

The Ultimate Estate Administration Procedures Training Package

MODULE #5: Conducting the Initial Meeting

SPEAKER

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FORMS FOR THE INITIAL MEETING

Prepare the Initial EA Meeting Client File

- The client file should be prepared for the attorney
- **SHOULD INCLUDE:** The EA Questionnaire, EP documents, along with all of our Estate Administration Initial Meeting Forms
 - Our forms are printed out duplicate/triplicate carbon copy type forms and are already in the meeting file so that the attorney has these at the ready in the meeting

Estate Administration Initial Meeting Forms

- **EXHIBIT 30 – Agreement to the Presence of Others**
 - Whenever other relatives, friends or third-parties (like CPAs or Financial Advisors) are asked by the Trustee to be a part the attorney meeting
 - Confirms understanding that this third-party was requested to be present at the meeting by the client and that standard attorney-client confidentiality is waived by the client
 - NOTE: May wish to address this before the meeting, if Trustee indicate they may be bringing others

Estate Administration Initial Meeting Forms

- **EXHIBIT 31 – Conflict of Interest Disclosure**
 - Use this form whenever you have more than one trustee (Co-Trustees)
 - Advises all of the trustees of the advantages and disadvantages of being jointly represented by the same law firm
 - Provides trustees the option to seek separate outside counsel, if they wish
 - PRACTICAL EXAMPLE: When one trustee later asks you to speak with them privately, you can refer back to this form and explain why you're unable to do so (there's joint representation)

Estate Administration Initial Meeting Forms

- **EXHIBIT 32 – Fee Agreement**
 - Simple one-page engagement letter
 - Notes what work the law firm is being engaged to do, what the fee is and what is due now and at the closing (more on this and fees in Module #6)
 - IMPORTANT NOTE: This Fee Agreement is utilized by the Law Firm of Kavesh, Minor & Otis, Inc. and is based on their services and rules and regulations of the State of California. You may need to adjust this Fee Agreement based on the services your firm provides, as well as your state's rules pertaining to fees, how fees can be quoted/collected, etc.

Estate Administration Initial Meeting Forms

- **EXHIBIT 33 – Disclosure**
 - Clearly states what the client is responsible to do
 - Confirms that your fee is payable even if beneficiaries object and/or the fee may not be deemed tax-deductible by the trust/estate
 - Addresses potential conflicts in representation that can arise
 - Clarifies what this engagement does not cover (e.g. income tax planning, preparation of income tax returns, representation in the event of an audit, any investment/financial planning)

Estate Administration Initial Meeting Forms

- **EXHIBIT 34 – Acknowledgement of Portability**
 - Used when a client elects to not fund the Exemption Trust or there are insufficient assets to fully utilize the decedent's estate tax exemption
 - Developed as a form of “CYA” in the client file to evidence that the client was explained the concept of Portability and that the client elected to not file an estate tax return and claim portability of the unused exemption of the deceased spouse (also, results in engagements for the 706)
 - IMPORTANT NOTE: While this form pertains to the Tax Act of 2010 and Portability, it is important to note that this form is utilized by the Law Firm of Kavesh, Minor & Otis, Inc. and the estate administration services offered by the law firm and the estate and trust administration process of the State of California. You may need to modify this form based off the services your firm provides and the rules and regulations of your state.

Estate Administration Initial Meeting Forms

- **EXHIBIT 35 – Acknowledgement of Trustee Notification**
 - This form is an acknowledgement of the trustee that they've been counseled that they are required (under California Probate Code 16061.7) to notify any beneficiaries listed in the trust within 120 days of the decedent's death
 - Confirms understanding that they are also required to provide any heirs a copy of the trust and that they may have legal action taken against them if they do not comply with this request
 - Even if the firm is engaged to draft and send this notification, the purpose of this form is to be sure the Trustee cooperates and there is some liability protection for the firm
 - **IMPORTANT NOTE:** While this notification is pertinent to California law and California Probate Code 16061.7, many states have similar requirements and this can be modified where necessary

Estate Administration Initial Meeting Forms

- **EXHIBIT 36 – Acknowledgement of Information Given**
 - This is a great form (we have one for Estate Planning too!), which is used partly as a sales tool and partly for “CYA”
 - Used whenever a prospective client (or client) decides not to engage you on parts or all your planning recommendations
 - They’re acknowledging they’ve been recommended certain services and that they’re releasing any liability to you and your firm by opting to not move forward with your recommendations
 - Using this form can sometimes sway prospective clients to opt to move forward, recognizing the potential importance of your recommendations

