or other accounts that should be closed.

**Unclaimed Property.** Search for unclaimed property reported to the State of Oregon at <http://www.oregon.gov/dsl/up/index.shtml>. Search for unclaimed property reported to other states at <http://www.unclaimed.org/>.

## **Legal Matters — How Property Passes at Death**

### **Introduction**

When someone dies, whatever he or she owned passes to new owners. Sometimes property passes according to a will; sometimes other arrangements have been made, such as trusts, joint bank accounts, pay on death/transfer on death designations or life insurance beneficiary designations. There are formal legal procedures for settling someone's affairs—often referred to as “probate”—and informal procedures that usually involve filling out forms for financial institutions. The following should help you to decide which procedures are right for you.

### **If There is a Will**

The traditional way people transfer legal ownership of their property at death is by a written document called a will. As mentioned above, when someone dies, one of the first steps in settling his or her affairs should be locating the will.

Wills transfer the legal ownership of property owned by a person in his or her individual name, without contractual or other arrangements that automatically transfer ownership at death. Generally, if property is held in the name of the decedent, or there is no written way to own the property, that property passes under a will. These are called

“probate assets.” Many types of property pass automatically at death outside the will, which are called “nonprobate assets.” They are listed later in this booklet.

Often, the will can be found among the decedent’s important papers—for instance, in a safe deposit box—or with the attorney who wrote it.

Under Oregon law, anyone locating a will has a duty to deliver it within 30 days of the date of death to the personal representative named in the will or to the clerk of the Circuit Court in the county where the person died.

### **If There is No Will**

If a person leaves no will, his or her property passes according to Oregon law (intestate succession) to a specific list of relatives. We call these individuals the person’s heirs.

If the decedent was married, all property without a named beneficiary passes to the surviving spouse. (If the decedent had children who are not children of the surviving spouse, then the children of the decedent are entitled to one-half of the property.) If there is no spouse, the property passes to the children of the decedent. If there are no children, it is distributed to the decedent’s parents, if living, otherwise then to siblings of the decedent, then to children of the siblings, and so forth.

Ultimately, if there are no surviving family members to inherit the property, the property passes to the state of Oregon.

### **Small Estates**

Regardless of whether or not the decedent had a will, if the decedent leaves less than \$75,000 in assets other than real estate and \$200,000 or less in the gross value of Oregon real estate before deducting any mortgage balance, it is often possible to pass legal ownership by using a simple affidavit procedure. When the decedent leaves only personal possessions and a small amount of property, family members often divide that property informally without even using an affidavit. Contact your attorney or community legal service for assistance to determine whether this process is appropriate for your situation.

### **Probate**

In general, the probate process involves collecting the decedent’s assets, liquidating liabilities, paying necessary taxes, and distributing property to heirs. Probate proceedings are usually held in the state in which the decedent had domicile or permanent residence at the time of death. If, however, the decedent owned real property in another state, a probate may be necessary in that state to dispose of that asset, *see* “If There Is Property Outside Oregon” below.

Larger estates normally require court procedures to transfer legal ownership. This may involve only a little supervision by the judge, but there are at least five steps involved in this process called probate.

1. The court is notified of the person's death and provided with the original will, if there is one. If no will can be found, the court will determine who the heirs are and what their respective share of the estate will be, in accordance with state law. If a will is found but someone objects to any part of it, they have four months to file an official complaint with the court. The court will schedule a time to consider the complaint and order changes if it agrees with the complaining party.
2. The court will appoint someone to be the legal representative of the estate, with all the authority to act on behalf of the decedent and deal with the decedent's property. There are various titles given to this person of authority, such as personal representative, executrix, administrator, etc. They are all similar in that they are the only ones with authority to act for the decedent. A general term for this person is the "personal representative."

Upon appointment, the personal representative must send notification of the court proceedings to every person named in the will, every legal heir, and every other person with a financial interest in the estate.

3. A notice to creditors is then published in a local newspaper and must be delivered to any known creditors. Creditors may include credit card issuers, mortgage lenders, and medical care providers. The personal representative is obligated to make a reasonable search for creditors of the decedent.

Generally, if a creditor fails to file a written claim for payment within four months of the publication of this notice, the claim may be barred. If a claim is filed but rejected, the creditor may file a lawsuit against the estate.

4. Within 60 days of being appointed, the personal representative must file an inventory of all the assets of the estate indicating the estimated values of the assets as of the decedent's date of death. In valuing assets, it is the gross value of the asset that is reported for probate purposes; encumbrances, mortgages, lines of credit, etc., are not taken into consideration when filing an inventory.

In settling the decedent's affairs, the personal representative must keep separate financial records for the estate. Estate property and funds should not be mixed in with the personal representative's own property and funds. Personal representatives are also not allowed to make speculative investments during probate.

There are special accounting rules that apply to estates; any personal representative with questions should get the help of an experienced certified public accountant (“CPA”). Personal representatives are often required to file a full accounting report with the court. For this reason, every personal representative should keep careful and complete records.

