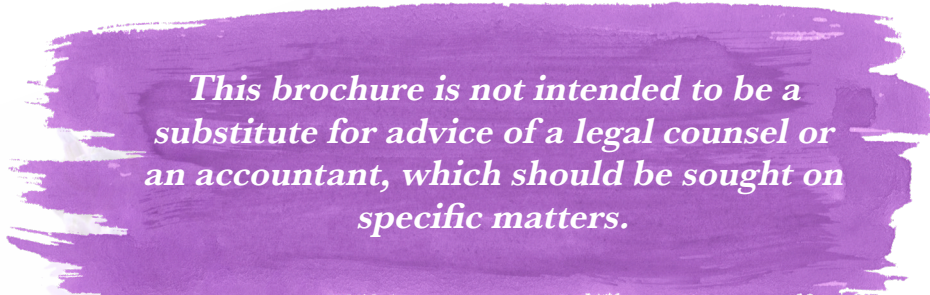


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When A Death Occurs

A guide to understanding the processes
surrounding a death



This brochure is not intended to be a substitute for advice of a legal counsel or an accountant, which should be sought on specific matters.



Prepared by the New York State Funeral Directors Association, Inc.

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Introduction

Adjusting to the death of a loved one can be a very difficult process. This brochure is designed to help you deal with the potential challenges and processes surrounding a death in the easiest and simplest manner possible.

Although some major decisions are unavoidable at this time, many can be put off until you are feeling less vulnerable.

When a death has occurred there is usually a need to administer the estate of a decedent. Every estate should be considered unique, and not all estates will have the same administrative duties. Some small estates, under particular circumstances, will not even require administration.

If there are multiple beneficiaries or heirs, make every effort to keep them informed of your actions on their behalf and consult with them if possible, especially where there is no Will.

The responsibility will be great and the anxiety will remain for months but through careful planning, expert advice and family support, you can resolve the duties in a manner that will provide you with personal satisfaction.

Funeral Arrangements

As a relative or close friend, some day you may find yourself in the position of handling funeral and cemetery arrangements.

Here is some important information to help you through that difficult time.

- In 2006, a law took effect that established a next-of-kin “hierarchy” of individuals who have the legal right to control the disposition of the remains of a deceased person. This law also allows someone to formally designate/appoint another person to control the disposition of their remains and carry out his or her wishes as they intended.


- If no prepaid arrangements have been made or if the prepaid purchases do not cover the entire amount required, you will be asked to sign a contract when ordering services.

While the contract usually binds the person who signs it to pay the charges, that person can seek reimbursement from the estate, or utilize money from other sources. However, if the estate is not sufficient to cover the funeral costs or other assets cannot be quickly converted to cash, the person who signed the contract may be required to pay costs.

- Check to see if the deceased had any death benefits, such as a life insurance policy, that would help cover funeral costs.

Choose a funeral home with which you are comfortable. The funeral director will meet with you at the arrangement conference to help you choose the services and merchandise you would like.

For a list of funeral directors in your area, visit my.nysfda.org/FindAFH



Since 1982, the Federal Trade Commission has overseen the manner in which funeral homes charge the families they serve.

Under FTC Rules

- Funeral directors must offer accurate price information to people making inquiries over the telephone regarding funeral costs.
- If you inquire in person, the funeral director will give you a written, itemized price list with all the specific goods and services the funeral home offers. This is called a *General Price List* (GPL) and is usually given when the family first meets with the funeral director to make arrangements.
- After making your selection, the funeral director will provide you with a written statement showing the total cost and break down of each good or service you have purchased.

Important Tips:

- The cost of funeral arrangements vary depending on the funeral home and type of service and merchandise you choose. It is important for family members to agree on arrangements. Remember that your funeral director is there to help you.
- If the deceased was a Veteran s/he may be entitled to VA burial allowance and also entitled to a Social Security death benefit. The funeral director will help you with these claims.

Review of Death Benefits

Social Security Administration

800.772.1213 | www.ssa.gov

Payment for covered individuals can only be made to an eligible surviving widow, widower, or entitled child.

Veterans Administration

888.838.7697 | www.veterans.ny.gov

Death benefits may be available for qualifying veterans through the *Veterans Administration*.

Insurance

The deceased may have purchased some form of insurance, or have been a member of a civic or employment organization which provides death related benefits.

