

THE LAW OFFICE OF
MICHAEL J. HOWELL, P.A.
A TRUSTS AND ESTATES LAW FIRM

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**DUTIES and RESPONSIBILITIES of PERSONAL REPRESENTATIVES and/or TRUSTEES
and
ESTATE and TRUST ADMINISTRATION CHECKLIST
(All United States Citizens)**

This checklist is primarily for South Carolina informal probate and appointment and/or for those decedents utilizing Revocable Living Trust Agreements and living in Beaufort County, South Carolina.

ESTATE OF: _____

TRUST OF: _____

DATE OF DEATH
OF DECEDENT: _____

SOCIAL SECURITY NUMBER
OF DECEDENT _____

TAX ID NUMBER (EIN) OBTAINED BY CPA:

FOR ESTATE: _____

FOR TRUST: _____

TAX YEAR OF ESTATE: _____

TAX YEAR OF TRUST: _____

PROBATE COURT
CASE NUMBER: FILE NUMBER TO BE ASSIGNED BY _____

PROBATE JUDGE: Honorable Kenneth E. Fulp, Jr.

PROBATE COURT

ADDRESS:

Beaufort County Probate Court
Multi-Government Center
102 Ribaut Road
Beaufort, SC 29902

PROBATE COURT PHONE

NUMBER:

(843) 255-5850

I. **GENERAL INFORMATION**

Address of Decedent:

Decedent's Business or Occupation: _____

Legal Resident: _____ Since: _____

Place of Death: _____ Age at Death: _____

Date of Death: _____ Date of Birth: _____

Marital Status:

Single _____ Married _____ Widowed _____ Divorced _____

Surviving Spouse's Name: _____ SSN: _____

Divorced Spouse's Name: _____ SSN: _____

Date and state in which divorced, if applicable: _____

Need copy of divorce decree, if any _____

Date decedent's spouse died, if applicable: _____

Name, Address, Telephone Number and Tax Identification Number of Personal Representative and/or Trustee:

Name, Address, Telephone Number and Tax Identification Number of spouse:

Decedent's Accountant's Name, Address, Telephone Number:

Decedent's Stock Broker's/Account Executive's Name, Address, Telephone Number:

Decedent's Insurance Advisor's Name, Address, Telephone Number:

Decedent's Real Estate or other Attorneys' Name, Address, Telephone Number:

Devises Under Will:

<u>Name, Address, Telephone</u>	<u>SS#</u>	<u>Date of Birth</u>	<u>Relationship</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Note: Add additional devisees on a separate page, if needed.

Beneficiaries of Trust:

<u>Name, Address, Telephone</u>	<u>SS#</u>	<u>Date of Birth</u>	<u>Relationship</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

Note: Add additional devisees on a separate page, if needed.

Are any of the Devises or Beneficiaries either a minor or an incapacitated person? _____
If so, please list name(s) and whether a minor and/or incapacitated.

II. **Important Dates**

1. Date of Will and/or Codicil(s). _____
2. Date of Trust(s) and any Amendment(s) _____
3. Date of Qualification, if Personal Representative is appointed. _____
4. Date of First Notice to Creditors, if Personal Representative is appointed. _____
5. Date of Period for Filing Claims Expires (Eight months after date of first notice to creditors (62-3-801), if Personal Representative is appointed. _____
6. Date Inventory and Appraisal Due - Ninety (90) days after appointment (62-3-706), if Personal Representative is appointed _____
7. Date Information to Heirs and Devises Due -Thirty (30) days from appointment of Personal Representative. (62-3-705), if Personal Representative is appointed _____
8. Date of Notice of Hearing, if Applicable -Twenty (20) days prior to hearing (62-1401), if Personal Representative is appointed or if Will filed for "probate only" is challenged. _____
9. Date Probate Accounting Due: If a Personal Representative is appointed then the Accounting is due one year after the date of first publication of notice to creditors; unless an estate tax return is due, in which case, the accounting is due 90 days after the receipt of the estate tax closing letter. (62-3-1001). _____
10. Date U.S. Estate Tax Returns due-- US _____
Nine (9) months from date of death (Personal Representative and/or Trustee, Attorney and Accountant should each set up tickler).
11. Date Decedent's Final 1040 Return Due (Personal Representative and/or Trustee and Accountant should set up tickler)- April 15th of year following year of death, unless it falls on a Saturday, Sunday or a holiday. 4/15/____
12. Due date for previous year's return for decedent, if not yet filed. Personal Representative and/or Trustee, Attorney and Accountant should set up tickler. _____