5. Finally, after all other steps have been taken—including in larger estates filing estate tax returns and paying any tax due—the remaining property is distributed to those entitled to receive it and the estate is closed. The personal representative typically files a document with the court that reports all of the transactions the personal representative has made on behalf of the estate, and also discloses all professional fees paid. This document is then sent to all of the beneficiaries of the estate. If a beneficiary has a question or a dispute about how the estate has been handled, court review of the personal representative’s actions and fees can be requested.

Under Oregon law, the personal representative can ask the court to approve any special action the personal representative wants to take for which the court’s review and support seem prudent. However, powers of the personal representatives are broad enough not to require supervision very often; most estates are settled without specific direction from the court. The personal representative is not held personally liable for any actions taken on behalf of the estate so long as he or she is acting in good faith and exercising good judgment.

### **If There is Property Outside Oregon**

If the decedent has left real estate or certain types of personal property located outside Oregon, court proceedings in other states may be required. Some states have special streamlined procedures for such “ancillary” probates. Contact your attorney for assistance in this process.

### **Spousal Elective Share**

Oregon, by statute, has adopted a law that is meant to protect a surviving spouse from being disinherited, the spousal elective share. If a spouse has been left out of the will, he or she can go to court to ask for part of the decedent spouse’s estate. (Note, however, that in a prenuptial agreement, spouses can agree not to leave anything to each other. In that case, the surviving spouse could not ask for the spousal elective share amount).

Under the law, the size of the spousal elective share is determined by the length of the time the spouse and the decedent were married to each other. The longer the marriage, the larger the share to which a surviving spouse is entitled. For example, surviving spouses married under 2 years receive 5% of all assets; whereas surviving

spouses married for 15 years or longer receive 33% of all assets. “All assets” means essentially all of the assets in which the decedent and the surviving spouse have an interest at the death of the decedent.

The elective share must be claimed while the surviving spouse is still alive and cannot be asserted more than 9 months after the first spouse’s death.

### **Appointing a Guardian for Minor or Incapacitated Children**

A guardian is a person named by the court who has the authority and duty to make personal and health care decisions for a minor or adult incapacitated person.

If the decedent left children under 18 years of age or had a “special needs” child/children, it may be necessary to have a legal guardian appointed, at least to make decisions about where the children should live and go to school, about medical treatment, and about their religious upbringing.

Usually, the surviving parent is the guardian for minor children. If there is no surviving parent, the person named in the decedent’s will is usually appointed guardian by the court. A close friend or relative may be appointed if no guardian is designated in the will.

### **Appointing a Conservator for Minor or Incapacitated Beneficiaries**

If property of the decedent has been bequeathed to a minor or to an incapacitated person, and the decedent has not provided for a trust or other arrangement in the will itself, it may be necessary for the personal representative to have a conservator appointed for the beneficiary. A conservator is a person appointed by the court to manage the finances of a person who is unable to do so for reasons such as minority, mental illness, physical disability, or chronic intoxication.

Oregon law permits use of a less formal “statutory” trust called Uniform Transfers to Minors Act custodianship for property passing to minors. This arrangement is particularly appropriate when a small gift or inheritance to a minor is involved. In general, these protective arrangements end when the minor turns 21 (up to 25 years in Oregon).

Establishing a guardianship or a conservatorship generally requires additional court proceedings, a discussion of which are beyond the scope of this publication. See the Estate Planning Council’s publication “*Oregon Fiduciary Guide*” and/or contact your attorney or community legal service for further information and assistance.

### **If There Was a Guardianship or Conservatorship**

If the decedent was incapacitated before death and a guardian or conservator had been appointed, the guardian or conservator must end that guardianship or conservatorship with a formal report to the court. If the decedent did not leave a will,

there is a special streamlined procedure available to distribute the property of the conservatorship directly to the heirs, without a separate probate proceeding.

### **If the Decedent Was a Beneficiary or Trustee of a Trust**

Sometimes the person who died was a beneficiary of a trust, or was acting as trustee—often of a trust created by the will of a deceased spouse or other relative. If so, an attorney should be consulted.

If the decedent was a trust beneficiary, the trustee should be notified of the death so that any income or other payments from the trust can be stopped.

Sometimes a trust gives the beneficiary the power to name the next beneficiary, or the power to give directions about the continued administration of the trust after death. These powers are referred to as powers of appointment. Depending on what the trust agreement says, the powers of appointment might be exercised in the decedent's will or in some other document. The trustee will need to get a copy of that will or other document.

If the decedent was a trustee, it will be necessary to identify and contact any successor trustee or co-trustee. This person or financial institution will often be named in the trust; sometimes another document signed by the decedent appoints a successor.

It might be necessary to prepare an accounting for the time during which the decedent served as trustee and to prepare a list of assets for the successor trustee and beneficiaries. Trust assets and records should be kept separate from the decedent's personal assets and records.