Prepaid Funerals

In New York State, if the contract is paid for in advance, the funeral establishment must place 100% of all moneys received in trust, and all interest earned accrues to the benefit of the consumer.

Victims of Crime

800.247.8035 | www.ovs.ny.gov

If the death was the result of a criminal act, benefits may be available through the *Victims of Crime Compensation Program*.

Important Tip: You will need several copies of certified death certificates. The easiest way to obtain a copy is to ask the funeral director for assistance. The cost of a copy varies by county.

The Deceased's Property

When a person dies, it is important to account for the deceased person's property, making sure it is safe and protected. If the person lived alone, make arrangements to stop newspaper deliveries and have mail forwarded or held at the post office for daily pick up.

The matter of who will inherit the deceased's property is determined by the estate planning arrangements that were made by the person during their lifetime.

Beware: Some burglars will burglarize the homes of deceased persons at the time of the funeral service. Make arrangements to guard the home during the funeral.

Immediate Financial Concerns

When a death occurs, people and businesses who are owed money usually understand and will work with you to get through this difficult time.

- Contact creditors and make special arrangements if it is difficult to make timely payments.
- Family members or friends providing money to cover immediate needs may be reimbursed by the estate.
- When paying bills, keep careful records of payments or loans.

Paying Bills

Utility Bills

Make sure to pay utility bills to ensure continued service.

Medical Bills

These bills are often covered by Medicare, Medicaid, or a medical insurance plan. Before making any payments, call the appropriate agency to obtain the necessary information or forms.

Long-Term Debts

Be sure to make regular payments on long-term debts such as mortgages, car loans or, retail installment contracts until the estate is settled.

Access to Bank Accounts

Bank and other financial accounts **owned individually** by a deceased person will not be immediately available for use to pay bills. Accounts that the deceased person **owned jointly** with another individual will generally be available by the surviving joint-owner for use.

Stocks and Bonds

U.S. Saving Bonds

Are often payable upon death to another person. Any person whose name is registered along with the deceased's name on bonds payable on death, may redeem the bonds. When redeeming the bonds, a certified death certificate must be presented. The person cashing the bonds should be aware that the interest earned on said bonds may be taxable as income to the recipient(s).

Stock Shares

Certain documents will need to be provided before a person whose name is registered on the stock with the deceased's can sell those shares. Consult a stockbroker, legal, or financial advisor for more information.

Safe Deposit Boxes

A joint owner of a safe deposit box may access said box after the death of a decedent. When opening a safe deposit box, make an accurate record of all the contents and note any items removed. If the deceased was the only one authorized to open the box, or if the other authorized person is not available, legal or formal proceedings may be necessary in order to open the box.

Life Insurance

Life insurance proceeds are usually paid to the named beneficiaries within a few weeks after filing the required form. This form is submitted to the insurance company, together with the policy, if applicable, and a certified copy of the death certificate. If the death was accidental and the policy contains a provision for additional coverage in that event, some proof of the accident will be required.

Inventory of Assets

A complete and detailed listing of all assets of the deceased, and their value at the time of death, should be compiled as soon as possible. If the deceased was married, the list should reflect any items that are jointly owned with the decedent's spouse. If necessary, a professional appraiser can be hired and paid from the estate. This is important for determining whether a court proceeding or tax filings will be necessary. List assets in the following order:

Real Estate

Includes the deceased person's residence, any summer or recreational real property, or other interests in land owned. Property tax statements show the assessed value, not the fair market value. It would be wise to consult a real estate agent or appraiser for an estimate of fair market value at the time of death.

Stocks and Bonds

List all shares of stock, bonds, notes payable to the deceased, and other securities, including the name or names in which they are registered.

Cash, Financial Institutions

List the exact name for each account, the account number, financial institution, branch, and balance as of the date of death.

Insurance

List all insurance policies which pay benefits upon the policy holder's death. Include life, mortgage, or credit insurance.

Miscellaneous Assets

- **Motor Vehicles:** Include the year, make, model, registration number, mileage, and condition. Determine the value of the vehicle with help from *Kelly Blue Book* or the *NADA Guide*.
- **Boats:** Include the year, make, model, and identification numbers.
- **Furniture and Furnishings:** Be sure to include all major appliances, sporting equipment, and antiques.
- **Jewelry:** A detailed listing is generally not necessary except for specific items of particular value and for items which have been specifically bequeathed to someone in the decedent's Will.
- **Employment Benefits:** List pensions, profit sharing plans, and IRAs or 401Ks.