13. Date First U.S. and SC 1041 Fiduciary Returns Due (Personal Representative and/or Trustee and Accountant should set up tickler) - 15th day of fourth month following close of the tax year. For Estate _____
 For Trust _____
- Note: a Trust can be treated as an Estate for a period of time for income tax purposes. _____ CPA _____
14. Who will prepare the 1040? _____ CPA _____
15. Who will prepare the 1041s for the estate? _____ CPA _____
16. Who will prepare the final 1041s for the trust? _____ CPA _____
17. Consider and use Alternate Valuation Date, if Applicable (Six (6) months after date of death) for Estate Tax Returns (taxable estates only). _____
18. If estate is taxable and has no significant tax issues, wait for alternate valuation date information and then try to file U.S. Estate Tax Returns seven (7) months after decedent's date of death. _____
19. If estate is non-taxable, has no tax issues, and there is a surviving spouse is portability needed? _____

III. **Pre-Probate**

1. The actual legal fees for the Law Office of Michael J. Howell depend upon the actual time expended. ***We charge \$395.00 per hour for Michael J. Howell's time, \$350 per hour for Margaret H. Up De Graff's time, and \$155.00 per hour for non-attorney staff time.*** In addition, there is a charge of three tenths of 1% (.003) of the gross value of the Estate and Trust assets for Federal Estate Tax purposes, which equates to \$300 per each \$100,000 of assets for *professional fiduciaries* such as attorneys, CPA's, financial advisors, banks and trust companies. There are no additional charges for regular postage or photocopies. There are also charges for out of pocket costs, fees, and expenses charged by others such as couriers, courts, appraisers, and valuation services.

Although it is hard to estimate, normally ***our hourly fees range from less than 1 % of the gross value of the assets for Federal Estate Tax purposes up to 3%*** unless there are problems or issues in administering the Estate or Trust or we do extraordinary work or we have to do work normally done by the Personal Representative or Trustee or their advisors. Normally, the larger the Estate and/or Trust, the lower the actual cost is as a percentage of the gross value of the Estate and/or Trust for federal estate tax value and vice versa. With small Estates and/or Trusts the percentage estimates can be much higher. We will bill for services about once a month but in some cases we can run behind. For amounts unpaid for thirty (30) days after a bill is rendered, we charge interest of 1 ½% per month. All rates are subject to change, but advance notice will be given. _____

2. Discuss the 3 to 4 stages of administration and quantity of work performed. _____
- Opening _____
 - Administration _____
 - Closing _____
 - Estate Tax Return _____

3. Need Newspaper Obituary for File. _____
4. Locate and examine the Will, any Trust Agreements, Memorandums and/or Instructions on File. _____
5. Prepare and have signed Probate Court Affidavit concerning Tangible Personal Property Memorandum _____
6. Hold Initial Conference with Personal Representative. Discuss cash needs, have extra copies of Will and Trust for distribution. _____
7. Review applicability of estate tax apportionment statutes (review Will for provisions) 62-3-916. _____
8. Obtain copies of any divorce decree. _____

IV. **Probate**

1. Consider need for fiduciary bond (Forms 340PC and 341PC) (62-3-603), if a Personal Representative is appointed. _____
2. Send to the Probate Court the following:
 --Transmittal letter
 --Application/Petition for Probate and/or Appointment depending upon whether there is going to be a Personal Representative. (62-3-301)
 --Original Will and any Codicils (62-3-301)
 --Death Certificate
 --Check for court costs (see fee schedule 8-21-770)
 --Normally the initial check is \$25.00 for probate only and \$70.00 for probate and appointment. _____
3. File Notices (110PC) and Proof of Delivery (Form 120PC) if any Demands for Notice (form 120PC) are on file. _____
4. Obtain Waivers of Notice - 62-3-204 and 62-3-310, if deemed necessary. _____
5. Obtain Fiduciary Letters (Form 140PC) and Certificates of Appointment (Form 141PC), if a Personal Representative is appointed. _____
6. Explain Waivers and how they can save significant cost. _____