If the trust ends with the death of the trustee, the successor trustee will have to take steps to wrap up the trust administration, possibly including filing tax returns, and to distribute the trust property to the proper beneficiaries.

Under Oregon law, these steps should be taken as soon as possible. Again, if any questions about handling the trust come up, they should be discussed with an attorney.

### **Informal Procedures— When No Court Proceeding is Needed**

As mentioned in the last section, there are many ways to pass ownership of property without a will and without probate. In fact, the will does not impact these other arrangements. In all matters, however, complete information on all property belonging to the decedent should be collected. Here are a few of the more common arrangements.

### **Revocable Living Trusts**

The revocable living trust is an increasingly popular way to avoid probate. This is usually a long document that provides both for management of property during a lifetime and for management and passing of property after death. If the decedent has established

a revocable living trust before death, most bank and brokerage accounts and real property will be registered in the trust's name; for instance, "John Smith, Trustee of the Smith Family Trust Dated January 1, 2000."

This method of transferring legal ownership eliminates the need for probate, but it also prevents the trust beneficiaries from using some helpful probate procedures. If questions about the trust come up, court supervision is available upon request.

It is important for a lawyer to review the will, the revocable living trust, and the property registered to the trust after death. Tax planning is often needed, and the trustee may have to file tax returns such as the federal estate tax return.

### **Joint Ownership with Right of Survivorship**

Joint tenancy is a common way to transfer legal ownership at death—that is, joint ownership of property with an automatic right of survivorship in the other joint owner or owners. Bank accounts, investments, and real estate can be transferred in this way. The surviving owner's name will be listed on the account. To demonstrate the transfer of legal ownership to the surviving owner, all the surviving owner needs to do is obtain a certified copy of the death certificate. If a surviving owner would like to show that the decedent owner no longer has an interest in real estate, the surviving owner can record an affidavit to that effect, attaching a copy of the death certificate.

For investment securities and bank accounts, the financial institution must be provided with a certified copy of the death certificate in order to transfer the account to the surviving owner or owners. The financial institution may wish to have the surviving owner provide an affidavit stating that the decedent lived in Oregon and that any estate taxes will be paid.

### **Tenancy by the Entirety**

This is a special form of joint tenancy with right of survivorship for spouses who own real estate together. At the death of the first spouse, the property automatically passes to the surviving spouse by operation of Oregon law.

### **Pay-on-Death and Transfer-on-Death for Accounts and Securities**

Some types of property pass at death based on a written contract between the owner and the financial institution offering the account. Bank accounts can be titled as payable-on-death ("POD"), and brokerage accounts and investment securities can be held in a similar way, as transfer-on-death ("TOD") registrations. The only difference between this type of ownership and joint ownership is that the person who owns the property after death has no ownership before death. To reregister such property, a certified copy of the death certificate and the type of affidavit described above are necessary.

## **Life Insurance**

Life insurance is another popular nonprobate asset, which passes on death directly to recipients without probate, based on a written contract. This is discussed in detail on the following pages. The beneficiary should immediately contact the life insurance agent or the insurance company itself and obtain the necessary forms.

## **Pension and Other Tax-Qualified Plan Accounts, IRAs, and Annuities**

Finally, pension and profit-sharing plan accounts, such as 401(k) plan accounts, IRAs, and annuities, usually pass under a beneficiary designation similar to that used for life insurance. The decedent's surviving spouse is generally entitled to receive an annuity or other distribution of the plan, unless that spouse has given up the right to receive the distribution. Filling out the forms to receive such a qualified plan benefit, or to receive an IRA or other similar account, is fairly easy. But watch out: There are a number of complicated income tax problems that can occur depending on how benefits are paid, and the beneficiary should be sure to consult a tax advisor before applying for distributions.

## **Small Bank Accounts**

There is a separate informal procedure in the Oregon banking statute for small bank accounts owned solely by a deceased person. It requires that all of the decedent person's bank accounts in Oregon do not exceed \$25,000.

## **Transfer-on-Death Deeds for Real Estate**

Real estate in Oregon may be transferred with a transfer-on-death deed. The owner of the real property can record a deed during life, but it does not take effect until death. The owner may revoke the deed or sell the property at any time, the beneficiary named on the deed has no rights until the owner's death. A few caveats to note: There is an eighteen-month creditor claim period after the owner's death. As such, beneficiaries of a transfer-on-death deed cannot convey good title if they wish to sell the real estate within the eighteen-month period. Additionally, the property only passes to surviving beneficiaries; if a beneficiary predeceased the owner, that beneficiary's share is terminated and will not pass to his or her children.

## **Motor Vehicles**

If an estate is not being probated, the decedent person's automobiles can be transferred to heirs by submitting an Inheritance Affidavit, signed by all heirs, to the Oregon Department of Motor Vehicles.

## **Life Insurance and Other Death Benefits**

Life insurance death benefits may represent a significant portion of the decedent's estate. It is important to identify what insurance policies may exist and to notify the insurance companies of the death.

