

Checkplan

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(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					

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(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 have 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.					

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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).					

- (9) If you are **not retained**, prepare and send Letter 129 to confirm nonengagement.
- ac. 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.”
- ad. Prepare **Receipt for Documents** (Form 3) for all original documents you retain and explain their use.
- ae. 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.”

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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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(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).					
c. 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					
(20) Transportation Equipment					
(21) Trusts					

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(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					
d. 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 un staple</i> pages or remove from manuscript cover ("blue back"). Place file copies in file folder entitled "Will and Codicil(s)."					
e. 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.					
f. 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.					
g. If any releases, deeds, or mortgages were unrecorded, consider recording them.					
h. 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 **IRS.gov** (click on “Order Transcript”).

Note: 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.”

- (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 **IRS.gov/Form 4506**.

Note: 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.

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- (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.”
- i. 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.
- j. Determine if there are assets outside Texas that will require ancillary administration or probate proceedings to transfer title.
- k. 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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(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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- 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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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 time and date of hearing on the Application for Temporary Administration (Form 83 or Form 84) and enter as Item 82b of SDL and Item 6.24 of MIL. Complete Item 82c of SDL.					
k. If hearing must be rescheduled, enter rescheduled date as Item 6.24 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.					

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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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).					
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).					
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.					

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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).					
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).					

- 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.

NA	L	S	DATE	INITIALS

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—Lost Wills.

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 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

- (1) If the attesting witness will be available to testify in 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 and of the need for the witness to appear in court.
- (2) If the attesting witness will not be available to testify in 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 in 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 in 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 in 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 of the hearing and of the need for the witness to appear in court.
- (4) If a witness to the signature of D or that of an attesting witness will not be available to testify in 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.

NA	L	S	DATE	INITIALS

Item 21

Independent Administration (IA)

- j. Skip to Item 55 of this Checkplan.

NA	L	S	DATE	INITIALS

- 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—Lost Wills.

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 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 Hearing Date).

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 time and date 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 Item 6.24 of MIL. 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.”
- (2) If witness for Proof of Death and Other Facts (Form 31) is *not* 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 and of the need for the witness to appear in court.

- i. If D’s will is self-proved, skip to Item 22m of this Checkplan.

NA	L	S	DATE	INITIALS

- (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 pursuant to Estates Code, Section 252.202 (form not provided in this System).
- f. Skip to Item 62 of this Checkplan.

Note: 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.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(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), provide notice to all affected parties, and complete Items 24 and 25 of SDL and Item 6.24 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 in court. <i>Note:</i> Only one such witness will be required if it is shown that only one can be found after a diligent search.					
(1) For <i>both</i> 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 that witness, to advise of the date and time of the hearing and of the need for the witness to appear in court.					
(2) For each witness who will not be available to testify in 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 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 as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify client, attorney ad litem, and all witnesses of new date.					
t. One business day before the hearing, call to remind client, attorney ad litem, and all witnesses of time, date, and place of hearing.					
26. For the hearing , do the following:					
a. Assemble the following documents and take to 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 in 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 pursuant to Estates Code, Section 252.202 (form not provided in this System).
- i. Skip to Item 62 of this Checkplan.

NA	L	S	DATE	INITIALS

- 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.

NA	L	S	DATE	INITIALS

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—Lost Wills.

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 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

- (1) If the attesting witness will be available to testify in 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 and of the need for the witness to appear in court.
- (2) If the attesting witness will not be available to testify in 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 in 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 in 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 in 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 of the hearing and of the need for the witness to appear in court.
- (4) If a witness to the signature of D or that of an attesting witness will not be available to testify in 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.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(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) in 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:					
(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 and send by registered or certified mail, return receipt requested, Letter 102 together with appropriate enclosures to all devisees and legatees except those who have signed waivers (Form 100) or as otherwise provided by Estates Code, Section 308.002(c).					
(4) Attach mailing receipt to the copy of Letter 102.					
(5) When received, attach return receipt to file copy of Letter 102.					
(6) As letters are mailed and mailing receipts are returned to office, enter on Worksheet 9.					
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 24.
 - (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 in 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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- j. 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

- 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—Lost Wills.