Estate Administration Initial Meeting Forms

- **EXHIBIT 37 – Trustee Duties Upon Trust Funding**
 - This form is signed by trustee(s) following the funding of a trust
 - Advises them of certain duties they should consider and follow, such as seeking the services of a CPA or tax preparer to file trust tax returns, avoid comingling trust funds with personal funds, making smart financial investments to the beneficiaries' advantage and consulting the Successor Trustee Manual



OPENING THE INITIAL EA MEETING

Upon Arrival at the Office

- Greet the client, offer refreshments
- Confirm who is there (names, relationship)
- Announce client's arrival to attorney
 - IMPORTANT: Let attorney know in advance if anyone other than the expected client is there and their relationship

Overall Format (Agenda) of the Initial Estate Administration Meeting

- Opening the Meeting (“Set the Stage”)
- Follow the EA Meeting “Script”
 - Utilize the Estate Administration Questionnaire
(EXHIBIT 28)
- Build to the Close (“How We Can Help”)
- GOAL: Signed Engagement Letter with Retainer

Meeting Room Dynamics and Ambiance

- Ideally, most initial meetings should be in-person, face-to-face and at your office
 - TIP: Ideally not a conference room, unless you determine that multiple people will be permitted to attend
 - Photos and other office decorations that humanize you (the attorney)
- Natural lighting (windows) and plants
- Having client (and anyone else in the meeting) seated in a way that is directed towards the attorney
- Attorney should be able to see all parties clearly and, ideally, be faced forward or within vision of the door

BEFORE THE MEETING BEGINS:

Confirm Who is Present at the Meeting

- If multiple people arrive in your lobby, and you believe there are any confidentiality or conflict issues, you may need to go out and speak with all of them, explaining your wish to speak privately with the Trustee/client first and will then return to talk with the rest of them
 - You may have to explain whether or not some or all the others may or may not attend the meeting

BEFORE THE MEETING BEGINS:

Confirm Who is Present at the Meeting

- Once you have identified parties to be in the meeting, confirm who all is in the meeting
 - Relationship to decedent
 - Trustee(s) vs. Beneficiary(ies)
- If others are present, explain and have Trustee/client sign the “Acknowledgement of the Consent to Others Present at the Meeting Form” (EXHIBIT 30)
 - “I need to do this first before I can speak with all of you present...”
 - Read it aloud and before it is signed

OPENING THE MEETING:

Set the Ground Rules

- Ground rules are needed for an efficient and productive meeting
 - Address any advisor that may be present, so their permitted role in the meeting is clear (may wish to do this before advisor is brought into the meeting)
 - Especially helpful for children present, wishing to speak on behalf of widowed parent
 - Explain the benefit to all that non-clients avoid speaking unless called upon or otherwise become too involved in meeting
- GOAL: Want to connect with the CLIENT, but at the same time be gracious and firm with other parties present

OPENING THE MEETING:

Express Condolences and Reassure Client

“First and foremost, I want to express my condolences for your loss. I understand the gravity of that. I want to give you some good news. Would you like some good news in your life? Well, I have 2 items of good news. The first item of good news is that this meeting is free of charge...”

FOR EXISTING CLIENT: “...it was included as a benefit with the initial plan.”

NOT YOUR CLIENT: “...We offer this meeting free of charge to those who had their plan drafted by another attorney.”

OPENING THE MEETING:

Express Condolences and Reassure Client

*“Secondly...” [lower voice, speak slowly, move in a bit closer to clients] “...the other item is that I want to reassure that there is nothing that you have to do right away. If you have access to checkbook and an account to pay your bills, there is absolutely nothing you need to do right now.**

So, I want you sit back, take a deep breath, and relax.”

[visually sit back and take a deep breath]

*unless there is a specific deadline almost to be missed, like a 706 filing deadline, in which case you will advise them appropriately

OPENING THE MEETING:

Express Condolences and Reassure Client

- This step helps sets up the stage for the rest of the meeting
- Especially if there are others in the meeting, it could be helpful to elaborate on the last point
 - *“If anyone insists that you need to do anything, I would make us the ‘bad guys’ and simply respond with, ‘Our lawyer said there’s nothing to do. Go see my lawyer!’”*
 - *“We will identify if anything needs to be done here today.”*

OPENING THE MEETING:

Express Condolences and Reassure Client

- Reassuring for the client (especially vulnerable widower), plus helps hold off potential requests and actions that may be desired by others in the meeting
- IMPORTANT SCRIPT:

“The most important thing for you (Trustee/surviving spouse) right now is for you to take care of yourself. That’s what I want you to focus on right now. Taking care of yourself. Let us take care of the rest.”

OPENING THE MEETING:

Take Control of the Meeting

- SCRIPT:

“And to the others present, I ask that you kindly hold your questions or concerns until the end of the meeting, unless called upon. I will do my best to address all your questions and concerns then.