Transfer of Estate Property

In New York State, the Surrogate's Court decides what happens to a person's property when that person dies. There are three different kinds of cases, also called estate proceedings, in Surrogate's Court:

- **Probate:** If a person dies with a Will, then the kind of proceeding filed is called probate and the property is divided according to the Will.
- **Small Estate:** Also called a voluntary administration. If a person died with less than \$50,000 worth of personal property, then a small estate can be filed. This is simpler and less expensive way of dividing the estate. It doesn't matter if there was a Will or not.
- **Administration:** If a person dies without a Will, then the proceeding filed is called administration and the property is divided according to the law.

Probate*

Probate is the technical, legal term for distribution of the deceased person's estate under the supervision of the court and includes the process of providing that the Will is valid. It is designed to protect all those who have an interest in the deceased's property, such as immediate family, joint tenants, creditors, and the taxing authorities.

During probate, the Will is proved to the satisfaction of the court that it's the Last Will and Testament of the person who died. Once the Surrogate (the judge in Surrogate's Court) is convinced of the validity of the Will, the Executor named in the Will is appointed to distribute the estate and carry out the wishes of the person who died. The Surrogate's Court oversees this process. While the probate procedures in New York State are relatively simple, consultation with a legal advisor is recommended.

**Source: Office of Court Administration, the New York State Unified Court System*

Executor Responsibilities

- Provide proof to the Probate Court that the Will is valid and is the last Will of the deceased.
- Provide written notice of probate proceedings to all known distributees (next-of-kin) and beneficiaries.
- Give actual notice of the deceased's death to the U.S. Social Security Administration and any other state, private agency or company that the decedent may have been receiving periodic payments from for their lifetime.
- After all these steps have been taken, the court will issue Letters Testamentary to the Executor of the estate and the Executor can do whatever is necessary to then administer the estate in accordance with the decedent's Will. That includes appraising property, investing and managing assets, paying creditors, filing and paying taxes, and transferring assets to the beneficiaries.
- Before an estate can be closed, an Executor needs to file an inventory of asset, receipts and release from the beneficiaries, and a report that the estate has been fully distributed with the court.

Estate Under \$50,000

As long as real property is not involved, New York State Law allows for the transfer of small estates by a Voluntary Administrator to either beneficiaries named in the decedent's intestate distributees as long as:

1. They are entitled to the estate.
2. Notification is given to all distributees.
3. These conditions are met:
 - The estate is under \$50,000 exclusive of joint bank accounts, trust accounts, U.S. Savings Bonds, and jointly owned personal property.
 - No probate proceeding is pending.
 - All decedent's valid debts have been satisfied.
 - All estate debts paid.

If all these conditions are met, the Voluntary Administrator must submit a completed, signed, and notarized affidavit affirming that these steps have or will be taken. The Court then issues a certificate which allows the transfer of assets to the Voluntary Administrator so that expenses and debts can be paid and then distribution of the remaining assets made to the beneficiaries or distributees.

Administration*

Administration is the process where the Surrogate's Court issues Letters of Administration to a qualified distributee of the deceased. Letters of Administration appoint a deceased person's distributee and gives them the authority to collect and distribute the deceased person's property according to the law. In New York, there is a rule for who can file the administration proceeding. In general, the person who is the closest distributee (heir) to the deceased files for administration. The closest distributee files a copy of the paid funeral bill, a certified copy of the death certificate with the Petition for Letters of Administration, and other supporting documents in the Surrogate's Court in the county where the deceased had their primary residence. Consultation with a legal advisor is recommended.

*Source: Office of Court Administration, the New York State Unified Court System

Taxes

Income Taxes

Even though a death has occurred, taxes are still due by the April 15 deadline. An extension can be requested from the Internal Revenue Service (IRS) and New York State (NYS) if all the information needed is not readily available. Further information can be found at [irs.gov](https://www.irs.gov) (United States Internal Revenue Service) and [tax.ny.gov](https://www.tax.ny.gov) (NYS Department of Taxation and Finance).

Property Taxes

Property taxes are also due at the same time and in the same manner as if the deceased person was still alive. Contact the local treasurer's office in the city, town, or village where the decedent resided for more information on property taxes.