7. Obtain Court copy of will filed even if no appointment of a Personal Representative. _____
 8. Obtain at least three (3) Certificates of Appointment, if a Personal Representative is appointed (62-3-307). More may be needed later. _____
 9. Obtain at least twelve (12) to eighteen (18) certified copies of the death certificates More may be needed later. _____
 10. File Information to Heirs and Devisees (Form 305PC) and Proof of Delivery (Form 120PC). _____
 11. File Notice to Creditors (Form 370PC) or request Probate Court to send Affidavit of Publication, if a Personal Representative is appointed. Local customs may vary. In Beaufort County, the court takes care of the publication of notice to creditors. _____
 12. Ancillary administration needs to be instituted where real or tangible personal property is located in other states and will need to hire an attorney in the other state(s). _____
 13. File Deed of Distribution and any other required probate papers in other South Carolina counties where probate property is located, including real estate and tangible personal property. _____
 14. Follow Uniform Principal & Income Act unless Will and/or Trust contains different provisions. _____
 15. Project cash requirements and liquidate sufficient assets to meet needs for debts, taxes, expenses and cash devises. _____
 16. Consider an early termination of the estate if the Personal Representative is also the sole devisee. _____
 17. Consider small estate procedures if all probate assets are under \$25,000 and there is no real estate. _____
- V. **Miscellaneous Tax Responsibilities**
1. File IRS Form SS-4 for Tax I.D. Number (EIN) for Estate and Trust, if not already done. _____ CPA
 2. File Form 56 - "Notice of Fiduciary Relationship" with the IRS for Estate, if there is a Personal Representative, and, if not, consider filing for Trustee or other persons in possession of property. _____ CPA

3. Determine who has responsibility for the income tax plan for the Estate and Trust. _____
CPA
4. Choose the tax year for the Estate and/or Trust. _____
CPA
5. Determine who has responsibility to file decedent's final 1040 which is due by April 15th of year following decedent's date of death and any other return not filed by decedent as of the date of death. _____
CPA
6. Consider a request for audit of decedent's income tax return for open years and discharge of liability (IRC Section 6905). _____
CPA
7. Determine if gift tax returns are due and who is responsible for filing. _____
CPA
8. Set up tickler for filing gift tax and estate tax as well as fiduciary income tax returns for the Estate and/or Trust for the first year and subsequent years. Personal Representative, Trustee and accountant should all have ticklers no matter who is responsible. _____
9. Determine if Estate Tax Return is due and who is responsible. _____
10. (a) Federal Estate Tax Return (706) is required, if the gross estate (including adjusted taxable gifts) exceeds \$12,060,000 in 2022, plus certain inflation adjustments in future years. _____
- (b) Consider portability. _____
11. The following may be necessary to be filed with Form 706:
 - Certified copy of will. _____
 - Copies of trust instruments and any documents granting a power of appointment. _____
 - Disclaimers, Waivers, Releases, Renunciations, etc. _____
 - Copies of all valuation and appraisal information relating to each item on the Form 706. _____
 - Form 712 for all life insurance policies on decedent's life. _____
 - Form 938 (Now 712) for life insurance owned by decedent on life of another. _____
 - Copies of all appraisals. _____
 - Copies of extension applications, if any. _____

--Statement waiving rights to deduct on the Estate Tax Returns those administration expenses and casualty losses deductible on the Estate Income Tax Returns if the personal representative decides to deduct those expenses on the income tax return. Place memo in file showing items used on income tax return. Note: can and probably should only file waiver, if audited; otherwise, the statute of limitations will eventually solve the problem but never double deduct items without correcting one or the other return. Note some limited items can be double deducted.