## **Locating Insurance Policies and Coverage**

Locate and safeguard all life insurance policies or any other indications of life insurance policies, such as premium notices. Do not discard any documents that look official, especially insurance policies that appear to have lapsed. Even if a policy owner had ceased paying premiums, a life insurance policy may have been kept in force by some arrangements stated in the policy.

Often, the best and quickest way to locate life insurance policies is to check the decedent's checking accounts, credit card statements, payroll records, debt records, receipts, and correspondence. Also, if an accident was involved, check automobile and homeowner insurance policies. Remember that some credit card companies and travel agencies provide accidental death coverage if their services were used for travel arrangements. Determine how travel arrangements were made and paid for and check airline ticket folders and luggage for insurance policies.

Ask friends, neighbors, and relatives of the decedent for any information they may have about life insurance policies. Contact life insurance agents or brokers of the decedent to see whether they know of any other agents or financial planners who may have had dealings with the decedent. (It is common to have more than one agent or broker.) Locate the attorneys, accountants, and bookkeepers who have prepared legal, accounting, or tax matters and ask if they are aware of any policies, or any agents or brokers with whom the decedent may have worked. Also check safety deposit box of the decedent, if he or she had one for they are a popular place to store policies.

Review those policies that you have located to identify prior policies the decedent may have owned. In the back of most life insurance policies is a copy of the original application. The application normally asks for the names of companies, amounts of coverage, and when or if prior life insurance existed. This may help you locate older policies and prior insurance agents.

Don't overlook a potential death benefit that may be a part of an individually owned disability income contract. In many cases this benefit is built into the policy itself. If you have questions, you should have the policy reviewed by a qualified trusted advisor.

Another potentially overlooked benefit may be a "Voluntary Life Insurance" contract that may have been made available by the decedent's employer or even a former employer. In checking with employers and former employers, inquire if a voluntary life insurance benefit was available and ask if the decedent was at any time a participant.

If you suspect that the name of an insurance company may have changed, contact the Oregon State Insurance Division at (503) 947-7980 or at [debs.insmail@state.or.us](mailto:debs.insmail@state.or.us). The Oregon State Insurance Division maintains a list of all life insurance companies licensed to do business in the state. You may wish to contact companies directly if you think there may be a policy or other benefits outstanding.

Another important source of information is the Medical Information Bureau ("MIB"), which provides a record-keeping service for life insurance companies.

However, this firm can provide you only with the names of insurance companies to which the decedent applied for a policy, and does not know whether a policy was ever issued. After you are provided with the names of the companies, it is up to you to contact them regarding what actions they may have taken regarding an individual applicant. Only about 15 percent of life insurance applications are reported to the Medical Information Bureau, and its records go back only seven years. The Medical Information Bureau also keeps track of the insurance companies that received a copy of an individual's record in the past 12 months.

MIB needs the following information: (1) a detailed identification of the decedent, including full name, date of birth, and place of birth; (2) a copy of the death certificate; and (3) either the personal representative's court-issued letters testamentary or letters of administration or, if there is no personal representative, a letter from an attorney stating that you are an appropriate person to handle such matters and that the decedent's estate is not subject to probate.

To request a copy of the decedent's record, contact:

Medical Information Bureau, Inc.  
50 Braintree Hill Park, Suite 400  
Braintree, MA 02184-8734  
(866) 692-6901  
Email: [infoline@mib.com](mailto:infoline@mib.com)  
<http://www.mib.com>

Under the Fair and Accurate Transactions Act ("FACTA"), at your request, MIB will provide you one free MIB disclosure report every 12 months. A few things to bear in mind before you request a report:

- MIB will not have a consumer file (consumer report information) about the decedent if he/she had not applied for individually underwritten life, health, or disability income insurance with a member insurance company during the preceding seven-year period.
- MIB will ask you for personal identification information to assist in locating a consumer file, if one exists. MIB may validate the identification information that you provided with other consumer reporting agencies.
- You will be asked to certify under penalty of perjury that the information you provided about yourself to request disclosure of your MIB consumer file is accurate, complete, and you represent that you are the person that is requesting disclosure.

Upon receipt of your (a) Request for Disclosure or MIB Record Information and (b) proper identification, MIB will initiate the disclosure process and provide you with the following:

- The nature and substance of information, if any, that MIB may have in its consumer files pertaining to the decedent;
- The name(s) of the MIB member companies, if any, that reported information MIB; and
- The name(s) of the MIB member companies, if any, that received a copy of your MIB consumer file during the 24-month period preceding your request for disclosure.

MIB is committed to the principle that every consumer should be entitled to know the contents of his or her consumer file maintained by MIB and to correct any inaccurate or incomplete information in the record.

