

Checkplan

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TEXAS PROBATE SYSTEM

CHECKPLAN

NAME OF DECEDENT (D) _____

Note: To the extent that the client elects to be responsible for any of these steps, the client **MUST** furnish copies of all outgoing and incoming correspondence and documents. Although these steps are listed in approximate chronological order, it is not necessary to follow them in the exact order set forth in this Checkplan.

LEGEND: NA-NOT APPLICABLE L-LAWYER S-SUPPORT STAFF

INITIAL CONTACT

1. Do the following upon **initial contact** and learning of D's death:

a. Determine immediate needs concerning—

- (1) Performance of an autopsy
- (2) Donation of body and/or organs for medical use (check D's driver's license and with Living Bank)
- (3) Disposition of body
- (4) Special burial, cremation, or donation instructions
- (5) Selection of funeral home
- (6) Funeral arrangements
- (7) Information to complete death certificate and prepare obituary notice. Be particularly careful concerning exact dates of death and birth. See Special Instruction 96—Identity Theft concerning information for obituaries.
- (8) Pallbearers
- (9) Fraternal organizations (such as Masons, K. of C., VFW) to be contacted
- (10) Care of minor or incapacitated children
- (11) Flag from VA if D was a veteran
- (12) Notification of clergyman, friends, relatives, and business associates
- (13) Care of livestock, pets, plants, and other perishable property
- (14) Security at home of D

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(15) Security at homes of D's relatives					
(16) Termination of home deliveries					
(17) Continued employment and compensation of appropriate household and business employees					
(18) Notification of professional organizations and alumni associations					
b. Advise family members to safeguard D's residence and to keep accurate records of all expenses incurred for the funeral, in notifying friends and relatives, and for other immediate arrangements.					
c. Recommend a thorough search of D's home and place of business for hidden assets.					
d. Recommend a thorough search of D's home and place of business for credentials to digital assets, including user IDs, passwords, and challenge questions. See Special Instruction 83—Digital Assets.					
e. Explain the Probate Information List (Form 1) (see Special Instruction 1—Probate Information List for explanation of Form 1).					
f. Make a prompt appointment to meet with client and members of the family.					
g. Consider sending flowers, contributions, or letters of sympathy.					
h. Open office file.					
i. Prepare and send Letter 1 to the person who will be responsible for gathering the documents and information together with a copy of the Probate Information List (Form 1).					

INITIAL INTERVIEW

2. Plan for the **initial interview**. See Special Instruction 2—Ethics and Attorney’s Fees. Immediately before that interview, gather all the following from your files and have available:
 - a. D’s original will and all codicil(s) or file copies if originals are not available
 - b. Memoranda for disposition of personal effects
 - c. All open and closed files for D’s matters handled by your office, including spouse’s will file
 - d. Texas Probate System
3. Do the following at initial interview:
 - a. Review Probate Information List (Form 1) and items brought by client, discuss all items with client, obtain as much information as possible regarding D and D’s assets, and obtain originals or copies of each of the following:
 - (1) D’s death certificate (one certified copy for each policy of insurance on D’s life, plus one additional certified copy for the file). Confirm all information on it, particularly the exact dates of death and birth.
 - (2) D’s obituary notice and any newspaper articles if D’s death was due to other than natural causes
 - (3) D’s military discharge papers and other documents relating to military or veterans (VA) benefits being received by D or D’s spouse or payable because of D’s death
 - (4) Financial statements and tax returns of closely held businesses and partnerships for five years immediately before D’s death and other items relating to value of and dividends and income from them
 - (5) Most recent financial statements for D and D’s spouse
 - (6) Income tax returns (federal, state, and city) for last three years for D and D’s spouse
 - (7) Declaration of estimated tax for D and D’s spouse for year before and year of D’s death
 - (8) All gift tax returns ever filed by D or D’s spouse
 - (9) All trusts (especially living trusts) created by or for the benefit of D or D’s spouse and current inventory of each trust

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	NA	L	S	DATE	INITIALS
(10) Wills, inheritance tax returns, estate tax returns, and audit adjustments for estates of persons from whom D inherited property within ten years before D's death					
(11) All casualty insurance policies on which any personal property is separately scheduled (listed) and valued					
(12) Documents relating to Social Security benefits being received by or payable to D or D's spouse or because of D's death					
(13) Documents relating to veterans benefits being received by or payable to D or D's spouse or because of D's death					
(14) Documents relating to railroad retirement benefits being received by or payable to D or D's spouse or because of D's death					
(15) Will and codicil(s) of surviving spouse					
(16) Other agreements to which D or D's spouse was a party, such as—					
(a) Marital, premarital, partition, and survivorship agreements between D and D's present spouse					
(b) Agreements incident to divorce, other settlement agreements, divorce decrees, and other agreements relating to D's prior marriages					
(c) Partnership agreements					
(d) Buy-sell agreements					
(e) Employment agreements					
(f) Stock purchase (buy-sell) agreements					
(g) Stock option agreements					
(h) Pensions, including information regarding survivorship rights					
(i) Profit-sharing plans					
(j) Annuities					
(k) Franchises					
(l) Patents					
(m) Copyrights					
(n) Leases (apartment, office, mineral, and other)					
(o) Oil and gas division orders					
(p) Notes receivable					

	NA	L	S	DATE	INITIALS
(q) Notes payable					
(r) Guaranty agreements					
(s) Powers of attorney for D and D's spouse					
(t) Safekeeping and agency accounts					
(u) Policies insuring life of D or D's spouse					
b. Determine the identity, address, Social Security number, marital status, citizenship, and relationship to D, of D's spouse and all of D's heirs, legatees, other beneficiaries who are not heirs, and all others who are necessary or proper parties to the probate proceedings.					
c. Determine if there may be any alleged illegitimate children and whether they or any other person had been adopted into or out of D's family.					
d. Determine if D left a memorandum concerning the disposition of personal property and take appropriate action.					
e. Review D's income tax returns for last three years to look for dividends, interest, annuities, rents, royalties, and other investment income from sources you cannot account for (see Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities).					
f. If D's original will and codicil(s) are not produced, determine if there is a safe deposit box and, if so, see Special Instruction 4—Safe Deposit Boxes and follow procedure set forth in Item 6 of this Checkplan.					
g. Review D's will and codicil(s) . See Special Instruction 36—Execution of Wills and Special Instruction 38—Reading the Will.					
(1) Read will and codicil(s) and explain plan of disposition of D's estate. <i>Note:</i> The unlimited marital deduction may not be available if D's will was executed before September 13, 1981, or if D's surviving spouse is not a U.S. citizen (see Special Instruction 42—The Marital Deduction).					
(a) Determine if there is a gift to an attorney who prepared or supervised the preparation of the will and/or codicil (or to the attorney's heir or employee) in which the gift is contained.					
(b) If so, and D's will was executed on or after September 1, 1997, review Estates Code, Section 254.003, to determine if gift is void.					

	NA	L	S	DATE	INITIALS
(c) Determine identity and address for all legatees and devisees.					
(d) Obtain Beneficiary's Waiver of Notice (Form 100) from devisees and legatees who are at the meeting.					
(e) Prepare and enter information on Worksheet 9.					
(f) If independent administration is contemplated, obtain Waiver of Right to Receive Inventory and Appraisal (Form 122) from devisees and legatees who are at the meeting.					
(g) Obtain IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), from all heirs, devisees, legatees, and beneficiaries who are at the meeting.					
(2) Determine capacity and authority of person proposing to retain you. If will names multiple fiduciaries, reach understanding as to your ability to continue to represent one or more of them in the event of a dispute among them.					
(a) Check your records to determine possible conflicts of interest .					
(b) Identify your client in case a conflict of interest exists or could arise in the future.					
<i>Note:</i> This System assumes that you will not represent multiple clients but that you will represent one executor or administrator and that there will be no conflicts of interest. In other situations, your engagement agreement must be modified accordingly.					
(c) If an unresolved conflict of interest exists, decline representation, return all items, and confirm in writing that you do not and will not have any responsibility for this estate.					
(3) Determine if D made any specific bequests . If so, consider timing of satisfaction of those bequests and take appropriate action including supervision of any selection process. Note that income from specifically devised or bequeathed property is to be distributed with that property.					
(4) Determine whether circumstances exist under which the terms of the will should be modified or reformed in accordance with Estates Code, Sections 255.451 through 255.455, and, if so, take appropriate action. Further coverage is beyond the scope of this System.					
(5) Determine if D directed perpetual cemetery care . If so, make appropriate payment.					

- (6) Determine if inheritance and estate **taxes** are **payable** out of the residue of D's estate or if they are apportioned (see Special Instruction 71—Apportionment of Taxes).
- (7) Determine if D provided for any **charitable gifts**. If so, consider timing of satisfaction of those gifts and take appropriate action.
- (8) Determine if D possessed a **general power of appointment** and whether it was exercised.
- (9) Determine if D's death caused D to be treated as a "deemed transferor" for purposes of the **generation-skipping transfer tax**.
Note: Any coverage of this tax is beyond the scope of this System.
- (10) Determine if there are any libelous statements in D's will.
- (11) Determine if D attempted to make a gift of a copyright to someone other than D's surviving spouse and children.
- (12) If any beneficiary predeceased D, determine whether the gift(s) lapsed or passed to someone else.
- (13) Determine if D's will and codicil(s) disposed of all of D's property and, if not, consider filing Application to Declare Heirship (Form 77) at same time as filing application to probate will and also follow Item 209 of this Checkplan.
- (14) Determine if a marriage of D was dissolved by divorce, annulment, or declaration that the marriage was void and, if so, whether fiduciary appointments, gifts, or beneficiary designations were revoked by operation of law. See Special Instruction 49—Marital Property Rights.
- (15) Determine if a child was born to or adopted by D after the date of the will or codicil(s) and, if so, whether portions thereof were revoked or modified by operation of law.
- (16) Determine if any nominated executor or trustee should do any one or more of the following:
 - (a) Decline to serve
 - (b) Renounce the appointment
 - (c) Waive fees in whole or in part
 - (d) Renounce or disclaim one or more powers

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(17) If D's will grants authority to designate an administrator, determine whether designation should be made. If so, see Special Instruction 95—Authority to Designate Administrator and follow the procedure at Item 46 of this Checkplan.					
(18) Determine if there is a necessity for a proceeding to construe D's will.					
(19) If D was a "personality," review Property Code, Chapter 26, to determine rights to the use of D's name, voice, signature, photograph, or likeness if these rights were not provided for by D's will or during D's lifetime.					
(20) Advise client, all proposed personal representatives, heirs, and beneficiaries of personal liability for distributing assets before satisfying all debts and taxes due to United States.					
(21) Refer to Special Instruction 25—Disclaimers and caution family members, heirs, and beneficiaries about accepting any property or its benefits if that property is being considered for disclaimer.					
(22) Prepare a summary and analysis of D's will.					
h. Determine if there is any likelihood of a will contest.					
i. If D did not have a will, explain Texas laws concerning inheritance rights (see Special Instruction 58—Who Inherits When There Is No Will).					
j. Determine D's ownership in each asset, whether separate or community, and the rights of D to manage the asset during D's life (see Special Instruction 72—Spousal Liability).					
k. Determine nature and extent of rights of reimbursement between D's community and separate estates and whether any of D's separate property assets had been converted from community property (see Special Instruction 49—Marital Property Rights and Special Instruction 76—Reimbursement). <i>Note:</i> The existence of such claims may create conflicts of interest both for the lawyer and for a surviving spouse who is serving as D's executor or administrator. Failure to assert a claim may result in taxable gifts to the surviving spouse or to heirs and devisees. A claim for reimbursement against D would be a debt of D's estate. A claim for reimbursement by D would be an asset of D's estate.					
l. Determine if D's surviving spouse and children have any homestead or other rights with respect to the assets (see Special Instruction 49—Marital Property Rights).					

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m. Determine immediate needs of family. If there is an urgent and immediate need for the appointment of a temporary administrator, determine identity, qualification, and priority rights to appointment of proposed temporary administrator (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor, Special Instruction 57—Temporary Dependent Administration (TDA), and Item 14 of this Checkplan) and take appropriate action.					
n. Determine if there is perishable property that must be disposed of immediately. If so, review procedures for temporary administration (see Special Instruction 57—Temporary Dependent Administration (TDA)) and, if required, see Item 14 of this Checkplan and take appropriate action.					
o. Determine if there was a contract for the purchase or sale of any real estate pending on date of D's death and, if so, take appropriate action.					
p. Discuss function of probate and give a rough outline of what client should expect.					
q. Inquire about whether any member of the family desires psychotherapeutic consultation and, if so, make proper referral.					
r. Inquire about circumstances surrounding D's death to determine if there may be a cause of action against one or more persons and whether to pursue the claims.					
s. If D died accidentally while on a common carrier using a ticket purchased with a credit card, determine if travel accident insurance was provided by the credit card company or is otherwise available.					
t. Determine the extent of contribution to any joint accounts or other property held jointly by D and other joint tenants.					
u. Determine if D and D's spouse entered into a survivorship agreement as to one or more accounts or other assets. If so, do the following:					
(1) Refer to Estates Code, Chapter 112, to determine if the agreement complies with applicable law.					
(2) Take appropriate action to assist in transferring title to all of D's interest to D's spouse.					
<i>Note:</i> If an asset was community property subject to D's sole or joint management, control, and disposition during marriage, it continues to be subject to D's liabilities without regard to the right of survivorship of D's spouse.					
v. Determine if any real estate owned by D was subject to a transfer on death deed.					

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w. Advise donees of tax problems that might arise out of their disposition of assets given to them by D within three years before D's death.					
x. If D received appreciated property by gift within one year before D's death, do the following:					
(1) Determine if donor or donor's spouse will receive that property under D's will or by inheritance from D.					
(2) Advise donor or donor's spouse of the fact that the income tax basis of that property will not be "stepped up" to date-of-death valuation.					
y. Request information from the principal heirs and beneficiaries about their personal income tax brackets.					
z. Give client a list of additional documents and information that will be required. This can be done by properly marking client's copy of the Probate Information List (Form 1), making a copy for your file, and returning the original to client.					
aa. Discuss services and fees.					
(1) See Special Instruction 2—Ethics and Attorney's Fees.					
(2) Describe the services to be performed by your office.					
(3) Emphasize the need for your office (and not the funeral home or insurance agent) to collect life insurance benefits.					
(4) Introduce client and family to your staff member(s) who will be assisting you in this estate, write down name of staff member(s) for your client, and enter the name(s) as Item 5.04 of MIL (Master Information List).					
(5) Reach an agreement to represent your client, how your fee will be determined, and when and by whom it will be paid, and complete Item 25.02 of MIL.					
(6) Obtain a retainer roughly equal to the value of the work to be performed before the first billing.					
(7) Obtain a deposit for costs and expenses.					
(8) Deposit those funds into your trust account (see Special Instruction 6—Handling Funds Received from Client).					
(9) If you are not retained , prepare and send Letter 129 to confirm nonengagement.					
ab. Prepare Authorization (Form 2) on attorney's letterhead or plain paper and have a named executor, surviving spouse, major heir, or beneficiary sign copies (ten is a good starting point) and place in file folder entitled "Authorizations."					

ac. Prepare **Receipt for Documents** (Form 3) for all original documents you retain and explain their use.

ad. If not already done:

- (1) Prepare Beneficiary's Waiver of Notice (Form 100) for each devisee or legatee who is present at this initial meeting, have the waivers signed, and place them in file folder entitled "Notice to Beneficiaries."
- (2) Prepare Worksheet 9 and place in file folder entitled "Notice to Beneficiaries."
- (3) Obtain IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), from all heirs, devisees, legatees, and beneficiaries who are at the meeting.

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DETERMINING PROPER PROBATE PROCEDURE

4. Complete Worksheet 1 to determine proper probate procedure.
- a. If temporary dependent administration (TDA) appears to be the proper procedure, enter “TDA” on cover page of MIL and on Probate Chart (Worksheet 15).
 - b. If muniment of title (MT) appears to be the proper procedure, enter “MT” on cover page of MIL and on Probate Chart (Worksheet 15).
 - c. If independent administration (IA) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “IA” on cover page of MIL and on Probate Chart (Worksheet 15).
 - d. If administration with dependent executor (ADE) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “ADE” on cover page of MIL and on Probate Chart (Worksheet 15).
 - e. If administration with will annexed (AWA) appears to be the proper procedure, determine identity and qualification of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “AWA” on cover page of MIL and on Probate Chart (Worksheet 15).
 - f. If a small estate proceeding (SE) appears to be the proper procedure, enter “SE” on cover page of MIL and on Probate Chart (Worksheet 15).
 - g. If a proceeding to declare heirship (PDH) appears to be the proper procedure, enter “PDH” on cover page of MIL and on Probate Chart (Worksheet 15).
 - h. If regular dependent administration (RDA) appears to be the proper procedure, determine identity, qualification, and priority rights of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “RDA” on cover page of MIL and on Probate Chart (Worksheet 15).

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- i. If independent administration by agreement where D left a will (TBA) appears to be the proper procedure, determine identity and qualification of proposed executor(s) or administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “TBA” on cover page of MIL and on Probate Chart (Worksheet 15).
- j. If independent administration by agreement where there is no will (IBA) appears to be the proper procedure, determine identity, qualification, and priority rights of proposed administrator(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “IBA” on cover page of MIL and on Probate Chart (Worksheet 15).
- k. If ancillary probate of will previously probated elsewhere (AP) appears to be the proper procedure, determine identity and qualification of proposed executor(s) (see Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor) and enter “AP” on cover page of MIL and on Probate Chart (Worksheet 15).
- l. If recording of foreign will (RW) appears to be the proper procedure, enter “RW” on cover page of MIL and on Probate Chart (Worksheet 15).

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AFTER INITIAL INTERVIEW

5. **Immediately after the initial interview**, do the following:
 - a. Meet with your staff assistant(s) to:
 - (1) Review all items in this Checkplan to get an overview of this estate and to assign responsibilities for future actions.
 - (2) Complete Items 1 through 17 of SDL (Significant Date List). Complete as much of MIL as possible from information provided by client. Remember to enter additional information in MIL as it becomes available. Enter estate on Probate Chart (Worksheet 15). As additional information becomes available, remember to enter it on Probate Chart (Worksheet 15).
 - (3) Review all items on SDL to become aware of due dates and deadlines and enter critical dates into office reminder system and on Probate Chart (Worksheet 15).
 - b. If decedent or decedent's surviving spouse have an interest in an irrevocable trust, see Special Instruction 102—Revocable Trusts.
 - c. Write to client to confirm representation and to outline services and fee.
 - (1) If IA, prepare and send Letter 3 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (2) If AWA or ADE, prepare and send Letter 59 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (3) If MT, prepare and send Letter 64 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (4) If TDA, prepare and send Letter 74 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (5) If RDA, prepare and send Letter 83 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (6) If PDH, prepare and send Letter 85 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (7) If SE, prepare and send Letter 87 together with a copy of the Texas Lawyer's Creed (Form 99).
 - (8) If TBA, prepare and send Letter 106 together with a copy of the Texas Lawyer's Creed (Form 99).

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(9) If IBA, prepare and send Letter 107 together with a copy of the Texas Lawyer's Creed (Form 99).					
(10) If AP with independent executor(s), prepare and send Letter 114 together with a copy of the Texas Lawyer's Creed (Form 99).					
(11) If AP with dependent executor(s), prepare and send Letter 115 together with a copy of the Texas Lawyer's Creed (Form 99).					
(12) If RW, prepare and send Letter 118 together with a copy of the Texas Lawyer's Creed (Form 99).					
d. Sort and classify loose documents and place into separate file folders for the following categories as applicable:					
(1) Will and Codicil(s)					
(2) Authorizations					
(3) Safe Deposit Box					
(4) Life Insurance					
(5) Death Certificates					
(6) Other Insurance					
(7) Employee and Government Benefits, Annuities, and IRAs					
(8) Court Proceedings					
(9) Letters Testamentary or of Administration					
(10) Real Estate (including mineral and royalty interest, leases, and contracts for deed when purchasing)					
(11) Cash					
(12) Securities					
(13) Income Tax Returns					
(14) Gift Tax Returns					
(15) Other Tax Returns					
(16) Fiduciary Income Tax Returns					
(17) Partnerships, Trusts, and Other Unincorporated Businesses					
(18) Personal Property					
(19) Judgments, Notes, Accounts Receivable, and Contracts for Deed					

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(20) Transportation Equipment					
(21) Trusts					
(22) Inventory					
(23) Funeral Expenses					
(24) Debts, Claims, and Expenses (Paid)					
(25) Debts, Claims, and Expenses (Unpaid)					
(26) Notice to Beneficiaries					
(27) Federal Estate Tax					
(28) Agreements between D and D's Spouse					
(29) Disclaimers					
(30) Miscellaneous					
e. If you have D's original will and codicil(s), make one copy of each for each client plus six file copies of each. <i>Do not unstaple</i> pages or remove from manuscript cover ("blue back"). Place file copies in file folder entitled "Will and Codicil(s)."					
f. If not prepared to file application immediately, file will as required by Estates Code, Section 252.201. Prepare Letter 127, enclose original will and codicil(s), and mail or deliver to clerk of probate court that has jurisdiction of D's estate.					
g. If person or entity holding original will refuses to deliver it to the court for probate, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Will, Order to Show Cause, and Order to Deliver Will (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Will, Order to Show Cause, and Order to Deliver Will (Form 147), to person or entity holding original will.					
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Will, Order to Show Cause, and Order to Deliver Will (Form 147) with court.					

	NA	L	S	DATE	INITIALS
(4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater. <i>Note:</i> Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System.					
h. Notify anyone to whom D had given a power of attorney that the power terminated at D's death and, if necessary, prepare termination of power to be recorded.					
i. If any releases, deeds, or mortgages were unrecorded, consider recording them.					
j. If any tax returns were not produced by client, try to obtain them from D's tax return preparer or consider requesting transcripts or copies from IRS. See Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities and do the following:					
(1) Determine the address used on the return(s), whether D filed separately or jointly for the year(s) in question, and the Internal Revenue Service Center(s) where filed.					
(2) If requesting transcripts only, prepare IRS Form 4506-T, Request for Transcript of Tax Return (FF 5). The form is available online at www.irs.gov (click on "Order Transcript"). <i>Note:</i> If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain transcripts and there is no executor or administrator.					
(a) Arrange for IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), to be signed by proper person.					
(b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.					

	NA	L	S	DATE	INITIALS
(c) When signed copy of IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), has been returned and all attachments have been obtained, send to the Internal Revenue Service Center. No cover letter is required.					
(d) On receipt of transcripts from the IRS, place in file folder entitled "Income Tax Returns."					
(3) If requesting copies of tax forms, prepare IRS Form 4506, Request for Copy of Tax Return (FF 1). The form is available online at www.irs.gov/pub/irs-pdf/f4506.pdf . <i>Note:</i> If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain copies of returns and there is no executor or administrator.					
(a) Arrange to have IRS Form 4506, Request for Copy of Tax Return (FF 1), signed by proper person.					
(b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.					
(c) When signed copy of IRS Form 4506, Request for Copy of Tax Return (FF 1), has been returned and all attachments have been obtained, determine correct charge, arrange for payment, charge client's account, and send to the Internal Revenue Service Center. No cover letter is required.					
(d) On receipt of copies of tax returns from the IRS, place in file folder entitled "Income Tax Returns."					
k. Review D's check registers for full year before death for record of payments to insurance companies, to brokerage firms, and for rental of safe deposit box and mini-warehouse, and for recurring payments such as mortgages, alimony, and child support.					
l. Determine if there are assets outside Texas that will require ancillary administration or probate proceedings to transfer title.					

- m. If D was a lawyer, as shown at MIL1.28, see Special Instruction 78—Death of a Lawyer. Consider filing application to close D’s law practice, pursuant to Texas Rules of Disciplinary Procedure, Rule 13.02, before filing probate application. If no Rule 13.02 appointment is made to close D’s practice, see Item 95f of this Checkplan.

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SAFE DEPOSIT BOX

6. If D had a **safe deposit box**, do the following:
 - a. See Special Instruction 4—Safe Deposit Boxes.
 - b. If entry will be attempted without court order, do the following:
 - (1) Locate key. If key cannot be located, arrange with bank or other institution to have locksmith open box.
 - (2) Determine if there is a joint holder who can gain access without intervention of personnel of bank or other institution and, if so, have joint holder open box, remove contents, and bring contents to your office. Prepare a Receipt for Documents (Form 3) for all original items you retain.
 - (3) Meet with client and make inventory of box.
 - (4) Obtain copy of inventory for file and place in file folder entitled “Safe Deposit Box.”
 - (5) If some desired items cannot be removed without letters testamentary, letters of administration, or a court order, make list of those items desired. After obtaining letters testamentary, letters of administration, or a court order to the bank or other institution, have client open the box, remove those items, and bring them to your office. Make appropriate copies and furnish client with a Receipt for Documents (Form 3) for all original items you retain.
 - (6) If box is relinquished, determine if refund is available. If refund is received, list amount as an account receivable in Section 12.0 of MIL.
 - (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.
 - (b) If MT, SE, or PDH, distribute refund to appropriate heirs and beneficiaries.
 - c. If original will, life insurance policies, and other important documents are believed to be in safe deposit box but access is denied except upon court order, do the following:
 - (1) Prepare Motion to Open Safe Deposit Box and to Examine Papers and Order thereon (Form 4).

Note: In some counties the probate court prefers to use its own printed forms for this procedure. You should investigate your local practice concerning this.

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(2) Determine amount of filing fee, arrange for payment, and charge to client's account.					
(3) File Motion to Open Safe Deposit Box and to Examine Papers and Order thereon (Form 4) with clerk of court.					
(4) Determine from clerk if this is the docket number of the estate for this purpose only or if it also will be the docket number when the application to commence probate proceedings is filed. If this number will be used for all proceedings, enter it as Item 6.01 of MIL. If not, make no MIL entry at this time.					
(5) Have judge sign the order.					
(6) Obtain signed copy of order.					
(7) Locate key. If key cannot be located, arrange with bank or other institution to have locksmith open box.					
(8) Make appointment with bank or other institution to meet with one of its officers.					
(9) Present order to bank or other institution named as respondent.					
(10) Meet with client and officer and make inventory of box.					
(11) If no further action is required before removing items from box, take those items that are necessary, make appropriate copies, and furnish client with a Receipt for Documents (Form 3) for all original items you retain.					
(12) If D's original will and codicil(s) are located, they are to be delivered to clerk of court. Obtain copies before delivery. <i>Note:</i> It is common practice for the attorney to obtain possession of the original will and codicil(s) for use in preparing documents to be filed with the court, and these originals are customarily filed at the same time as (rather than before) filing an application to probate the will.					
(13) If insurance policies are located and are to be delivered to a named beneficiary rather than to you or to your client, take extensive notes to be sure you get at least all the following for each policy: name and address of insurance company, policy number, face amount, type of policy, date of issuance, name of insured, name of beneficiary, name of agent, and premium information.					
(14) When inventory is made, obtain copy for file and place in file folder entitled "Safe Deposit Box."					

- (15) If box is relinquished, determine if refund is available. If refund is received, list amount as an account receivable in Section 12.0 of MIL.
- (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.
- (b) If MT, SE, or PDH, distribute to appropriate heirs and beneficiaries.
- d. Conform file copies of all documents for dates and signature.

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INSURANCE ON D'S LIFE

7. If there was **insurance on D's life**, do the following:
 - a. See Special Instruction 7—Insurance on Decedent's Life.
 - b. Obtain unpaid premium notices and all original policies insuring D's life and place in file folder entitled "Life Insurance."
 - (1) Recommend immediate payment of overdue premiums on policies insuring D's life.
 - (2) Review conditional premium receipts for any recently purchased policies on D's life.
 - (3) Review beneficiary designations to ensure compliance with divorce decrees, property settlement agreements, and other contractual obligations.
 - (4) Determine actual ownership of each policy.
 - (5) Determine source of funds for payment of premiums.
 - c. Review the payment provisions and beneficiary designations and complete as much of Section 13.0 of MIL as possible for each policy.
 - d. If there is more than one policy, prepare Worksheet 2—Insurance on D's Life and place in file folder entitled "Life Insurance."
 - e. Prepare and send Letter 4 to the *home* office of each insurance company to which a policy has already been sent for payment as indicated in Item 13.39 of MIL.
 - f. Prepare and send Letter 5 to the *home* office of the insurance company for each policy not already sent for payment as indicated in Item 13.40 of MIL.
 - g. Obtain one copy of death certificate for each policy. If certificate is not otherwise available and if D died in Texas, prepare and send Letter 6 to Department of State Health Services, arrange for payment, and charge to client's account (see Special Instruction 8—Death, Birth, Marriage, and Divorce Records for additional information regarding death certificates).

Note: For deaths occurring in larger cities, such as Houston, death certificates also may be obtained locally from the city health department.