- 12. If there is a closely held family business, determine if all or a portion can be excluded from the estate. _____
- 13. Consider if there may be fractional interest, minority, lack of marketability or other discounts on asset values. _____
- 14. Determine if an election to claim a marital deduction for qualified terminable interest property (QTIP) under IRC Section 2056(b)(7) is to be made. _____
- 15. Determine if Qualified disclaimer under IRC 2518 is necessary. _____
- 16. Determine whether decedent received property from a transferor who died within ten years before or two years after the decedent. May be a PTP credit. Place memo in file showing items used. _____
- 17. If payment would be a hardship, apply to the District Director of the IRS for permission to pay the estate taxes over a period of years and file this request with Estate Tax Return (6166, 6166A, 6161, etc.). _____
- 18. If cash is needed and if the estate holds a substantial interest in a closely-held corporation that qualifies, consider 303 redemption and Section 333 liquidation. Consider treatment for state income taxes. _____
- 19. Request an early audit (2204) of 706 for federal and state Estate Tax Returns. _____
- 20. If no clause as to payment of death taxes in Will or Trust, see IRC 2206, 2207 and SC12-15-1540 for apportionment. _____
- 21. Complete accrued Income in Respect of a Decedent (IRD) and report on Estate Tax Returns and fiduciary income tax returns. CPA
- 22. Complete Deductions in Respect of Decedent (DIRD) amounts for 1041 and make sure beneficiaries are aware of any affect on their personal tax returns. CPA
- 23. Determine if any gift tax returns have been filed. CPA

24. Determine any household or other employees and whether all reporting requirements are taken care of by the decedent's accountant. CPA

VI. **Marshalling and Inventorying Assets (Generally)**

1. Inventory safe deposit box. _____

Box #: _____ Location: _____

2. Suit considered if death caused by an accident, negligence or malpractice. _____

3. Write all bankers, brokers and others with whom deceased might have had Business relations for additional assets. Also check with the unclaimed property division of each state in which the decedent lived. _____

4. Examine personal records such as tax returns for three years preceding date of death and all gift tax returns. Other records such as check books and canceled checks may also be necessary. _____

5. Obtain car appraisals and transfer title and insurance if applicable. _____

6. Determine if insurance on automobiles, personal effects, real estate, etc. are adequate. _____

7. Discontinue or change gas, electricity, telephone, water, charge accounts, etc., if applicable. _____

8. Remove valuables from dwelling and place of business, if applicable. Prepare Receipts and Releases and Distribution Agreements (if it is for the final distribution if part of a series of distributions but final distribution not yet made) (Form 401PC). _____

9. Cancel and settle open orders and accounts with brokers, if applicable. _____

10. Arrange for Postmaster to forward mail, to Personal Representative or Trustee, if necessary. _____

11. Contact employer or former employer with respect to any death benefits, salary fees, commissions, other compensation owed, or ownership interest. _____

12. Cancel subscriptions and charge accounts and receive refunds, if applicable. _____

13. Determine if interest, dividends and other amounts due prior to death are received. _____

14. Open estate checking account. _____

15. Place all liquid assets (stocks, bonds, mutual funds and cash, etc.) in brokerage account with check writing privileges, if not already in Trust with similar arrangement. Note: The Law Offices of Michael J. Howell does not handle any funds. _____
 16. Determine if E Bonds should be exchanged for H Bonds and, if so, complete exchange Form 3235. Toll free number 1-800-USBONDS. _____
 17. File Inventory and Appraisalment (Form 350PC), if a Personal Representative is appointed. Due ninety days (90) after appointment of Personal Representative by Probate Court. _____
 18. Prudent Fiduciary Standards require assets to be managed. The Law Office of Michael J. Howell, P.A. does not manage or handle assets. Who will invest and manage the assets? _____
 19. Is there a large IRA? If so, client must make sure CPA makes all final analysis and required elections. Rollover options should be considered, if there is a surviving spouse. _____ CPA
 20. CPA should make sure any IRA distributions required by the decedent are/were made for the year of death and are not inadvertently rolled over. _____ CPA
 21. Roth IRAs should be separately analyzed by CPA as to distribution requirements. _____ CPA
- VII. **Probate Accountings**
1. Determine who will prepare accounting, if needed. _____
 2. Beginning balance of accounting is normally the same as probate assets on the 706. _____
 3. Make sure Personal Representative places all stocks, bonds, mutual funds, checking accounts and other liquid assets in brokerage account. If not done right after death, then will cause substantial additional accounting costs. _____
 4. Personal Representative must use estate's EIN for the broker or other accounts not the decedent's social security number or that of the Personal Representative; otherwise will create problems of whose taxable income is reported to and can be time consuming to correct. _____
 5. Personal Representative must provide copies of all bank, brokerage and related statements at least monthly to person preparing accounting, until the probate estate is closed. _____
 6. Accounting should be kept up to date on a monthly basis. _____
 7. Personal Representative, CPA and attorney should periodically be provided with accountings. _____