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 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 Hearing Date).
- 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 time and date 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 Item 6.24 of MIL. 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

	NA	L	S	DATE	INITIALS
(b) If witness(es) to the signature of an attesting witness will testify in 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 of the hearing and of the need for the witness to appear in court.					
(4) If a witness to the signature of D or that of an attesting witness will not be available to testify in 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 in court.					
(1) For <i>both</i> of these witnesses who will testify in 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 and of the need for the witness to appear in court.					
(2) For each witness who will not be available to testify in 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 32n for each holographic codicil .					

	NA	L	S	DATE	INITIALS
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.					
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 in 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 as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and all other witnesses of new date.					
s. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
33. 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 (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.					
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.					

	NA	L	S	DATE	INITIALS
e. Have administrator who attends hearing 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: Bond must be filed within 20 days of the appointment.</i>					
(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).					
a. When signed Oath (Form 18) is returned, file with clerk of court.					

- 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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- j. Skip to Item 55 of this Checkplan.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
(3) When signed Appointment of Resident Agent (Form 15) is received, file with clerk of court.					
j. Arrange for time and date of hearing on the Application for Letters of Administration (Form 73) and enter as Item 24 of SDL. Complete Item 25 of SDL and Item 6.24 of MIL.					
(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 and of the need for the witness to appear in court.					
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.					
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 in 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 as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date.					
o. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
36. 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 (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 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.					

	NA	L	S	DATE	INITIALS
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 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: Bond must be filed within 20 days of the appointment.</i>					
(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.					
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 in 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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- h. Skip to Item 55 of this Checkplan.

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**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

- 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—Lost Wills.

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 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 Hearing Date).
- 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:

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(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 time and date 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 Item 6.24 of MIL. 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 and of the need for the witness to appear in court.					
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 in 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 in 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 and of the need for the witness to appear in court.
 - (2) If the attesting witness will not be available to testify in 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 in 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 witness(es) 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 in 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 in 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 of the hearing and of the need for the witness to appear in court.
 - (4) If a witness to the signature of D or that of an attesting witness will not be available to testify in 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 38o for each **attested codicil**, referring to Items 2.20 and Items 2.170 of MIL regarding witnesses.

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- 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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- j. Skip to Item 55 of this Checkplan.

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**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 Hearing Date).

NA	L	S	DATE	INITIALS

	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 time and date 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 Item 6.24 of MIL.					
(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 and of the need for the witness to appear in court.					
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.					

	NA	L	S	DATE	INITIALS
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 in 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 as Item 6.24 of MIL and Item 26 of SDL, revise Item 25 of SDL, and notify proposed administrator and other witnesses of new date.					
r. One business day before the hearing, call to remind proposed administrator and all witnesses of the time, date, and place of hearing.					
42. 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 (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.					
e. Have administrator who attends hearing 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.					

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).

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- (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 in 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, file a complaint pursuant to Estates Code, Section 252.202 (form not provided in this System).
- (9) Skip to Item 55 of this Checkplan.

NA	L	S	DATE	INITIALS

**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. 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.
 - e. 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.”

47. - 49. (Reserved)

NA	L	S	DATE	INITIALS

ALTERNATE METHOD OF PROVING D’S WILL

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.

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- 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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- g. When Proof of Service of Notice on Secured Claimants (Form 21) has been properly signed, file with clerk of court.
- h. Conform file copies of all documents for dates and signatures.

NA	L	S	DATE	INITIALS

	NA	L	S	DATE	INITIALS
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

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

NA	L	S	DATE	INITIALS

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.
- 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 by certified or registered mail. 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).

NA	L	S	DATE	INITIALS

- 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 of the estate of a decedent who died on or after September 1, 2011, 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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<p>(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.</p>					
<p>(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.</p> <p><i>Note:</i> The following steps (2) and (3) are inapplicable in an independent administration.</p>					
<p>(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.</p>					
<p>(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.</p>					
<p>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:</p> <p><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.</p>					
<p>(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.</p> <p><i>Note:</i> This form must be prepared for the signature of and actually be signed by an executor or administrator.</p>					
<p>(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.</p>					

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(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.					
(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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- (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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- (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 **IRS.gov** (click on "Order Transcript").
Note: 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 **IRS.gov/Form 4506**.
- Note:* 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.
- Note:* Old tax forms are at **IRS.gov/Forms-&-Pubs** 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.
- Note:* 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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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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(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 time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. 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.					
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.					