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- h. Determine the identity of the primary beneficiaries and whether these beneficiaries survived D by 120 hours. If not, determine same information regarding contingent beneficiaries.
- i. Determine if payment options are available and, if so, select option most favorable to beneficiaries (see Special Instruction 9—Surviving Spouse’s Federal Income Tax Elections for possible income tax advantage to a surviving spouse).
- j. For each policy do the following:
 - (1) Obtain original policy.
 - (2) Review response to Letter 5 and assemble all required documents. If claim form is required, complete it, have it properly signed, and make a copy for file.
 - (3) Prepare and send by certified or registered mail Letter 7, together with policy and required documents, to insurance company for each policy for which proceeds are to be collected as indicated in Item 13.40 of MIL.
 - (4) Attach mailing receipt to file copy of Letter 7.
 - (5) As responses are received and other steps are completed, be sure to check completed steps on Worksheet 2.
 - (6) When received, attach return receipt to file copy of Letter 7.
 - (7) On receipt of IRS Forms 712, Life Insurance Statement (FF 2), from the insurance companies, review Special Instruction 7—Insurance on Decedent’s Life, complete the remainder of Section 13.0 of MIL, and place IRS Forms 712, Life Insurance Statement (FF 2), in file folder entitled “Life Insurance.”
 - (8) If proceeds were sent to beneficiary in care of your office, make a copy of check for file and deliver to beneficiary. If mailing, prepare and send by certified or registered mail two copies of Letter 8 to beneficiary together with check.
 - (9) If proceeds were mailed, attach mailing receipt to file copy of Letter 8.
 - (10) If proceeds were mailed, attach return receipt to file copy of Letter 8.
 - (11) When signed copy of Letter 8 has been returned, substitute it for file copy.

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- k. Determine if death benefits are provided through automobile insurance policies, credit card companies, travel clubs, automobile associations, or other organizations. If so, complete Item 21.26 of MIL and take actions indicated in this Item 7 of this Checkplan.
- l. If seeking to **exclude proceeds** from D's estate, do the following:
- (1) Prepare and send Letter 9 to insurance company for each policy for which proceeds are to be excluded as indicated in Item 13.52 of MIL.
 - (2) Obtain copy of policy and place in file folder entitled "Life Insurance."
 - (3) On receipt of IRS Form 712, Life Insurance Statement (FF 2), from the insurance company, review Special Instruction 7—Insurance on Decedent's Life, complete the remainder of Section 13.0 of MIL, and place IRS Form 712, Life Insurance Statement (FF 2), in file folder entitled "Federal Estate Tax."

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EMPLOYEE AND GOVERNMENT BENEFITS, ANNUITIES, AND IRAS

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8. Determine if D was receiving Social Security benefits or if Social Security benefits will be available to members of D's family and, if so, do the following:					
a. See Special Instruction 10—Social Security Benefits.					
b. If D was receiving monthly payments and checks are received after D's death, prepare and send Letter 10 to Social Security Administration to return those checks. Similar action may be required if funds were received by direct deposit to D's account. <i>Note:</i> Return of checks is mandatory. This letter should be addressed to the Social Security Administration Office in the area where D resided.					
c. Determine if one or more of the following benefits is available to D's estate or family and, if so, assist in collecting the benefits (see Section 19.0 of MIL):					
(1) Funeral benefit					
(2) Lump-sum death benefit					
(3) Surviving spouse benefit					
(4) Children's benefits					
d. Place claim forms and other documents in file folder entitled "Employee and Government Benefits, Annuities, and IRAs."					
9. Determine if D was receiving railroad retirement benefits or if railroad retirement fund benefits will be available to members of D's family and, if so, do the following:					
a. See Special Instruction 11—Railroad Retirement Benefits.					
b. If D was receiving monthly payments and checks are received after D's death, adapt and send Letter 10 to Railroad Retirement Board to return those checks. Similar action may be required if funds were received by direct deposit to D's account.					
c. Determine if one or more of the following benefits is available to D's estate or family and, if so, assist in collecting the benefits (see Section 19.0 of MIL):					
(1) Funeral benefit					
(2) Lump-sum death benefit					

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(3) Surviving spouse benefit					
(4) Children's benefits					
d. Place claim forms and other documents in file folder entitled "Employee and Government Benefits, Annuities, and IRAs."					
10. Determine if D was receiving veterans benefits or if veterans benefits will be available to members of D's family and, if so, do the following:					
a. See Special Instruction 12—Veterans (VA) Benefits.					
b. If D was receiving monthly payments and checks are received after D's death, prepare and send Letter 11 to Department of Veterans Affairs to return those checks. Similar action may be required if funds were received by direct deposit to D's account. <i>Note:</i> Return of checks is mandatory. This letter should be addressed to the Regional VA Office in the area where D resided.					
c. Determine if one or more of the following benefits is available to D's estate or family and, if so, assist in collecting the benefits (see Section 19.0 of MIL):					
(1) Funeral benefit					
(2) Lump-sum death benefit					
(3) Surviving spouse benefit					
(4) Children's benefits					
d. Place claim forms and other documents in file folder entitled "Employee and Government Benefits, Annuities, and IRAs."					
11. Determine if D or D's spouse was receiving an annuity and, if so, do the following:					
a. See Special Instruction 62—Annuities.					
b. If D was receiving an annuity, determine if paid pursuant to an approved plan and the ratio of D's contribution to its total purchase price and complete applicable portion of Section 19.0 of MIL.					
c. If an annuity will be paid to any beneficiary by reason of the beneficiary's surviving D, determine if pursuant to an approved plan and the ratio of D's contribution to its total purchase price and complete applicable portion of Section 19.0 of MIL.					
d. Place annuity documents in file folder entitled "Employee and Government Benefits, Annuities, and IRAs."					

TEMPORARY DEPENDENT ADMINISTRATION (TDA)

14. If **temporary dependent administration (TDA)** is not the proper probate procedure, mark Items 14 through 18 of this Checkplan as not applicable and go to Item 19. If TDA is the proper probate procedure, do the following:

Note: This System contemplates that for temporary dependent administration, all documents will be hand carried to the courthouse for prompt action, that the applicant will accompany you, that the judge will be available, that the surety will be available to sign the bond, that all steps can be concluded in one day, and that local rules of court do not require different or additional actions.

- a. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and Special Instruction 57—Temporary Dependent Administration (TDA) to determine if applicant qualifies to serve as temporary administrator.
- b. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Temporary Administration (Form 83 if there is no will or Form 84 if D left a will).
- c. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”
- d. Prepare Application for Temporary Administration (Form 83 or Form 84), arrange for proper signature by applicant before a notary, and place in file folder entitled “Court Proceedings.”
Note: Some courts may require the use of separate written testimony at the hearing. Proof of Death and Other Facts (Form 7 or Form 75) can be adapted for local practice. If required, place completed form in file folder entitled “Court Proceedings.”
- e. Prepare Order Appointing Temporary Administrator (Form 85) and place in file folder entitled “Court Proceedings.”
- f. Prepare Oath of Temporary Administrator (Form 87) and place in file folder entitled “Court Proceedings.”
- g. Determine amount of filing fee, arrange for payment, and charge to client’s account.

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	NA	L	S	DATE	INITIALS
h. File Application for Temporary Administration (Form 83 or Form 84) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 82a of SDL and as Item 6.23 of MIL.					
i. Obtain the court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies. <i>Note:</i> Citation is prepared by the clerk of court and is posted <i>after</i> the appointment of the temporary administrator.					
j. Arrange for date and time of hearing on the Application for Temporary Administration (Form 83 or Form 84) and enter as Item 82b of SDL and Items 6.24 and 6.24A of MIL. Complete Item 82c of SDL.					
k. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and as Item 82d of SDL, revise Item 82c of SDL, and notify proposed temporary administrator and other witnesses of new date.					
l. One business day before the hearing, call to remind proposed temporary administrator and all witnesses of the time, date, and place of hearing.					
15. For the hearing itself, do the following—					
a. Assemble the following documents and take to hearing:					
(1) Original copy of proof of death and other facts (if required by local practice) for person who will testify as to death, etc.					
(2) Original copy of Order Appointing Temporary Administrator (Form 85)					
(3) Original copy of Oath of Temporary Administrator (Form 87)					
(4) Certified copy of D's death certificate if available					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing, enter actual date of hearing as Item 6.25 of MIL and Item 82e of SDL, have judge sign Order Appointing Temporary Administrator (Form 85), and enter date signed as Item 82f of SDL and Item 6.26 of MIL. Complete Items 82g, 82l, and 82m of SDL.					
d. Have temporary administrator sign oath and file it with clerk of court. Complete Item 82i of SDL and Item 6.38 of MIL.					
e. Conform file copies of all documents for dates and signatures.					

- f. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond):

Note: The bond *must* be filed within three business days of the date of the order.

- (1) Complete Items 6.27 through 6.34 of MIL.
- (2) Ask insurance agent to prepare the bond for signature by temporary administrator. Determine if a power of attorney is required and, if so, that it has been attached to the bond.
- (3) Arrange to have the bond signed by temporary administrator.
- (4) When the bond has been signed by temporary administrator, have it signed by surety.
- (5) When the bond has been signed by temporary administrator and surety, file with clerk of court and obtain approval by judge.
- (6) Enter date of filing the bond as Item 6.36 of MIL and Item 82g of SDL. Enter date of court approval of bond as Item 6.37 of MIL and Item 82h of SDL. Complete Items 82j and 82k of SDL.
- (7) If you paid the premium for the bond, charge to client's account.

- g. Obtain letters of temporary administration. If clerk of court does not prepare them, prepare Letters of Temporary Administration (Form 88) and deliver to clerk of court for approval and signature. In either event, determine that the powers listed in the Letters of Temporary Administration (Form 88 or the letters issued by clerk of court) are identical to the powers specified in the Order Appointing Temporary Administrator (Form 85). Complete Items 82n and 82p of SDL and Item 6.40 of MIL.

Note: The clerk of court is required to issue letters of temporary administration within three days after the date the temporary administrator qualifies and to provide notice of appointment by posting.

- h. On date that clerk of court issues letters of temporary administration, prepare Letter 98 for all known heirs.

Note: This letter must be prepared for the signature of and actually be signed by temporary administrator.

- (1) Arrange for signature by temporary administrator. See Special Instruction 84—Execution of Documents regarding proper execution of documents by client.

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(2) Send signed letters to each known heir by certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice). Attach mailing receipt or proof of deposit to file copy of Letter 98. Complete Item 82o of SDL.					
(3) When received, attach return receipt or proof of delivery receipt to file copy of Letter 98.					
(4) Prepare Affidavit of Notice of Appointment of Temporary Administrator (Form 98) for signature by temporary administrator and file with the clerk no later than the seventh day after the date letters of temporary administration are issued.					
(5) File signed Affidavit of Notice of Appointment of Temporary Administrator (Form 98), with return receipts or proof of delivery receipts from Letter 98 attached, with clerk of court.					
i. Order two letters of temporary administration from clerk of court and, if you paid for them, charge to client's account. When received, place in file folder entitled "Letters Testamentary or of Administration."					
j. Assist temporary administrator in taking appropriate action(s).					
16. If during the administration it is necessary for temporary administrator to obtain additional powers , do the following:					
a. Prepare Application for Enlargement of Powers of Temporary Administrator (Form 89).					
b. Prepare Order Granting Additional Powers to Temporary Administrator (Form 90).					
c. Arrange for temporary administrator to sign Application for Enlargement of Powers of Temporary Administrator (Form 89).					
d. File Application for Enlargement of Powers of Temporary Administrator (Form 89) with, and deliver Order Granting Additional Powers to Temporary Administrator (Form 90) to, clerk of court.					
e. Arrange for time and date of hearing on Application for Enlargement of Powers of Temporary Administrator (Form 89).					
f. Attend hearing, present proof necessary for court's approval of Application for Enlargement of Powers of Temporary Administrator (Form 89), and have Order Granting Additional Powers to Temporary Administrator (Form 90) signed by judge.					
g. Determine if bond will be required or increased.					

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(1) If bond is required for first time, go to Item 15f of this Checkplan and take appropriate action.					
(2) If increased bond is required, go to Item 15f of this Checkplan and follow applicable steps, but make appropriate modifications.					
h. If hearing will not be required, determine date judge signed Order Granting Additional Powers to Temporary Administrator (Form 90).					
i. Obtain <i>new</i> letters of temporary administration. If clerk of court does not prepare them, prepare Letters of Temporary Administration (Form 88) and deliver to clerk of court for approval and signature. In either event, determine that the powers listed in the Letters of Temporary Administration (Form 88 or the letters issued by clerk of court) are identical to the powers specified in the Order Appointing Temporary Administrator (Form 85) plus those in the Order Granting Additional Powers to Temporary Administrator (Form 90).					
j. Order two letters of temporary administration from clerk of court and, if you paid for them, charge to client's account. When received, place in file folder entitled "Letters Testamentary or of Administration."					
k. If you paid the premium for the additional bond, charge to client's account.					
l. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, see Item 21i in this Checkplan for a procedure to recover estate papers.					
m. Assist temporary administrator in taking appropriate action(s).					
17. If during the temporary administration the court decides to make the administration permanent , do the following:					
a. Prepare Order Making Temporary Administration Permanent (Form 91).					
b. File Order Making Temporary Administration Permanent (Form 91) with clerk of court.					
c. Determine if court hearing will be required and, if so, do the following:					
<i>Note:</i> It is not necessary to have citation issued.					
(1) Arrange for time and date of hearing.					
(2) Attend hearing and present proof necessary for judge to sign Order Making Temporary Administration Permanent (Form 91).					

	NA	L	S	DATE	INITIALS
d. If hearing will not be required, determine date judge signed Order Making Temporary Administration Permanent (Form 91). Complete Item 82t of SDL.					
e. Prepare <i>new</i> Oath of Administrator (Form 86).					
f. Arrange to have <i>new</i> Oath of Administrator (Form 86) signed by administrator.					
g. File <i>new</i> Oath of Administrator (Form 86) with clerk of court.					
h. Determine if <i>new</i> bond is required and, if so, do the following (see Special Instruction 46—Bond): <i>Note:</i> Bond must be filed within 20 days of the appointment.					
(1) Complete Items 6.27 through 6.34 of MIL.					
(2) Ask insurance agent to prepare the bond for signature by administrator. Determine if a power of attorney is required and, if so, that it has been attached to the original bond.					
(3) Arrange to have the bond signed by administrator.					
(4) When the bond has been signed by administrator, have it signed by surety.					
(5) When the bond has been signed by administrator and surety, file with clerk of court and obtain approval by judge.					
(6) Determine the dates on which the <i>new</i> Oath of Administration (Form 86) and <i>new</i> bond were filed and the date on which the bond was approved by the judge; enter these dates as Items 6.38, 6.36, and 6.37, respectively, of MIL; and complete Item 6.39 of MIL and Items 36 through 43, 46, 48, and 50 through 52 of SDL.					
(7) If you paid the premium for the bond, charge to client's account.					
i. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
18. If administration is not made permanent, do the following to close the temporary administration :					
a. Prepare Final Account of Temporary Administrator (Form 92).					

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b. Determine identity of persons to whom remainder of property on hand is to be distributed and prepare Receipt and Release (Form 30) for each such person.					
c. Prepare Order Approving Final Account of Temporary Administrator (Form 93).					
d. Arrange for temporary administrator to sign and swear to Final Account of Temporary Administrator (Form 92).					
e. File Final Account of Temporary Administrator (Form 92), together with Order Approving Final Account of Temporary Administrator (Form 93), with clerk of court. Complete Item 83a of SDL.					
f. Arrange to have citation issued by clerk of court. Enter return date as Item 83b of SDL.					
g. Determine if court hearing is required and, if so, do the following:					
(1) Arrange for time and date of hearing on Final Account of Temporary Administrator (Form 92). Complete Item 83c of SDL.					
(2) Attend hearing, present proof necessary for approval, and have judge sign Order Approving Final Account of Temporary Administrator (Form 93). Complete Item 83d of SDL.					
h. After judge has signed Order Approving Final Account of Temporary Administrator (Form 93), distribute remainder of property on hand to persons listed in Order Approving Final Account of Temporary Administrator (Form 93) and obtain proper Receipt and Release (Form 30) from each such person.					
i. Prepare Application to Close Temporary Administration (Form 94) and Order Closing Temporary Administration (Form 95).					
j. Arrange for signature by temporary administrator of Application to Close Temporary Administration (Form 94).					
k. File Application to Close Temporary Administration (Form 94) and Order Closing Temporary Administration (Form 95) with clerk of court. Complete Item 84a of SDL.					
l. Determine if court hearing is required and, if so, do the following:					
(1) Arrange for time and date of hearing. Complete Item 84b of SDL.					
(2) Determine date for filing closing report. Complete Item 84c of SDL.					
(3) File closing report. Complete Item 84d of SDL.					

- (4) Attend hearing, present proof necessary for approval, and have judge sign Order Closing Temporary Administration (Form 95). Complete Item 84e of SDL.
- m. If hearing was not required, determine date judge signed Order Closing Temporary Administration (Form 95). Complete Item 84e of SDL.
- n. Conform file copies of all documents for dates and signatures.
- o. Prepare and send Letter 79 to the surety, together with a copy of Order Closing Temporary Administration (Form 95).
- p. Collect balance due for attorney's fees and expenses.
- q. Review file, locate all original documents that you need not retain, and prepare and send Letter 63 to return all items to person who furnished them. When signed letter has been returned, substitute for file copy.
- r. If representation was limited to temporary administration, close office file. Otherwise, continue to take actions indicated by this Checkplan.

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INDEPENDENT ADMINISTRATION (IA)

19. If **independent administration (IA)** is not the proper probate procedure, mark Items 19 through 21 of this Checkplan as not applicable and go to Item 22. If IA is the proper probate procedure, go to Items 22 through 45 and indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 68—Independent Administration (IA).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor to determine that applicant qualifies to serve as executor.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters Testamentary (Form 5).
- d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) for those preferentially entitled to serve as executor who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client's account.
- f. File Application for Probate of Will and Issuance of Letters Testamentary (Form 5) with clerk of court. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) was prepared and has been signed, file with application. If original will cannot be located, see Special Instruction 85—Wills Not Produced.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed (or if not produced, a copy should be) with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

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g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.					
h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).					
i. Determine if any proposed executor is a nonresident of Texas. If so, do the following:					
(1) Prepare Appointment of Resident Agent (Form 15 for each nonresident individual executor and Form 16 for each nonresident corporate executor) and place in file folder entitled “Court Proceedings.”					
(2) Prepare and send Letter 18 to each nonresident executor, together with the original and one copy of Appointment of Resident Agent (Form 15 or Form 16).					
(3) When signed Appointment of Resident Agent (Form 15 or Form 16) is received, file with clerk of court.					
j. Arrange for date and time of hearing on Application for Probate of Will and Issuance of Letters Testamentary (Form 5) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.					
(1) Prepare Proof of Death and Other Facts (Form 7) and place in file folder entitled “Court Proceedings.”					
(2) If witness for Proof of Death and Other Facts (Form 7) is <i>not</i> the named executor, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 7), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
k. If D’s will is self-proved, skip to Item 19o of this Checkplan.					
l. If D’s will is not self-proved or attested, but is holographic, skip to Item 19n of this Checkplan.					

- m. If D's **will is attested**, refer to Item 2.10 of MIL to determine whether an attesting witness will testify as to the proper execution of the will. If so, determine that witness's identity and whether that witness will be available to testify before the court. If no attesting witness will prove the will, skip to (3) in this Item 19m.
- (1) If the attesting witness will be available to testify before the court, do the following:
 - (a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date of the hearing, the need for the witness to appear before the court, and the method of appearance.
 - (2) If the attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If attesting witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) If no attesting witness will be available to testify before the court or by written interrogatories, determine other appropriate witness(es) for proving execution of D's will. See Special Instruction 93—Proof of Execution of Will (Not Self-Proved) to determine nature and number of witnesses needed. Refer to Item 2.05 or 2.160 of MIL for identity of witness(es).
 - (a) If witness(es) to D's signature will testify before the court, prepare Proof of Decedent's Signature (Form 133) for each witness and place in file folder entitled "Court Proceedings."
 - (b) If witness(es) to the signature of an attesting witness will testify before the court, prepare Proof of Subscribing Witness's Signature (Form 134) for each witness and place in file folder entitled "Court Proceedings."
 - (c) Prepare and send Letter 14 to each witness, together with a copy of the Proof of Decedent's Signature (Form 133) or Proof of Subscribing Witness's Signature (Form 134) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.

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- (4) If a witness to the signature of D or that of an attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If the witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- Note:* If witness(es) to signature cannot testify that D was of sound mind and over eighteen years of age at execution of will, applicant will need to do so.
- (5) Repeat procedures in this Item 19m for each **attested codicil**, referring to Items 2.20 and 2.170 of MIL regarding witnesses.
- n. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.05 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify before the court.
- (1) For *both* of these witnesses who will testify before the court, do the following:
- Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
 - Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
- (2) For each witness who will not be available to testify before the court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 19n for each **holographic codicil**.
- o. Prepare and send Letter 19 to each named executor, together with a copy of the Application for Probate of Will and Issuance of Letters Testamentary (Form 5), to advise of the date and time of hearing and the method of appearance before the court.
- p. Prepare Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 17) and place in file folder entitled "Court Proceedings."

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
q. Review Item 2.58 of MIL, determine whether proposed executor will sign oath before the court or before a notary, prepare Oath (Form 18 for each individual executor and Form 19 for each corporate executor), and place in file folder entitled “Court Proceedings.”					
r. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors and other witnesses of new date. If method of appearance is changed, notify all executors and other witnesses and provide revised information.					
s. One business day before the hearing, call to remind all executors and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
20. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 7) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent’s Handwriting and Signature (Form 14) for each appropriate witness who will appear before the court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 17).					
(4) Original copies of Oath (Form 18 or Form 19) for each executor who will sign oath before the court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 17) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Items 29, 31, and 32 of SDL.					
e. Have executors who attend hearing by physical presence in the courtroom sign their Oath (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors, complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					

	NA	L	S	DATE	INITIALS
f. Order two letters testamentary from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary."					
21. Follow-up. Refer to Item 2.58 of MIL. For each Oath (Form 18 or Form 19) that was not signed before a court official, prepare and send Letter 20 to each executor who did not sign the oath before the court, together with the original and one copy of Oath (Form 18 or Form 19).					
a. When all oaths are signed and returned, file all Oaths (Form 18 or Form 19) with clerk of court.					
b. Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 45A through 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL.					
c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:					
(1) Review D's will and codicil(s) to identify all devisees and legatees.					
(2) If not already done, prepare Worksheet 9 and place in folder entitled "Notice to Beneficiaries."					
(3) Prepare Letter 102 for each devisee and legatee except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Arrange for signature by executor. If mailing, prepare and send Letter 24 to executor, together with two copies of each Letter 102.					
(5) Send signed Letter 102, together with appropriate enclosures, to each required devisee and legatee by registered or certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice).					
(6) Attach mailing receipt or proof of deposit to the copy of Letter 102.					
(7) When received, attach return receipt or proof of delivery receipt to file copy of Letter 102.					
(8) As letters are sent and return receipts or proof of delivery receipts are returned to office, enter on Worksheet 9.					

	NA	L	S	DATE	INITIALS
(9) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and return receipts or proof of delivery receipts, with clerk of court.					
d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:					
(1) Determine whether executor will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(a) If executor is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
e. Prepare and send Letter 22 to thank each witness, other than executor(s), who appeared before the court.					
f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
g. Prepare and send Letter 23 to executor(s) to advise of nature and extent of the duties of office and actions that will follow.					
h. Conform file copies of all documents for dates and signatures.					
i. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					

- (4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater.

Note: Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System.

Note: Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 21i above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 21j below.

- j. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:
- (1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.
 - (2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.
 - (3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.
- k. Skip to Item 55 of this Checkplan.

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MUNIMENT OF TITLE (MT)

22. If **muniment of title (MT)** is not the proper probate procedure, mark Items 22 through 24 of this Checkplan as not applicable and go to Item 25. If MT is the proper probate procedure, go to Items 25 through 45, indicate that they are not applicable, and return here to do the following:
 - a. See Special Instruction 73—Muniment of Title (MT).
 - b. Complete Item 21.34 of MIL. If D received Medicaid benefits, do the following:
 - (1) Obtain Texas Medicaid Estate Recovery Program (MERP) Authorization and MERP Certification form (FF 17) at **www.hhs.texas.gov/sites/default/files/documents/services/aging/txmerpcertificationform.pdf**. See Special Instruction 100—Needs-Based Benefits.
 - (2) Complete applicable portions of MERP form (FF 17).
 - (3) Arrange for an heir or beneficiary to sign MERP form (FF 17). If mailing, prepare and send Letter 120 to that person, together with two copies of the MERP form (FF 17).
 - (4) When signed MERP form (FF 17) is received, repeat if there is a second heir or beneficiary who will sign.
 - (5) When signed MERP form (FF 17) is received, forward to MERP as directed on form. If mailing, prepare and send Letter 121, together with signed copy of MERP form (FF 17).
 - (6) When completed MERP form (FF 17) is received from MERP, copy it, redact D's identifying number(s) from the original for use in evidence, and place original in file folder entitled "Court Proceedings."
 - (7) Complete Item 21.35 of MIL.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will as a Muniment of Title (Form 6).
 - d. Determine amount of filing fee, arrange for payment, and charge to client's account.

[illegible]

- e. File Application for Probate of Will as a Muniment of Title (Form 6) with clerk of court. If original will cannot be located, see Special Instruction 85—Wills Not Produced.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed (or if not produced, a copy should be) with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

- f. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.

- g. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).

Note: If filing for probate more than four years after D's death, notice by service of process must also be given to D's heirs as required by Estates Code, Section 258.051. Service may be waived by a statutory affidavit. If seeking waiver, prepare Waiver of Notice under Texas Estates Code, Section 258.051 (Form 132), and send a copy to each heir. For heirs from whom executed waivers are not received, request service of process by clerk.

- h. Arrange for date and time of hearing on the Application for Probate of Will as a Muniment of Title (Form 6) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.

- (1) Prepare Proof of Death and Other Facts (Form 31) and place in file folder entitled "Court Proceedings."

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	NA	L	S	DATE	INITIALS
(2) If witness for Proof of Death and Other Facts (Form 31) is <i>not</i> the applicant, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 31), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
i. If D's will is self-proved, skip to Item 22m of this Checkplan.					
j. If D's will is not self-proved or attested, but is holographic, skip to Item 22l of this Checkplan.					
k. If D's will is attested , refer to Item 2.10 of MIL to determine whether an attesting witness will testify as to the proper execution of the will. If so, determine that witness's identity and whether that witness will be available to testify before the court. If no attesting witness will prove the will, skip to (3) in this Item 22k.					
(1) If the attesting witness will be available to testify before the court, do the following:					
(a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."					
(b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(2) If the attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If attesting witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					
(3) If no attesting witness will be available to testify before the court or by written interrogatories, determine other appropriate witness(es) for proving execution of D's will. See Special Instruction 93—Proof of Execution of Will (Not Self-Proved) to determine nature and number of witnesses needed. Refer to Item 2.05 or 2.160 of MIL for identity of witness(es).					
(a) If witness(es) to D's signature will testify before the court, prepare Proof of Decedent's Signature (Form 133) for each witness and place in file folder entitled "Court Proceedings."					
(b) If witness(es) to the signature of an attesting witness will testify before the court, prepare Proof of Subscribing Witness's Signature (Form 134) for each witness and place in file folder entitled "Court Proceedings."					

- (c) Prepare and send Letter 14 to each witness, together with a copy of the Proof of Decedent's Signature (Form 133) or Proof of Subscribing Witness's Signature (Form 134) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
- (4) If a witness to the signature of D or that of an attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If the witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- Note:* If witness(es) to signature cannot testify that D was of sound mind and over eighteen years of age at execution of will, applicant will need to do so.
- (5) Repeat procedures in this Item 22k for each **attested codicil**, referring to Items 2.20 and 2.170 of MIL regarding witnesses.
- l. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.05 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify before the court.
- (1) For *both* of these witnesses who will testify before the court, do the following:
- (a) Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
- (b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
- (2) For each witness who will not be available to testify before the court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 22l for each **holographic codicil**.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
m. Prepare and send Letter 19 to applicant, together with a copy of the Application for Probate of Will as a Muniment of Title (Form 6), to advise of the date and time of hearing and the method of appearance before the court.					
n. Prepare Order Admitting Will to Probate as a Muniment of Title (Form 32) and place in file folder entitled "Court Proceedings."					
o. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify client and all witnesses of new date. If method of appearance is changed, notify client and all witnesses and provide revised information.					
p. One business day before the hearing, call to remind client and all witnesses of the time and date and the place of hearing or electronic access information.					
23. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 31) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear before the court.					
(3) Original copy of Order Admitting Will to Probate as a Muniment of Title (Form 32).					
(4) Redacted copy and original of MERP Authorization and Certification form (FF 17).					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate as a Muniment of Title (Form 32) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Items 32 and 33 of SDL.					

	NA	L	S	DATE	INITIALS
e. Order certified copy of will, codicil(s), and Order Admitting Will to Probate as a Muniment of Title (Form 32) from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 69 to clerk of court. When received, place in file folder entitled "Will and Codicil(s)."					
24. Follow-up.					
a. Prepare and send Letter 22 to thank each witness, other than client, who appeared before the court.					
b. Prepare and send Letter 66 to client to explain muniment of title procedure and actions that will follow.					
c. Before the date shown in Item 33 of SDL, do the following if required by the order of the court:					
(1) Determine status of fulfillment of the terms of D's will.					
(2) Prepare Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97).					
(3) Arrange for client to sign and swear to the Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97). If mailing, prepare and send Letter 48 to client, together with original and all copies of Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97).					
(4) When Affidavit Regarding Fulfillment of Will Admitted to Probate as a Muniment of Title (Form 97) has been properly signed and sworn to by client, file with clerk of court.					
d. Conform file copies of all documents for dates and signatures.					
e. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint.					
f. Skip to Item 62 of this Checkplan.					
<i>Note:</i> If the need for administration arises after the will has already been admitted as a muniment of title, refer to Special Instruction 73—Muniment of Title (MT) regarding conversion to an administration with a personal representative.					