If the life insurance proceeds may have been paid to the state of Oregon because named beneficiaries could not be located, you should contact:

Oregon Division of State Lands  
 775 Summer Street NE, Suite 100  
 Salem, OR 97301-1279  
 (503) 986-5200  
 Email: [dsl@dsl.state.or.us](mailto:dsl@dsl.state.or.us)

If you have a concern regarding the solvency of a company, contact the Oregon State Insurance Division.

### **Filing a Claim**

Normally, insurance companies require two forms to establish proof of a claim: (1) a statement of claims and (2) a death certificate or attending physician's statement. A company, however, reserves the right to request further information or proof if deemed necessary.

The claimant's certificate must be completed by the person legally entitled to receive the proceeds. This person must state in what capacity he or she makes the claim: named beneficiary, assignee, executor, administrator, guardian, or trustee.

If the beneficiary is incompetent or a minor, a guardian should file the form. If proceeds are to be paid to an estate, an administrator or executor should complete the form. In each case, a certificate of appointment must be furnished.

If the named beneficiary is deceased, his or her death certificate must be provided as additional proof.

### **Social Security**

The decedent is considered to be covered by Social Security if he or she worked, paid Social Security taxes, and earned enough "credits." Check with your local Social

Security Administration office or call (800) 772-1213 to determine if the decedent was eligible. If the decedent was eligible, there are two types of possible benefits.

A death benefit of \$255 is provided toward burial expenses. You can complete the necessary form at your local Social Security Administration office, or you can ask the funeral director to complete the application and apply the payment directly to the funeral bill. This payment is made only to eligible spouses or to a child entitled to survivor's benefits.

Survivor's benefits for a spouse or children are as follows:

- If the spouse is age 60 or older, he or she will be eligible for benefits. The amount of the benefit received before age 65 will be less than the benefit due at or after age 65.
- Disabled widows age 50 or older will be eligible for benefits.
- The spouse of the decedent who is under age 60, but who cares for dependent children under age 16 or cares for disabled children, may be eligible for benefits.
- The children of the decedent who are under age 18 or who are disabled may also be entitled to benefits.
- If your ex-spouse is deceased you can receive benefits at your age 60 or age 50 if you are disabled, your marriage lasted at least ten years, and you are not eligible for a higher benefit on your own record. If you remarry after age 60 (or age 50 if disabled) you may be eligible for survivor's benefits based on the worker's record.
- You may be eligible to receive survivorship benefits at any age if you are caring for your deceased spouse's child who also is your natural or legally adopted child and younger than 16 years or disabled and entitled to benefits. Your benefits will continue until the child reaches age 16 or is no longer disabled. You can receive this benefit even though you were not married to your ex-spouse for ten years.

When applying for Social Security benefits, you should have birth and death certificates of the decedent, marriage certificate, birth certificates of any dependent children, Social Security numbers, and copies of the decedent's most recent federal income tax return.

Please remember that Social Security benefits are not automatic; they must be applied for. Delay in applying can cause loss of some benefits because back payments cannot be made for periods exceeding 12 months.

## **Veterans Benefits**

If the decedent was a veteran, the survivor may be eligible to receive a lump-sum payment for burial expenses or an allowance toward a plot in a private cemetery. Burial in a national cemetery is free to a veteran and his or her spouse and dependent children. Veterans are also eligible to receive a headstone or grave marker at no charge. A funeral director often can help you apply for these benefits, or you can contact the VA at (800) 827-1000 or <http://www.va.gov>. The regional office is located at 1220 SW Third Avenue in Portland and can be reached at (800) 692-9666.

The surviving spouse and dependent children of veterans receiving disability benefits may also be entitled to monthly payments. Check with your regional VA office.

## **Employee Benefits**

If the decedent was employed at the time of death, you should contact the employer regarding any benefits for the survivors. The employer may have provided life, health, or accident insurance that will yield payments. The decedent may be due a final paycheck for accrued salary, vacation, or sick leave. If the death was work related, there may be workers' compensation benefits. Check for credit-union accounts through the decedent's employment. Self-employed persons can also have pension plans. Look for pension deposit deductions on past income tax returns.

You should contact all past employers, including federal, state, or local governments, to determine if the survivors of the decedent are entitled to any payments from a pension plan.

Also check with the employer to see if the decedent belonged to a union or professional organization. These groups may offer death benefits for their members.

If the decedent was already retired and receiving a pension, you should check with the former employer to determine if survivors will continue to receive a pension payment or whether the payment will be reduced.

## **Taxes**

### **Income Taxes**

Final individual income tax returns may need to be filed for the year in which a person dies. Federal and state income taxes, if any, are due on the income received by the decedent from the beginning of the year until the date of death. This income is reported on a federal income tax return, Form 1040. Any tax due on such income is a liability of the estate and is due on April 15 following the year of death. If you are a surviving spouse, you can file a joint return with the decedent spouse even if he or she lived only one day of the year, as long as you have not remarried during the year.

If the decedent had been making quarterly estimated tax payments before death, future estimated tax payments are not required. The surviving spouse, however, is not relieved of making the future quarterly estimated tax payments on his or her income.