- 8. Accounting should be filed with Probate Court, as required. _____
- 9. Date Account Due: 62-3-1003, if Personal Representative is appointed, one year after date of first publication of notice to creditors. _____

VIII. **Social Security, V.A. and Medicare**

- 1. Surviving spouse and/or minor disabled children should file for survivorship SS benefits, if applicable. _____
- 2. File for Social Security lump sum death payment, if applicable. _____
- 3. Personal Representative and/or Trustee should file for Medicare benefits, if applicable. _____
- 4. Last social security payment may be taken back by Social Security Administration. _____

ITEMS IX-XXV DEAL IN LARGE PART WITH FILING ESTATE AND GENERATION SKIPPING TRANSFER TAX RETURNS, WHICH MAY NOT BE REQUIRED DUE TO THE LARGE FEDERAL EXEMPTION. HOWEVER, ANYTIME THERE IS A SURVIVING SPOUSE, EVEN IF NO SUCH RETURN IS REQUIRED, PORTABILITY SHOULD BE DISCUSSED AND CONSIDERED.

IX. **Real Estate**

- 1. Determine if decedent owned real estate and how property is titled. Obtain copy of deed. _____
- 2. Check for fractional interest, minority, lack of marketability or other available discounts. _____
- 3. Contact appraiser to appraise property and make sure appraiser signs Inventory as to property appraised (Form 351 PC) (62-3-707). _____
- 4. File Deed of Distribution (Form 400PC) when appropriate (62-3-907 and 908). _____
- 5. File death certificate or JTROS Affidavit when appropriate. Note: JTROS Affidavit is a Beaufort County custom. _____
- 6. Check any leases for obligations of lessor and lessee in which decedent was a party. Obtain evidence that both parties have complied with any obligations. _____
- 7. Pro rate rent to date of death, if any. _____
- 8. Complete Form ET491-A IRS Form 4422 "Release of Estate Tax Lien" if real estate is to be sold during administration. _____

9. If a Personal Representative has been appointed, consider sale of real estate to pay debts, if applicable/needed (62-3-1301). _____

10. Place all information on Estate Tax Return and/or Probate Court Inventory, if any. Make sure all backup information is with Estate Tax Return. Also make sure that if Estate Tax Return Schedules have references to attachments, they are taken off for Probate Court Inventory purposes. _____

X. **Stocks, Bonds and Other Securities**

1. Obtain copy of all brokerage statements received just prior to and just after date of death. _____

2. Obtain copies of any securities not in a brokerage account and have them placed in a brokerage account. _____

3. Obtain professional EVP valuation of all stocks and bonds. Note: The expense of an EVP appraisal is normally more than offset by the additional time and cost it takes to obtain the *correct* information from a broker or from newspapers. _____

4. Personal Representative and Trustee must be comfortable that insurance coverage on brokerage account is adequate. _____

5. Place all information on Estate Tax Return and/or Probate Court Inventory, if any. _____

6. Make sure all backup information is with Estate Tax Return. _____

7. Make sure all monthly statements are forwarded to person responsible for the accountings. _____

XI. **Bank Accounts, Notes & Mortgages Owed to Decedent or to Decedent's Trust**

1. Obtain copy of all bank account statements just prior to and just after death. _____

2. Obtain copy of note and mortgage and amortization schedules and calculate balances. _____

3. Reconcile balances to date of death. _____

4. Place all information on Estate Tax Return and/or Probate Court Inventory, if needed. _____

5. Make sure all backup information is with Estate Tax Return. _____

6. Make sure all monthly statements are forwarded to person responsible for the accountings. _____

XII. Life, Health and Hospitalization Insurance

1. Prepare and file claims on life insurance policies. _____

2. Request Form 712 when filing claims on life insurance policies insuring decedent's life. _____

3. If decedent owned life insurance policies on the life of another, be sure to obtain Form 938 (now Form 712). If someone else owns a policy on life of decedent, obtain Form 712. _____

4. Check all hospitalization and health insurance policies to see if the Estate or Trust has a claim for any insurance and have Personal Representative and/or Trustee file needed claims. _____