PROCEEDINGS TO DECLARE HEIRSHIP (PDH)

25. If **proceedings to declare heirship (PDH)** is not the proper probate procedure, mark Items 25 and 26 of this Checkplan as not applicable and go to Item 27. If PDH is the proper probate procedure, go to Items 27 through 45, indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 60—Proceedings to Declare Heirship (PDH).
- b. See Special Instruction 58—Who Inherits When There Is No Will and determine the identity of D’s heirs to whom D’s estate is to be distributed.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application to Declare Heirship (Form 77). Make one more copy than there are heirs.
- d. Arrange for one heir to sign and swear to Application to Declare Heirship (Form 77). If mailing, prepare and send Letter 48 to the heir, together with two copies of Application to Declare Heirship (Form 77).
- e. When Application to Declare Heirship (Form 77) has been signed, place in file folder entitled “Court Proceedings.”
- f. If court does not automatically appoint an attorney ad litem, prepare Motion to Appoint Attorney Ad Litem and Order thereon (Form 78) and place in file folder entitled “Court Proceedings.”
- g. File Application to Declare Heirship (Form 77) and, if applicable, Motion to Appoint Attorney Ad Litem and Order thereon (Form 78) with clerk of court, have clerk of court issue proper citation, enter date of filing Application to Declare Heirship (Form 77) as Item 6.23 of MIL, and complete Items 18 and 19 of SDL.
- h. Obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
- i. For citation by publication, see Special Instruction 16—Citation and Notice.

If publishing in newspaper and if clerk of court does not send the citation directly to the newspaper, do the following:

- (1) Select newspaper in which to publish citation.

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(2) Determine charge for publication, arrange for payment, and charge to client's account.					
(3) Prepare and send Letter 84 to newspaper, together with citation and payment of charges for publication.					
(4) When citation has been published and publisher's affidavit has been received, file with clerk of court.					
j. Calculate the return date for the citation by posting and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).					
k. Prepare [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Prepare and send Letter 48 to each distributee other than applicant and to any owner of a real property interest not a distributee ("Defendant"), together with two copies of [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Enclose one copy of the Application to Declare Heirship (Form 77).					
l. On receipt of all properly signed and sworn [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107), file with clerk of court.					
m. Calculate the return date for the citation by publication by determining earlier of date of newspaper in which the notice was published and date of publication on the public information Internet website and enter as Item 21 of SDL. Complete Items 22 and 23 of SDL.					
n. Review clerk's file to ensure that a copy of all citations required by Estates Code, Chapter 202, and proof of delivery have been filed. If D died on or after January 1, 2014 , do the following:					
(1) Determine whether applicant will sign the Affidavit of Service of Citation (Form 104) or if attorney will sign the Certificate of Service of Citation (Form 105).					
(a) If applicant is to sign, prepare Affidavit of Service of Citation (Form 104). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Service of Citation (Form 105).					
(2) File signed Affidavit of Service of Citation (Form 104) or Certificate of Service of Citation (Form 105) with clerk of court.					

- o. Coordinate schedules with client(s), other witnesses, and attorney ad litem. Arrange for date and time for hearing on Application to Declare Heirship (Form 77); determine method of appearance for the hearing; and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). Provide notice to all affected parties, and complete Items 24 and 25 of SDL and Items 6.24 and 6.24A of MIL.
- p. Determine the identity of **two** disinterested and credible witnesses who will testify as to D's death and other personal history and also determine if each witness will be available to testify before the court.
- Note:* Only one such witness will be required if it is shown that only one can be found after a diligent search.
- (1) For *both* of these witnesses who will testify before the court, do the following:
- (a) Prepare Statement of Facts (Form 80) for each witness and place in file folder entitled "Court Proceedings."
- (b) Prepare and send Letter 13 to each witness, together with a copy of Statement of Facts (Form 80) for that witness, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
- (2) For each witness who will not be available to testify before the court, determine an alternate method of proving these facts and take appropriate action (forms not provided in this System).
- q. Prepare Judgment Declaring Heirship (Form 81) and place in file folder entitled "Court Proceedings."
- r. Prepare and send Letter 57 to attorney ad litem, together with copies of Application to Declare Heirship (Form 77), Motion to Appoint Attorney Ad Litem (if applicable) and Order thereon (Form 78), Statement of Facts (Form 80) for each witness, and Judgment Declaring Heirship (Form 81).
- s. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL; revise Item 25 of SDL; and notify client, attorney ad litem, and all witnesses of new date. If method of appearance is changed, notify client, attorney ad litem, and all witnesses and provide revised information.
- t. One business day before the hearing, call to remind client, attorney ad litem, and all witnesses of date and time of hearing and the place of hearing or electronic access information.

NA	L	S	DATE	INITIALS

26. For the **hearing**, do the following:

- a. Assemble the following documents and have available at hearing:
 - (1) Original copy of Statement of Facts (Form 80) for each witness who will testify in court.
 - (2) Original copy of Judgment Declaring Heirship (Form 81).
- b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.
- c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.
- d. Enter the date judgment was signed by judge as Item 6.26 of MIL and Item 28 of SDL.
- e. Order certified copy of Judgment Declaring Heirship (Form 81) from clerk of court and, if you paid for it, charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86 to clerk of court. When received, place in file folder entitled "Court Proceedings."
- f. Prepare and send Letter 22 to thank each witness, other than client, who appeared before the court.
- g. Conform file copies of all documents for dates and signatures.
- h. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, file a complaint.
- i. Skip to Item 62 of this Checkplan.

NA	L	S	DATE	INITIALS

SMALL ESTATE (SE)

27. If **small estate (SE)** is not the proper probate procedure, mark Items 27 and 28 of this Checkplan as not applicable and go to Item 29. If SE is the proper probate procedure, go to Items 29 through 45, indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 63—Small Estates (SE).
- b. See Special Instruction 58—Who Inherits When There Is No Will and determine the identity of D’s heirs and “distributees” to whom D’s estate is to be distributed and the identity of two disinterested witnesses who can verify D’s family history.
- c. Prepare Small Estate Affidavit and Order (Form 82). Make one more copy than there are heirs, distributees, and witnesses.
- d. Arrange for one heir, distributee, or witness to sign and swear to original and all copies of Small Estate Affidavit and Order (Form 82). If mailing, prepare and send Letter 92 to that person, together with original and all copies of Small Estate Affidavit and Order (Form 82).
- e. Repeat for each heir, distributee, and disinterested witness until original and all copies have been signed and sworn to by all heirs, distributees, and disinterested witnesses. When the original and all copies of Small Estate Affidavit and Order (Form 82) have been signed, place in file folder entitled “Court Proceedings.”
- f. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.
- g. File Small Estate Affidavit and Order (Form 82) with clerk of court and enter date of filing Small Estate Affidavit and Order (Form 82) as Item 6.23 of MIL and Item 18 of SDL.
- h. Obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.

28. If required, arrange for date and time for **hearing** on Small Estate Affidavit and Order (Form 82); determine method of appearance for the hearing; and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).

- a. If required, attend hearing.

NA	L	S	DATE	INITIALS

- b. Enter the date order was signed by judge as Item 6.26 of MIL and Item 28 of SDL.
- c. Order certified copy of Small Estate Affidavit and Order (Form 82) from clerk of court and, if you paid for it, charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 89 to clerk of court. When received, place in file folder entitled "Court Proceedings."
- d. Conform file copies of all documents for dates and signatures and send a copy to each heir, distributee, and witness.
- e. **Perfecting title to D's homestead.** Determine if clerk of court automatically prepares certified copy of the Small Estate Affidavit and Order (Form 82) and has it recorded in the official public records of real property (deed records) in the county in which D's homestead is located. If not, do the following:
- (1) Determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.
 - (2) Record certified copy of Small Estate Affidavit and Order (Form 82) in the official public records of real property (deed records) in the county in which D's homestead is located. If mailing, prepare and send Letter 61 to county clerk of the county in which D's homestead is located.
 - (3) When the Small Estate Affidavit and Order (Form 82) has been recorded, send a copy to each heir and distributee who is entitled to an interest in D's homestead.
- f. Skip to Item 62 of this Checkplan.

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ADMINISTRATION WITH DEPENDENT EXECUTOR (ADE)

29. If **administration with dependent executor (ADE)** is not the proper probate procedure, mark Items 29 through 31 of this Checkplan as not applicable and go to Item 32. If ADE is the proper probate procedure, go to Items 32 through 45, indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 65—Administration with Dependent Executor (ADE).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as executor.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters Testamentary (Form 28).
- d. Prepare Waiver and Renunciation of Right to Letters Testamentary (Form 96) for those preferentially entitled to serve as executor who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client's account.
- f. File Application for Probate of Will and Issuance of Letters Testamentary (Form 28) with clerk of court. If Waiver and Renunciation of Right to Letters Testamentary (Form 96) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Wills Not Produced.

Note: Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed (or if not produced, a copy should be) with the clerk of the court within three business days after the application is filed.

Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.

NA	L	S	DATE	INITIALS

- m. If D's **will is attested**, refer to Item 2.10 of MIL to determine whether an attesting witness will testify as to the proper execution of the will. If so, determine that witness's identity and whether that witness will be available to testify before the court. If no attesting witness will prove the will, skip to (3) in this Item 29m.
- (1) If the attesting witness will be available to testify before the court, do the following:
 - (a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
 - (2) If the attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If attesting witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) If no attesting witness will be available to testify before the court or by written interrogatories, determine other appropriate witness(es) for proving execution of D's will. See Special Instruction 93—Proof of Execution of Will (Not Self-Proved) to determine nature and number of witnesses needed. Refer to Item 2.05 or 2.160 of MIL for identity of witness(es).
 - (a) If witness(es) to D's signature will testify before the court, prepare Proof of Decedent's Signature (Form 133) for each witness and place in file folder entitled "Court Proceedings."
 - (b) If witness(es) to the signature of an attesting witness will testify before the court, prepare Proof of Subscribing Witness's Signature (Form 134) for each witness and place in file folder entitled "Court Proceedings."
 - (c) Prepare and send Letter 14 to each witness, together with a copy of the Proof of Decedent's Signature (Form 133) or Proof of Subscribing Witness's Signature (Form 134) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.

NA	L	S	DATE	INITIALS

- (4) If a witness to the signature of D or that of an attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If the witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- Note:* If witness(es) to signature cannot testify that D was of sound mind and over eighteen years of age at execution of will, applicant will need to do so.
- (5) Repeat procedures in this Item 29m for each **attested codicil**, referring to Items 2.20 and 2.170 of MIL regarding witnesses.
- n. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.05 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify before the court.
- (1) For *both* of these witnesses who will testify before the court, do the following:
- Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
 - Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
- (2) For each witness who will not be available to testify before the court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
- (3) Repeat procedures in this Item 29n for each **holographic codicil**.
- o. Prepare and send Letter 19 to each named executor, together with a copy of the Application for Probate of Will and Issuance of Letters Testamentary (Form 28), to advise of the date and time of hearing and the method of appearance before the court.
- p. Prepare Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33) and place in file folder entitled "Court Proceedings."

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
q. Review Item 2.58 of MIL, determine whether proposed executor will sign oath before the court or before a notary, prepare Oath (Form 18 for each individual executor and Form 19 for each corporate executor), and place in file folder entitled "Court Proceedings."					
r. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors and other witnesses of new date. If method of appearance is changed, notify all executors and other witnesses and provide revised information.					
s. One business day before the hearing, call to remind all executors and all witnesses of the date and time of hearing and the place of hearing or electronic access information.					
30. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 29) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear before the court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33).					
(4) Original copies of Oath (Form 18 or Form 19) for each executor who will sign oath before the court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 33) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Items 29, 31, and 32 of SDL.					
e. Have executors who attend hearing by physical presence in the courtroom sign their Oaths (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors, complete Item 36 of SDL and Item 6.38 of MIL.					

	NA	L	S	DATE	INITIALS
f. Order two letters testamentary from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
g. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond): <i>Note:</i> Bond must be filed within 20 days of the appointment.					
(1) Complete Items 6.27 through 6.34 of MIL.					
(2) Ask insurance agent to prepare the bond for signature by executor. Determine if a power of attorney is required and, if so, that it has been attached to the bond.					
(3) Arrange to have the bond signed by all executors.					
(4) When the bond has been signed by all executors, have it signed by surety.					
(5) When the bond has been signed by all executors and surety, file with clerk of court and obtain approval by judge.					
(6) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.					
(7) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL.					
(8) If you paid the premium for the bond, charge to client's account.					
31. Follow-up. Refer to Item 2.58 of MIL. For each Oath (Form 18 or Form 19) that was not signed before a court official, prepare and send Letter 20 to each executor who did not sign the Oath (Form 18 or Form 19) before the court, together with the original and one copy of Oath (Form 18 or Form 19).					
a. When all Oaths (Form 18 or Form 19) are returned, file all oaths with clerk of court.					
b. Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 46, 48, and 50 through 53 of SDL and Items 6.85, 6.144, 6.145, 7.35, and 21.23 of MIL.					
c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:					

	NA	L	S	DATE	INITIALS
(1) Review D's will and codicil(s) to identify all devisees and legatees.					
(2) If not already done, prepare Worksheet 9 and place in folder entitled "Notice to Beneficiaries."					
(3) Prepare Letter 102 for each devisee and legatee except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Arrange for signature by executor. If mailing, prepare and send Letter 24 to executor, together with two copies of each Letter 102.					
(5) Send signed Letter 102, together with appropriate enclosures, to each required devisee and legatee by registered or certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice).					
(6) Attach mailing receipt or proof of deposit to the copy of Letter 102.					
(7) When received, attach return receipt or proof of delivery receipt to file copy of Letter 102.					
(8) As letters are sent and return receipts or proof of delivery receipts are returned to office, enter on Worksheet 9.					
(9) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and return receipts or proof of delivery receipts, with clerk of court.					
d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:					
(1) Determine whether executor will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(a) If executor is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
e. Prepare and send Letter 22 to thank each witness, other than executor(s), who appeared before the court.					

- f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.
- g. Prepare and send Letter 73 to executor(s) to advise of nature and extent of the duties of office and actions that will follow.
- h. Conform file copies of all documents for dates and signatures.
- i. Collect all of D’s records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:
- (1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.
 - (2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.
 - (3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.
 - (4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater.
- Note:* Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System.
- Note:* Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 31i above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 31j below.
- j. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:
- (1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.

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- (2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.
- (3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.
- k. Skip to Item 55 of this Checkplan.

NA	L	S	DATE	INITIALS

ADMINISTRATION WITH WILL ANNEXED (AWA)

Note: In this System, AWA is a *dependent* administration with will annexed. For *independent* administration with will annexed, see Independent Administration by Agreement Where D Left a Will (TBA).

32. If **administration with will annexed (AWA)** is not the proper probate procedure, mark Items 32 through 34 of this Checkplan as not applicable and go to Item 35. If AWA is the proper probate procedure, go to Items 35 through 45, indicate that they are not applicable, and return here to do the following:
- a. See Special Instruction 67—Administration with Will Annexed (AWA).
 - b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as administrator.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69).
 - d. Prepare Waiver and Renunciation of Right to Letters of Administration with Will Annexed (Form 70) for those preferentially entitled to serve as administrator who do not wish to serve and arrange for proper signature before a notary.
 - e. Determine amount of filing fee, arrange for payment, and charge to client's account.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
f. File Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration with Will Annexed (Form 70) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Wills Not Produced. <i>Note:</i> Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed (or if not produced, a copy should be) with the clerk of the court within three business days after the application is filed. Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.					
g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.					
h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).					
i. Determine if the proposed administrator is a nonresident of Texas. If so, do the following:					
(1) Prepare Appointment of Resident Agent (Form 15) and place in file folder entitled “Court Proceedings.”					
(2) Prepare and send Letter 18 to proposed administrator, together with the original and one copy of Appointment of Resident Agent (Form 15).					
(3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.					
j. Arrange for date and time of hearing on the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.					

	NA	L	S	DATE	INITIALS
(1) Prepare Proof of Death and Other Facts (Form 71) and place in file folder entitled "Court Proceedings."					
(2) If witness for Proof of Death and Other Facts (Form 71) is <i>not</i> the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 71), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
k. If D's will is self-proved, skip to Item 32o of this Checkplan.					
l. If D's will is not self-proved or attested, but is holographic, skip to Item 32n of this Checkplan.					
m. If D's will is attested , refer to Item 2.10 of MIL to determine whether an attesting witness will testify as to the proper execution of the will. If so, determine that witness's identity and whether that witness will be available to testify before the court. If no attesting witness will prove the will, skip to (3) in this Item 32m.					
(1) If the attesting witness will be available to testify before the court, do the following:					
(a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."					
(b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(2) If the attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If attesting witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					
(3) If no attesting witness will be available to testify before the court or by written interrogatories, determine other appropriate witness(es) for proving execution of D's will. See Special Instruction 93—Proof of Execution of Will (Not Self-Proved) to determine nature and number of witnesses needed. Refer to Item 2.05 or 2.160 of MIL for identity of witness(es).					
(a) If witness(es) to D's signature will testify before the court, prepare Proof of Decedent's Signature (Form 133) for each witness and place in file folder entitled "Court Proceedings."					

	NA	L	S	DATE	INITIALS
(b) If witness(es) to the signature of an attesting witness will testify before the court, prepare Proof of Subscribing Witness's Signature (Form 134) for each witness and place in file folder entitled "Court Proceedings."					
(c) Prepare and send Letter 14 to each witness, together with a copy of the Proof of Decedent's Signature (Form 133) or Proof of Subscribing Witness's Signature (Form 134) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(4) If a witness to the signature of D or that of an attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If the witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					
<i>Note:</i> If witness(es) to signature cannot testify that D was of sound mind and over eighteen years of age at execution of will, applicant will need to do so.					
(5) Repeat procedures in this Item 32m for each attested codicil , referring to Items 2.20 and 2.170 of MIL regarding witnesses.					
n. If D's will is holographic and is neither attested nor self-proved, refer to Item 2.05 of MIL to determine the identity of the two witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify before the court.					
(1) For <i>both</i> of these witnesses who will testify before the court, do the following:					
(a) Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."					
(b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(2) For each witness who will not be available to testify before the court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					

	NA	L	S	DATE	INITIALS
(3) Repeat procedures in this Item 32n for each holographic codicil .					
o. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69), to advise of the date and time of hearing and the method of appearance before the court.					
p. Prepare Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72) and place in file folder entitled "Court Proceedings."					
q. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath before the court or before a notary, prepare Oath (Form 18), and place in file folder entitled "Court Proceedings."					
r. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and all other witnesses of new date. If method of appearance is changed, notify proposed administrator and all other witnesses and provide revised information.					
s. One business day before the hearing, call to remind proposed administrator and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
33. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 71) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear in court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72).					
(4) Original copy of Oath (Form 18) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					

	NA	L	S	DATE	INITIALS
d. Enter the date the Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Items 29, 31, and 32 of SDL.					
e. Have administrator who attends hearing by physical presence in the courtroom sign the Oath (Form 18) before appropriate court official and file with clerk of court. Complete Item 6.38 of MIL and Item 36 of SDL. If bond was not required, complete Item 6.39 of MIL and Item 39 of SDL.					
f. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
g. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond): <i>Note:</i> Bond must be filed within 20 days of the appointment.					
(1) Complete Items 6.27 through 6.34 of MIL.					
(2) Ask insurance agent to prepare the bond for signature by administrator. Determine if a power of attorney is required and, if so, that it has been attached to the bond.					
(3) Arrange to have the bond signed by administrator.					
(4) When the bond has been signed by administrator, have it signed by surety.					
(5) When the bond has been signed by administrator and surety, file with clerk of court and obtain approval by judge.					
(6) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.					
(7) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL. If oath also has been filed, complete Items 39 through 43, 46, 48, and 50 through 53 of SDL and Items 6.85, 6.144, 6.145, 7.35, and 21.23 of MIL.					
(8) If you paid the premium for the bond, charge to client's account.					
34. Follow-up. Refer to Item 2.58 of MIL. If administrator did not sign Oath (Form 18) before a court official, prepare and send Letter 20 to administrator, together with the original and one copy of Oath (Form 18).					

	NA	L	S	DATE	INITIALS
a. When signed Oath (Form 18) is returned, file with clerk of court.					
b. Determine the date on which the Oath (Form 18) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 46, 48, and 50 through 53 of SDL and Items 6.85, 6.144, 6.145, 7.35, and 21.23 of MIL.					
c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:					
(1) Review D's will and codicil(s) to identify all devisees and legatees.					
(2) If not already done, prepare Worksheet 9 and place in folder entitled "Notice to Beneficiaries."					
(3) Prepare Letter 102 for each devisee and legatee except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Arrange for signature by administrator. If mailing, prepare and send Letter 24 to administrator, together with two copies of each Letter 102.					
(5) Send signed Letter 102, together with appropriate enclosures, to each required devisee and legatee by registered or certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice).					
(6) Attach mailing receipt or proof of deposit to the copy of Letter 102.					
(7) When received, attach return receipt or proof of delivery receipt to file copy of Letter 102.					
(8) As letters are sent and return receipts or proof of delivery receipts are returned to office, enter on Worksheet 9.					
(9) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and return receipts or proof of delivery receipts, with clerk of court.					
d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:					
(1) Determine whether administrator will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(a) If administrator is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 48.					

	NA	L	S	DATE	INITIALS
(b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
e. Prepare and send Letter 22 to thank each witness, other than administrator, who appeared before the court.					
f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
g. Prepare and send Letter 73 to administrator to advise of nature and extent of the duties of office and actions that will follow.					
h. Conform file copies of all documents for dates and signatures.					
i. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					

	NA	L	S	DATE	INITIALS
(4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater. <i>Note:</i> Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System. <i>Note:</i> Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 34i above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 34j below.					
j. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:					
(1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.					
(2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.					
(3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.					
k. Skip to Item 55 of this Checkplan.					

REGULAR DEPENDENT ADMINISTRATION (RDA)

35. If **regular dependent administration (RDA)** is not the proper probate procedure, mark Items 35 through 37 of this Checkplan as not applicable and go to Item 38. If RDA is the proper probate procedure, go to Items 38 through 45, indicate that they are not applicable, and return here to do the following:
 - a. See Special Instruction 69—Regular Dependent Administration (RDA).
 - b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as administrator.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Letters of Administration (Form 73).
 - d. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve and arrange for proper signature before a notary.
 - e. Determine amount of filing fee, arrange for payment, and charge to client's account.
 - f. File Application for Letters of Administration (Form 73) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 6.23 of MIL and complete Items 18 and 19 of SDL.
 - g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
 - h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).
 - i. Determine if proposed **administrator** is a **nonresident** of Texas. If so, do the following:
 - (1) Prepare Appointment of Resident Agent (Form 15) and place in file folder entitled "Court Proceedings."
 - (2) Prepare and send Letter 18 to proposed administrator, together with the original and one copy of Appointment of Resident Agent (Form 15).

[illegible]

	NA	L	S	DATE	INITIALS
(3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.					
j. Arrange for date and time of hearing on the Application for Letters of Administration (Form 73) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(1) Prepare Proof of Death and Other Facts (Form 75) and place in file folder entitled "Court Proceedings."					
(2) If witness for Proof of Death and Other Facts (Form 75) is <i>not</i> the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 75), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
k. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Letters of Administration (Form 73), to advise of the date and time of hearing and the method of appearance before the court.					
l. Prepare Order Authorizing Letters of Administration (Form 76) and place in file folder entitled "Court Proceedings."					
m. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath before the court or before a notary, prepare Oath (Form 86), and place in file folder entitled "Court Proceedings."					
n. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date. If method of appearance is changed, notify proposed administrator and other witnesses and provide revised information.					
o. One business day before the hearing, call to remind proposed administrator and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
36. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 75) for person who will testify as to death, etc.					
(2) Certified copy of D's death certificate if required by local practice.					

	NA	L	S	DATE	INITIALS
(3) Original copy of Order Authorizing Letters of Administration (Form 76).					
(4) Original copy of Oath (Form 86) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Authorizing Letters of Administration (Form 76) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Item 29 of SDL.					
e. Have administrator who attends hearing by physical presence in the courtroom sign the Oath (Form 86) before appropriate court official and file with clerk of court. Complete Item 6.38 of MIL and Item 36 of SDL.					
f. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
g. Determine if bond is required and, if so, do the following (see Special Instruction 46—Bond): <i>Note:</i> Bond must be filed within 20 days of the appointment.					
(1) Complete Items 6.27 through 6.34 of MIL.					
(2) Ask insurance agent to prepare the bond for signature by administrator. Determine if a power of attorney is required and, if so, that it has been attached to the bond.					
(3) Arrange to have the bond signed by administrator.					
(4) When the bond has been signed by administrator, have it signed by surety.					
(5) When the bond has been signed by administrator and surety, file with clerk of court and obtain approval by judge.					
(6) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.					

	NA	L	S	DATE	INITIALS
(7) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL. If oath also has been filed, complete Items 39 through 43, 46, 48, and 50 through 53 of SDL and Items 6.85, 6.144, 6.145, 7.35, and 21.23 of MIL.					
(8) If you paid the premium for the bond, charge to client's account.					
37. Follow-up. Refer to Item 2.58 of MIL. If administrator did not sign Oath (Form 86) before a court official, prepare and send Letter 20 to administrator, together with the original and one copy of Oath (Form 86).					
a. When signed Oath (Form 86) is returned, file with clerk of court.					
b. Determine the date on which the Oath (Form 86) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL. Also complete Items 36, 39 through 44, 46, 48, and 50 through 53 of SDL and Items 6.85, 6.144, 6.145, 7.35, and 21.23 of MIL.					
c. Prepare and send Letter 22 to thank each witness, other than administrator, who appeared before the court.					
d. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
e. Prepare and send Letter 94 to administrator to advise of nature and extent of the duties of office and actions that will follow.					
f. Conform file copies of all documents for dates and signatures.					
g. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					

	NA	L	S	DATE	INITIALS
(4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater. <i>Note:</i> Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System. <i>Note:</i> Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 37g above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 37h below.					
h. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:					
(1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.					
(2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.					
(3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.					
i. Skip to Item 55 of this Checkplan.					

INDEPENDENT ADMINISTRATION BY AGREEMENT WHERE D LEFT A WILL (TBA)

38. If **independent administration by agreement where D left a will (TBA)** is not the proper probate procedure, mark Items 38 through 40 of this Checkplan as not applicable and go to Item 41. If TBA is the proper probate procedure, go to Items 41 through 45 and indicate that they are not applicable, and return here to do the following:

- a. See Special Instruction 88—Independent Administration by Agreement Where Decedent Left a Will (TBA).
- b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor to determine that applicant qualifies to serve as executor or administrator.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Probate of Will, Independent Administration by Agreement [with Will Annexed], and Issuance of Letters [Testamentary/of Independent Administration] (Form 110).
- d. Prepare Affidavit of [Inability/Unwillingness] to Serve as Executor (Form 143) or Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as executor or administrator who do not wish to serve and arrange for proper signature before a notary.
- e. Determine amount of filing fee, arrange for payment, and charge to client's account.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
f. File Application for Probate of Will, Independent Administration by Agreement [with Will Annexed], and Issuance of Letters [Testamentary/of Independent Administration] (Form 110) with clerk of court. If Affidavit of [Inability/Unwillingness] to Serve as Executor (Form 143) or Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. If original will cannot be located, see Special Instruction 85—Wills Not Produced. <i>Note:</i> Wills are not required to be filed electronically, but doing so aids the clerk in matching the original will with the e-filed application. Regardless, the original will must be filed with the clerk of the court within three business days after the application is filed. Once the filing is accepted, enter date of filing as Item 6.23 of MIL and the envelope number as Item 6.23A of MIL and complete Items 18 and 19 of SDL. Unless original will has already been deposited with the clerk, prepare Letter 128, enclose original will and codicil(s), and mail or deliver to clerk of court. Enter date of mailing or delivery of original will as Item 6.23B of MIL.					
g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.					
h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).					
i. Prepare Distributee's Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee's Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106). Enclose one copy of the Application for Probate of Will, Independent Administration by Agreement [with Will Annexed], and Issuance of Letters [Testamentary/of Independent Administration] (Form 110).					
j. On receipt of all properly signed and sworn Distributee's Agreement to Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 106), file with clerk of court.					
k. Determine if any proposed executor or administrator is a nonresident of Texas. If so, do the following:					

	NA	L	S	DATE	INITIALS
(1) Prepare Appointment of Resident Agent (Form 15 for each nonresident individual executor or administrator and Form 16 for each nonresident corporate executor or administrator) and place in file folder entitled "Court Proceedings."					
(2) Prepare and send Letter 18 to each nonresident executor or administrator, together with the original and one copy of Appointment of Resident Agent (Form 15 or Form 16).					
(3) When signed Appointment of Resident Agent (Form 15 or Form 16) is received, file with clerk of court.					
l. Arrange for date and time of hearing on Application for Probate of Will, Independent Administration by Agreement [with Will Annexed], and Issuance of Letters [Testamentary/ of Independent Administration] (Form 110) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). If proof of proper execution must be made by alternate methods (see Item 54 of this Checkplan), it will be necessary to wait until all required proof has been assembled before the hearing can be scheduled.					
(1) Prepare Proof of Death and Other Facts (Form 112) and place in file folder entitled "Court Proceedings."					
(2) If witness for Proof of Death and Other Facts (Form 112) is <i>not</i> the proposed executor or administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 112), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
m. If D's will is self-proved, skip to Item 38q of this Checkplan.					
n. If D's will is not self-proved or attested, but is holographic, skip to Item 38p of this Checkplan.					
o. If D's will is attested , refer to Item 2.10 of MIL to determine whether an attesting witness will testify as to the proper execution of the will. If so, determine that witness's identity and whether that witness will be available to testify before the court. If no attesting witness will prove the will, skip to (3) in this Item 38o.					
(1) If the attesting witness will be available to testify before the court, do the following:					
(a) Prepare Proof by Subscribing Witness (Form 8) and place in file folder entitled "Court Proceedings."					

