

“Let our advance worrying become advance thinking and planning” – Sir Winston Churchill

# ELDER LAW TODAY

C. Dan Campbell, P. C.

4245 Kemp Blvd., Suite 800, Wichita Falls, Texas 76308 (940) 696-5015

Spring 2017

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Well, “spring has sprung”. The weather has been amazing, hasn’t it? At the place in Cotton County the baby calves seem to be everywhere. Just wish the water gap would stay in place –but the rainfall is wonderful (and our lakes are brimming full!)

Let’s talk about what a beneficiary will want to do when someone passes away. First, as a beneficiary of an estate, it’s in your best interest to keep on top of what’s happening during a court probate of a Will. Assets may come to you through the probate of a Will, by “intestate succession” if there was no Will or Revocable Trust, through a revocable trust or by means of a life insurance policy, annuity, retirement plan or a joint account with right of survivorship (or Pay on Death account).

Receiving an inheritance can greatly affect your financial future. Here are 9 actions you should take as soon as you become aware that you are a beneficiary of an estate or a trust:

1. Obtain a copy of all documents – wills, trusts, insurance policies, retirement account plans, etc. that name you as a beneficiary. You will want copies of all beneficiary designations that name you as a beneficiary (bank accounts, brokerage accounts, life insurance policies, and/or retirement plans).
2. Obtain a copy of the Inventory, Appraisal and List of Claims (in case of an estate) that lists all “probate assets” (i.e.: those controlled by the Will). This document is due within 90 days of the probate hearing –but the due date may be extended by court order –particularly in more complicated estates.
3. Request from the attorney handling the estate or trust a “timeline” and “summary” of the administration process. You should realize, however, that the attorney for the estate or the trust is NOT YOUR ATTORNEY and he may not be willing to provide you what you are requesting.
4. Contact an attorney who is experienced in probate and estate matters to represent you. You can get from him an overview of the

administration process and your rights. You can then decide if you need continuing legal assistance in obtaining and interpreting various legal documents that you will encounter.

5. Contact a Certified Financial Planner if your inheritance will be substantial to help you with financial investment decisions that you will need to be making. A financial planner who charges for his time will give you truly independent advice (as compared to one who is trying to sell you securities and making commissions on those sales).
6. Contact a Certified Public Accountant to advise on tax consequences of potential assets you are inheriting. For example, the CPA can advise as to what tax options are available when dealing with retirement plans.
7. Contact the county clerk’s office where the probate of a Will is pending to get copies of all documents that have been filed with the Court. There will be a copy charge for securing these documents.
8. Request information on the administration of living (revocable) trusts from the trustee. If the decedent had a living trust, it is not a public record so you usually won’t find anything filed at the courthouse regarding the administration of the trust. Therefore, you will need to periodically contact the trust attorney or trustee to find out the status of the trust. As a beneficiary you are usually entitled to an accounting each year of the assets that came into the trust, the income, expenses, sales and purchases of assets during the year and what’s on hand at the end of the year.
9. Secure needed tax information. If a federal estate tax return was filed (this is now pretty rare because of the approximate \$5.5M exemption from estate taxes) get a copy of it with supporting schedules. **Also, very important, get a copy of the appraisal/valuation of all assets that were in the estate or trust.** You will need

this with respect to assets you inherit, if you sell these assets –you need it to determine your “income tax basis” in those assets for your income tax return if and when you sell those assets.

That’s it for now! HAVE A GREAT SPRING!!!  
Dan Campbell

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**C. DAN CAMPBELL, P.C.  
ATTORNEY AT LAW  
4245 KEMP BLVD., SUITE 800  
WICHITA FALLS, TX 76308**

**Address Service Requested**