- j. 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.

- k. 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.

- l. 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.

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

Note: Public leasing is not covered by this System.

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- 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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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.

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	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.					

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(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).					

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(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.					
87. If securities are to be sold by private sale during administration, and if Inventory, Appraisal, 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 time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. 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.					

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

	NA	L	S	DATE	INITIALS
i. Prepare Report of [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 [Contract for] Sale of Personal Property (Form 49).					
j. File Report of [Contract for] Sale of Personal Property (Form 49) with clerk of court.					
k. Determine date of filing Report of [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 [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. <i>Note:</i> 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. <i>Note:</i> Public sales are not covered by this System.					
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:					
a. If such property is to be disposed of before termination of administration, prepare Application to Dispose of Personal Effects and Order thereon (Form 51).					
b. Determine amount of filing fee, arrange for payment, and charge to client's account.					

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c. File Application to Dispose of Personal Effects and Order thereon (Form 51) with clerk of court.					
d. Determine if court hearing will be required and, if so, do the following:					
(1) Obtain a time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. 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 Application to Dispose of Personal Effects (Form 51), and complete Item 62 of SDL and Item 6.91 of MIL.					
e. 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.					
f. 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.					
<i>Note:</i> Public sales are not covered by this System.					
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:					
a. See Special Instruction 50—Sale of Personal Property Likely to Perish, Waste, Etc.					
b. Prepare Application for Sale of Personal Property under Section 356.051 of the Estates Code and Order thereon (Form 52).					
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 356.051 of the Estates Code and Order thereon (Form 52) with clerk of court.					
e. Determine if court hearing is required and, if so, do the following:					
(1) Obtain a time and date for hearing and enter in office reminder system.					

- (2) Notify executor or administrator of time and date of hearing. 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 Application for Sale of Personal Property under Section 356.051 of the Estates Code (Form 52), and complete Item 63 of SDL.
- f. 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.
- g. 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.

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(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.					
(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).

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INVENTORY

Note: If SE or PDH, or if MT unless court requires filing inventory, omit Items 96 through 99 of this Checkplan.

96. Prepare Inventory, Appraisalment, and List of Claims (Form 22) (see Special Instruction 23—Inventory, Appraisalment, 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.

97. Unless Inventory, Appraisalment, 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, Appraisalment, 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, Appraisalment, 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, Appraisalment, 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, Appraisalment, 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.

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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* D died on or after September 1, 2011, *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.

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FAMILY ALLOWANCE

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 time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. 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.

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- 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 time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. 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.

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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, for decedents dying on or after January 1, 2011, 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 200 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.

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

108. - 199. (Reserved)

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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.

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- (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.

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- (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.

Note: 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.

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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 time and date for hearing and enter in office reminder system.
 - (2) Notify executor or administrator of time and date of hearing. 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).

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).

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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 time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. 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).					
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 time and date for hearing and enter in office reminder system.					

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(2) Notify executor or administrator of time and date of hearing. 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).					
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). <i>Note:</i> The original and a copy of a detailed and itemized statement from the attorney is to be designated as Exhibit A and <i>must</i> 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 time and date for hearing and enter in office reminder system.					
(2) Notify executor or administrator of time and date of hearing. 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).					

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).

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i. Determine if court hearing will be required and, if so, do the following:					
(1) Obtain a time and date 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).					
(2) Notify executor or administrator of time and date of hearing. 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.					

- (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

- 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

	NA	L	S	DATE	INITIALS
(b) Notify executor or administrator of time and date of hearing. 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 212 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. These procedures are not covered by this System.

212. **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 time and date for hearing and enter date as Item 84b of SDL.
 - (2) Notify executor or administrator of time and date of hearing. 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.

NA	L	S	DATE	INITIALS

- (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, 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 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.
- r. 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).
- s. Indicate date on which all steps have been concluded as Item 85 of SDL.
- t. Close office file.

NA	L	S	DATE	INITIALS