	NA	L	S	DATE	INITIALS
(b) Prepare and send Letter 14 to witness, together with a copy of the Proof by Subscribing Witness (Form 8) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(2) If the attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If attesting witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					
(3) If no attesting witness will be available to testify before the court or by written interrogatories, determine other appropriate witness(es) for proving execution of D's will. See Special Instruction 93—Proof of Execution of Will (Not Self-Proved) to determine nature and number of witnesses needed. Refer to Item 2.05 or 2.160 of MIL for identity of witness(es).					
(a) If witness(es) to D's signature will testify before the court, prepare Proof of Decedent's Signature (Form 133) for each witness and place in file folder entitled "Court Proceedings."					
(b) If witness(es) to the signature of an attesting witness will testify before the court, prepare Proof of Subscribing Witness's Signature (Form 134) for each witness and place in file folder entitled "Court Proceedings."					
(c) Prepare and send Letter 14 to each witness, together with a copy of the Proof of Decedent's Signature (Form 133) or Proof of Subscribing Witness's Signature (Form 134) and a copy of D's will, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.					
(4) If a witness to the signature of D or that of an attesting witness will not be available to testify before the court, determine an alternate method of proving execution of D's will. If the witness will testify by written interrogatories, see Item 54 of this Checkplan and take appropriate action.					
<i>Note:</i> If witness(es) to signature cannot testify that D was of sound mind and over eighteen years of age at execution of will, applicant will need to do so.					
(5) Repeat procedures in this Item 38o for each attested codicil , referring to Items 2.20 and Items 2.170 of MIL regarding witnesses.					

- p. If D's **will is holographic** and is neither attested nor self-proved, refer to Item 2.05 of MIL to determine the identity of the **two** witnesses who will testify as to D's handwriting and also determine if each witness will be available to testify before the court.
- (1) For *both* of these witnesses who will testify before the court, do the following:
 - (a) Prepare Proof of Decedent's Handwriting and Signature (Form 14) for each witness and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 17 to each witness, together with a copy of the Proof of Decedent's Handwriting and Signature (Form 14) for that witness and a copy of D's will, to advise witness of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
 - (2) For each witness who will not be available to testify before the court, determine an alternate method of proving D's will. If D's will is to be proved by written interrogatories, see Item 54 of this Checkplan and take appropriate action.
 - (3) Repeat procedures in this Item 38p for each **holographic codicil**.
- q. Prepare and send Letter 19 to each proposed executor or administrator, together with a copy of the Application for Probate of Will, Independent Administration by Agreement [with Will Annexed], and Issuance of Letters [Testamentary/of Independent Administration] (Form 110), to advise of the date and time of hearing and the method of appearance before the court.
- r. Prepare Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111) and place in file folder entitled "Court Proceedings."
- s. Review Item 2.58 of MIL, determine whether proposed executor or administrator will sign oath before the court or before a notary, prepare Oath (Form 18 for each individual executor or administrator and Form 19 for each corporate executor or administrator), and place in file folder entitled "Court Proceedings."

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
t. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all proposed executors or administrators and other witnesses of new date. If method of appearance is changed, notify all proposed executors and other witnesses and provide revised information.					
u. One business day before the hearing, call to remind all proposed executors or administrators and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
39. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 112) for person who will testify as to death, etc.					
(2) Original copy of Proof by Subscribing Witness (Form 8) or Proof of Decedent's Handwriting and Signature (Form 14) for each appropriate witness who will appear before the court.					
(3) Original copy of Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111).					
(4) Original copies of Oath (Form 18 or Form 19) for each executor or administrator who will sign oath before the court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Items 29, 31, and 32 of SDL.					
e. Have executors or administrators who attend hearing by physical presence in the courtroom sign their Oath (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors or administrators, complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					

	NA	L	S	DATE	INITIALS
f. Order two letters testamentary or letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
40. Follow-up. Refer to Item 2.58 of MIL. For each Oath (Form 18 or Form 19) that was not signed before a court official, prepare and send Letter 20 to each executor or administrator who did not sign the oath before the court, together with the original and one copy of Oath (Form 18 or Form 19).					
a. When all Oaths (Form 18 or Form 19) are signed and returned, file all oaths with clerk of court.					
b. Determine the date on which the last Oath (Form 18 or Form 19) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 45A through 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL.					
c. By the date shown in Item 31 of SDL (sixty days after will admitted to probate), do the following:					
(1) Review D's will and codicil(s) to identify all devisees and legatees.					
(2) If not already done, prepare Worksheet 9 and place in folder entitled "Notice to Beneficiaries."					
(3) Prepare Letter 102 for each devisee and legatee except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of each Letter 102.					
(5) Send signed Letter 102, together with appropriate enclosures, to each required devisee and legatee by registered or certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice).					
(6) Attach mailing receipt or proof of deposit to the copy of Letter 102.					
(7) When received, attach return receipt or proof of delivery receipt to file copy of Letter 102.					
(8) As letters are sent and return receipts or proof of delivery receipts are returned to office, enter on Worksheet 9.					

	NA	L	S	DATE	INITIALS
(9) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and return receipts or proof of delivery receipts, with clerk of court.					
d. By the date shown in Item 32 of SDL (ninety days after will admitted to probate), do the following:					
(1) Determine whether executor or administrator will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(a) If executor or administrator is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(2) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
e. Prepare and send Letter 22 to thank each witness, other than executor(s) or administrator(s), who appeared before the court.					
f. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
g. Prepare and send Letter 108 to executor(s) or administrator(s) to advise of nature and extent of the duties of office and actions that will follow.					
h. Conform file copies of all documents for dates and signatures.					
i. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					

- (4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater.

Note: Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System.

Note: Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 40i above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 40j below.

- j. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:
- (1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.
 - (2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.
 - (3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.
- k. Skip to Item 55 of this Checkplan.

NA	L	S	DATE	INITIALS

INDEPENDENT ADMINISTRATION BY AGREEMENT WHERE THERE IS NO WILL (IBA)

41. If **independent administration by agreement where there is no will (IBA)** is not the proper procedure, mark Items 41 through 43 of this Checkplan as not applicable and go to Item 44. If IBA is the proper probate procedure, go to Items 44 and 45, indicate that they are not applicable, and return here to do the following:
- a. See Special Instruction 89—Independent Administration by Agreement Where There Is No Will (IBA).
 - b. See Special Instruction 5—Qualification of and Priority Rights to Be Appointed Administrator or Executor and determine if applicant qualifies to serve as administrator.
 - c. See Special Instruction 15—Jurisdiction and Venue and prepare Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108).
 - d. Prepare Waiver and Renunciation of Right to Letters of Administration (Form 74) for those preferentially entitled to serve as administrator who do not wish to serve and arrange for proper signature before a notary.
 - e. Determine amount of filing fee, arrange for payment, and charge to client's account.
 - f. File Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108) with clerk of court. If Waiver and Renunciation of Right to Letters of Administration (Form 74) was prepared and has been signed, file original with clerk of court. Enter date of this filing as Item 6.23 of MIL and complete Items 18 and 19 of SDL.
 - g. If a docket number has not been previously assigned to proceedings in this estate, obtain court docket number, enter it on Probate Chart (Worksheet 15), on cover page of MIL, and as Item 6.01 of MIL, and conform office file copies.
 - h. Calculate the return date for the citation and enter as Item 20 of SDL (see Special Instruction 16—Citation and Notice).

NA	L	S	DATE	INITIALS

- i. Prepare Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106). Enclose one copy of the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108).
- j. On receipt of all properly signed and sworn Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106), file with clerk of court.
- k. Complete steps in Item 209a–209q of this Checkplan. Coordinate steps in Item 209r–209t of this Checkplan with the remainder of this Item 41 so that the heirship order is entered before the Order Authorizing Independent Administration and Letters of Independent Administration (Form 109).
- l. Determine if proposed **administrator** is a **nonresident** of Texas. If so, do the following:
 - (1) Prepare Appointment of Resident Agent (Form 15) and place in file folder entitled "Court Proceedings."
 - (2) Prepare and send Letter 18 to proposed administrator, together with the original and one copy of Appointment of Resident Agent (Form 15).
 - (3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.
- m. Arrange for date and time of hearing on the Application for Independent Administration of Intestate Estate and Letters of Independent Administration (Form 108) and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (1) Prepare Proof of Death and Other Facts (Form 75) and place in file folder entitled "Court Proceedings."
 - (2) If witness for Proof of Death and Other Facts (Form 75) is *not* the proposed administrator, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 75), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
n. Prepare and send Letter 19 to proposed administrator, together with a copy of the Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108), to advise of the date and time of hearing and the method of appearance before the court.					
o. Prepare Order Authorizing Independent Administration and Letters of Independent Administration (Form 109) and place in file folder entitled "Court Proceedings."					
p. Review Item 2.58 of MIL, determine whether proposed administrator will sign oath before the court or before a notary, prepare Oath (Form 86), and place in file folder entitled "Court Proceedings."					
q. If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date. If method of appearance is changed, notify proposed administrator and other witnesses and provide revised information.					
r. One business day before the hearing, call to remind proposed administrator and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
42. For the hearing itself, do the following:					
a. Assemble the following documents and have available at hearing:					
(1) Original copy of Proof of Death and Other Facts (Form 75) for person who will testify as to death, etc.					
(2) Certified copy of D's death certificate if required by local practice.					
(3) Original copy of Order Authorizing Independent Administration and Letters of Independent Administration (Form 109).					
(4) Original copy of Oath (Form 86) if administrator will sign oath in court.					
b. Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
c. Attend hearing (see Special Instruction 18—What to Do at Hearing) and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
d. Enter the date the Order Authorizing Independent Administration and Letters of Independent Administration (Form 109) was signed by judge as Item 6.26 of MIL and Item 28 of SDL and complete Item 29 of SDL.					

	NA	L	S	DATE	INITIALS
e. Have administrator who attends hearing by physical presence in the courtroom sign the Oath (Form 86) before appropriate court official and file with clerk of court. Complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					
f. Order two letters of administration from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary or of Administration."					
43. Follow-up. Refer to Item 2.58 of MIL. If administrator did not sign Oath (Form 86) before a court official, prepare and send Letter 20 to administrator, together with the original and one copy of Oath (Form 86).					
a. When signed Oath (Form 86) is returned, file oath with clerk of court.					
b. Determine the date on which the Oath (Form 86) was filed, enter this date as Item 6.38 of MIL, and complete Item 6.39 of MIL and Items 36 and 39 of SDL. Also complete Items 40 through 43, 45A through 46, and 48 of SDL and Items 6.85, 7.35, and 21.23 of MIL.					
c. Prepare and send Letter 22 to thank each witness, other than administrator, who appeared before the court.					
d. Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
e. Prepare and send Letter 109 to administrator to advise of nature and extent of the duties of office and actions that will follow.					
f. Conform file copies of all documents for dates and signatures.					
g. Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(1) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					
(2) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					

	NA	L	S	DATE	INITIALS
(3) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					
(4) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater. <i>Note:</i> Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System. <i>Note:</i> Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 43g above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 43h below.					
h. Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:					
(1) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.					
(2) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.					
(3) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.					
i. Skip to Item 55 of this Checkplan.					

ANCILLARY PROBATE OF WILL PREVIOUSLY PROBATED ELSEWHERE (AP)

44. If **ancillary probate of a will previously probated elsewhere (AP)** is not the proper procedure, mark this Item 44 as not applicable and go to Item 45. If AP is the proper procedure, go to Item 45, indicate that it is not applicable, and return here to do the following:

- a. See Special Instruction 91—Ancillary Probate (AP) or Recording (RW) of Wills Previously Probated Elsewhere and do the following:
 - (1) Send Letter 112 to the court that previously probated the will to obtain properly authenticated copy of will, order admitting it to probate, and letters issued in foreign jurisdiction.
 - (2) Prepare Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118).
 - (3) Determine amount of filing fee, arrange for payment, and charge to client's account.
 - (4) File authenticated copy of will and order admitting it to probate in foreign jurisdiction, authenticated copy of letters testamentary issued in foreign jurisdiction, and Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118) with clerk of court.
 - (5) Determine from clerk when will and order admitting it to probate in foreign jurisdiction were recorded pursuant to Estates Code, Section 501.004, and complete Items 17B, 31, and 32 of SDL.
 - (6) If independent administration by agreement is sought, do the following:
 - (a) Prepare Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119). Prepare and send Letter 48 to each distributee other than applicant, together with two copies of Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119). Enclose one copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118).

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(b) On receipt of all properly signed and sworn Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119), file with clerk of court.					
b. Determine whether court will require a hearing. <i>Note:</i> Complete Items 44c through 44f and Item 44j of this Checkplan in every case. If a hearing is required, also complete Items 44g through 44i.					
c. Prepare Oath (Form 18 for individual executor or Form 19 for corporate executor) for each executor.					
(1) If no hearing will be required, do the following:					
(a) Send Letter 20 to each executor, together with the original and one copy of Oath (Form 18 or Form 19).					
(b) When all Oaths (Form 18 or Form 19) are returned, file all oaths with clerk of court.					
(2) If a hearing will be required, place the Oaths (Form 18 or Form 19) in file folder entitled "Court Proceedings."					
d. Determine if any proposed executor is a nonresident of Texas. If so, do the following:					
(1) Prepare Appointment of Resident Agent (Form 15 for each nonresident individual executor and Form 16 for each nonresident corporate executor) and place in file folder entitled "Court Proceedings."					
(2) Prepare and send Letter 18 to each nonresident executor, together with the original and one copy of Appointment of Resident Agent (Form 15 or Form 16).					
(3) When all signed Appointment of Resident Agent (Form 15 or Form 16) forms are returned, file all appointments with clerk of court.					
e. Prepare Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121).					
(1) If no hearing will be required, place Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) with clerk of court.					
(2) If a hearing will be required, place Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) in file folder entitled "Court Proceedings."					

- f. Determine if **bond** will be required and, if so, do the following (see Special Instruction 46—Bond):

Note: Bond must be filed within 20 days of the appointment.

If a hearing will be required, this step should be addressed with Item 44h of this Checkplan.

- (1) Complete Items 6.27 through 6.34 of MIL.
 - (2) Ask insurance agent to prepare the bond for signature by executor. Determine if a power of attorney is required and, if so, that it has been attached to the bond.
 - (3) Arrange to have the bond signed by all executors.
 - (4) When the bond has been signed by all executors and surety, file with clerk of court and obtain approval by judge.
 - (5) Enter date of filing the bond as Item 6.36 of MIL and Item 37 of SDL.
 - (6) Enter date of approval of the bond by judge as Item 6.37 of MIL and Item 38 of SDL.
 - (7) If you paid the premium for the bond, charge to client's account.
- g. If **no hearing** is required, skip to Item 44j of this Checkplan. If **hearing is required**, arrange for date and time of hearing on application for probate and enter as Item 24 of SDL. Complete Item 25 of SDL and Items 6.24 and 6.24A of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
- (1) Prepare Proof of Death and Other Facts (Form 120) and place in file folder entitled "Court Proceedings."
 - (2) If witness for proof of death and other facts is *not* the proposed executor, prepare and send Letter 13 to witness, together with a copy of the Proof of Death and Other Facts (Form 120), to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
 - (3) Prepare and send Letter 19 to each proposed executor, together with a copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118) to advise of the date and time of hearing and the method of appearance before the court.

[illegible]

	NA	L	S	DATE	INITIALS
(4) If hearing must be rescheduled, enter rescheduled date and time as Items 6.24 and 6.24A of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify all executors and other witnesses of new date. If method of appearance is changed, notify all executors and other witnesses and provide revised information.					
(5) One business day before the hearing, call to remind all executors and all witnesses of the time and date of hearing and the place of hearing or electronic access information.					
h. For hearing itself, if required , do the following:					
(1) Assemble the following documents and have available at hearing:					
(a) Original copy of Proof of Death and Other Facts (Form 120).					
(b) Original copy of Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121).					
(c) Original copies of Oath (Form 18 or Form 19) for each executor who will sign oath before the court.					
(2) Determine if local rules of court require different or additional documents or procedures and, if so, take appropriate action.					
(3) Attend hearing and enter actual date of hearing as Item 6.25 of MIL and Item 27 of SDL.					
(4) Enter the date the Order Admitting Foreign Will to Ancillary Probate [, Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121) was signed by judge as Item 6.26 of MIL and Item 28 of SDL. Complete Item 29 of SDL.					
(5) Have executors who attend hearing by physical presence in the courtroom sign their Oath (Form 18 or Form 19) before appropriate court official and file with clerk of court. If these are the only executors or administrators, complete Items 6.38 and 6.39 of MIL and Items 36 and 39 of SDL.					
(6) Order two ancillary letters testamentary from clerk of court and, if you paid for them, charge to client's account. If ordering by mail, determine appropriate number of letters and correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court. When received, place in file folder entitled "Letters Testamentary."					

	NA	L	S	DATE	INITIALS
(h) As letters are sent and return receipts or proof of delivery receipts are returned to office, enter on Worksheet 9.					
(i) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and return receipts or proof of delivery receipts, with clerk of court.					
(3) By the date shown in Item 32 of SDL (ninety days after date foreign will and evidence of foreign probate recorded by clerk), do the following:					
(a) Determine whether executor will sign the Affidavit of Notice of Probate (Form 101) or if attorney will sign the Certificate of Notice of Probate (Form 102).					
(i) If executor is to sign, prepare Affidavit of Notice of Probate (Form 101) and attach all waivers (Form 100). If mailing, prepare and send with Letter 48.					
(ii) If attorney is to sign, prepare Certificate of Notice of Probate (Form 102) and attach all waivers (Form 100).					
(b) File signed Affidavit of Notice of Probate (Form 101) or Certificate of Notice of Probate (Form 102) together with all waivers (Form 100) with clerk of court.					
(4) If applicable, prepare and send Letter 22 to thank each witness other than executor(s) who appeared before the court.					
(5) Refer to Special Instruction 84—Execution of Documents regarding proper execution of documents by client.					
(6) Prepare and send Letter 116 (for independent ancillary administration) or Letter 117 (for dependent ancillary administration) to executor(s) to advise of nature and extent of the duties of office and actions that will follow.					
(7) Conform file copies of all documents for dates and signatures.					
(8) Collect all of D's records, books, title papers, and business papers. If anyone refuses to deliver the same, do the following:					
(a) Prepare Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) and Letter 138.					

	NA	L	S	DATE	INITIALS
(b) Send Letter 138, enclosing Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147), to person or entity holding papers.					
(c) If response is not received by deadline set in Letter 138, file Application for Order to Show Cause Why [name] Should Not Deliver Papers, Order to Show Cause, and Order to Deliver Papers (Form 147) with court.					
(d) Request a hearing date and service of citation on the respondent. Allow for the minimum notice required by the local rules or the Texas Rules of Civil Procedure, whichever is greater. <i>Note:</i> Form 147 includes three items, an application and two orders. Due process requires that citation issue and personal service be accomplished for at least the order to show cause. Court preferences vary on whether these should be staged—that is, whether the proposed order to show cause should be served with the application or only as submitted to the court, for example, following an initial hearing. Further coverage is beyond the scope of this System. <i>Note:</i> Instead of using the show-cause proceeding under Estates Code, Section 252.202, that is contemplated by Application for Order to Show Cause Why [name] Should Not Deliver Papers (Form 147) and outlined in Item 44j(8) above, you may wish to adapt Motion for Order to Deliver Personal Property of Estate (Form 148) to obtain these papers of the estate pursuant to Estates Code, Section 351.102, as outlined in Item 44j(9) below.					
(9) Collect all personal property of the estate. If anyone refuses to deliver the same, do the following:					
(a) Prepare Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) and Letter 138.					
(b) Send Letter 138, enclosing Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148), to person or entity holding property.					
(c) If response is not received by deadline set in Letter 138, file Motion for Order to Deliver Personal Property of Estate and Order to Deliver Personal Property of Estate (Form 148) with court.					
(10) Skip to Item 55 of this Checkplan.					

RECORDING OF WILL PREVIOUSLY PROBATED ELSEWHERE (RW)

45. If **recording of a will previously probated elsewhere (RW)** is the proper procedure, do the following:
- a. See Special Instruction 91—Ancillary Probate (AP) or Recording (RW) of Wills Previously Probated Elsewhere.
 - b. Send Letter 112 to the court that previously probated the will to obtain properly authenticated copy of will and order admitting it to probate.
 - c. When the foregoing documents are received, determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.
 - d. If any portion of the foregoing documents is not in English, obtain a sworn translation to be recorded with the authenticated original.
 - e. Prepare and send Letter 113 to county clerk to record these documents in the deed records of each Texas county in which D owned real estate, mineral interests, or royalty interests. When the documents have been recorded in one county and have been returned, repeat this procedure until the documents have been recorded in all counties.
 - f. Review engagement agreement for scope of agreed services and see appropriate items in this Checkplan, such as Item 82, Real Estate.

NA	L	S	DATE	INITIALS

DESIGNATION OF ADMINISTRATOR

46. If will grants authority to a named executor or another person to designate one or more administrators, see Special Instruction 95—Authority to Designate Administrator and do the following:
- a. Determine whether any named executor is available, qualified, and able and willing to serve and, if not, whether the designation of an administrator has already been made.
 - b. If needed, prepare Affidavit of [Inability/Unwillingness] to Serve as Executor (Form 143) for each relevant named executor, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”
 - c. If the designation of an administrator has not already been made, prepare Designation of Administrator (Form 144) for person with authority to designate, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”
 - d. If a designated administrator refuses to serve, prepare Affidavit of Refusal to Serve as Administrator (Form 145) for that designated administrator, arrange for proper signature before a notary, and place in file folder entitled “Court Proceedings.”

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47. - 48. (Reserved)

BENEFICIAL OWNERS

49. If D had or controlled as an officer a corporation, limited liability company, limited partnership, or other entity created by filing a document with a secretary of state or similar office, see Special Instruction 98—Corporate Transparency Act.

NA	L	S	DATE	INITIALS

DIGITAL ASSETS

50. If D had **digital assets**, do the following:

- a. See Special Instruction 83—Digital Assets, and take appropriate action.
- b. If disclosure of the **content** of an electronic communication through TRUFADAA is desired, determine whether D consented to disclosure through an online tool or in D's will. If so, do the following for each such account:

- (1) Prepare Letter 131 and arrange for signature by personal representative. If mailing, prepare and send Letter 24 to personal representative, together with two copies of Letter 131 for each custodian.
- (2) When signed copy of Letter 131 is received from personal representative, forward it to custodian with required enclosures.

Note: If D did not consent to disclosure, a court order must be obtained. That procedure is beyond the scope of this System.

- c. If disclosure of a **catalog** of D's electronic communications through TRUFADAA is desired, determine whether D prohibited disclosure in an online tool or in D's will. If D did not prohibit disclosure, do the following for each such account:
 - (1) Prepare Letter 131 and arrange for signature by personal representative. If mailing, prepare and send Letter 24 to personal representative, together with two copies of Letter 131 for each custodian.
 - (2) When signed copy of Letter 131 is received from personal representative, forward it to custodian with required enclosures.
- d. If **termination** of D's account through TRUFADAA is desired, do the following for each such account:
 - (1) Prepare Letter 131 and arrange for signature by personal representative. If mailing, prepare and send Letter 24 to personal representative, together with two copies of Letter 131 for each custodian.
 - (2) When signed copy of Letter 131 is received from personal representative, forward it to custodian with required enclosures.

NA	L	S	DATE	INITIALS

51. - 53. (Reserved)

ALTERNATE METHOD OF PROVING D'S WILL

	NA	L	S	DATE	INITIALS
54. If the witness will not be available to testify in court, determine an alternate method of proving D's will. If proving D's will by written interrogatories, do the following after D's original will has been filed with clerk of court:					
a. For a subscribing witness, prepare Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9). For a witness testifying to the signature of D or that of a subscribing witness, prepare Direct Interrogatories to Be Propounded to Witness (Form 139). For a witness testifying to the handwriting and signature of D to prove a holographic will, prepare Direct Interrogatories to Be Propounded to Witness (Form 141). Place in file folder entitled "Court Proceedings."					
b. Prepare Notice of Intent to Take Deposition on Written Questions (Form 13), make and attach a copy of the Direct Interrogatories to Be Propounded to Subscribing Witness (Form 9) or Direct Interrogatories to Be Propounded to Witness (Form 139 or Form 141) to each copy of the Notice of Intent to Take Deposition on Written Questions (Form 13), and place in file folder entitled "Court Proceedings."					
c. Prepare Interrogatories and Answers of Witness to Interrogatories (Form 10 for subscribing witness, Form 140 for witness to signature, or Form 142 for witness for holographic will) and place in file folder entitled "Court Proceedings."					
d. Prepare and send Letter 15 to the witness to forward copies of D's will and the Interrogatories and Answers of Witness to Interrogatories (Form 10, Form 140, or Form 142), to be certain that the witness can testify properly.					
e. When you are satisfied that the witness can testify properly, do the following:					
(1) Determine amount of filing fee for Notice of Intent to Take Deposition on Written Questions (Form 13), arrange for payment, and charge to client's account.					
(2) File Notice of Intent to Take Deposition on Written Questions (Form 13) with clerk of court. If there is no opposing party or attorney of record on whom to serve notice and copies of interrogatories, request citation by posting, pay the required fee, and charge to client's account.					
(3) Order a certified copy of D's purported will (the one you recently filed) from clerk of court.					

	NA	L	S	DATE	INITIALS
(4) Determine charge for certified copy, arrange for payment, and charge to client's account.					
f. When you have received the certified copy of D's purported will, send copies of Notice of Intent to Take Deposition on Written Questions (Form 13) to applicant.					
g. Obtain a deposition envelope and do the following:					
(1) Complete all information on the Deposition Envelope (FF 3).					
(2) Make a photocopy of the completed deposition envelope to send to witness as an instruction sample. Use colored pen to complete the instruction copy of the envelope as shown in the Instruction Sample (FF 4).					
(3) If you cannot locate a deposition envelope, copy the details from FF 3 on a large envelope. Complete all the information except the two signature lines reserved for the officer/notary. <i>Note:</i> Some courts prefer tamper-evident envelopes for transmitting interrogatories. Contact the clerk for specific requirements.					
h. Contact the witness to discuss the procedure that will be expected and have the witness arrange for a notary.					
i. Assemble the following items to send to witness:					
(1) Certified copy of D's purported will					
(2) Original copy of Interrogatories and Answers of Witness to Interrogatories (Form 10, Form 140, or Form 142)					
(3) Deposition envelope					
(4) Instruction sample of deposition envelope that you prepared					
j. Provide witness with all items listed in Item 54i of this Checkplan. If mailing, send Letter 16 to witness to forward those documents by certified or registered mail.					
(1) Attach mailing receipt to file copy of Letter 16.					
(2) When received, attach return receipt to file copy of Letter 16.					
k. Ensure that deposition envelope and its contents are received by clerk.					
l. Schedule the date and time for hearing, enter as Items 6.24 and 6.24A of MIL and Item 24 of SDL, and complete Item 25 of SDL.					
m. If IA, return to Item 19/ of this Checkplan.					

- n. If MT, return to Item 22k of this Checkplan.
- o. If ADE, return to Item 29m of this Checkplan.
- p. If AWA, return to Item 32m of this Checkplan.
- q. If TBA, return to Item 38o of this Checkplan.

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NOTICES TO CREDITORS

Note: Items 55 through 61 of this Checkplan do not apply to MT, SE, PDH, or RW proceedings.

55. Dealing with general and unsecured creditors.

- a. By the date shown in Item 42 of SDL (one month after clerk issues letters testamentary or of administration), do the following:
 - (1) See Special Instruction 54—Claims of Creditors.
 - (2) Prepare Notice to Creditors and Publisher's Affidavit (Form 20).
 - (3) Select newspaper in which to publish notice, determine charge for publication, arrange for payment, charge to client's account, and enter amount as Item 25.07 of MIL.
 - (4) Prepare and send Letter 32 to newspaper, together with the original and a copy of the Notice to Creditors and Publisher's Affidavit (Form 20) and payment of charges for publication.
 - (5) When Notice to Creditors and Publisher's Affidavit (Form 20) has been published and returned, file with clerk of court.
 - (6) Determine if D remitted or should have remitted taxes administered by the Comptroller of Public Accounts (e.g., sales taxes). If so, do the following:
 - (a) Prepare Letter 82 and arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of each Letter 82.
 - (b) Send signed Letter 82, together with copy of the Notice to Creditors and Publisher's Affidavit (Form 20), to Comptroller of Public Accounts by registered or certified mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice).
 - (c) Attach mailing receipt or proof of deposit to the copy of Letter 82.
 - (d) When received, attach return receipt or proof of delivery receipt to file copy of Letter 82.