5. Place all relevant information on 706 Estate Tax Return and/or Inventory. _____

6. Make sure all backup information is with the Estate Tax Return. _____

XIII. Property Owned as Joint Tenants With Right of Survivorship

1. Determine which real estate, stocks and bonds or other securities, notes receivable, bank accounts, tangible personal property or other assets are owned as joint tenants with right of survivorship. _____

2. Make sure all have been properly valued. _____

3. Statements for these assets do not have to be forwarded to the person responsible for the accounting. _____

4. Place information on 706, Schedule E, Part 1 if the spouse is the sole surviving tenant or part 2 if the spouse is not the sole surviving tenant. _____

5. Make sure all backup information is with the Estate Tax Return. _____

XIV. Miscellaneous Personal Property

1. Make sure that we have copies of all titles to items which require registration like automobiles, airplanes and certain boats. _____

2. Make sure that we have copies of all partnership (whether general, limited or other), LLC, LLP, corporate or other closely held business documents which decedent or trust had an interest in, along with financial statements for five (5) years preceding date of death. _____

3. Check for fractional interest, minority, lack of marketability or other discounts available. _____
 4. Using Kelley or NADA Blue Book for month of death, value all automobiles at their retail value, or obtain written offer or appraisal from automobile dealer. _____
 5. Check for refunds such as for income taxes, retirement community, subscriptions, Palmetto Electric, etc. Note: Income taxes due or to be refunded should be estimated by CPA. Income Taxes Due to federal and local taxing authorities are debts and refunds are assets. _____
 6. If a trust, check for Bill of Sale for non-titled tangible personal property into the trust. _____
 7. If non-titled personal property is not in trust, consider position that property is owned as joint tenants with right of survivorship. _____
 8. Check with attorney/staff to determine if Inventory is needed of contents of house(s). _____
 9. Order all necessary appraisals and coordinate with Personal Representative and/or Trustee and attorney. _____
 10. Place all information on Estate Tax Returns and/or Inventory, if any. _____
 11. Make sure all back up information is with the Estate Tax Return. _____
- XV. **Trusts Created by Decedent or by Someone Other Than Decedent And In Which Decedent Was a Settlor, Beneficiary, Trustee or Over Which the Decedent Held Any Powers.**
1. Determine if decedent created any trusts during his or her lifetime. _____
 2. Determine if decedent was a beneficiary or Trustee of a trust created by someone else. _____
 3. Obtain copies of all such trust agreements. _____
 4. Determine if assets are taxable in decedent's estate. _____

5. Determine which taxable trust assets go on Schedule F, G and H of Estate Tax Return. Generally a decedent's Revocable Living Trust goes on Schedule G and a Trust that decedent was a beneficiary of and which was created by others, but over which the decedent has a power of appointment goes on Schedule H. Note: there are Trusts reported on Schedule H but which may not be taxable such as those the decedent was merely a Trustee of but with no powers that cause the assets to be included in the Trustee's estate. A trust over which the decedent had no taxable power such as a Trust B, certain Family Trusts and Credit Shelter Trusts go on Schedule F. Also QTIP Trusts go on Schedule F. _____
6. Make sure we have all back up and valuation information. _____
7. Place all information on Schedule G or Schedule H as applicable. _____
8. Make sure all back up information is with the Estate Tax Return. _____

XVI. Pensions, Annuities, IRAs and Roth IRAs

1. Determine if decedent owned or was entitled to pension, annuity, IRA or Roth IRA benefits. _____
2. Obtain list of assets in each account as of date of death. _____
3. Obtain copy of all brokerage statements, if any, receive just prior to and Just after date of death. _____
4. Obtain proof of each benefit including governing document, summary plan description and beneficiary designations. _____
5. Obtain valuations as necessary. _____
6. If necessary use IRS valuation tables for pensions and/or annuities using life expectancy and payout amount for beneficiary in conjunction with Section 7520 rate. _____
7. Client must make sure CPA advises about all required IRA elections. If beneficiary is surviving spouse, then a rollover and designating new beneficiaries should be considered. Roth IRAs should be considered separately. CPA _____
8. Place all information on Schedule I of Estate Tax Returns and/or Inventory, if any. _____
9. Make sure all back up information is with the Estate Tax Return. _____