After death, a federal fiduciary income tax return, Form 1041, may have to be filed for each year the estate is open. This return reports the income received during the estate's taxable year on probate assets. The estate is entitled to deductions against the income for administrative expenses not deducted on the estate tax return, Form 706 (see below). The estate may have a tax year that is different from a calendar year. An estate does not need to make quarterly estimated income tax payments for its first two years.

If the decedent had a living trust, that entity becomes irrevocable at the grantor's death. There may be an income tax filing requirement for income earned by the assets in the trust. The Trustee may make an election to combine the tax reporting with that of the probate assets.

If the decedent was entitled to income but had not received it before death, it is called income in respect of a decedent ("IRD"). This includes items such as unpaid salary, the interest income portion of annuities, retirement plan distributions, and interest accrued on bonds. The persons inheriting that property (which may be you) should include the income on their personal income tax return in the year they receive the property and pay income tax on that income amount. However, they may be able to take an itemized deduction for any federal estate tax (see below) that was paid on that income.

## **Federal Estate Tax**

The federal government assesses a tax based on the value of the decedent's estate. The property included in the estate is valued at fair market value on the date of death. Alternatively, the Personal Representative can elect to value to assets six months later if the assets in total have declined in value and that decline results in a decrease in tax. To properly ascertain the fair market value of different types of property, appraisals made need to be obtained. You should seek advice on what type of documentation is needed as evidence to support fair market value. For tax purposes, the estate includes any property in which the decedent had an interest at death, including IRD items. The proceeds of a life insurance policy are also included in the estate, unless ownership of the policy was transferred more than three years before death or was owned by someone other than the decedent. For inclusion in the taxable estate, it makes no difference if the property passes by will, without a will (intestacy), by community property agreement, or by joint tenancy.

In most cases, a federal estate tax return will have to be filed only if the total value of the decedent's property or estate exceeds the federal exemption amount for the year of death (\$5.25 million in 2013). But a tax return may be required and tax may be due in certain other instances, such as if substantial gifts of property were made before death. Another circumstance in which a federal estate tax return may be filed is to claim the surviving spouse's portability election. If federal estate tax is due, it must be paid within nine months of the date of death. The filing of the estate tax return, but not the payment, can be extended six months from the nine-month filing date.

Deductions are taken against the value of the property for liabilities, such as mortgages and other debts of the decedent, and for expenses, such as administrative and funeral costs, and the fees of attorneys and accountants.

The estate tax rate is 40 percent on estates with a net value of \$5.25 million or more. No estate tax is due to the extent of the decedent's property is left to the surviving spouse (if the surviving spouse is a U.S. citizen).

Even if no taxes are payable, most assets owned by the decedent get a new cost basis for capital gains tax purposes, which is usually fair market value on the date of death. This can reduce or even eliminate capital gains on assets sold after death.

### **Oregon State Estate Tax**

Oregon levies an estate tax only on estates over \$1 million. The Oregon estate tax rate is graduated from 10% to a maximum of 16% for estates exceeding \$9.5 million. The Oregon estate tax applies to the estates of Oregon residents and to nonresidents with property located in Oregon. If a federal tax return is to be filed, the state tax must be paid at the same time as the federal tax, generally within nine months of the date of death. A copy of the federal estate tax closing letter or IRS audit report should be sent to the Oregon Department of Revenue.

### **Other States' Taxes**

The decedent may have owned property, such as a vacation home, located in other states or countries. The states or countries may have estate or inheritance taxes, so you may face filing requirements and taxes due in those states or countries. Contact the estate's attorney or CPA for assistance.

### **Property Taxes**

Property taxes are due at the same time and in the same manner as if the decedent were still alive. After the transfer of property, the taxes are then paid by the person who receives the property, and the decedent's estate has no further obligation.

### **Where to Get Help**

During this difficult time in dealing with the death of a loved one, you may need to look for outside help in handling the affairs of the decedent. Below is a list of resources.

For assistance in locating an attorney or CPA, the respective professional associations have referral services:

Oregon State Bar  
PO Box 231935  
Tigard, OR 97281-1935

Building located at:  
16037 SW Upper Boones Ferry Rd  
Tigard, OR 97224

(503) 620-0222  
Toll-free in Oregon: (800) 452-8260  
Lawyer referral: (503) 684-3763  
Toll-free in Oregon: (800) 452-7636  
<http://www.osbar.org>

Oregon Society of CPAs  
PO Box 4555  
Beaverton, OR 97076  
(503) 641-7200  
<http://www.orecpa.org>

For persons not able to afford a private attorney, contact:

Multnomah County Legal Aid  
921 SW Washington Street, Suite 500  
Portland, OR 97205  
(503) 224-4086 or 1-888-610-8764

For assistance in locating a funeral director, check local yellow pages or contact:

Oregon Funeral Directors Association  
12725 SW 66th Avenue, Suite 105  
Portland, OR 97223  
(503) 639-1186  
Toll-free in Oregon: 800-304-5095  
<http://www.ofda.org>