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- (e) Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copy of Letter 82, a copy of the Notice to Creditors and Publisher's Affidavit (Form 20), and the return receipt or proof of delivery receipt, with clerk of court.
- b. Determine whether to give permissive notice to bar or force filing of claims by unsecured creditors having claims for money. If so, do the following for each such creditor at any time before estate is closed.
- (1) Refer to Section 21.0 of MIL, prepare Letter 99 for each such creditor, and complete Worksheet 13 for each such creditor.
Note: This letter must be prepared for the signature of and actually be signed by an executor or administrator.
 - (2) Arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Letter 99 for each creditor.
 - (3) Send signed Letter 99 to each creditor by certified or registered mail, return receipt requested, or, in proceedings commenced on or after September 1, 2023, by any qualified delivery method (see Special Instruction 16—Citation and Notice). Attach each mailing receipt to appropriate file copy of Letter 99.
 - (4) Enter date of mailing or delivery by a qualified delivery method as Item 76a of SDL and on Worksheet 13.
 - (5) When received, attach return receipt or proof of delivery receipt to file copy of Letter 99, enter date received as Item 76b of SDL, calculate and complete Item 76c of SDL, and enter dates on Worksheet 13.
 - (6) For each unsecured creditor with a claim for money who fails to present a claim within the 120-day period shown in Item 76c of SDL, complete Item 21.15 of MIL, prepare and send Letter 100 to advise executor or administrator not to pay any portion of the claim, and change Class on Worksheet 13 to "Barred."
 - (7) If claim is presented before date shown in Item 76c of SDL, refer to procedures starting at Item 67h of this Checkplan and take appropriate action.

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56. **Secured creditors.** By the date shown in Item 7.35 of MIL and Item 43 of SDL (two months after clerk issues letters testamentary or of administration), do the following:

- a. Refer to Items 7.25, 17.37, and 21.05 of MIL and prepare Letter 33 for each creditor shown to be holding a lien on real estate, vehicles, or other estate assets.

Note: This letter must be prepared for the signature of and actually be signed by an executor or administrator.

- b. Arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of each Letter 33.

- c. Send signed letters by certified or registered mail, return receipt requested, or other qualified delivery method (see Special Instruction 16—Citation and Notice). Attach mailing receipt or proof of deposit to file copy of Letter 33, complete Item 44 of SDL, and enter date of mailing or deposit on Worksheet 13.

- d. When received, make photocopy of return receipt or proof of delivery; attach photocopy to extra copy of that Letter 33; complete Items 45, 47, and 49 of SDL; and enter date of receipt or proof of delivery on Worksheet 13.

- e. Attach return receipt or proof of delivery receipt to file copy of Letter 33.

- f. Prepare Proof of Service of Notice on Secured Claimants (Form 21) and attach copies of return receipts or proof of delivery receipts from Letter 33 to the original.

Note: This proof *must* be prepared for the signature of and actually be signed by executor or administrator.

- g. When Proof of Service of Notice on Secured Claimants (Form 21) has been properly signed, file with clerk of court.

- h. Prepare Certificate of Delivery of Notice (Form 153) and file it, together with copies of Letter 102 and the return receipts or proof of delivery receipts, with clerk of court.

- i. Conform file copies of all documents for dates and signatures.

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ESTATE BANK ACCOUNT AND ACCOUNTING SYSTEM

	NA	L	S	DATE	INITIALS
57. Determine if estate will be a separate taxpayer or whether an estate bank or brokerage account is to be opened. If so, a separate employer identification number (EIN) will be required. If client does not already have such a number, it may be obtained as follows:					
a. Complete IRS Form SS-4, Application for Employer Identification Number (FF 6). <i>Note:</i> If estate is engaged in an active trade or business, Items 12 through 15 of IRS Form SS-4, Application for Employer Identification Number (FF 6), may require modification. This form must be prepared for the signature of and actually be signed by one executor or administrator.					
b. Arrange to have IRS Form SS-4, Application for Employer Identification Number (FF 6), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form SS-4, Application for Employer Identification Number (FF 6). <i>Note:</i> It is possible to obtain this number if the executor or administrator is present by completing Form SS-4, Application for Employer Identification Number, through accessing the IRS website, www.irs.gov .					
c. If mailing, prepare and send Letter 25 to IRS, together with completed IRS Form SS-4, Application for Employer Identification Number (FF 6).					
d. When notified by IRS of employer identification number, enter as Item 26.13 of MIL and advise executor or administrator of the number.					
e. File all relevant documents in file folder entitled "Fiduciary Income Tax Returns."					
58. Establish bank account(s) for estate.					
<i>Note:</i> It is not appropriate to establish bank account(s) in MT, SE, or PDH proceedings.					
a. Obtain and complete appropriate signature cards and have them signed by all executors or administrators.					
b. Furnish bank with employer identification number (EIN) for estate, letters testamentary or letters of administration, and signed signature cards.					
c. Order printed checks and deposit slips.					

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d. Have account styled "Estate of (Item 6.02 of MIL), Deceased."					
e. When you have the account number, order rubber stamp "For Deposit Only to the Estate of (Item 6.02 of MIL), Deceased, Account Number (Item 11.11 of MIL)." Determine price, arrange for payment, and charge to client's account. <i>Note:</i> If the executor or administrator is an individual, particularly one with no business experience, the attorney should consider retaining custody of the estate checkbook and having all bank statements sent to the attorney's office.					
f. Make initial deposit, including D's cash on hand, traveler's checks, and checks undeposited at D's death.					
g. Plan for investment of estate funds during administration.					
h. Consider establishing savings account for estate.					
(1) Obtain and complete appropriate signature cards and have them signed by all executors or the administrator.					
(2) Furnish bank with employer identification number (EIN) for estate, letters testamentary or letters of administration, and signed signature cards.					
(3) Have account styled "Estate of (Item 6.02 of MIL), Deceased."					
i. Evaluate cash requirements and arrange for funds necessary to pay debts, taxes, and expenses of administration (see Worksheet 10).					
59. Establish accounting system for estate and determine whether to use cash or accrual method.					
60. See Special Instruction 19—Fiscal Years, select fiscal year for estate, and enter ending date as Item 26.14 of MIL. Complete all parts of Items 54 and 55 of SDL.					
61. Provide appropriate IRS notices.					
a. Give IRS notice of fiduciary relationship .					
(1) Complete IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).					
(2) Arrange to have IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).					

- (3) Prepare and send Letter 26 to IRS, together with completed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7), and a copy of letters testamentary or letters of administration.
- b. Determine if appropriate to **change D's address** with IRS and, if so, do the following:
- (1) Complete IRS Form 8822, Change of Address (FF 13).
- (2) Arrange to have IRS Form 8822, Change of Address (FF 13) signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
- (3) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).
- c. To authorize IRS to **deal directly with attorney**, do the following:
- (1) Prepare IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10).
- (2) Arrange to have IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10), signed by an executor, administrator, or other proper person. If mailing, prepare and send Letter 24 to such person(s), together with completed IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10).
- (3) If using this power of attorney for purposes other than estate tax return, prepare and send Letter 97 to IRS, together with completed IRS Form 2848, Power of Attorney and Declaration of Relationship (FF 10). Otherwise, place signed copy in file folder entitled "Federal Estate Tax."

NA	L	S	DATE	INITIALS

RESIDENCE

	NA	L	S	DATE	INITIALS
62. Arrange for adequate security for D's residence and belongings and, unless adequate security exists or there is a responsible person present, arrange for custody of D's personal papers and other records and consider removing D's valuables from D's places of business and residence.					
63. If D lived alone , consider the following:					
a. Arrange for D's mail to be forwarded to executor, administrator, or client (U.S. Postal Service Form 3575 may be used).					
b. Terminate magazine subscriptions and all home deliveries, such as newspapers, milk, and propane, and obtain refunds. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					
(2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
c. Clean out refrigerator and freezer and arrange for care of plants and pets.					
d. Notify police department and neighbors that residence will be vacant.					
e. Change locks.					
f. Terminate utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.					
(1) Electrical					
(2) Gas					
(3) Telephone					
(4) Water					
(5) Cable television					
(6) Exterminators					
(7) Other					
(a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					

	NA	L	S	DATE	INITIALS
(b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
g. Arrange for storage or other disposition of D's personal effects.					
h. Contact D's insurance agent to obtain vacancy endorsement. Consider naming executor or administrator as additional insured. When received, place in file folder entitled "Other Insurance."					
i. Arrange for yard care.					
j. Arrange for night lighting.					
64. If D's place of residence was leased , consider the following:					
a. Obtain copy of lease and review to see if lease can be terminated. Place in file folder entitled "Real Estate."					
<i>Note:</i> If D lived alone, termination may be available under Property Code, Section 92.0162. Thirty days' notice from D's representative is required.					
b. Consider terminating lease if in best interests of D's estate or heirs and if possible.					
c. If lease cannot be terminated, do the following:					
(1) Enter date of expiration as Item 56a of SDL.					
(2) Consider subleasing or assignment if permitted.					
(3) Consider termination of utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.					
(a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate checking account.					
(b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
(4) Be sure that executor, administrator, or client knows name and address of person to whom rent must be paid and amount thereof.					
d. Contact D's insurance agent to obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance." Consider naming executor or administrator as additional insured.					
e. On termination of lease, obtain refunds of prepaid rent and security deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					

- (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.

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OTHER LEASED PROPERTY

65. If D was a tenant of any **other property**, consider all steps listed in Items 62 through 64 of this Checkplan and take appropriate action, enter dates of expiration of leases as Items 56b and 56c of SDL, and do the following:
 - a. Obtain copy of lease and review to see if lease can be terminated. Place in file folder entitled "Real Estate."
 - b. Terminate lease if in best interests of D's estate and if possible under lease.
 - c. If lease cannot be terminated, do the following:
 - (1) Consider subleasing or assignment if permitted.
 - (2) Consider termination of utility service and obtain refunds of deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (a) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (b) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
 - (3) Be sure that executor, administrator, or client knows name and address of person to whom rent must be paid and amount thereof.
 - d. Contact D's insurance agent to obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance." Consider naming executor or administrator as additional insured.
 - e. On termination of lease, obtain refunds for prepaid rent and security deposits. If refunds are received, list amounts as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.

[illegible]

CREDIT CARDS AND CHARGE ACCOUNTS

66. **Credit cards and charge accounts.** See Special Instruction 96—Identity Theft.

- a. Locate and safeguard all of D's credit cards.
- b. Regarding credit report for D, complete Letter 132 and send to executor or administrator. If executor or administrator will request credit report, also complete and send Letter 133 to executor or administrator. If attorney is requesting credit report, complete and send Letter 137 to credit bureaus. Surviving spouse should request his or her own credit report for comparison.
- c. Determine if D had credit or credit card life insurance. If so, enter in Section 13.0 of MIL and obtain claim forms.
- d. Determine unpaid balance of all of D's obligations at date of D's death and enter in Section 21.0 of MIL.
- e. Determine if D's unsatisfied charitable pledges are enforceable.
- f. Determine whether to cancel orders for or return recently purchased items that D's family cannot use.
- g. Determine if other members of D's family had and wish to continue the use of D's credit cards or charge accounts. If so, have them make appropriate arrangements with those creditors. If not, prepare and send Letter 27 to each creditor listed in Section 21.0 of MIL.
- h. Ensure that all persons who paid D's debts and claims are repaid before distribution of D's estate.
- i. Determine if D had a credit balance due for overpayment of any accounts. If refunds are received, list as accounts receivable in Section 12.0 of MIL.
 - (1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.
 - (2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.
- j. Refer back to Item 55 of this Checkplan and take appropriate action.

[illegible]

CLAIMS AGAINST D'S ESTATE

Note: Item 67 of this Checkplan does not apply to MT, SE, PDH, or RW.

67. If there are potential claims against the estate, including administration expenses, family allowance, or allowance in lieu of exempt property, do the following:

- a. See Special Instruction 54—Claims of Creditors.
- b. Refer to Item 21.34 of MIL. If D received Medicaid benefits, complete the steps in Item 22b of this Checkplan. If MERP claim is not waived by Texas Department of Aging and Disability Services, complete Item 21.36 of MIL. See Special Instruction 100—Needs-Based Benefits.
- c. If not already done, prepare Worksheet 13 in duplicate and place a copy in file folders entitled “Debts, Claims, and Expenses (Paid)” and “Debts, Claims, and Expenses (Unpaid).”
- d. Indicate whether each creditor is secured or unsecured. Classify all claims and potential claims and determine priority of payment.
- e. If not already done, consider giving permissive notice to unsecured creditors. If doing so, follow Item 55b(1)–(5) of this Checkplan before returning to this Item 67e.
- f. If executor or administrator has a claim against D's estate, it must be verified and filed within six months after date of qualification (Item 48 of SDL), or claim will be barred.
- g. If executor or administrator desires to pay a claim that is not barred and has not yet been presented to the executor or administrator or deposited with clerk of court, and if executor or administrator desires to ensure that the claim will be presented, do the following:
 - (1) Prepare Authenticated Unsecured Claim (Form 58) for each claimant designated by D's executor or administrator.
 - (2) Prepare and send Letter 75 to claimant's attorney, together with appropriate copies of the Authenticated Unsecured Claim (Form 58).

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- h. For each claim timely presented to D's executor or administrator or deposited with clerk of court, do the following:
- (1) Determine the date it was presented, enter on Worksheet 13 and as Item 77a of SDL, and, if a dependent administration, calculate Item 77b of SDL and enter on Worksheet 13.
 - (2) Compare amount of claim with records of executor or administrator and verify amount.
 - (3) Review claim for proper content, form, execution, and verification.
 - (4) Determine whether secured creditor elected to have claim approved as a matured secured claim or as a preferred debt and lien and enter on Worksheet 13.
Note: If election was made late or if no election was made, claim automatically will be preferred debt and lien.
Note: If this is an independent administration, a creditor with a lien on real estate also must have recorded in the deed records of the county in which the real property is located notice of the creditor's election to have the claim regarded as a matured secured claim.
- i. If executor or administrator desires to **allow** the payment of a claim that has been timely presented to D's executor or administrator or deposited with clerk of court, do the following:
- (1) If claim is for proper amount and is in proper form, arrange to have it allowed by executor or administrator within thirty days after claim was presented or deposited.
 - (a) Prepare Allowance of Claim (Form 123), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Allowance of Claim (Form 123) and attachments.
Note: This form must be prepared for the signature of and actually be signed by an executor or administrator.
 - (b) On allowance by executor or administrator, enter date of allowance as Item 77c of SDL and make entry on Worksheet 13. If an independent administration, arrange for payment to be made unless claim was filed as a secured debt and lien.

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	NA	L	S	DATE	INITIALS
(c) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of Allowance of Claim (Form 124), attach the properly signed Allowance of Claim (Form 123) (with original claim), and file with clerk of court. Enter date of filing as Item 77d of SDL and on Worksheet 13.					
(d) Mail the creditor a copy of Allowance of Claim (Form 123) and, if applicable, the Memorandum of Allowance of Claim (Form 124) filed with clerk of court.					
<i>Note:</i> The following steps (2) and (3) are inapplicable in an independent administration.					
(2) On approval of claim by court, enter date of approval as Item 77e of SDL and make entry on Worksheet 13, advise executor or administrator of approval, and arrange for payment to be made unless claim was filed as a secured debt and lien.					
(3) If claim was allowed by executor or administrator but disapproved by court, enter date of disapproval as Item 77i of SDL and make entry on Worksheet 13.					
j. If executor or administrator desires to reject (disallow) a claim that is in proper form and that has been timely presented to D's executor or administrator or deposited with clerk of court, do the following within thirty days after claim was presented or deposited: <i>Note:</i> If the claim is not in proper form (e.g., insufficient exhibits or not properly authenticated), skip to Item 67k of this Checkplan and instead object to the claim.					
(1) Prepare [Rejection/Partial Rejection] of Claim (Form 125), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Form 125 and attachments. <i>Note:</i> This form must be prepared for the signature of and actually be signed by an executor or administrator.					
(2) On rejection by executor or administrator, enter date of rejection as Item 77f of SDL and make entry on Worksheet 13. Complete Items 77g and 77h of SDL. Conform entry in S/L Date on Worksheet 13 to 77h of SDL if 77h is earlier.					

- (3) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of [Rejection/Partial Rejection] of Claim (Form 126), attach the properly signed [Rejection/Partial Rejection] of Claim (Form 125) (with original claim), and file with clerk of court. Enter date of filing on Worksheet 13.
- k. If executor or administrator desires to **object** to the form of a claim that has been timely presented to D's executor or administrator or deposited with clerk of court, do the following within thirty days after claim was presented or deposited:
- (1) Prepare Objection to Claim (Form 127), attach the claim itself, and arrange for signature by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with two copies of Objection to Claim (Form 127) and attachments.
- Note:* This form must be prepared for the signature of and actually be signed by an executor or administrator.
- (2) On objection by executor or administrator, make entry on Worksheet 13.
- (3) In a dependent administration or, if an independent administration and the creditor presented its claim by deposit with the clerk, prepare Memorandum of Objection to Claim (Form 128), attach the properly signed Objection to Claim (Form 127) (with original claim), and file with clerk of court. Enter date of filing on Worksheet 13.
- (4) Consider mailing the creditor a copy of Objection to Claim (Form 127) and, if applicable, the Memorandum of Objection to Claim (Form 128) filed with clerk of court.
- l. For each unsecured creditor with a claim *not* for money who fails to file suit before the S/L Date on Worksheet 13, change Class on Worksheet 13 to "Barred."
- m. If a secured creditor in preferred debt and lien status seeks to collect a deficiency from the other assets of the estate, prepare and send Letter 125 to the creditor.
- n. In a *dependent* administration, for each unsecured creditor with a claim for money who fails to file suit within the 90-day period shown in Item 77h of SDL, change Class on Worksheet 13 to "Barred."

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OTHER INSURANCE

	NA	L	S	DATE	INITIALS
68. Other Insurance:					
a. For expenses of last illness, obtain all original health, medical, hospitalization, and accident insurance policies insuring D, place them in file folder entitled "Other Insurance," and file claims under the following types of D's insurance policies (see Section 15.0 of MIL):					
(1) Health, medical, and hospitalization					
(2) Medicare					
(3) Accident (including automobile and travel clubs)					
(4) Fire, casualty, liability, etc.					
b. Analyze D's policies, especially health policies, to determine whether any policies provide for payment of death benefits, medical expenses, or funeral expenses.					
c. Inquire as to circumstances of D's death to determine if worker's compensation or accidental death benefits may be payable.					
d. Advise D's family members to convert or replace D's medical, hospitalization, and other insurance.					
69. Dealing with D's accident insurance policies (see Section 15.0 of MIL). Do the following:					
a. Locate policy and review. Place in file folder entitled "Other Insurance."					
b. Inquire as to circumstances of D's death to determine if accidental death benefits may be payable. If so, file appropriate claims.					
c. Determine if D paid any of the premiums of these policies within three years of death.					
d. If death benefits are payable, refer to Section 13.0 of MIL and Item 7 of this Checkplan.					
70. Dealing with D's homeowner's and personal property insurance policies, fire and extended coverage insurance policy, liability insurance policy, and automobile insurance policy (see Section 15.0 of MIL). See Special Instruction 92—Duty to Insure. Do the following:					
a. Determine whether client informed each insurance agent of D's date of death or appointment of personal representative.					

	NA	L	S	DATE	INITIALS
b. Determine whether client asked each insurance agent for declarations page of each policy in which D had an interest, tasks and deadlines to keep each policy in force, and list of any coverage changes needed immediately.					
c. Determine whether client has been added as a named insured to D's homeowner's and other insurance policies.					
d. If requested by client, send Letter 130 to each insurance agent. <i>Note:</i> In the smallest, simplest estates, it may be unreasonable to use an attorney for this task.					
e. Locate policies and each insurance agent's responses, and review. Complete and correct Section 15.0 of MIL for each policy.					
f. If there is separately scheduled (listed) personal property on homeowner's and personal property insurance policies, make copy of list of property and place copy and policy in file folder entitled "Other Insurance."					
g. Determine if any benefits are payable under any policy. If so, file appropriate claims.					
h. Determine whether to terminate coverage. If so, collect unearned premium and list amount as an account receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refund into estate account.					
(2) If MT, SE, or PDH, distribute refund to appropriate heirs and beneficiaries.					
i. Determine adequacy of coverage. If there is no coverage or existing coverage is inadequate, do the following:					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled "Other Insurance."					
j. Obtain endorsements to transfer existing coverage to estate or to persons who inherited this property. When received, place in file folder entitled "Other Insurance."					
71. Dealing with D's health and medical insurance policies (see Section 15.0 of MIL). Do the following:					
a. Locate policies and review. Place in file folder entitled "Other Insurance."					
b. Advise D's agent of fact and date of D's death.					
c. Determine if any benefits, including death benefits, are payable under these policies. If so, file appropriate claims.					

	NA	L	S	DATE	INITIALS
d. Determine whether to terminate coverage. If so, collect unearned premiums and list amounts as accounts receivable in Section 12.0 of MIL.					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, deposit refunds into estate account.					
(2) If MT, SE, or PDH, distribute refunds to appropriate heirs and beneficiaries.					
e. Determine if policy covers other members of D's family and consult with them regarding continuance of coverage. <i>Note:</i> Under the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law 99-272 ("COBRA"), many employers are required to permit D's surviving spouse and certain other dependents to continue coverage under D's group health plan.					
(1) Determine kind and amount of coverage needed.					
(2) Obtain required insurance. When received, place in file folder entitled "Other Insurance."					
(3) Be sure this coverage is paid for by those family members.					
72. Determine whether to obtain other necessary insurance coverage for assets and general public liability insurance coverage for estate, executors, administrator, beneficiaries, or clients, and take appropriate action. See Special Instruction 92—Duty to Insure. Do the following:					
a. Review D's will, contracts (construction, mortgage, lease), marital agreements and orders (prenuptial, postnuptial, temporary orders, final decree, agreement incident to divorce), and ongoing activities (professional practice, unincorporated business, employees), discuss with client, and assess estate's insurance needs.					
(1) Identify estate's assets and activities.					
(2) Determine whether any of estate's assets and activities are prohibited or restricted by will or statute.					
(3) Determine D's contractual or judicial insurance and indemnity obligations.					
(4) Determine whether there are others with insurable interests in estate property (homesteader or life tenant, remainderman, landlord, tenant).					
(5) Determine whether executor or administrator has full or limited power to manage all.					
(6) Determine whether power to insure is granted or restricted.					

	NA	L	S	DATE	INITIALS
(7) Determine court orders, if any, necessary to insure estate.					
(8) Determine whether diversification of estate's assets is required, limited, or prohibited.					
(9) Determine anticipated distribution plan for estate assets.					
(10) Determine timetable for finalizing investment or distribution plan.					
b. Determine whether executor or administrator will consult insurance analyst or risk manager.					
(1) Review any insurance analysis contract.					
(2) If client engages insurance analyst or risk manager, place contract in file folder entitled "Other Insurance."					
c. When new policies are received, place in file folder entitled "Other Insurance."					

73. - 75. (Reserved)

CASH

76. If D had **checking** or **savings accounts, certificates of deposit, undeposited checks, or currency**, do the following:

- a. See Special Instruction 20—Cash Items.

Note: If D was a lawyer, as shown at Item 1.28 of MIL, also see Special Instruction 78—Death of a Lawyer and Item 76u in this Checkplan.

- b. Investigate all accounts and certificates of deposit to ensure full coverage under FDIC or other government insurance.
- c. Obtain D’s check register and canceled checks, deposit slips, and bank statements for the month before, the month of, and the month following D’s death and also all certificates of deposit and passbooks for savings accounts. Place in file folder entitled “Cash.”
- d. If D had certificate of deposit, enter maturity date in office reminder system to determine whether to renew or to collect the proceeds at maturity. If certificate is to be redeemed before maturity, see Special Instruction 20—Cash Items.
- e. If there is more than one account and/or certificate of deposit, prepare Worksheet 3 and place in file folder entitled “Cash.”
- f. If D was married, prepare and send Letter 28 to each bank, savings and loan association, or credit union where either D or D’s spouse maintained an account, certificate of deposit, safe deposit box, or loan in either or both of their names.
- g. If D was not married, prepare and send Letter 29 to each bank, savings and loan association, and credit union where D maintained an account, certificate of deposit, safe deposit box, or loan.
- Note:* Letter 28 and Letter 29 follow similar IRS requests sent to account custodians on audit of the estate tax return. If the IRS is going to have the information, you should too. These letters reach probate and nonprobate assets, both of which are required to complete estate tax returns and basis calculations and may be liable for claims of creditors.
- h. Make photocopies of all checks payable to D or D’s spouse that were undeposited on the date of D’s death, list in Section 11.0 of MIL, and place copies in file folder entitled “Cash.”
- i. Make photocopies of all traveler’s checks belonging to D or D’s spouse, list in Section 11.0 of MIL, and place copies in file folder entitled “Cash.”

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j. List currency in possession of D and D's spouse in Section 11.0 of MIL.					
k. Complete Section 11.0 of MIL.					
l. Prepare Worksheet 4 for each of D's checking accounts to reconcile D's records and checks outstanding at D's death to balance furnished by bank (see Special Instruction 20—Cash Items). Place Worksheet 4 for each account in file folder entitled "Cash."					
m. If not certain whether D had an account at a particular bank or credit union, prepare and send Letter 30 to each of them you have reason to believe should be contacted to determine the possible existence of such an account. If account exists, take actions indicated in this Item 76 of this Checkplan.					
n. Determine if each cash item was community property or D's separate property.					
o. Consider transferring community interest in cash to D's surviving spouse.					
p. If name of account should be changed to eliminate D's name, take appropriate action.					
q. If account will continue and D's Social Security number was applicable to the account or certificate, take appropriate action to substitute the Social Security number of the successor to that account. This is particularly helpful if the surviving spouse becomes the owner of all the funds.					
r. Determine if there are any preauthorized withdrawals or automatic bank drafts for any of D's accounts and, if so, whether to terminate them.					
s. Evaluate cash requirements and arrange for funds necessary to pay debts, taxes, and expenses of administration (see Worksheet 10).					
t. As responses are received, place in file folder entitled "Cash." As these steps are completed, be sure to enter that information on Worksheet 3.					
u. If D was a lawyer with a trust, escrow, or IOLTA account and it is necessary to gain access to such an account, do the following:					
(1) Determine whether executor or administrator is a duly licensed Texas lawyer in good standing.					
(2) If so, prepare Statement Pursuant to Chapter 456 of the Texas Estates Code (Form 129) and Letter 126 and arrange to have signed by executor or administrator.					

- (3) If not, determine identity of lawyer who will undertake to handle application of funds, prepare Agreement Pursuant to Chapter 456 of the Texas Estates Code (Form 130), and arrange to have signed by executor or administrator and designated lawyer. Prepare Letter 126 and arrange to have signed by designated lawyer.
- (4) Send Letter 126 to each institution holding funds, together with a signed copy of Statement (Form 129) or Agreement (Form 130); a copy of Estates Code, Chapter 456 (Form 131); a certified copy of D's death certificate; current original letters testamentary or letters of administration; and proof that lawyer is in good standing.

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SUBCHAPTER S CORPORATIONS

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77. Determine if D owned stock in a Subchapter S corporation (see Item 10.80 of MIL). If so, do the following:					
a. See Special Instruction 70—Subchapter S Corporations.					
b. Determine if stock was community property or D's separate property.					
c. Consider transferring community interest to D's surviving spouse.					
d. Enter date of fiscal year end for Subchapter S Corporation as Item 10.12 of MIL and as Item 57 of SDL and complete Item 58 of SDL.					
e. Review shareholder agreements to determine if there is an obligation to continue the election.					
f. Determine whether to continue or revoke the election. Complete Item 10.81 of MIL.					
g. If the election is to be revoked by action of a majority interest of the shareholders and D's shares are to be included in the revocation, do the following:					
(1) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, for each corporation for which the election will be terminated, arrange for executor or administrator to join in the revocation. Place copies in file folder entitled "Securities."					
(2) If MT, SE, or PDH, for each corporation for which the election will be terminated, arrange for signature by person(s) receiving the stock to join in the revocation. Place copies in file folder entitled "Securities."					
h. Determine amount of income, loss, deductions, and credits attributed to D's stock for the period before D's death as prorated on a daily basis and enter as Item 10.82 of MIL. <i>Note:</i> These items for the remainder of the corporation's fiscal year will be taxable to D's estate or to the person(s) acquiring D's stock. Any of D's undistributed "previously taxed income" remaining in the corporation at D's death will lose its right to nondividend treatment.					
i. See Special Instruction 40—Section 303 Redemption and determine whether D's estate is eligible under IRC Section 303 for redemption and special treatment.					

- j. See Special Instruction 98—Corporate Transparency Act and determine whether a report should be made to Financial Crimes Enforcement Network.

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D'S LIFETIME TAX LIABILITIES

78. **Handling D's lifetime tax liabilities.** Letter 3 and the other representation letters in this System disclaim responsibility for gift and income tax returns and suggest the client use a certified public accountant. However, Letter 3 commits the lawyer to determining the nature and amount of the liabilities of the estate, which includes D's lifetime tax liabilities.

Although addressed to the lawyer preparing income tax returns, this Item 78 is as much for the lawyer reviewing another preparer's work.