XVII. Estate and/or Trust Claims and Liabilities

1. Obtain funeral, doctor, nurses, hospital and other bills. _____

2. Classify as to which are “liens and encumbrances” for purposes of the Probate Court inventory, assuming a Personal Representative is appointed. _____
3. Review Statement of Creditor's Claims (Form 371PC) for validity and then classify according to 62-3-805, if estate assets are insufficient to pay claims. Also check Trust Agreement, if any, for authorization to pay. _____
4. Assuming a Personal Representative is appointed, if a claim against the estate is not believed to be valid, then disallow and file notice of disallowance (Form 372PC). _____
5. Place all relevant information on Schedule J of Estate Tax Return. _____
6. Make sure all backup information is with the Estate Tax Return. _____

XVIII. Funeral and Administration Expenses

1. Determine amount of all funeral expenses and place on Estate Tax Return. _____
2. Determine amount of fees, including legal fees, accounting fees, Personal Representative fees and Trustee fees. _____
3. Determine amount of other administrative expenses including but not limited to probate court costs, appraisal expenses, property taxes on estate property and other miscellaneous expenses. _____
4. Determine how much of the fees and administrative expenses will go on Estate Tax Return and how much on fiduciary income tax return. _____
5. Statement waiving rights to deduct on the Estate Tax Returns those administration expenses and casualty losses deductible on the Estate Income Tax Returns, if the personal representative decides to deduct those expenses on the income tax return. Place memo in file showing items used on income tax return. Note: can and probably should only file waiver, if audited; otherwise, the statute of limitations will eventually solve the problem but never double deduct items without correcting one or the other return. Note: certain items can be double deducted. _____
6. Place all relevant information on Schedule J of Estate Tax Return. _____
7. Make sure all backup information is with the Estate Tax Return. _____

XIX. Debts of Decedent

1. Determine all debts of Decedent. _____

2. Make sure have proof of debt and amount. _____
3. Determine which debt is secured by mortgage or is a lien on estate property. _____
4. Determine if someone else may also be liable for debt and if the Estate may have a claim against such person. _____
5. Place unsecured debts on Schedule K, Part I, of Estate Tax Return. _____
6. Place all mortgages and liens on Schedule K, Part II. _____
7. Determine most recent income tax or refund due as of date of death. CPA
8. Make sure all backup information is with the Estate Tax Return. _____
9. Make sure all debts that constitute "liens or encumbrances" on probate Property are reported on the Probate Court inventory, if any. _____

XX. **Expenses Incurred in Administering Property not Subject to Claims**

1. Determine if there is property not subject to claims of creditors. _____
2. Place all relevant information on Schedule L of Estate Tax Return rather than Schedule J. _____
3. Make sure all backup information is with the Estate Tax Return. _____
4. Determine most recent income tax or refund due as of date of death. _____

XXI. **Qualified Disclaimer**

1. Determine if a Qualified Disclaimer is needed. _____
2. If needed, review Qualified Disclaimer Rules in detail. _____
3. Consider whether Qualified Disclaimer should be used to create an estate tax on the first death (assuming a married couple) in order to equalize the estates to avoid possible higher rates for estate or the beneficiary or devisee. _____
4. Make sure Qualified Disclaimers are considered and discussed with the Personal Representative and/or Trustee at initial conference. _____
5. When making Qualified Disclaimers you can not be too careful. _____

XXII. **Marital Deduction Items**

1. Determine what type of marital deduction clause you are dealing with, if there is a surviving spouse.

- Pecuniary Marital _____
- Fractional Share Marital _____
- Other (List/Describe): _____

2. Determine which assets and amounts qualify for the marital deduction from estate taxes. _____
3. Assuming there is a surviving spouse, determine any QTIPable items and whether or not needed to reduce estate taxes on first death. Also consider consequences on second death if QTIP is not used. _____
4. For QTIP items use formula and attach copy and put reference to formula in description on 706. _____
5. May need Reverse QTIP election, if there are GST issues. _____
6. Place all relevant information on Schedule M of Estate Tax Return. _____
7. Make sure all back up information is with Estate Tax Return. _____
8. When making QTIP and Reverse QTIP Elections, you can never be too careful. _____

XXIII. Charitable, Public and Similar Gifts and Bequests

1. Determine if charitable, public or similar gifts and bequests made that qualify for the estate tax charitable deduction. _____
2. Obtain complete details and amounts. _____
3. Place relevant information on Schedule O of the Estate Tax Return and attach appropriate additional Schedules explaining any formulas and calculations. _____
4. Make sure all backup information is with Estate Tax Return. _____

