

Estate Gifts 101

A Guide to Administering and Stewarding Realized Bequests

There are three major types of bequest gifts:

WILLS

A written commitment to transfer a specific dollar amount, piece of property, or percentage of a person's estate after their death. Wills are subject to the probate process - a legal process where the court oversees the distribution of assets. Joint accounts, life insurance and retirement accounts with named beneficiaries will not need to go through probate.

Probate

1. Notice of Appointment of Personal Representative

Notice will be sent to heirs and interested persons that a Personal Representative (PR) has been appointed to handle the deceased person's affairs.

Your Steps

- Request a Copy of the Will
- Provide a W-9
- Ask whether there are family members you can thank

2. Inventory-

Assets *should* be identified, valued, and listed in the inventory filed with the court within 60 days of appointment of PR.

Your Steps

- Request a Copy of the Inventory after 3-6 Months
- If not provided, request one from the Court with a Public Records request
- Use the inventory to value the bequest gift. Make sure to factor in anticipated PR/Attorney fees.

3. Notice to Creditors

Notice is sent to creditors and published in the local newspaper. Creditors have four months to bring any claim against the estate for debts the deceased person owes them.

4. Petition/Order Approving Partial Distribution

After debts and creditors are paid, estate assets *can* be distributed to beneficiaries. Partial distributions will be allowed (but not mandatory) if there are sufficient assets to pay administration costs and creditors. Some attorneys prefer to save costs by making one large distribution at the end of the estate administration.

Your Steps

- Return signed court receipts promptly
- Send acknowledgement after *every* distribution to PR and Attorney.
- At 6-9 Months, if there has been no communication, ask for a status update (but respect their timeline!)

5. Petition/Judgment Approving Final Distribution

PR submits an accounting to heirs and the court, showing all money collected and paid out by the estate, declaring that all the necessary tasks of estate administration have been completed. Once the court approves, final assets can be paid out.

Your Steps

- Send final acknowledgment and receipts
- Send thank-you to any family members, offering a tour or meaningful visit if possible, and let them know what the gift is going to benefit.

Estate Completion – Estate distribution should be completed within 1 year, with a small amount held back for taxes.

Additional Issues

ACCOUNTING REQUIREMENTS – (ORS 116.083)

Unless the court orders otherwise, an accounting must be filed annually and/or when estate is ready for settlement, and must include:

- Period of time covered by the Accounting
- Total value of property, according to inventory
- All money received and disbursements made
- If a final accounting, statement that all taxes have been filed and paid

Interested persons are permitted to inspect and receive copies of vouchers at their own expense.

Statement in lieu of final accounting – Requires consent. Less information, with statement that taxes and creditors have been paid & authorizing PR to distribute the estate.

ATTORNEY & PR FEES – (ORS 116.173) Based on value of estate property in Court’s jurisdiction:

Personal Representative

>\$1,000: 7%

\$1,000-\$10,000: 4%

\$10,000-50,000: 3%

Above \$50,000: 2%

Attorney

Must be “reasonable” in light of customary fees in the community for similar services, time spent by counsel, experience, skill, any agreement to fees between the PR and counsel, and amount of responsibility by counsel considering the total value of the estate.

Balance of fee explanation vs. relationship with the attorney

Revocable Living Trust

A trust is a vehicle that appoints someone (the “trustee”) to manage your property during your lifetime, with detailed instructions on how the property will be managed and distributed after death. Trusts are more complicated and expensive to create than a will, but is a good tool to avoid probate (and the time/fees/public record associated with the probate process.)

This process is not court supervised, so there is less transparency for the charitable organization. However, you can still work with the trustee or attorney to receive trust documentation, trust accounting, and timelines of administration.

TRUST ADMINISTRATION

1. Notice of Appointment of Trustee

a. Trust Company -

Trust Company or Bank may serve as Trustee. Generally, they notify heirs and beneficiaries that donor has passed and that your organization is a remainder

beneficiary. They will disclose fees and request that you return enclosed paperwork with Tax ID Number and distribution preferences, signed by an authorized agent.

Your Steps

- Fill out and return necessary paperwork
- Request trust document and accounting when available.

If assets aren't complex, this distribution should be faster than traditional probate. (Approximately 4-6 months.)

b. Individual

Trustee may be a close friend with limited trust administration experience, working with an attorney. You may be notified a phone call informing you or requesting a W-9, or no notice at all until distribution!

Your Steps

- Thank the trustee for notifying you and express condolences for the decedent's passing.
- Provide a W-9
- Ask for a copy of the trust. If Trustee is hesitant, underline the importance of honoring the donor's stated intent, and compliance with auditing requirements.
- Ask for trust accounting when it's available, or when their CPA files the taxes.

TRUST ACCOUNTINGS

Much less formal than a probate accounting.

- Banks generally provide monthly or quarterly statements showing receipts and disbursements
- Individual Trustees – Will generally provide you a one-time accounting if you ask. Should include an informal account of what the assets are, including receipts and disbursements. **(Where is the money coming and going?)**

Beneficiary Designations

Non-probate assets distributed pursuant to written instructions given by the person while living, i.e. IRA, life insurance policy, investment accounts, or a pay-on-death account. You, as a designated beneficiary, will work directly with the institution to submit your claim.

When you are notified of donor's passing:

Your Steps

- Order a death certificate, which may be necessary to claim proceeds.
 - Be proactive – if you know where the policy is held, call.
 - Ask for the beneficiary designation. It will likely be brief – if possible, work with supplemental internal information about the donor's passions and goals with your organization.
 - Thank donor's surviving family members, if known.
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INTERNAL ADMINISTRATION PRACTICES

It is helpful to have one person administering estate and trust gifts on behalf of your organization. That way, the process will be standardized, resulting in timeliness, efficiency and better pipeline management.

1. File Management

- Copy of bequest language
- All correspondence, including acknowledgements and court receipts
- Internal gift transmittals
- Obituary

2. Tickler System/Pipeline Management

Use a tickler system such as SmartSheet, Action Tracks in Raiser's Edge, or even an Excel Spreadsheet to keep monitor all open estates, important deadlines, documents you still need and expected distributions.

3. Form Letters/Acknowledgements

Keep acknowledgement letters on-hand, but try to personalize each one based on audience and your relationship with the deceased donor.