For assistance in arranging a home funeral, contact:

National Home Funeral Alliance (NHFA)  
11014 19<sup>th</sup> Avenue SE, Suite 8 (PMB No. 155)  
Everett, WA 98208  
<http://www.homefuneralalliance.org>

To locate a certified life underwriter on life insurance matters, contact:

Oregon Association of Insurance and Financial Advisors  
12690 NW Lorraine Drive  
Portland, OR 97228  
(503) 718-0094  
<http://www.oraifa.org>

To locate a life insurance company for a policy that may exist, contact:

Oregon Department of Consumer & Business Services  
Insurance Division  
350 Winter Street NE, Room 440  
Salem, OR 97301  
(503) 378-4100  
<http://www.oregon.gov/DCBS>

The Medical Information Bureau can help you locate any life insurance companies to which the decedent applied for a policy:

Medical Information Bureau, Inc.  
50 Braintree Hill Park, Suite 400  
Braintree, MA 02184-8734  
781-751-6130  
<http://www.mib.com>

Other groups or organizations that can provide assistance include:

American Association of  
Retired Persons (AARP)  
601 E Street NW  
Washington, DC 20049  
888-687-2277  
<http://www.aarp.org>

Local office:  
8440 SE Sunnybrook Boulevard, Suite 410  
Clackamas, OR 97015  
866-554-5360  
<http://www.aarp.org/or>

The state of Oregon offers a broad range of services through its Department of Human Services, including counseling services and other programs.

Oregon Department of Human Services  
500 Summer Street NE, E25  
Salem, OR 97301  
(503) 945-5944  
<http://www.oregon.gov/DHS>

To obtain copies of death certificates, contact:

Oregon Vital Records  
800 NE Oregon Street, Suite 205  
PO Box 14050  
Portland, OR 97293  
(971-673-1190  
[www.vitalrec.com/or.html](http://www.vitalrec.com/or.html)

For information on Social Security benefits, contact:

Social Security Administration  
1538 SW Yamhill Street  
Portland, OR 97205  
(800) 772-1213  
<http://www.ssa.gov>

For information on the Veterans Administration, contact:

VA Portland Regional Office  
First and Main Building  
100 SW Main Street, Floor 2  
Portland, OR 97204  
(800) 827-1000  
<http://www.va.gov>

To obtain information regarding organ or body donations, contact:

Donate Life Northwest  
PO Box 532  
Portland, OR 97207  
(503) 494-7888  
(800) 452-1369  
<http://www.donatelifenw.org>

To change the title of any vehicles owned by the decedent, contact your local Driver & Motor Vehicle Services office or:

DMV Headquarters  
1905 Lana Avenue NE  
Salem, OR 97314  
(503) 945-5000  
Portland (503) 299-9999  
<http://www.oregon.gov/odot/dmv>

If death occurred on the job, contact the Oregon Bureau of Labor and Industries:

Bureau of Labor and Industries  
800 NE Oregon Street, Suite 1045  
Portland, OR 97232  
(971) 673-0761  
<http://www.oregon.gov/BOLI>

The Oregon State Attorney General's Office may provide assistance with some of the many questions surrounding the decedent estate:

Oregon Attorney General  
Department of Justice  
1162 Court Street NE  
Salem, OR 97301-4096  
(503) 378-4400  
<http://www.doj.state.or.us>

The Better Business Bureau, serving Oregon and Western Washington, may also offer assistance in locating a funeral home and resolving other matters that relate to the decedent's estate:

Better Business Bureau  
4004 SW Kruse Way Place, Suite 375  
Lake Oswego, OR 97035  
(503) 212-3022  
<http://www.thebbb.org>

For referrals and information regarding grief counseling for children (ages 3-19), contact:

The Dougy Center  
PO Box 86852  
Portland, OR 97286  
(503) 775-5683  
(866) 775-5683  
<http://www.dougy.org>

For assistance in placing the decedent's pet in a new home, contact:

The Oregon Humane Society  
1067 NE Columbia Boulevard  
Portland, OR 97211  
(503) 285-7722  
<http://www.oregonhumane.org>

### **Valuing Property Including Businesses and Business Interests**

If the decedent has property of any significant value, you should have it appraised by an accredited professional appraiser. This will facilitate a sale or exchange of the property, and it is necessary if there is to be a gift tax return, or income tax charitable contribution, or an estate tax return.

Such property may include for instance jewelry or fine art, real estate, or other types of personal property. The American Society of Appraisers (Portland Chapter website: [www.appraisers.org/portland](http://www.appraisers.org/portland)) is a multidisciplinary organization that offers

courses and accreditations (Accredited Senior Appraiser) in each of the above property categories.