XXIV. Previously Taxed Property (PTP) Credit

1. Determine if anyone died within ten (10) years prior to the decedent's death or two (2) years after the decedent's death who left property to the decedent. _____
2. Consider previously taxed property (PTP) credit. _____
3. Consider health of beneficiaries of the decedent's Will and/or Trust. _____
4. Consider whether Estate Tax Return should be filed later. _____

XXV. GST Amounts

1. Determine if and how GST exemption should be allocated. _____
2. Consider impact of automatic allocation rules. _____
3. Determine if need to use formula GST allocation. A formula is the default method. _____
4. Determine if need to use Reverse QTIP Election and if formula election is needed then make election and attach formula, if any, to Estate Tax Return. A formula is the default method, if available. _____
5. Place all relevant information on GST portion of Estate (Generation Skipping) Tax Return and attach appropriate additional Schedules explaining any formulas and calculations. _____
6. Make sure all relevant backup information is with the Estate Tax (Generation Skipping) Return. _____
7. When making GST and Reverse QTIP Elections, you can never be too careful. _____

XXVI. Distribution and Termination of Estate

1. Record all deeds of distribution for real estate and deliver to devisee(s). _____
2. Deliver all bills of sale and deeds of distribution for tangible personal property to devisee(s). _____
3. Deliver all assignments of tangible personal property and deeds of distribution to devisee(s). _____
4. Make sure all liabilities have been paid. _____
5. Make sure estate tax closing letters (if 706 filed) have been received and that the Probate Court issues a Termination of Appointment document. _____
6. Make sure all Personal Representative fees (62-3-719), Trustee fees (as required) and attorneys fees have been paid. _____
7. Make sure all income, estate, gift, GST, household employee, payroll or other tax returns have been filed. _____
8. Make sure all receipts have been obtained before property is distributed. _____
9. Prepare Schedule of Distribution (Form 410 PC), if a Personal Representative is appointed. _____

- 10. File Accounting, if a Personal Representative is appointed, or have devisees sign a formal Waiver of Accounting. Good for confidentiality and to reduce costs, unless there are devisees who will not cooperate. _____
- 11. Prepare Application for Discharge of liens and Sureties (Form 411PC), if applicable. _____
- 12. Prepare Application for Settlement (Form 412 PC), if a Personal Representative is appointed. _____
- 13. File Termination of Appointment (Form 414PC) and Certificate of Discharge (Form 142PC) if a Personal Representative is appointed and close file.
Note: In Beaufort County, the Probate Court prepares and sends Form (414PC) when it approves the petition for settlement. The cost is included in the initial check to the Probate Court. _____
- 14. Review with Trustee their responsibilities in administering the trust, if necessary. _____

I hereby acknowledge that I received this checklist of my duties and responsibilities and The Law Office of Michael J. Howell, P.A. explained it to me. Except where noted otherwise, the duties and responsibilities are solely my own. For those that are shown as joint, these duties and responsibilities are shared with the person designated. I acknowledge that I have been told that as Personal Representative and/or Trustee, I am ultimately responsible for my duties and responsibilities to the appropriate courts, taxing authorities and beneficiaries, even if I delegate duties to others. I also acknowledge I have been told that although I may delegate certain of my duties to attorneys, accountants and others, I can not delegate the ultimate responsibilities themselves. I also acknowledge that the Law Office of Michael J. Howell, P.A only represents me in my capacity as Personal Representative and/or as Trustee and not in my individual capacity.

Personal Representative(s) and/or Trustee(s) Date: _____

Personal Representative(s) and/or Trustee(s) Date: _____

Note: Whenever the description Personal Representative (PR) and/or Trustee (TTEE) is used, these responsibilities and/or duties are the sole responsibility and duty of the person given. Whenever the description "joint" is used, these responsibilities and/or duties are the joint responsibility of the Personal Representative and/or Trustee, as the case may be and the Law Office of Michael J. Howell, P.A. Whenever the description "N/A" is used, this means that it does not appear that this responsibility or duty exists. Depending upon the context, a checkmark indicates that the item is for information only or has already been take care of.