Estate Taxes

The IRS and NYS assess a tax based on the gross value of a deceased person's estate. An estate tax return has to be filed only if the total value of the deceased person's estate exceeds the federal and NYS estate tax exemption as set forth by the IRS and NYS. It is important to check with an attorney or financial planner for more information.

If the estate is required to file a federal and/or New York State estate tax return, they must be filed and all taxes paid within nine months of the date of death.

The tax will be based on the following:

- All property in the decedent's name alone at the time of death.
- Large gifts made prior to death unless gift tax returns were previously filed and any applicable gift tax was paid.
- Life insurance proceeds, unless ownership was transferred more than three years prior to death or in the event that the decedent never actually owned the policy.
- The value of the decedent's interest in jointly or co-owned property.

Joint Tenancy

Property held in joint tenancy with a right of survivorship usually can be transferred by furnishing a copy of the death certificate to the financial or other institution. In some circumstances, proof that no federal or state estate taxes are due may be required.

The “Marital Deduction”

Generally speaking, the value of property that passes to a surviving spouse is deducted from the gross value of the estate. It would be wise to check with an attorney or a financial advisor for more information. Contact your local IRS office for more information and the appropriate forms.

Uncertainty about income tax issues can add to the stress experienced from the death of a loved one.

For more detailed information on income tax liability after a spouse's death, contact the IRS at 800.829.3676 to order forms, instructions, and publications. You can also visit the IRS online: www.irs.gov/forms-pubs.

The IRS has two helpful booklets worth reviewing:

- 1. Publication 559, Survivors, Executors and Administrators** covers filing the final return for the decedent, what income to include, and other pertinent information such as filing due dates and sample forms.
- 2. Publication 575, Pension and Annuity Income** outlines special rules that apply to this type of income.

Online Accounts & Passwords

When a loved-one dies, you are faced with many difficult decisions. One of these is deciding what to do with their online accounts.

Unfortunately without usernames and passwords it can be difficult (and in some cases impossible) to manage or delete an account. Terms and conditions of service must always be taken into consideration before logging into a descendant's online account.

If the deceased didn't have a "digital will" it will take time to track down all of their open accounts.

For social media accounts, including Facebook, Twitter, and Instagram, keep in mind that they will not provide login information for someone else's account even after death. Verified immediate family members may request for their loved-one's account to be "memorialized" or removed from Facebook, Twitter and Instagram.

For more details, or to report a death, visit:

- www.facebook.com/help
- help.instagram.com
- help.twitter.com/en

Helpful Resources

New York State Tax Information

- 518.457.5387 - Estate tax (general)
- 518.485.9080 - Estate tax (bill payment)
- www.tax.ny.gov

New York State Division of Veterans Affairs

- 888.838.7697
- www.veterans.ny.gov

New York State Crime Victims Board

- 800.247.8035
- www.ovs.ny.gov

New York State Department of Labor

- 888.209.8124
- www.labor.ny.gov

Medicaid

- www.health.ny.gov/health_care/medicaid/ldss.htm
- ocfs.ny.gov/main/localdss.asp

Social Security Administration

- 800.772.1213
- www.ssa.gov

Federal Tax Information and Assistance- Internal Revenue Service

- 800.829.1040
- www.irs.gov

About Us



The New York State Tribute Foundation was established to advance awareness related to death, dying and bereavement by fostering a better understanding of end-of-life issues for all New Yorkers. Its philanthropic vision is guided by its investments in consumer education and outreach, industry research, education for lifelong learning, and partnerships and collaborations.



The New York State Funeral Directors Association (NYSFDA) is one of the oldest associations of funeral directors in the United States, comprised of over 900 funeral firms employing more than 3300 licensed funeral directors. Please visit our www.nysfda.org for a listing of funeral homes in your area. NYSFDA also has additional consumer resources on a variety of topics available online.



Preplan is a funeral trust pre-funding program, backed by the New York State Funeral Directors Association, Inc. It currently administers over 95,000 consumer trust accounts for nearly 600 funeral homes in New York State. The funds entrusted with PrePlan are placed in FDIC-insured certificates of deposit (CDs) which provide you, as a consumer, with the combined financial benefit of safe, no risk investments that give you a maximum rate of interest. In addition, each account is fully insured up to \$250,000. Our investments are diversified, and we only do business with the highest-rated banking institutions.



Have more questions?

Please do not hesitate to ask your funeral director.
For a listing of funeral directors in your area:



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