Another organization that offers an accreditation in Real Estate is the Appraisal Institute (MAI, Member of the Appraisal Institute). All states offer state certifications in real estate appraisal, but the requirements to obtain state certification are far below the requirements of either the American Society of Appraisers or the Appraisal Institute. To search for a real estate appraiser accredited by the Appraisal Institute by state, city, etc., go to [www.appraisalinstitute.org/findappraiser](http://www.appraisalinstitute.org/findappraiser).

Property may also often include a controlling or minority interest in a closely-held (non-public) business enterprise. Unlike the stocks of public companies which are traded every day on market exchanges, many private companies are only valued occasionally. At some point in the life of a private company, there comes a time when a valuation of the company as a whole, or of a fractional interest in it, may be needed.

### **Choosing a Business Appraiser**

When one of the events requiring a valuation occurs, a member of the management team or one of the owners of the business needing the valuation will contact a valuation professional to start the engagement. Sometimes, he or she will contact an attorney or accountant to get a referral for a business valuation professional.

Most credentialed appraisers adhere to the Uniform Standards of Professional Appraisal Practice (“USPAP”), published by the Appraisal Foundation, multidisciplinary umbrella organization of professional appraisal organizations. Some provisions of USPAP are not important if the appraisal is to be used for internal purposes only, but if the appraisal is to be used for any tax purpose (e.g., estate, gift, or charitable contribution) or for litigation, it is desirable to have a statement in the appraisal report that the appraisal conforms to the Uniform Standards of Professional Appraisal Practice.

### **Professional Organizations Offering Education and Credentials for Appraisers**

Other organizations offering certifications in business appraisal are the Institute of Business Appraisers (CBA, Certified Business Appraiser, mostly small businesses); the National Association of Certified Valuation Analysts (CVA, Certified Valuation Analyst) and the American Institute of Certified Public Accountants (ABV, Accredited in Business Valuation).

Two of the above credentialing organizations also offer accreditations in Appraisal Review. The American Society of Appraisers offers the ARM (Accredited in Appraisal Review and Management), and the Institute of Business Appraisers offers the ABAR (Accredited in Business Appraisal Review). So, if you have an appraisal and want to have it reviewed, there are appraisers who are credentialed in Appraisal Review.

## **Glossary**

|                           |   |
|---------------------------|---|
| Administrator             | A person appointed by the court to manage an estate, usually appointed because the decedent died without a will (intestate) or the personal representative in the will fails to serve. See personal representative. |
| Annuity                   | A contract to pay an income from a stipulated date until either the death of the annuitant or a specific date in the future.  |
| Beneficiary               | The person named to receive certain assets at death, whether from a life insurance policy or retirement plan, or a portion of a trust or estate.  |
| Community Property        | Property owned by a husband and wife in a community property state such as Washington, Idaho, or California.  |
| Donee                     | Person who receives a gift.   |
| Estate Tax                | A tax on the net value of assets of a person who has died. Imposed by the federal government and by a number of states.   |
| Executor                  | See personal representative.  |
| Executrix                 | Female executor; see personal representative.   |
| Fiduciary                 | An individual or corporation serving as trustee or personal representative, with legal authority to conduct financial transactions on behalf of the trust or estate.  |
| Grantor                   | A person who creates a trust; also called settlor, creator, donor, or trustor.  |
| Inheritance Tax           | A tax on the right of heirs to receive property from a deceased. Imposed by a number of states.   |
| Joint Tenancy             | Property held by two or more persons with rights of survivorship.   |
| Letters of Administration | Similar to Letters Testamentary issued in the administration of the estate of a decedent who did not leave a will.  |
| Letters Testamentary      | The certificate issued by the circuit court upon appointment of the personal representative named in the will of the decedent. Often required to prove the personal   |

representative's authority to transact business on behalf of the estate.

|                         |  |
|-------------------------|--|
| Living Trust            | A trust created during the grantor's lifetime. If the trust can be changed by the grantor, it is revocable; if not, it is irrevocable.   |
| Medical Examiner        | Public officer whose principal duty is to verify as to the cause of death; often called coroner.   |
| Personal Representative | A generic term for the person who manages the estate. The personal representative is appointed by the court and has the authority to collect assets, pay debts and taxes, and distribute property according to the terms of the will.  |
| Policy Owner            | The individual who has the right to exercise control over a life insurance contract.   |
| Probate                 | The process of proving the validity of a will in court and executing its provisions under the guidance of the court. Also the process of identifying and notifying creditors.  |
| Proceeds of a Policy    | The net amount of money payable by the company at the death of an insured or at the maturity of a policy.  |
| Trust                   | A legal relationship among a trustor, a trustee, and one or more beneficiaries. A trustor is a person who establishes a trust by transferring legal title of specific assets to a trustee. A trustee is the legal owner of the property and must manage the trust property for the benefit of a beneficiary named in the trust agreement or trust provisions in a person's will. A trustee must follow the instructions of the trust document. A beneficiary is entitled to the benefits of the trust and is usually an individual, but can be any other legal entity ( <i>e.g.</i> , charitable institution). |