Do the following:

- a. See IRS Publication 559, *Survivors, Executors, and Administrators*, for examples of completed forms.
- b. See Special Instruction 21—Helpful Publications Relating to Federal Tax Matters.
- c. If D died between January 1 and April 15, complete Items 59 and 60 of SDL and be sure that D's **income tax return**, prepared on IRS Form 1040 (form not provided in this System) for the prior calendar year, has been filed and the tax paid by April 15 of year of D's death.
 - (1) If tax return cannot be filed by April 15 of year of D's death, do the following:
 - (a) Determine approximate amount of tax due.
 - (b) Prepare Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System).
 - (c) Arrange for signature by D's surviving spouse, executor or administrator, client, or distributee, or by preparer of return.
 - (d) File Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System) with, and pay tax to, IRS by April 15.
 - (e) Enter extended due date as Item 60a of SDL.
 - (2) File the return and pay balance of tax due, if any, within the period of the extension.
 - (3) Place copies in file folder entitled "Income Tax Returns."

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(4) When finally determined, enter D's share of total income tax liability as Item 26.10 of MIL or D's share of total refund as Item 12.05 of MIL.					
d. Determine whether to continue payments of estimated income tax on IRS Form 1040-ES (form not provided in this System), since D's death is not an exception to the penalty for underpayment of those taxes. <i>Note:</i> After D's death, the surviving spouse should continue to make the required payments out of funds of that spouse rather than from funds from D's estate. This will avoid a possible inadvertent distribution of estate funds and income. If no other funds are available, consider a loan.					
(1) Enter due dates in office reminder system.					
(2) File declaration with, and pay tax to, IRS by each due date. No transmittal letter is required.					
(3) Place copies in file folder entitled "Income Tax Returns."					
e. Consider making contributions to IRA account for D and D's spouse for the year of D's death.					
f. Determine if D engaged in activities that generated passive activity losses . If so, do the following:					
(1) Determine if D had suspended losses from a passive activity. If so, do the following:					
(a) Determine D's adjusted basis in the asset immediately before D's death and subtract that amount from the fair market value of the asset on the date of D's death.					
(b) Determine amount of suspended losses as shown on D's income tax return(s).					
(2) Claim the smaller of the two amounts of the suspended loss on D's final income tax return.					
g. Prepare and file D's final federal income tax return on IRS Form 1040 (form not provided in this System) for D's income from January 1 through the date of D's death in the calendar year during which D died. The return must be filed and the taxes paid by April 15 of the calendar year following D's death.					
(1) Review D's records for year of death for information required for D's final income tax return.					

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(2) If estimated tax payments had been made by D and D's spouse for calendar year of D's death, consider revising amounts to be paid by D's spouse by revising and filing IRS Form 1040-ES (form not provided in this System). Enter payment dates in office reminder system. Place copy in file folder entitled "Income Tax Returns."					
(3) If tax return cannot be filed by April 15 of the calendar year following D's death, do the following:					
(a) Determine approximate amount of tax due.					
(b) Prepare Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System).					
(c) Arrange for signature by D's surviving spouse, executor or administrator, client, or distributee, or by preparer of return.					
(d) File Application for Automatic Extension of Time to File U.S. Individual Income Tax Return on IRS Form 4868 (form not provided in this System) with, and pay tax to, IRS by April 15.					
(4) Enter extended date as Item 60a of SDL.					
(5) Determine if D or D's spouse had capital loss carryovers. If so, consider selling appreciated property owned by D's surviving spouse and then filing a joint return.					
(6) Determine if D had net operating losses in excess of the combined ordinary income of D and D's spouse. If so <i>and</i> if the fiscal year of D's estate closes within the taxable year of the spouses, consider making income distributions to D's spouse from D's estate.					
(7) If D's final return is or was a joint return with D's spouse, compute the deduction for D's share of total income tax liability and enter amount as Item 26.10 of MIL.					
(8) File the return and pay the balance of tax due within the period of the extension. <i>Note:</i> It is good practice to file a return for the year of D's death even if no tax is due. If D was not married, it would be appropriate to write "FINAL RETURN" at the top of Page 1 of the return.					
(9) When finally determined, enter D's share of total income tax liability as Item 26.10 of MIL or D's share of total refund as Item 12.05 of MIL.					
(10) Determine whether to request prompt assessment of D's income taxes.					

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(11) Place copies in file folder entitled "Income Tax Returns."					
h. If unable to locate copies of D's income tax returns for the three years before death, consider requesting transcripts or copies from IRS. See Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities and do the following:					
(1) Determine the address used on the return(s), whether D filed separately or jointly for the year(s) in question, and the Internal Revenue Service Center(s) where filed.					
(2) If requesting transcripts only , prepare IRS Form 4506-T, Request for Transcript of Tax Return (FF 5). The form is available online at www.irs.gov (click on "Order Transcript"). <i>Note:</i> If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain transcripts and there is no executor or administrator.					
(a) Arrange for IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), to be signed by proper person.					
(b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.					
(c) When signed copy of IRS Form 4506-T, Request for Transcript of Tax Return (FF 5), has been returned and all attachments have been obtained, send to the Internal Revenue Service Center. No cover letter is required.					
(d) On receipt of transcripts from the IRS, place in file folder entitled "Income Tax Returns."					

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(3) If requesting copies of tax forms, prepare IRS Form 4506, Request for Copy of Tax Return (FF 1). The form is available online at www.irs.gov/pub/irs-pdf/f4506.pdf. <i>Note:</i> If D's surviving spouse was a joint filer with D for the tax year(s) in question, the form may be signed by that spouse. If D was not married and/or if D did not have the same spouse for the tax year(s) in question, the form must be signed by the personal representatives and letters testamentary or letters of administration must be attached. Contact the IRS for alternate instructions if you are trying to obtain copies of returns and there is no executor or administrator.					
(a) Arrange to have IRS Form 4506, Request for Copy of Tax Return (FF 1), signed by proper person.					
(b) If required, obtain letters testamentary or letters of administration. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.					
(c) When signed copy of IRS Form 4506, Request for Copy of Tax Return (FF 1), has been returned and all attachments have been obtained, determine correct charge, arrange for payment, charge client's account, and send to the Internal Revenue Service Center. No cover letter is required.					
(d) On receipt of copies of tax returns from the IRS, place in file folder entitled "Income Tax Returns."					
(4) Determine if D had not filed income tax returns for prior year(s) and, if not, arrange for missing returns to be prepared. <i>Note:</i> Old tax forms are at www.irs.gov/forms-instructions and www.unclefed.com.					
i. Determine if D was liable for filing a gift tax return for unreported gifts. If so, prepare and file IRS Form 709, United States Gift Tax Return (form not provided in this System), pay tax due, and enter the amount as Item 26.52 of MIL. <i>Note:</i> D's gift tax returns must be filed no later than the date for filing D's federal estate tax return.					
(1) Determine if any gift tax returns are presently under audit.					

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(2) If unable to determine if D ever filed gift tax returns or if all returns cannot be located, and if executor, administrator, client, heir, beneficiary, or distributee has even the slightest grounds for believing such returns may have been filed, request copies of D's gift tax returns filed for periods after December 31, 1975, to avoid personal liability when relying on returns obtained from IRS. IRS Form 4506, Request for Copy of Tax Return (FF 1), may be modified and used for this purpose. <i>Note:</i> It is not wise to file the federal estate tax return before investigating the existence of and then reviewing all of D's gift tax returns.					
(3) If gifts were made to third parties by D's surviving spouse before D's death, consider making election to split those gifts.					
(4) Determine whether to request prompt assessment of gift taxes.					
(5) Place copies of <i>all</i> gift tax returns in file folder entitled "Gift Tax Returns."					
j. Determine if D was liable for filing employer quarterly tax returns . If so, prepare and file final return on IRS Form 941, Employer's Quarterly Federal Tax Return (form not provided in this System), pay tax due, and enter the amount as Item 26.51 of MIL. Place copy of return(s) in file folder entitled "Other Tax Returns."					
k. Pay particular attention to the following items:					
(1) Medical expenses unpaid on date of D's death may be deducted as medical expenses on D's income tax return for the year in which paid or as a debt on federal estate tax return (see Special Instruction 22—Federal Tax Elections and Deductions).					
(2) Accrued interest from U.S. Series E and EE bonds may be reported as income on D's final income tax return.					
(3) A joint income tax return may be filed for D and D's surviving spouse (see Special Instruction 9—Surviving Spouse's Federal Income Tax Elections).					
(4) D's capital losses and net operating losses expire in the year of D's final income tax return. Determine whether to increase income on a joint return in the final year to absorb any such losses.					

- l. See Special Instruction 3—Income Tax Returns Can Lead You to Assets and Liabilities and review D's income tax returns for the three years before D's death to determine nature of business and itemized deductions and income from businesses and investments, that all income taxes have been paid, if any returns are presently under audit, if claims for refund are pending or should be filed, and if there are unused loss carryovers.
- m. Determine whether to notify IRS of change of address for D. If so, do the following:
 - (1) Determine new address (such as the address of the executor, administrator, surviving spouse, or other person to whom IRS notices should be sent).
 - (2) Complete IRS Form 8822, Change of Address (FF 13).
 - (3) Arrange to have IRS Form 8822, Change of Address (FF 13), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
 - (4) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).
- n. If any executor or administrator has a change of address, do the following:
 - (1) Complete IRS Form 8822, Change of Address (FF 13), to report a change of address for any executor or administrator.
 - (2) Arrange to have IRS Form 8822, Change of Address (FF 13), signed by an executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 8822, Change of Address (FF 13).
 - (3) Prepare and send Letter 31 to IRS, together with completed IRS Form 8822, Change of Address (FF 13).
- o. Determine if D owned a **partnership** interest in which the **tax basis** of D's interest should be **adjusted** under IRC Section 743 (see Item 16.53 of MIL). If so, see that the partnership makes the election under IRC Section 754 for the taxable year of the partnership during which D's death occurred. Place copy in file folder entitled "Partnerships, Trusts, and Other Unincorporated Businesses."

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INCOME TAX RETURNS FOR ESTATE

Note: Item 79 of this Checkplan does not apply to MT, SE, or PDH proceedings.

79. **Fiduciary income tax returns.** In any fiscal year in which any beneficiary is a nonresident alien or D's estate has gross income of \$600 or more, IRS Form 1041, U.S. Income Tax Return for Estates and Trusts (form not provided in this System) must be prepared and filed.
- a. See Special Instruction 21—Helpful Publications Relating to Federal Tax Matters, Special Instruction 22—Federal Tax Elections and Deductions, Special Instruction 19—Fiscal Years, and Special Instruction 74—Income Taxation of Estate.
 - b. Advise client to ensure that IRS Form 1041, U.S. Income Tax Return for Estates and Trusts (form not provided in this System), is prepared and filed.
 - c. If D's estate will not be closed before the end of the second fiscal year, advise client to ensure that IRS Form 1041-ES (form not provided in this System) for D's estate and appropriate vouchers for each fiscal year thereafter are prepared.
 - d. If any executor or administrator has a change of address, ensure that executor or administrator files IRS Form 8822, Change of Address (FF 13).

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VALUATION

80. Begin **valuation** of all assets (see Special Instruction 24—General Rules for Valuation of Assets).

- a. Obtain valuation of assets on date of D's death (Item 1.07 of MIL).
- b. Obtain valuation of each asset on alternate valuation date (Item 26.22 of MIL) or on date asset was sold or distributed if before regular alternate valuation date.
- c. Consider the impact of valuations on marital and charitable deductions and on estate tax liability in general.

Note: Alternate valuation is not necessary, and its election will not be recognized for federal tax purposes unless IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, must be filed and not then unless it results in a decrease in the value of the gross estate and a decrease in the amount of taxes due.

- d. Obtain written appraisals of real estate, closely held businesses, vehicles, and valuable items of personal property. When received, place in file folders entitled "Real Estate," "Securities," "Partnerships, Trusts, and Other Unincorporated Businesses," and "Personal Property" as applicable.

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DISCLAIMERS

81. **Disclaimers** (see Special Instruction 25—Disclaimers).

NOTE: DISCLAIMERS ARE NOT NORMALLY USED IN CONNECTION WITH MUNIMENT OF TITLE OR SMALL ESTATE PROCEEDINGS OR IN PROCEEDINGS TO DECLARE HEIRSHIP. IN THOSE SITUATIONS, IF YOU PROPOSE FOR SOMEONE TO DISCLAIM AN INTEREST IN PROPERTY, MAKE APPROPRIATE ADJUSTMENTS TO THE ITEMS IN THIS SECTION.

NOTE: THE PROCEDURES IN THIS SYSTEM APPLY ONLY TO THE COMPLETE DISCLAIMER BY AN ADULT OF ALL PRESENT RIGHTS IN AN ESTATE WITH NO PROPERTY LOCATED OUTSIDE THE STATE OF TEXAS. In other situations (e.g., the disclaimer of nonprobate assets), the procedures will have to be modified significantly.

- a. If it has been determined that a disclaimer will be made by any heir or beneficiary, prepare Disclaimer (Form 23) for each person disclaiming an interest.
- b. Prepare and send Letter 34 to each person disclaiming an interest, together with original and two copies of Disclaimer (Form 23).
Note: For a tax-qualified disclaimer, the heir or beneficiary must deliver the disclaimer within nine months after D's death.
- c. On receipt of properly signed and acknowledged Disclaimer (Form 23), furnish a copy of the Disclaimer (Form 23) to each executor or administrator. If mailing, prepare and send Letter 35 to each executor or administrator, together with a copy of the Disclaimer (Form 23).

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REAL ESTATE

82. If D owned **real estate**, do the following:

- a. See Special Instruction 26—Real Estate.
- b. Obtain copies of and review deeds, contracts for deeds, title policies, plats, appraisals, mortgages, leases, tax statements and receipts, division orders, and other documents relating to each tract of land owned or being purchased by D or D's spouse. Place in file folder entitled "Real Estate."
- c. Complete Section 7.0 of MIL.
- d. Determine if there was a contract for the purchase or sale of any real estate pending on date of D's death.
- e. Obtain appraisal of each tract as of date of D's death, with improvements valued separately from the land. Place in file folder entitled "Real Estate."
- f. Obtain copies of royalty stubs and other statements for producing mineral interests covering payments made during twelve months before D's death, prepare calculation of value of each producing mineral interest (Worksheet 7), complete Items 7.15, 7.16, and 7.104 of MIL, and place in file folder entitled "Real Estate."
- g. If property was leased, prepare and send Letter 36 to each tenant to notify of the place and manner of making payments.
- h. If D lived alone, see Item 63 of this Checkplan and take appropriate action.
- i. If improved property becomes vacant, contact insurance agent and obtain vacancy endorsement. When received, place in file folder entitled "Other Insurance."
- j. Determine if D had claimed the ad valorem tax homestead exemption for all applicable years and, if not, take appropriate action through the appraisal district in the county where D's homestead is located.
- k. Determine if D's spouse is eligible for homestead exemption and, if so, take appropriate action with all taxing jurisdictions.

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l. Prepare and send Letter 37 to the central appraisal district for each tract. <i>Note:</i> Almost all property is subject to taxation by the county and by a school district and may also be subject to taxation by water districts and other special jurisdictions. The central appraisal district and the county tax assessor can tell you which other jurisdictions are taxing the particular property.					
m. Update account information with each taxing jurisdiction.					
n. If payment status of ad valorem taxes is unknown for prior years, obtain tax certificates from each taxing jurisdiction. If there are any delinquent taxes, enter amount as Items 26.46 and 26.47 of MIL and arrange for payment. When certificates are received, place in file folder entitled “Real Estate.”					
o. If D’s estate is likely to exceed the federal exclusion amount (Item 26.21 of MIL) (see Special Instruction 80—Federal Estate Tax), obtain reappraisal of each tract as of alternate valuation date (Item 26.22 of MIL). Place in file folder entitled “Real Estate.”					
p. If D owned real estate in a county in Texas <i>other than</i> county of probate, be sure to complete Item 200 of this Checkplan.					
q. Determine whether each tract was community property or D’s separate property.					
r. Consider conveying community interest in real estate to D’s surviving spouse.					
s. If property is to be sold before obtaining full release of estate tax liens, it may be necessary to obtain a release of those liens. If so, obtain and file IRS Form 4422, Application for Certificate Discharging Property Subject to Estate Tax Lien (form not provided in this System). <i>Note:</i> Release will be given only when necessary (usually to raise funds to pay debts, expenses, and taxes) and then only for a specific tract.					
t. Determine whether any tract will qualify for and whether to elect special use valuation for federal estate tax (see Special Instruction 27—Special Use Valuation for Certain Real Estate). If so, do the following:					
(1) Consider the effect on the marital and charitable deductions and on the estate tax liability in general.					
(2) Obtain necessary appraisal.					
(3) Obtain consent of all necessary parties.					
(4) Prepare required statements.					

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u. If D owned real estate outside Texas, do the following:					
(1) Arrange for out-of-state attorney to handle necessary administration (“ancillary administration”) in each state and foreign country.					
(2) If necessary, see that ancillary administrator is appointed and qualifies in each state and foreign country.					
(3) See that all death taxes are paid for each state and foreign country. If paid to a foreign country and if IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, will be filed, complete Schedule P of that return and IRS Form 706-CE, Certificate of Payment of Foreign Death Tax (form not provided in this System).					
(4) See that ancillary administrator files a separate IRS Form 1041, U.S. Income Tax Return for Estates and Trusts (form not provided in this System), with the Internal Revenue Service office for that state with respect to income of D’s estate that is attributable to property being so administered.					
(5) See that title to the property is vested in rightful owners.					
v. If D or D’s spouse was purchasing any real estate pursuant to a contract for deed, complete Items 7.171 through 7.187 of MIL and place a copy of the contract in file folder entitled “Real Estate.”					
83. If real estate is to be sold by private sale during administration, and if Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court, but power of sale of real property is not specified in D’s will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:					
a. See Special Instruction 47—Sale of Real Property during Administration.					
b. Complete Item 21.34 of MIL. If D received Medicaid benefits, do the following:					
(1) Obtain Texas Medicaid Estate Recovery Program (MERP) Authorization and MERP Certification form (FF 17) at www.hhs.texas.gov/sites/default/files/documents/services/aging/txmerpcertification_form.pdf . See Special Instruction 100—Needs-Based Benefits.					
(2) Complete applicable portions of MERP form (FF 17).					
(3) Arrange for an heir or beneficiary to sign MERP form (FF 17). If mailing, prepare and send Letter 120 to that person, together with two copies of the MERP form (FF 17).					

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(4) When signed MERP form (FF 17) is received, repeat if there is a second heir or beneficiary who will sign.					
(5) When signed MERP form (FF 17) is received, forward to MERP as directed on form. If mailing, prepare and send Letter 121, together with signed copy of MERP form (FF 17).					
(6) When completed MERP form (FF 17) is received from MERP, copy it, redact D's identifying number(s) from the original for use in evidence, and place original in file folder entitled "Court Proceedings."					
(7) Complete Item 21.35 of MIL.					
c. Prepare Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Real Property (Form 42).					
d. Determine amount of filing fee, arrange for payment, and charge to client's account.					
e. File Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Real Property (Form 42) with clerk of court.					
f. Determine if court hearing is required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(3) Attend hearing, present proof necessary for court's approval, and have Order of Sale of Real Property (Form 42) signed by judge.					
g. If hearing will not be required, determine date judge signed Order of Sale of Real Property (Form 42) and obtain certified copy of order (Form 42) and of Application for Sale of Real Property (Form 39).					
h. Determine if existing general bond is sufficient and, if not, obtain an additional bond in the amount indicated by the court.					
i. Enter date Order of Sale of Real Property (Form 42) was signed as Item 65b of SDL and Item 6.107 of MIL.					

	NA	L	S	DATE	INITIALS
j. Conclude sale or finalize contract for sale and enter date as Item 65c of SDL and Item 6.108 of MIL. Complete Item 65d of SDL.					
k. Prepare Report of [Contract for] Sale of Real Property (Form 43).					
l. Arrange for executor or administrator to sign and swear to Report of [Contract for] Sale of Real Property (Form 43). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Report of [Contract for] Sale of Real Property (Form 43).					
m. File Report of [Contract for] Sale of Real Property (Form 43) with clerk of court.					
n. Determine date of filing Report of [Contract for] Sale of Real Property (Form 43), enter as Item 65e of SDL, and complete Items 65f and 65g of SDL and Item 6.110 of MIL.					
o. Prepare Order [Confirming/Approving] Sale of Real Property (Form 44).					
p. File Order [Confirming/Approving] Sale of Real Property (Form 44) with clerk of court.					
q. Determine date judge signed Order [Confirming/Approving] Sale of Real Property (Form 44) and enter as Item 65h of SDL and Item 6.116 of MIL.					
r. Prepare Deed (Form 45) and arrange for signature and acknowledgment by executor or administrator. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Deed (Form 45). If sale was on terms, prepare note(s) and deed of trust (forms not provided in this System).					
s. Obtain certified copy of Report of Sale (Form 43) and Order [Confirming/Approving] Sale of Real Property (Form 44).					
t. Deliver or mail certified copies of Application for Sale of Real Property (Form 39), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Real Property (Form 42), Report of [Contract for] Sale of Real Property (Form 43), Order [Confirming/Approving] Sale of Real Property (Form 44), and Deed (Form 45) to title company and to attorney representing purchaser.					
u. If proof of absence of debts or unpaid taxes is required by purchaser or title company, prepare Affidavit Regarding Debts and Taxes (Form 37). Arrange for signature by affiant and for proper delivery.					
v. Close sale of property, collect proceeds, and complete Item 65i of SDL.					

- w. If sale is not consummated, prepare and file Application to Set Aside Report of [Contract for] Sale and Order [Confirming/Approving] Sale and the proposed Order thereon (Form 46) and follow local rules of procedure concerning hearings.

Note: Public sales are not covered by this System.

84. If **property** is to be **leased for mineral exploration** or development through private negotiations, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by the court, but power to lease is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:

- a. See Special Instruction 53—Mineral Leases.
- b. Prepare Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56).
- c. Determine amount of filing fee, arrange for payment, and charge to client's account.
- d. File Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56) with clerk of court, enter date of filing as Item 66a of SDL, and complete Items 66b and 66c of SDL.
- e. Obtain date and time for hearing; enter as Item 66d of SDL; determine method of appearance for the hearing; and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). Notify executor or administrator of date and time of hearing and the method of appearance before the court.
- f. Prepare Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57).
- g. Attend hearing and do the following:
 - (1) Take original Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) to the hearing.
 - (2) Present proof necessary for court's approval of lease of property and have Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) signed by judge.
- h. Determine if existing general bond is sufficient and, if not, obtain an additional bond in the amount indicated by court.

NA	L	S	DATE	INITIALS

- i. Enter date that Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) was signed as Item 66e of SDL and Item 6.123 of MIL. Complete Item 66f of SDL.

Note: This date is considered for all purposes as the date of the authorized lease if the lease form approved by the court was not dated.

- j. Arrange for executor or administrator to sign and swear to lease. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of lease.

- k. Deliver or mail copies of Application to Lease Property for Mineral Exploration and Development at Private Sale Pursuant to Section 358.101 of the Estates Code (Form 56) and Order Granting Application to Lease Property for Mineral Exploration and Development at Private Sale (Form 57) to proposed mineral lessee.

- l. Deliver lease and other documents, collect fee, and complete Item 66g of SDL.

Note: Public leasing is not covered by this System.

NA	L	S	DATE	INITIALS

SECURITIES

85. If D owned **publicly traded securities**, do the following:
 - a. See Special Instruction 28—Stocks, Bonds, and Other Securities.
 - b. Obtain actual certificates for shares of stock, mutual funds, and bonds that are owned by D or D's spouse, that are in bearer form, or for which the name of D or D's spouse appears as one or more of the registered owners.
 - (1) Determine dates for expiration of puts, calls, and options and dates for payment of interest on coupon bonds and enter into office reminder system.
 - (2) Place in file folder entitled "Securities."
 - c. Obtain most recent statement from each brokerage firm where D or D's spouse maintained an account. Place in file folder entitled "Securities."
 - d. Determine if D participated in a dividend reinvestment program. If so, do the following:
 - (1) Place statements of account in file folder entitled "Securities."
 - (2) Prepare and send Letter 58 to custodian to request information regarding unissued shares and requirements for transfer.
 - e. Determine whether to exercise options, puts, and calls.
 - f. Prepare Worksheet 5 and place in file folder entitled "Securities."
 - g. If D had an account with stockbroker, prepare and send Letter 38 to stockbroker to cancel and settle open orders and accounts. If stockbroker requires the letter to be signed by an executor, administrator, client, heir, beneficiary, or distributee, add appropriate signature line and have signed. If mailing, prepare and send Letter 24 to that person, together with original Letter 38 to stockbroker.

Note: Letter 38 follows similar IRS requests sent to account custodians on audit of the estate tax return. If the IRS is going to have the information, you should too. This letter reaches probate and nonprobate assets, both of which are required to complete estate tax returns and basis calculations and may be liable for claims of creditors.

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	NA	L	S	DATE	INITIALS
h. Determine if there is accrued interest as of the date of D's death or if there are dividends declared before but payable after the date of D's death.					
i. Determine whether each security was community property or D's separate property.					
j. Consider transferring community interest in securities to D's surviving spouse.					
k. Prepare and send Letter 39 to stockbroker to obtain values on date of death.					
l. Complete Section 9.0 of MIL and be sure to obtain Committee on Uniform Security Identification Procedure (CUSIP) number for each security. Determine maturity dates of notes and bonds and payment dates for interest and dividends and enter into office reminder system.					
m. Prepare Letter 40 for each company for which dividend or interest payment address is to be changed.					
n. Arrange for signature by client. If mailing, prepare and send Letter 24 to client, together with original and one copy of Letter 40.					
o. When signed copy of Letter 40 is received from client, forward it to company.					
p. Prepare and send Letter 39 to stockbroker to obtain values on alternate valuation date (Item 26.22 of MIL). When seeking to determine the alternate value, this letter should not be sent until at least six months following the date of death. When answer is received, place in file folder entitled "Securities."					
q. Determine whether each security, including those in a dividend reinvestment program, will be sold, transferred to D's estate, or transferred directly to the beneficiaries under D's will and codicil(s) or to D's heirs or distributees.					
r. Prepare Irrevocable Stock Power (Form 24) for each stock and mutual fund certificate and Irrevocable Bond Power (Form 25) for each bond certificate registered in D's name.					
s. Prepare Affidavit of Domicile (Form 26) for each security registered in D's name.					
t. Prepare IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), for each transferee of each security registered in D's name.					

- u. Prepare and send Letter 42 to executor, administrator, heir, devisee, or distributee, together with all IRS Forms W-9, Request for Taxpayer Identification Number and Certification (FF 15), that are to be signed by that person, original Irrevocable Stock Power (Form 24) and/or Irrevocable Bond Power (Form 25), and Affidavit of Domicile (Form 26), to have signature guaranteed.
- v. Obtain appropriate documents from clerk of court:
- (1) If MT, do the following:
- (a) Order one certified copy of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of copies and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 69.
- (b) Prepare and send by certified or registered mail Letter 68 to transfer agent for each security to be sold or transferred, together with original certificates, certified copies of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32), Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and death certificate.
- (c) Attach mailing receipt to file copy of Letter 68.
- (d) Attach return receipt to file copy of Letter 68.
- (2) If PDH, do the following:
- (a) Order one certified copy of Judgment Declaring Heirship (Form 81) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86.
- (b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and Judgment Declaring Heirship (Form 81).

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- (c) Attach mailing receipt to file copy of Letter 43.
 - (d) Attach return receipt to file copy of Letter 43.
- (3) If SE, do the following:
 - (a) Order one certified copy of Small Estate Affidavit and Order (Form 82) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 89.
 - (b) Prepare and send by certified or registered mail Letter 88 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and Small Estate Affidavit and Order (Form 82).
 - (c) Attach mailing receipt to file copy of Letter 88.
 - (d) Attach return receipt to file copy of Letter 88.
- (4) In all other proceedings (IA, TBA, IBA, ADE, AWA, RDA, AP, and TDA), do the following:
 - (a) Order one copy of letters testamentary or letters of administration (must be dated within sixty days of proposed date of sale or transfer) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.
 - (b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), death certificate, and letters testamentary or letters of administration.
 - (c) Attach mailing receipt to file copy of Letter 43.
 - (d) Attach return receipt to file copy of Letter 43.

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	NA	L	S	DATE	INITIALS
w. On receipt of transferred securities, do the following:					
(1) Verify that correct number of shares has been transferred to each transferee.					
(2) Verify that name of transferee has been properly spelled.					
(3) Verify that transferee's correct Social Security or employer identification number appears on certificate.					
(4) Verify that CUSIP number is the same as for the transferred securities.					
(5) Make a record of the new certificate number(s).					
(6) Prepare and send by certified or registered mail Letter 44 and new certificate(s) to each transferee to forward certificates (or let transferee pick up at office).					
(7) If mailed, attach mailing receipt to file copy of Letter 44.					
(8) If mailed, attach return receipt to copy of Letter 44 signed and returned by transferee.					
(9) When signed copy of Letter 44 is received, substitute for file copy.					
x. As responses are received and other steps are completed, be sure to enter that information on Worksheet 5.					
86. If D owned closely held securities , do the following:					
a. See Special Instruction 28—Stocks, Bonds, and Other Securities.					
b. Complete Section 10.0 of MIL.					
c. Obtain actual certificates for shares of stock and bonds issued by closely held corporations for which the name of D or D's spouse appears as one or more of the registered owners and place in file folder entitled "Securities."					
d. Determine whether to exercise options, puts, and calls.					
e. Prepare Worksheet 5 and place in file folder entitled "Securities."					
f. Determine if there is accrued interest as of the date of D's death or if there are dividends declared before but payable after date of D's death.					
g. Determine whether each security was community property or D's separate property.					
h. Consider transferring community interest in securities to D's surviving spouse.					

- i. If D owned an interest in a closely held corporation, determine if D's estate is eligible under IRC Section 303 for **redemption** and special treatment (see Special Instruction 40—Section 303 Redemption).
- j. If D's estate is likely to exceed the federal exclusion amount (Item 26.21 of MIL) (see Special Instruction 80—Federal Estate Tax), obtain values on alternate valuation date (Item 26.22 of MIL). When obtained, place in file folder entitled "Securities."
- k. Determine whether each security will be sold, transferred to D's estate, or transferred directly to the beneficiaries under D's will and codicil(s) or to D's heirs or distributees.
- l. Prepare Irrevocable Stock Power (Form 24) for each stock certificate and Irrevocable Bond Power (Form 25) for each bond certificate registered in D's name.
- m. Prepare Affidavit of Domicile (Form 26) for each security registered in D's name.
- n. Prepare IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), for each transferee of each security registered in D's name.
- o. Prepare and send Letter 42 to executor, administrator, heir, devisee, or distributee, together with all IRS Forms W-9, Request for Taxpayer Identification Number and Certification (FF 15), that are to be signed by that person, original Irrevocable Stock Power (Form 24) and/or Irrevocable Bond Power (Form 25), and Affidavit of Domicile (Form 26), to have signature guaranteed.
- p. Obtain appropriate documents from clerk of court:
 - (1) If MT, do the following:
 - (a) Order one certified copy of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32) for each *company* whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of copies and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 69.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(b) Prepare and send by certified or registered mail Letter 68 to transfer agent for each security to be sold or transferred, together with original certificates, certified copies of D's will and codicil(s) and Order Admitting Will to Probate As a Muniment of Title (Form 32), Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, and IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15).					
(c) Attach mailing receipt to file copy of Letter 68.					
(d) Attach return receipt to file copy of Letter 68.					
(2) If PDH, do the following:					
(a) Order one certified copy of Judgment Declaring Heirship (Form 81) for each <i>company</i> whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 86.					
(b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and Judgment Declaring Heirship (Form 81).					
(c) Attach mailing receipt to file copy of Letter 43.					
(d) Attach return receipt to file copy of Letter 43.					
(3) If SE, do the following:					
(a) Order one certified copy of Small Estate Affidavit and Order (Form 82) for each <i>company</i> whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine correct charge, arrange for payment, charge to client's account, and prepare and send Letter 89.					

	NA	L	S	DATE	INITIALS
(b) Prepare and send by certified or registered mail Letter 88 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and Small Estate Affidavit and Order (Form 82).					
(c) Attach mailing receipt to file copy of Letter 88.					
(d) Attach return receipt to file copy of Letter 88.					
(4) In all other proceedings (IA, TBA, IBA, ADE, AWA, RDA, AP, and TDA), do the following:					
(a) Order one copy of letters testamentary or letters of administration (must be dated within sixty days of proposed date of sale or transfer) for each <i>company</i> whose securities are to be sold or transferred. Arrange for payment and charge to client's account. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client's account, and prepare and send Letter 2 to clerk of court.					
(b) Prepare and send by certified or registered mail Letter 43 to transfer agent for each security to be sold or transferred, together with original certificates, Irrevocable Stock Power (Form 24) or Irrevocable Bond Power (Form 25), Affidavit of Domicile (Form 26), death certificate, IRS Form W-9, Request for Taxpayer Identification Number and Certification (FF 15), and letters testamentary or letters of administration.					
(c) Attach mailing receipt to file copy of Letter 43.					
(d) Attach return receipt to file copy of Letter 43.					
q. On receipt of transferred securities, do the following:					
(1) Verify that correct number of shares have been transferred to each transferee.					
(2) Verify that name of transferee has been properly spelled.					
(3) Verify that transferee's correct Social Security or employer identification number appears on certificate.					
(4) Make a record of the new certificate number(s).					
(5) Prepare and send by certified or registered mail Letter 44 and new certificate(s) to each transferee to forward certificates (or let transferee pick up at office).					

	NA	L	S	DATE	INITIALS
(6) If mailed, attach mailing receipt to file copy of Letter 44.					
(7) If mailed, attach return receipt to copy of Letter 44 signed and returned by transferee.					
(8) When signed copy of Letter 44 is received, substitute for file copy.					
r. As responses are received and other steps are completed, be sure to enter that information on Worksheet 5.					
s. See Special Instruction 98—Corporate Transparency Act and determine whether a report should be made to Financial Crimes Enforcement Network.					
87. If securities are to be sold by private sale during administration, and if Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by court, but power of sale of securities is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:					
a. See Special Instruction 48—Sale of Personal Property during Administration.					
b. Prepare an Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48).					
c. Determine amount of filing fee, arrange for payment, and charge to client's account.					
d. File Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) with clerk of court.					
e. Determine if court hearing is required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					

	NA	L	S	DATE	INITIALS
(3) Attend hearing, present proof necessary for court's approval, and have Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) signed by judge.					
f. If hearing will not be required, determine date judge signed Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) and obtain certified copy of order.					
g. Enter date Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) was signed as Item 64b of SDL and Item 6.91 of MIL.					
h. Conclude sale or finalize contract for sale and enter date as Item 64c of SDL and Item 6.92 of MIL.					
i. Prepare Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49) and arrange for signature and verification by executor or administrator.					
j. File Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49) with clerk of court.					
k. Determine date of filing Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49), enter as Item 64d of SDL and Item 6.98 of MIL, and complete Items 64e and 64f of SDL.					
l. Prepare Order [Confirming/Approving] Sale of Personal Property (Form 50).					
m. File Order [Confirming/Approving] Sale of Personal Property (Form 50) with clerk of court.					
n. Determine date judge signed Order [Confirming/Approving] Sale of Personal Property (Form 50) and enter as Item 64g of SDL and Item 6.99 of MIL.					
o. Deliver or mail copies of Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48), Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49), and Order [Confirming/Approving] Sale of Personal Property (Form 50) to attorney representing purchaser.					
p. Deliver evidence of title properly endorsed for transfer, along with any other certificate, obtain receipt, and collect proceeds.					
<i>Note:</i> Public sales are not covered by this System.					

88. If D owned U.S. **savings bonds** (see Special Instruction 33—U.S. Government Savings Bonds), complete Section 8.0 of MIL. Place in file folder entitled “Securities.” Further coverage is beyond the scope of this System.

NA	L	S	DATE	INITIALS

INSURANCE ON LIFE OF ANOTHER

89. If D owned an interest in a policy of **insurance on the life of another** (e.g., community property interest owned by deceased husband on life of surviving wife), do the following:
- a. See Special Instruction 30—Insurance Owned by Decedent on Life of Another.
 - b. Obtain and review all such policies, especially policies insuring life of D's spouse and D's children. Place in file folder entitled "Life Insurance."
 - c. Prepare and send Letter 45 to each insurance company that issued a policy on life of another as indicated in Item 14.07 of MIL.
 - d. On receipt of IRS Form 712, Life Insurance Statement (FF 2), from company, complete Section 14.0 of MIL. Place form in file folder entitled "Life Insurance."
 - e. See that premiums are promptly paid so that policies will not lapse.
 - f. Determine whether each policy was community property or D's separate property.
 - g. Transfer ownership of policies to persons entitled to them.
 - h. Change beneficiary if desired.

NA	L	S	DATE	INITIALS

JUDGMENTS, NOTES, ACCOUNTS RECEIVABLE, AND CONTRACTS FOR DEED

90. If D owned **judgments, notes, accounts receivable, or contracts for deed**, do the following:
 - a. See Special Instruction 31—Notes and Accounts Receivable.
 - b. Obtain and review all such judgments, notes, and accounts receivable and complete Section 12.0 of MIL. Place in file folder entitled “Judgments, Notes, Accounts Receivable, and Contracts for Deed.”
 - c. Determine maturity dates and dates on which claims are barred by applicable statutes of limitations and enter in office reminder system.
 - d. Determine whether each item was community property or D’s separate property.
 - e. Determine whether each judgment, note, and account receivable is to be collected or transferred.
 - (1) If judgments, notes, and accounts receivable are to be collected, take appropriate action.
 - (2) If judgments are to be transferred, prepare appropriate documents.
 - (3) If notes are to be transferred, prepare appropriate endorsements.
 - (4) If accounts receivable are to be transferred, prepare appropriate assignments.
 - f. If D or D’s spouse was selling any real estate pursuant to a contract for deed, complete Items 12.30 through 12.45 and Items 12.22 through 12.26 of MIL and place a copy of the contract in file folder entitled “Judgments, Notes, Accounts Receivable, and Contracts for Deed.” If contract is to be assigned, prepare appropriate assignment.
 - g. Prepare and send Letter 46 to each debtor to notify of place to make future payments.

[illegible]

TRANSPORTATION EQUIPMENT

91. If D owned **automobiles** or other transportation equipment, do the following:
- a. See Special Instruction 32—Motor Vehicles.
 - b. Obtain and review each title and description of vehicle and complete Section 17.0 of MIL. Place in file folder entitled “Transportation Equipment.”
 - c. Determine whether each vehicle was community property or D’s separate property.
 - d. For each vehicle, determine if disposition of ownership is controlled by a right of survivorship set forth on the certificate of title or other agreement. For any such vehicle, skip the remainder of this Item 91.
 - e. Determine whether each vehicle is to be sold or transferred to D’s beneficiaries.
 - f. For each vehicle do the following:
 - (1) Prepare assignment of each vehicle title (form not provided in this System).
 - (2) Arrange to have each vehicle title and assignment signed by the executor, administrator, or person who inherits the vehicle.
 - (3) If IA, TBA, IBA, ADE, AWA, RDA, AP, or TDA, obtain one certified copy of letters testamentary or letters of administration for each vehicle to be sold. If ordering by mail, determine appropriate number of letters and the correct charge, arrange for payment, charge to client’s account, and prepare and send Letter 2 to clerk of court.
 - (4) Deliver all documents to transferee.

NA	L	S	DATE	INITIALS

DISPOSITION OR TRANSFER OF PERSONAL PROPERTY

	NA	L	S	DATE	INITIALS
92. If personal property is to be sold by private sale during administration, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by the court, but power of sale of personal property is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:					
a. See Special Instruction 48—Sale of Personal Property during Administration.					
b. Prepare Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48).					
c. Determine amount of filing fee, arrange for payment, and charge to client's account.					
d. File Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), and Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) with clerk of court.					
e. Determine if court hearing is required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(3) Attend hearing, present proof necessary for court's approval, and have Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) signed by judge.					
f. If hearing will not be required, determine date judge signed Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) and obtain certified copy of order.					

- g. Enter date Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48) was signed as Item 64b of SDL and Item 6.91 of MIL.
- h. Conclude sale or finalize contract for sale and enter date as Item 64c of SDL and Item 6.92 of MIL.
- i. Prepare Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49) and arrange for signature and verification by executor or administrator. If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49).
- j. File Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49) with clerk of court.
- k. Determine date of filing Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49), enter as Item 64d of SDL and Item 6.98 of MIL, and complete Items 64e and 64f of SDL.
- l. Prepare Order [Confirming/Approving] Sale of Personal Property (Form 50).
- m. File Order [Confirming/Approving] Sale of Personal Property (Form 50) with clerk of court.
- n. Determine date judge signed Order [Confirming/Approving] Sale of Personal Property (Form 50) and enter as Item 64g of SDL and Item 6.99 of MIL.
- o. Deliver or mail copies of Application for Sale of Personal Property under Section 356.101 of the Estates Code (Form 47), Verified Exhibit Showing Condition of the Estate (Form 40), Order of Sale of Personal Property under Section 356.101 of the Estates Code (Form 48), Report of [Successful Bid or Contract for] Sale of Personal Property (Form 49), and Order [Confirming/Approving] Sale of Personal Property (Form 50) to attorney representing purchaser.
- p. Deliver property and evidence of title, obtain receipt, and collect proceeds.
- Note:* Estates Code, Section 356.105(c), permits D's executor or administrator to issue a bill of sale without warranty as evidence of title, but the expense thereof must be borne by the purchaser.
- Note:* Public sales are not covered by this System.

NA	L	S	DATE	INITIALS

93. If D owned **personal property** that is **not wanted** by family members and that has **no commercial value**, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by the court, but power to dispose of such property is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:
- If such property is to be disposed of before termination of administration, prepare Application to Dispose of Personal Effects and Order thereon (Form 51).
 - Determine amount of filing fee, arrange for payment, and charge to client's account.
 - File Application to Dispose of Personal Effects and Order thereon (Form 51) with clerk of court.
 - Determine if court hearing will be required and, if so, do the following:
 - Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - Attend hearing, present proof necessary for court's approval, have order signed by judge approving Application to Dispose of Personal Effects (Form 51), and complete Item 62 of SDL and Item 6.91 of MIL.
 - If hearing will not be required, determine date judge signed order approving Application to Dispose of Personal Effects (Form 51) and complete Item 62 of SDL and Item 6.91 of MIL.
 - When judge has signed order approving Application to Dispose of Personal Effects (Form 51), have executor or administrator deliver property to proper parties and obtain receipt.

Note: Public sales are not covered by this System.

NA	L	S	DATE	INITIALS

94. If D owned **personal property** that is **likely to perish**, waste or deteriorate or to be an unnecessary expense or disadvantage to D's estate, and if Inventory, Appraisal, and List of Claims (Form 22) has been filed and approved by the court, but power to dispose of such property is not specified in D's will or granted by court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), do the following:
- See Special Instruction 50—Sale of Personal Property Likely to Perish, Waste, Etc.
 - Prepare Application for Sale of Personal Property under Section 356.051 of the Estates Code and Order thereon (Form 52).
 - Determine amount of filing fee, arrange for payment, and charge to client's account.
 - File Application for Sale of Personal Property under Section 356.051 of the Estates Code and Order thereon (Form 52) with clerk of court.
 - Determine if court hearing is required and, if so, do the following:
 - Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - Attend hearing, present proof necessary for court's approval, have order signed by judge approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52), and complete Item 63 of SDL.
 - If hearing will not be required, determine date judge signed order approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52) and complete Item 63 of SDL.
 - When judge has signed order approving Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52), have executor or administrator deliver property and evidence of title to proper parties, obtain receipt, and collect proceeds.

Note: Public sales are not covered by this System.

NA	L	S	DATE	INITIALS

OTHER MATTERS

95. Handling other assets and matters:

- a. Determine whether each other asset was community property or was D's separate property.

- b. Other **tangible personal property** (see Special Instruction 34—Personal Property).

Note: If D's estate will be subject to federal estate tax and if sale or disposition is desired before IRS audit of the estate tax return, furnish appropriate statement contemplated in Treasury Regulations, Section 20.2031-6 (form not provided in this System).

- (1) Arrange for distribution of D's personal property.

- (2) If sale is contemplated, determine whether to request release of estate tax lien on IRS Form 4422 (form not provided in this System).

- c. Determine if D owned **other assets**. See Special Instruction 35—Valuing and Describing Other Assets and complete Sections 16.0 and 18.0 of MIL. Place valuations and descriptions in the separate file folders entitled “Partnerships, Trusts, and Other Unincorporated Business” and “Personal Property” as appropriate.

- (1) Arrange for adequate funds to provide for payment of household salaries and expenses and for salaries and other expenses of D's sole proprietorships and other closely held businesses.

- (2) Obtain realistic valuations of all interests in unincorporated businesses, including those subject to redemption or buy-sell agreements.

- d. If D owned any **partnership interests**, do the following:

- (1) Determine if D's death terminates any partnerships.

Note: The taxable year of a partnership shall close with respect to a partner whose entire interest in the partnership terminates by reason of death.

- (2) Determine whether D's executors, administrator, heirs, or beneficiaries are entitled to and do elect to adjust the basis in D's partnership interests.

- (3) Determine whether executor, administrator, heir, beneficiary, or distributee can or should elect to become a substituted partner.

[illegible]

	NA	L	S	DATE	INITIALS
(iii) Arrange for substitution of counsel in litigation matters and be sure of filing and court approval.					
(iv) Deliver files and obtain receipts for each.					
(13) Determine if D was resident agent for any executor or administrator or was registered agent for any corporation or other business entity and, if so, arrange for substitution of new agent.					
(14) If a client, a member of D's family, or D's executor or administrator wishes for you to undertake representation or dispose of D's practice, read Special Instruction 78—Death of a Lawyer again, paying particular attention to Part XIII of the rules of disciplinary procedure and to disciplinary rules and ethics opinions.					
g. If D was engaged in another type of professional practice , consider purchase of "tail coverage" for errors and omissions.					
h. Determine if there is any pending litigation . If so, take appropriate action.					
i. Review all of D's other claims and causes of action.					
(1) Determine dates on which claims are barred by applicable statutes of limitations and enter into office reminder system. See Special Instruction 99—Limitations.					
(2) Determine whether to abandon or pursue such claims and take appropriate action. <i>Note:</i> Under Section 16.062 of the Texas Civil Practice and Remedies Code, the statutes of limitation for suits by or against D are suspended for one year after date of D's death or until date of qualification of D's executor or administrator, whichever is earlier.					
j. If D was a custodian under the Uniform Gifts to Minors Act :					
(1) Obtain appointment of a successor custodian.					
(2) Determine if D made gift(s) of all or part of the custodial property. If so, its entire value must be included in D's estate for federal estate tax purposes.					
k. Investigate club memberships to determine if surviving spouse and other family members receive special benefits, if memberships can be sold, and whether to cancel memberships and collect unearned dues.					
l. If will establishes one or more testamentary trusts , do the following:					
(1) Determine when to fund each trust.					

- (2) Obtain an employer identification number for each trust (see Item 57 of this Checkplan).
- m. If D owned **copyrights**, determine if a right of renewal exists. If so, take appropriate action.
- Note:* D's spouse and children may have this right if D dies during the initial term.
- n. Determine if other items will be taxable in D's estate (see and complete Section 20.0 of MIL).
- o. Determine if D was entitled to **unclaimed property** held by the Comptroller of Public Accounts and, if so, take appropriate action. See Special Instruction 20—Cash Items.
- p. Determine if D's spouse, child, or parent has a cause of action for D's **wrongful death**. If so, do the following:
- (1) Refer to Item 7A of SDL to ensure their timely filing of petition.
 - (2) If not filed timely by them, take appropriate action to bring such a suit (Civil Practice & Remedies Code, Section 71.004).

NA	L	S	DATE	INITIALS

INVENTORY

Note: If SE, omit Items 96 through 99 of this Checkplan.

96. Prepare Inventory, Appraisement, and List of Claims (Form 22) (see Special Instruction 23—Inventory, Appraisement, and List of Claims and Special Instruction 24—General Rules for Valuation of Assets). Place in file folder entitled “Inventory.”

Note: In many counties an inventory is not required. We recommend that one be prepared and filed to provide evidence of the assets owned by D and to assist future title examinations.

Note: If PDH, or if MT unless court requires filing inventory, omit Items 97 through 99 of this Checkplan.

97. Unless Inventory, Appraisement, and List of Claims (Form 22) can be completed and filed within ninety days from date of qualification (Item 6.39 of MIL and Item 39 of SDL) or from date of admission of D’s will to probate as a muniment of title (Item 6.26 of MIL and Item 28 of SDL), do the following:

- a. Prepare Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27).

Note: In Harris County, the application must be designated as first application, second application, and so forth, and must show the date the executor or administrator qualified, the date the inventory would have been due, and the date on which the inventory will be due if the extension is granted. Determine local practice and make necessary modifications.

- b. File Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27) with clerk of court.

- c. On approval of order, complete Item 6.86 of MIL and Item 32a(1) or 46a of SDL as appropriate.

98. If Inventory, Appraisement, and List of Claims (Form 22) cannot be completed within the extended time, repeat the procedure described in Item 97 of this Checkplan until the inventory is actually filed, and complete Item 32a or 46 of SDL as appropriate.

Note: Application for Extension of Time in Which to File Inventory, Appraisement, and List of Claims and Order thereon (Form 27) will have to be modified for the length of time and basis for this additional request.

NA	L	S	DATE	INITIALS

99. When Inventory, Appraisement, and List of Claims (Form 22) has been completed, do the following:

- a. Arrange for executor, administrator, heir, or beneficiary to sign and swear to Inventory, Appraisement, and List of Claims (Form 22). If mailing, prepare and send Letter 48 to executor, administrator, heir, or beneficiary, together with original and a copy of Inventory, Appraisement, and List of Claims (Form 22), and repeat for each executor, administrator, heir, or beneficiary until the original has been signed and sworn to by all parties.
- b. If this is IA, TBA, IBA, or AP (independent) *and* there are no unpaid debts except for secured debts, taxes, and administrative expenses *and* you do not want the inventory to become a public record, do the following:
 - (1) When Inventory, Appraisement, and List of Claims (Form 22) has been properly signed and sworn to by all independent executors or administrators, prepare and send Letter 104, together with a copy of the inventory, to all beneficiaries except those who have signed waivers (Form 122) or as otherwise provided by Estates Code, Section 309.056(b–1).
 - (2) Prepare Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103), have it signed by the independent executor(s) or administrator(s), and file with clerk of court. Enter date of filing as Item 61 of SDL and Item 6.89 of MIL.
- c. If this is not IA, TBA, IBA, or AP (independent), or if Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) will not be used, when Inventory, Appraisement, and List of Claims (Form 22) has been properly signed and sworn to by all executors, administrators, heirs, or beneficiaries, file Inventory, Appraisement, and List of Claims (Form 22) with clerk of court.
- d. When Inventory, Appraisement, and List of Claims (Form 22) has been signed by the judge, enter the date as Item 61 of SDL and Item 6.88 of MIL.

Note: After order approving inventory has been signed, newly discovered assets are shown by a Supplemental Inventory (Form 36) and errors are corrected by an Amended Inventory (forms not provided in this System). If Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) was filed, provide all beneficiaries with copies of the Supplemental Inventory (Form 36) and then file a Supplemental Affidavit in Lieu of Inventory (form not provided in this System) with the court.

NA	L	S	DATE	INITIALS

FAMILY ALLOWANCE

	NA	L	S	DATE	INITIALS
100. After Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) has been filed, review financial situation of family and determine if a family allowance should be requested. If so, do the following:					
a. See Special Instruction 51—Family Allowance.					
b. Prepare Application for Family Allowance and Order thereon (Form 53).					
c. Determine amount of filing fee, arrange for payment, and charge to client's account.					
d. File Application for Family Allowance and Order thereon (Form 53) with clerk of court.					
e. Determine if court hearing is required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Family Allowance (Form 53).					
f. If hearing will not be required, determine date judge signed order approving Application for Family Allowance (Form 53).					
g. When judge has signed order approving Application for Family Allowance (Form 53), have executor or administrator pay allowance in accordance with order of the court.					

SETTING ASIDE EXEMPT PROPERTY

101. After Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) has been filed, review financial situation of family and determine if **exempt property** should be **set aside**. If so, do the following:

- a. See Special Instruction 52—Exempt Property, Setting Aside Exempt Property, and Allowance in Lieu of Exempt Property.
- b. Prepare Application to Set Aside Exempt Property and Order thereon (Form 54).
- c. Determine amount of filing fee, arrange for payment, and charge to client's account.
- d. File Application to Set Aside Exempt Property and Order thereon (Form 54) with clerk of court.
- e. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application to Set Aside Exempt Property (Form 54).
- f. If hearing will not be required, determine date judge signed order approving Application to Set Aside Exempt Property (Form 54).
- g. When judge has signed order approving Application to Set Aside Exempt Property (Form 54), have executor or administrator deliver exempt property to proper parties.

NA	L	S	DATE	INITIALS

102. After Inventory, Appraisement, and List of Claims (Form 22) has been filed and approved by the court or Affidavit in Lieu of Inventory, Appraisement, and List of Claims (Form 103) has been filed, review financial situation of family and determine whether to seek an **allowance in lieu of exempt property**. If so, do the following:

a. See Special Instruction 52—Exempt Property, Setting Aside Exempt Property, and Allowance in Lieu of Exempt Property.

b. Prepare Application for Allowance in Lieu of Exempt Property and Order thereon (Form 55).

Note: This form contemplates payment to D's surviving spouse when no homestead was owned. In other situations, appropriate revisions must be made.

c. Determine amount of filing fee, arrange for payment, and charge to client's account.

d. File Application for Allowance in Lieu of Exempt Property and Order thereon (Form 55) with clerk of court.

e. Determine if court hearing will be required, and if so, do the following:

(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).

(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.

(3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Allowance in Lieu of Exempt Property (Form 55).

f. If hearing will not be required, determine date judge signed order approving Application for Allowance in Lieu of Exempt Property (Form 55).

g. When judge has signed order approving Application in Lieu of Exempt Property (Form 55), have executor or administrator pay allowance in accordance with order of the court.

NA	L	S	DATE	INITIALS

FEDERAL ESTATE TAX

Note: If total value of all of D's assets including insurance on D's life and D's retirement benefits is less than the applicable exclusion amount (Item 26.21 of MIL) and D had no history of making taxable gifts, a federal estate tax return is probably unnecessary. Regardless, the surviving spouse may file an estate tax return, even if the estate is nontaxable, to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount. See Special Instruction 80—Federal Estate Tax.

WARNING: Sections 2701 through 2704 of the Internal Revenue Code were enacted in an attempt to halt the use of “estate freezes.” Not surprisingly, the changes are broadly worded and vague, and there are many uncertainties. All intrafamily transactions must be scrutinized in light of those provisions. There are too many variables for coverage in this System.

Pursuant to Pub. L. No. 115-97, 131 Stat. 2054 (2017), popularly known as the Tax Cuts and Jobs Act of 2017, (1) the gift and estate tax exemption doubles to \$10 million and remains indexed for inflation after 2011 and (2) the Act's gift and estate tax provisions apply to estates of decedents who die after December 31, 2017, and before January 1, 2026.

103. Complete Worksheet 6 to determine if IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, must be filed for D's estate.
104. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is not mandatory, determine whether the executor desires to file the return to elect portability of the Deceased Spousal Unused Exclusion (DSUE) amount.
 - a. If the executor is the surviving spouse, prepare and send Letter 122.
 - b. If the executor is *not* the surviving spouse, prepare and send Letter 123.
 - c. On receipt of the client's initialed copy indicating whether to elect portability, place in file folder entitled “Federal Estate Tax.”
105. If IRS Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return is neither required nor desired, skip to Item 198 of this Checkplan.
106. If a return is to be filed, take appropriate action. No Checkplan, Furnished Forms, or specific instructions for preparing IRS Form 706 are included in this System.

NA	L	S	DATE	INITIALS

107. If a return is filed and IRS closing letter is received, file it with clerk of court.

108. - 197. (Reserved)

NA	L	S	DATE	INITIALS

COURT AUTHORIZATION TO ENGAGE OR EMPLOY

Note: Items 198 and 199 of this Checkplan do not apply to IA, TBA, IBA, MT, SE, PDH, and AP (independent).

198. If the specific power to engage or employ is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent) and executor or administrator desires to obtain authority to **engage or employ**, do the following:

- a. Prepare Application for Authority to [Engage/Employ] and Order Granting Application for Authority to [Engage/Employ] (Form 136).
- b. File Application for Authority to [Engage/Employ] and Order Granting Application for Authority to [Engage/Employ] (Form 136) with clerk of court.
- c. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the proceeding. For remote appearances, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of date and time of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Authority to [Engage/Employ] (Form 136).
- d. If hearing will not be required, determine date judge signed order approving Application for Authority to [Engage/Employ] (Form 136).
- e. When judge has signed order approving Application for Authority to [Engage/Employ] (Form 136), have executor or administrator engage or employ the person or company and execute the engagement or employment agreement as specified in the Application for Authority to [Engage/Employ] and Order Granting Application for Authority to [Engage/Employ] (Form 136).

NA	L	S	DATE	INITIALS

199. If the specific power to engage or employ for the particular purpose for which executor or administrator has already personally advanced payment is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and the executor or administrator desires to be **reimbursed** at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application for Reimbursement and Order Granting Application for Reimbursement (Form 60).
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Reimbursement and Order Granting Application for Reimbursement (Form 60).
- c. File Application for Reimbursement and Order Granting Application for Reimbursement (Form 60) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the proceeding. For remote appearances, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Reimbursement (Form 60).
- e. If hearing will not be required, determine date judge signed order approving Application for Reimbursement (Form 60).
- f. When judge has signed order approving Application for Reimbursement (Form 60), reimburse executor or administrator from funds of D's estate in the amounts specified in the Application for Reimbursement and Order Granting Application for Reimbursement (Form 60).

NA	L	S	DATE	INITIALS

TEXAS REAL ESTATE *NOT* IN COUNTY OF PROBATE

200. Only if D owned **real estate** or a **mineral** or **royalty interest** in a Texas county other than in the county of probate, then after United States Estate (and Generation-Skipping Transfer) Tax Return has been audited or approved or a closing letter has been obtained, do the following:

Note: This procedure is not applicable to a small estate proceeding (SE). If recording a will previously probated in another state or a foreign country, use the procedure in Item 45 of this Checkplan (RW).

a. Obtain certified copies from clerk of court:

Note: It is always correct to obtain and record certified copies of the *entire* probate proceedings, and in some situations this is the only safe procedure to follow.

Note: It is sometimes possible to substitute an affidavit from the executor, the administrator, an heir, a beneficiary, or a distributee in lieu of any tax release. If using an affidavit regarding debts and taxes, prepare Affidavit Regarding Debts and Taxes (Form 37) and arrange for signature by executor, administrator, heir, beneficiary, or distributee.

- (1) If MT, order from clerk of court one certified copy of the Application for Probate of Will as a Muniment of Title (Form 6); D's will and codicil(s); Order Admitting Will to Probate as a Muniment of Title (Form 32); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 69 to clerk of court.
- (2) If PDH, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); the IRS closing letter, if any; and, if applicable, D's will and codicil(s) and order admitting will and codicil(s) to probate. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 86 to clerk of court.
- (3) If RDA, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); Application for Letters of Administration (Form 73); Order Authorizing Letters of Administration (Form 76); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 91 to clerk.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(4) If AWA, order from clerk of court one certified copy of the Application for Probate of Will and Issuance of Letters of Administration with Will Annexed (Form 69); will and codicil(s); Order Admitting Will to Probate and Authorizing Letters of Administration with Will Annexed (Form 72); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(5) If IA or ADE, order from clerk of court one certified copy of the Application for Probate of Will and Issuance of Letters Testamentary (Form 5 or Form 28); will and codicil(s); each Distributee's Agreement to Power of Sale (Form 106), if any; Order Admitting Will to Probate and Authorizing Letters Testamentary (Form 17 or Form 33); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(6) If TBA, order from clerk of court one certified copy of the Application for Probate of Will, Independent Administration by Agreement, and Issuance of Letters [Testamentary/of Independent Administration] (Form 110); will and codicil(s); each Distributee's Agreement to Independent Administration and Power of Sale, with Waiver of Citation and Notice (Form 106), if any; Order Admitting Will to Probate and Authorizing Independent Administration and Letters [Testamentary/of Independent Administration] (Form 111); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 60 to clerk.					
(7) If IBA, order from clerk of court one certified copy of the Application to Declare Heirship (Form 77); Judgment Declaring Heirship (Form 81); Application for Independent Administration of Intestate Estate by Agreement and Letters of Independent Administration (Form 108); each Distributee's Agreement to Independent Administration and Power of Sale (Form 106); Order Authorizing Independent Administration and Letters of Independent Administration (Form 109); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 105 to clerk.					

	NA	L	S	DATE	INITIALS
(8) If AP, order from clerk of court one certified copy of the Application for Ancillary Probate of Foreign Will and Issuance of Ancillary Letters Testamentary (Form 118); will and codicil(s); each Distributee's Agreement to Ancillary Independent Administration [and Power of Sale], with Waiver of Citation and Notice (Form 119), if any; Order Admitting Foreign Will to Ancillary Probate [Authorizing Independent Administration,] and Authorizing Ancillary Letters Testamentary (Form 121); and the IRS closing letter, if any. Arrange for payment and charge to client's account. If ordering these copies by mail, prepare and send Letter 124 to clerk. <i>Note:</i> In a court-supervised administration (RDA, AWA, ADE, AP (dependent)), the better practice is not to record these documents until the estate is closed and the court has signed the Order Closing Estate and Discharging Personal Representative (Form 68). Once that order has been signed, obtain a certified copy to record with the other documents.					
b. Assemble all the foregoing documents, determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.					
c. Prepare and send Letter 61 to county clerk to record these documents in the deed records of each county in which D owned real estate, mineral interests, or royalty interests, other than the county in which the probate proceedings are pending. When the documents have been recorded in one county and have been returned, repeat this procedure until the documents have been recorded in all counties.					

COURT AUTHORIZATION TO SPEND FUNDS

Note: Items 201 through 205 of this Checkplan do not apply to IA, TBA, IBA, MT, SE, PDH, and AP (independent).

201. If the specific power to spend funds of D's estate for the desired purpose is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and executor or administrator needs to spend estate funds **immediately due to an emergency** situation, do the following:

- a. Prepare Application to Ratify Expenditure and Order thereon (Form 138), specifying the purpose and amount of each such expenditure.
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application to Ratify Expenditure and Order thereon (Form 138).
- c. File Application to Ratify Expenditure and Order thereon (Form 138) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application to Ratify Expenditure (Form 138).
- e. If hearing will not be required, determine date judge signed order approving Application to Ratify Expenditure (Form 138).

NA	L	S	DATE	INITIALS

202. If the specific power to spend funds of D's estate for the desired purpose is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and executor or administrator desires to obtain **authority to spend funds** belonging to D's estate at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application for Authority to Expend Funds and Order thereon (Form 59).
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Authority to Expend Funds and Order thereon (Form 59).
- c. File Application for Authority to Expend Funds and Order thereon (Form 59) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Authority to Expend Funds (Form 59).
- e. If hearing will not be required, determine date judge signed order approving Application for Authority to Expend Funds (Form 59).
- f. When judge has signed order approving Application for Authority to Expend Funds (Form 59), have executor or administrator expend funds of D's estate for the purposes and in the amounts specified in the Application for Authority to Expend Funds and Order thereon (Form 59).

NA	L	S	DATE	INITIALS

203. If the specific power to spend funds of D's estate for the particular purpose for which executor or administrator has already personally advanced payment is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and the executor or administrator desires to be **reimbursed** at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application for Reimbursement and Order thereon (Form 60).
- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Reimbursement and Order thereon (Form 60).
- c. File Application for Reimbursement and Order thereon (Form 60) with clerk of court.
- d. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Reimbursement (Form 60).
- e. If hearing will not be required, determine date judge signed Order approving Application for Reimbursement (Form 60).
- f. When judge has signed order approving Application for Reimbursement (Form 60), reimburse executor or administrator from funds of D's estate in the amounts specified in the Application for Reimbursement and Order thereon (Form 60).

NA	L	S	DATE	INITIALS

204. If the specific power to pay **attorney's fees** is not granted by D's will, if any, or court order, or if this is TDA, AWA, ADE, RDA, or AP (dependent), and D's executor or administrator desires to pay all or a part of the attorney's fees at a time other than in connection with an annual account or the final account, do the following:

- a. Prepare Application to Pay Attorney's Fees and Order thereon (Form 61).

Note: The original and a copy of a detailed and itemized statement from the attorney is to be designated as Exhibit A and *must* be attached to this form. Attach the attorney's fee affidavit (Form 135) as Exhibit B.

- b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application to Pay Attorney's Fees and Order thereon (Form 61).

- c. File Application to Pay Attorney's Fees and Order thereon (Form 61) with clerk of court.

- d. Determine if court hearing will be required and, if so, do the following:

(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).

(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.

(3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application to Pay Attorney's Fees (Form 61).

- e. If hearing will not be required, determine date judge signed order approving Application to Pay Attorney's Fees (Form 61).

- f. When judge has signed order approving Application to Pay Attorney's Fees (Form 61), have executor or administrator expend funds of D's estate for the purposes and in the amounts specified in the Application to Pay Attorney's Fees and Order thereon (Form 61).

NA	L	S	DATE	INITIALS

205. Determine if D's executor or administrator is entitled to and desires to claim a **commission**. If so, do the following:

- a. Review D's will to determine if D provided a method for determining compensation for D's executor or administrator and, if so, determine amount.
- b. If no will or if will does not provide a method for determining compensation, determine amount of compensation for executor or administrator in accordance with Estates Code, Chapter 352, Subchapter A.
- c. If ADE, AWA, RDA, or AP (dependent), prepare Application for Authority to Expend Funds and Order thereon (Form 59).
- d. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application for Authority to Expend Funds and Order thereon (Form 59).
- e. File Application for Authority to Expend Funds and Order thereon (Form 59) with clerk of court.
- f. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application for Authority to Expend Funds (Form 59).
- g. If hearing will not be required, determine date judge signed order approving Application for Authority to Expend Funds (Form 59).
- h. When judge has signed order approving Application for Authority to Expend Funds (Form 59), have executor or administrator pay the fees to all executors and administrators.

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ANNUAL ACCOUNTS

Note: Items 206 through 208 of this Checkplan do not apply to IA, TBA, IBA, MT, SE, PDH, and AP (independent).

206. **Annual account.** If D's estate is still open one year from date letters were first issued, as shown in Item 50 of SDL, an annual accounting will be required. If so, do the following:

- a. See Special Instruction 55—Annual Account.
- b. Prepare Annual Account and Order thereon (Form 62), Verification of Funds on Deposit (Form 63), and Confirmation of Safekeeping (Form 64).

Note: If securities have not been deposited for safekeeping, see Special Instruction 55—Annual Account for alternative supporting documents.
- c. Prepare and send Letter 76 to each depository in which funds of D's estate are on deposit, together with the original and a copy of Verification of Funds on Deposit (Form 63).
- d. Prepare and send Letter 77 to each depository in which funds or other properties of D's estate are held in safekeeping, together with the original and a copy of Confirmation of Safekeeping (Form 64).
- e. When Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) have been properly signed and returned, attach the original of each Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) to Annual Account and Order thereon (Form 62).
- f. Arrange for executor or administrator to sign and swear to the Annual Account and Order thereon (Form 62). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Annual Account and Order thereon (Form 62).
- g. File Annual Account and Order thereon (Form 62) with clerk of court.
- h. Determine date of filing first Annual Account and Order thereon (Form 62), enter as Item 78a of SDL, and complete Item 78b of SDL (complete Items 79a and 79b of SDL for second annual account or Items 80a and 80b of SDL for third annual account).

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
i. Determine if court hearing will be required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter as Item 78c of SDL (Item 79c of SDL for second annual account or Item 80c of SDL for third annual account). Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152)					
(2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(3) Attend hearing, present proof necessary for court's approval, have order signed by judge approving Annual Account (Form 62), and enter date of order as Item 78d of SDL (Item 79d of SDL for second annual account or Item 80d of SDL for third annual account).					
j. If hearing will not be required, determine date of approval of Annual Account (Form 62) and enter as Item 78d of SDL (Item 79d of SDL for second annual account or Item 80d of SDL for third annual account).					
k. When judge has signed order approving Annual Account (Form 62), have executor or administrator promptly pay all claims and expenses specified in the Annual Account and Order thereon (Form 62).					
l. Prepare and send Letter 78 to the surety, together with a copy of the Annual Account and Order thereon (Form 62).					
m. Conform file copies of all documents for dates and signatures.					
207. If D's estate is still open two years from date letters were first issued (Item 51 of SDL), repeat the procedure described in Item 206 of this Checkplan.					
208. If D's estate is still open three years from date letters were first issued (Item 52 of SDL), repeat the procedure described in Item 206 of this Checkplan.					

DETERMINING HEIRSHIP

Note: Item 209 of this Checkplan is mandatory for RDA and IBA but also may be appropriate in those instances in which D has a will but there is a full or partial intestacy.

209. Determining heirship. To determine heirship, do the following:

- a. See Special Instruction 60—Proceedings to Declare Heirship (PDH).
- b. See Special Instruction 59—Determining Identity of Decedent’s Heirs to identify D’s heirs to whom D’s estate is to be distributed.
- c. See Special Instruction 15—Jurisdiction and Venue and prepare Application to Declare Heirship (Form 77).
- d. Arrange for applicant to sign and swear to Application to Declare Heirship (Form 77). If mailing, prepare and send Letter 48 to applicant, together with Application to Declare Heirship (Form 77).
- e. When Application to Declare Heirship (Form 77) has been signed by applicant, place in file folder entitled “Court Proceedings.”
- f. If court does not automatically appoint an attorney ad litem, prepare Motion to Appoint Attorney Ad Litem and Order thereon (Form 78) and place in file folder entitled “Court Proceedings.”
- g. File Application to Declare Heirship (Form 77) and, if applicable, Motion to Appoint Attorney Ad Litem and Order thereon (Form 78) with clerk of court, have clerk of court issue proper citation, and enter date of filing Application to Declare Heirship (Form 77) as Item 6.124 of MIL and Item 81a of SDL.
- h. For citation by publication, see Special Instruction 16—Citation and Notice.

If publishing in newspaper and if the clerk does not send the citation directly to the newspaper, do the following:

- (1) Select newspaper in which to publish citation.
- (2) Determine charge for publication, arrange for payment, and charge to client's account.
- (3) Prepare and send Letter 84 to newspaper, together with copy of citation and payment of charges for publication.

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	NA	L	S	DATE	INITIALS
(4) When citation has been published and publisher's affidavit has been received, file with clerk of court.					
i. Calculate return date for the citation by posting and enter as Item 81b of SDL (see Special Instruction 16—Citation and Notice).					
j. Calculate return date for citation by publication by determining earlier of date of newspaper in which notice was published and date of publication on the public information Internet website and enter as Item 81c of SDL and complete Items 81d and 81e of SDL.					
k. Prepare [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Prepare and send Letter 48 to each distributee other than applicant and to any owner of a real property interest not a distributee ("Defendant"), together with two copies of [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107). Enclose one copy of the Application to Declare Heirship (Form 77).					
l. On receipt of all properly signed and sworn [Distributee's/Defendant's] Waiver of Citation and Notice Regarding Proceeding to Declare Heirship (Form 107), file with clerk of court.					
m. Review clerk's file to ensure that a copy of all citations required by Estates Code, Chapter 202, and proof of delivery have been filed. If D died on or after January 1, 2014 , do the following:					
(1) Determine whether applicant will sign the Affidavit of Service of Citation (Form 104) or if attorney will sign the Certificate of Service of Citation (Form 105).					
(a) If applicant is to sign, prepare Affidavit of Service of Citation (Form 104). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Service of Citation (Form 105).					
(2) File signed Affidavit of Service of Citation (Form 104) or Certificate of Service of Citation (Form 105) with clerk of court.					
n. Coordinate schedules with client(s), other witnesses, and attorney ad litem. Arrange for date and time for hearing on Application to Declare Heirship (Form 77); determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152). Provide notice to all affected parties, and complete Items 81f and 81g of SDL and Item 6.124A of MIL.					

- o. Determine the identity of **two** disinterested and credible witnesses who will testify as to D's death and other personal history and also determine if each witness will be available to testify in court.

Note: Only one such witness will be required if it is shown that only one can be found after a diligent search.

- (1) For *both* of these witnesses who will testify in court, do the following:
 - (a) Prepare Statement of Facts (Form 80) for each witness and place in file folder entitled "Court Proceedings."
 - (b) Prepare and send Letter 13 to each witness, together with a copy of Statement of Facts (Form 80) for the witness, to advise of the date and time of the hearing, the need for the witness to appear before the court, and the method of appearance.
 - (2) For each witness who cannot testify in court, determine an alternate method of proving these facts and take appropriate action.
- p. Prepare Judgment Declaring Heirship (Form 81) and place in file folder entitled "Court Proceedings."
- q. Prepare and send Letter 57 to attorney ad litem, together with copies of Application to Declare Heirship (Form 77), Motion to Appoint Attorney Ad Litem (if applicable) and Order thereon (Form 78), Statement of Facts (Form 80) for each witness, and Judgment Declaring Heirship (Form 81).
- r. If hearing must be rescheduled, enter rescheduled date as Item 81h of SDL, revise Item 81g of SDL, and notify administrator, attorney ad litem, and all witnesses of new date. If method of appearance is changed, notify administrator, attorney ad litem, and all witnesses and provide revised information.
- s. One business day before the hearing, call to remind administrator, attorney ad litem, and each witness of the time and date of hearing and the place of hearing or electronic access information.
- t. For the **hearing**, do the following:
 - (1) Assemble the following documents and have available at hearing:
 - (a) Original copy of Statement of Facts (Form 80) for each witness who will appear in court.
 - (b) Original copy of Judgment Declaring Heirship (Form 81).

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- (2) Attend hearing and enter actual date of hearing as Item 81i of SDL.
- (3) Enter the date judgment was signed by judge as Item 81j of SDL.
- (4) Conform file copies of all documents for dates and signatures.

NA	L	S	DATE	INITIALS

FINAL ACCOUNT

Note: Item 210 of this Checkplan does not apply to IA, TBA, IBA, MT, SE, PDH, or AP (independent).

210. **Final account.** When all assets have been assembled, all debts and claims have been paid, and there is no further need for administration, do the following:

- a. See Special Instruction 56—Final Account.
- b. Prepare Account for Final Settlement (Form 65), Verification of Funds on Deposit (Form 63), Confirmation of Safekeeping (Form 64), and Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).

Note: If securities have not been deposited for safekeeping, see Special Instruction 55—Annual Account for alternative supporting documents.
- c. Prepare and send Letter 76 to each depository in which funds of D's estate are on deposit, together with the original and a copy of Verification of Funds on Deposit (Form 63).
- d. Prepare and send Letter 77 to each depository in which funds or other properties are being held for safekeeping, together with the original and a copy of Confirmation of Safekeeping (Form 64).
- e. When Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) have been properly signed and returned, attach the original of each Verification of Funds on Deposit (Form 63) and Confirmation of Safekeeping (Form 64) to original of Account for Final Settlement (Form 65).
- f. Prepare final bill to describe legal services provided for D's estate. Determine if local practice requires a separate application, hearing, or the use of another attorney to testify as to the reasonableness of this fee. If so, refer to Item 204 of this Checkplan.
- g. Arrange for executor or administrator to sign and swear to the Account for Final Settlement (Form 65). If mailing, prepare and send Letter 48 to executor or administrator, together with original and one copy of Account for Final Settlement (Form 65). Do not send copies to anyone else at this time, but after it has been signed by executor or administrator, make one copy for each heir and distributee.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
h. File Account for Final Settlement (Form 65), together with Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66), with clerk of court.					
i. Determine date of filing Account for Final Settlement (Form 65) and enter as Item 83a of SDL and Item 6.146 of MIL.					
j. Arrange to have citation issued by clerk of court. Calculate the return date for the citation (see Special Instruction 16—Citation and Notice) and enter as Item 83b of SDL.					
k. Obtain a date and time for hearing, enter date as Item 83c of SDL, and complete Items 6.147 and 6.148 of MIL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152)					
l. Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
m. Prepare and send Letter 93 by certified or registered mail or, in proceedings commenced on or after September 1, 2023, by any qualified delivery method (see Special Instruction 16—Citation and Notice) to each heir and distributee, enclosing a copy of Account for Final Settlement (Form 65).					
(1) Attach mailing receipt or proof of deposit to file copy of applicable Letter 93.					
(2) When received, attach return receipt or proof of delivery receipt to file copy of applicable Letter 93. <i>Note:</i> Judge may require another type of notice and may permit a waiver of notice.					
n. Review clerk's file to ensure that a copy of all citations required by Estates Code, Section 362.005, and proof of delivery have been filed.					
(1) Determine whether applicant will sign the Affidavit of Service of Citation (Form 113) or if attorney will sign the Certificate of Service of Citation (Form 114).					
(a) If applicant is to sign, prepare Affidavit of Service of Citation (Form 113). If mailing, prepare and send with Letter 48.					
(b) If attorney is to sign, prepare Certificate of Service of Citation (Form 114).					
(2) File signed Affidavit of Service of Citation (Form 113) or Certificate of Service of Citation (Form 114) with clerk of court.					

- o. Attend hearing, take file copy of each Letter 93 together with its return receipt, present proof necessary for court's approval, have judge sign Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66), enter date order was signed as Item 83d of SDL and Item 6.149 of MIL, and complete Item 83e of SDL.
- p. If hearing was not required, determine date Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66) was signed, enter date as Item 83d of SDL and Item 6.149 of MIL, and complete Item 83e of SDL.
- q. When judge has signed Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66), have executor or administrator promptly pay all claims and expenses authorized by Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).
- r. Prepare and send Letter 78 to the surety, together with copies of the Account for Final Settlement (Form 65) and Order Approving Account for Final Settlement and Authorizing Distribution of Estate (Form 66).
- s. Conform file copies of all documents for dates and signatures.

NA	L	S	DATE	INITIALS

DISTRIBUTING THE ESTATE

	NA	L	S	DATE	INITIALS
211. If it is advisable to make a partial distribution of the estate assets and this is IA, IBA, TBA, or AP (independent), do the following:					
a. Prepare Receipt and Refunding Agreement (Form 149) for each heir and beneficiary who is to receive the partial distribution.					
b. For each heir and beneficiary who is to receive the partial distribution, deliver assets and appropriate evidence of title in exchange for properly signed Receipt and Refunding Agreement (Form 149).					
c. If desired, file all original Receipts and Refunding Agreements (Form 149) with clerk of court.					
212. If it is advisable to make a partial distribution of the estate assets and this is ADE, AWA, RDA, or AP (dependent), do the following:					
a. Prepare Application to Make Partial Distribution of Estate Assets and Order Granting Application to Make Partial Distribution of Estate Assets (Form 137) for each heir and beneficiary who is to receive the partial distribution.					
b. Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with original and one copy of Application to Make Partial Distribution of Estate Assets and Order Granting Application to Make Partial Distribution of Estate Assets (Form 137).					
c. File Application to Make Partial Distribution of Estate Assets and Order Granting Application to Make Partial Distribution of Estate Assets (Form 137) with clerk of court and have clerk of court issue proper citation to all interested parties.					
d. Determine if court hearing will be required and, if so, do the following:					
(1) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(2) Notify executor or administrator of date and time of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					

	NA	L	S	DATE	INITIALS
(3) Attend hearing, present proof necessary for court's approval, and have order signed by judge approving Application to Make Partial Distribution of Estate Assets and Order Granting Application to Make Partial Distribution of Estate Assets (Form 137).					
e. If hearing will not be required, determine date judge signed order approving Application to Make Partial Distribution of Estate Assets (Form 137).					
f. For each heir and beneficiary who is to receive the partial distribution, deliver assets and appropriate evidence of title in exchange for properly signed receipt.					
<i>Note:</i> Although Item 213 of this Checkplan does not apply technically to IA, TBA, IBA, MT, SE, PDH, or AP (independent), these are important steps to consider.					
213. Distributing the estate. After the Account for Final Settlement (Form 65) has been approved by the court and the authorized expenses and claims have been paid, do the following:					
a. Ensure that all persons who paid D's debts and claims are repaid before distribution of D's estate.					
b. Plan time to close estate with particular consideration to income tax effects of making final distributions in the particular fiscal year.					
c. Arrange to have title to assets transferred to heirs and beneficiaries. If title companies, insurers, or others require more than probate proceedings to clear title to real property, see Special Instruction 66—Distribution Deeds and do the following for each such item of property:					
(1) Prepare Distribution Deed (Form 117).					
(2) If desired, obtain signature of grantee. If mailing, prepare and send Letter 48 with Distribution Deed (Form 117).					
(3) Obtain signature of grantor (when signed Distribution Deed (Form 117) has been received from grantee, if sent). If mailing, prepare and send Letter 48 with Distribution Deed (Form 117) (signed by grantee, if applicable).					
(4) When signed Distribution Deed (Form 117) has been received from grantor, determine amount of recording charges, arrange for payment, charge to client's account, and enter amount as Item 25.08 of MIL.					
(5) Prepare and send Letter 119 to county clerk to record the deed.					
d. Close estate savings accounts into estate checking account.					

	NA	L	S	DATE	INITIALS
e. Redeem certificates of deposit and deposit proceeds into estate checking account.					
f. Prepare estate checks for distribution.					
g. Prepare a separate Receipt and Release (Form 30) for each heir and beneficiary of D's estate.					
h. Deliver assets and appropriate evidence of title to each heir and beneficiary in exchange for properly signed Receipt and Release (Form 30). If mailing, prepare and send Letter 110, together with two copies of Receipt and Release (Form 30).					
i. If desired, file all original Receipts and Releases (Form 30) with clerk of court.					
j. Conform file copies of all documents for dates and signatures.					
k. If any Letter 110 is returned unclaimed, attempt to locate the missing heir(s). If any cannot be located, see Special Instruction 90—Missing Heirs and do the following:					
(1) Prepare Application to Deposit Funds into Registry of Court with order thereon (Form 115).					
(2) Determine amount of filing fee, arrange for payment, and charge to client's account.					
(3) File Application to Deposit Funds into Registry of Court with order (Form 115).					
(4) Determine if court hearing is required and, if so, do the following:					
(a) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(b) Notify executor or administrator of time and date of hearing and method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(c) Attend hearing and have order signed.					
(5) Deposit unclaimed funds with clerk of court and obtain receipt.					
l. If any funds remain unclaimed six months after date of order approving final account (Item 83e of SDL), do the following:					
(1) Prepare Application to Withdraw Funds from Registry of the Court for Payment to Comptroller with Order thereon (Form 116).					

	NA	L	S	DATE	INITIALS
(2) Determine amount of filing fee, arrange for payment, and charge to client's account.					
(3) File Application to Withdraw Funds from Registry of the Court for Payment to Comptroller with Order thereon (Form 116) with clerk of court.					
(4) Determine if court hearing is required and, if so, do the following:					
(a) Obtain a date and time for hearing and enter in office reminder system. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152).					
(b) Notify executor or administrator of time and date of hearing and method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.					
(c) Attend hearing and have order signed. Enter date order is signed as Item 83Aa of SDL and complete Item 83Ab of SDL.					
(5) If hearing is not required, determine date on which order is signed, enter date as Item 83Aa of SDL, and complete Item 83Ab of SDL.					
(6) Withdraw funds from registry.					
(7) Deliver funds to Comptroller and obtain receipt. If mailing, prepare and send Letter 111.					
(8) File receipt from Comptroller with clerk of court before Item 83Ab of SDL.					
<i>Note:</i> Failure to pay the unclaimed funds to the Comptroller within thirty days after the date of the order to deliver the funds subjects the executor or administrator to significant penalties.					

CLOSING THE ESTATE

Note: Item 214 of this Checkplan does not apply to MT, SE, or PDH. Most practitioners do not follow this procedure for IA, TBA, IBA, or AP (independent). Estates Code, Sections 405.004–.007, provide for closing an independent administration by closing report or notice of closing estate (which also cancels the letters issued to the personal representative). These procedures are not covered by this System.

214. Closing the estate. After all property has been distributed and all receipts have been filed, do the following:

- a. Prepare Application to Close Estate and to Discharge Personal Representative (Form 67) and Order Closing Estate and Discharging Personal Representative (Form 68).
- b. File Application to Close Estate and to Discharge Personal Representative (Form 67) and Order Closing Estate and Discharging Personal Representative (Form 68) with clerk of court. Enter date of filing as Item 84a of SDL.
- c. Determine if court hearing will be required and, if so, do the following:
 - (1) Obtain a date and time for hearing and enter date as Item 84b of SDL. Determine method of appearance for the hearing, and if remote, prepare Notice of Court Proceeding (Form 150), Motion for Remote Proceeding (Form 151), and Certificate of Service (Form 152)
 - (2) Notify executor or administrator of time and date of hearing and the method of appearance before the court. If notifying by mail, prepare and send Letter 19 to executor or administrator.
 - (3) Attend hearing, present proof necessary for court's approval, have Order Closing Estate and Discharging Personal Representative (Form 68) signed by judge closing estate, and enter date order signed as Item 84e of SDL.
- d. If hearing was not required, determine date Order Closing Estate and Discharging Personal Representative (Form 68) was signed and enter date as Item 84e of SDL.
- e. Prepare and send Letter 79 to the surety, together with a copy of the Order Closing Estate and Discharging Personal Representative (Form 68).
- f. Conform file copies of all documents for dates and signatures.

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WINDING UP

- 215. Distributing the estate and winding up.** After completing *all* the foregoing steps, do the following:
- a. See Special Instruction 45—When to Terminate Administration of Estate.
 - b. Plan time to close estate with particular consideration to income tax effects of making final distributions in the particular fiscal year.
 - c. Arrange for the payment of all outstanding debts and claims.
 - d. Arrange to have title to assets transferred to the heirs and beneficiaries.
 - e. If a distribution would be made to a minor beneficiary, determine if it can be made to a custodian for the benefit of the minor.
 - f. Close estate savings accounts into estate checking account.
 - g. Redeem certificates of deposit and deposit proceeds into estate checking account.
 - h. Prepare final bill to describe your professional services provided for the estate.
 - i. Collect the balance due for your fees and expenses.
 - j. Pay all court costs, fees, and expenses.
 - k. Arrange for appointment of guardian for minor distributees.
 - l. Prepare estate checks for distributions.
 - m. Prepare a separate Receipt and Release (Form 30) for each heir and beneficiary of the estate.
 - n. Deliver assets and appropriate evidence of title to each heir and beneficiary in exchange for properly signed Receipt and Release (Form 30).
 - o. If desired, file all original Receipts and Releases (Form 30) with clerk of court.
 - p. On completion of administration and audit of federal tax returns, to give IRS notice of termination of fiduciary relationship, do the following:
 - (1) Prepare a new IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7), completing parts I and IV.

[illegible]

- (2) Arrange for signature by executor or administrator. If mailing, prepare and send Letter 24 to executor or administrator, together with completed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).
- (3) Prepare and send Letter 62 to IRS, together with signed IRS Form 56, Notice Concerning Fiduciary Relationship (FF 7).
- q. Review file and locate all original documents that you need not retain. For items furnished by persons other than the client, prepare and send Letter 63 to return all items to person who furnished them. When signed letter is returned, it should be substituted for your file copy.
- r. Prepare and send Letter 134 (IA, AWA, ADE, RDA, TBA, IBA, AP), Letter 135 (MT, PDH), or Letter 136 (SE) to client to advise of closing of file. When signed letter is returned, it should be substituted for your file copy.
- Note:* Many lawyers do not file any documents with the clerk of the court to close an independent administration, because of the frequency with which additional assets are discovered. If in doubt, we advise against a formal closing.
- s. Determine whether to have independent administration terminated by court order and take appropriate action under Estates Code, Section 405.003 (forms not provided in this System).
- t. Indicate date on which all steps have been concluded as Item 85 of SDL.
- u. Close office file.

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