Does this sound alright with everyone?”

- Now you have consent to your control of the meeting and can remind others of the agreement to the ground rules

BEFORE PROCEEDING:

Gauge the Vibe in the Room

- IMPORTANT: Have you established competency and capacity with the client?
- Observe body language and expressions of those in the meeting
 - Are some people non-responsive or not listening?
 - Does anyone seem tuned out or disinterested?
 - Is the client (or anyone else in the meeting) too emotional to properly conduct the meeting?

BEFORE PROCEEDING:

Gauge the Vibe in the Room

- SCRIPT:
 - *“I know that this is a difficult time, do you wish to continue with the meeting?”*
 - *“Do you feel like you will be able to pull yourself together to give this meeting your full attention?”*
- Have tissues readily available
- May want to excuse yourself and leave the room for a few minutes for them to gather themselves
- LAST RESORT: May need reschedule for another time (reassure them again to not take any actions between now and next meeting)

OPENING THE MEETING:

Layout the Format of the Meeting

- It's important to get client buy-in and involvement and by setting the stage, you are able to help steer the meeting back to the agenda (if you steer on a tangent)
- SCRIPT:
“If it's alright with you, I would like to go over what we'd like to accomplish with you at this free meeting today...”

OPENING THE MEETING:

Layout the Format of the Meeting

- SCRIPT:

“Basically, we work similar to a doctor. I have allocated 90 minutes today to examine the situation first—looking at the assets, how they’re owned, what their values are, what the estate planning documents say—and do my examination first. From there, I will bring all of that together and, in my professional experience, I will make a diagnosis of what needs to happen. Some of these things you will be able to do on your own and some may require our help. If there are things that we can help you with, I will quote you a fee to complete this work for you and the choice will be entirely up to you whether or not to proceed. Does that sound fair to you?”



THE “SCRIPT” FOR THE INITIAL MEETING

EA Questionnaire (EXHIBIT 28)

- IMPORTANT: This is NOT a Questionnaire given to the client/prospect to complete *before* their meeting
- Whenever possible, as much of this Questionnaire is completed prior to the meeting by the law firm (using the initial meeting to fill in the “holes”)

KAVESH, MINOR & OTIS
Confidential Administration Questionnaire

PART ONE – PERSONAL INFORMATION

Interviewer _____ 2nd Atty _____
Date _____

PLEASE MAKE COPIES OF STATEMENTS THE CLIENT BRINGS WITH THEM

Name of Decedent _____ Date of Death _____
(Use full name as appears on Trust)

Legal AKA (if any) _____
City, County & State of Residence _____
State of domicile, if different _____
Social Security No _____ Cause of Death: _____
Possible legal action by the trust or the estate? Yes _____ No _____

Was the decedent receiving any government benefits (other than Social Security or Medicare)? Y _____ No _____

Trustee's (Client) Name _____ Relationship _____
(Use full name as appears on Trust)

Legal AKA (if any) _____

If spouse, citizen of USA? Yes _____ No _____ If Naturalized, date _____

Are you in good health? Yes _____ No _____ Condition, if applies _____

Social Security No _____ Date of Birth _____

Employer _____ Work Phone (____) _____

Home Address _____

City _____ State _____ Zip _____

County of _____ Home Phone (____) _____

Cell Phone (____) _____ Fax (____) _____

Email _____

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PART 1– Gather Basic Info (Pages 1-4)

- Important that ALL details be completed
- Some of this should have been completed prior to the meeting (attorney preparation)
- Get basic contact information and details
 - Trustee (and Co-Trustees), decedent, children, deceased children (and survivors), step-children
 - Be sure to review all name spellings with client
- Establish key contact person
 - Inquire if anyone needs or wants to be included in any and all correspondence

PART 2 – Gather Financial Info (Pages 4-9)

Types of Financial Accounts & Assets

- Amounts in Banks, Savings & Loans and Credit Unions (not in an IRA)
- Stocks or Bonds (not in a brokerage account)
- Mutual Funds and/or Brokerage Accounts (not in an IRA)
- Promissory Notes and Trust Deeds Owed to You
- Limited or General Partnerships
- Real Estate
- IRA Accounts and Other Retirement Plans
- Non-Qualified Annuities
- Life Insurance

PART 2 – Gather Financial Info (Pages 4-9)

- Review statements brought into the meeting to verify which assets are titled in or payable to the Trust
 - Approximate balance/values
 - Confirm if DOD values
- Address Joint Tenancy accounts
 - Did someone else contribute to them?
 - Names and amounts contributed?
- GOAL: Get an idea of the Trust Assets, Non-Trust Assets and Total Estate value

PART 3 – Gather Other Info (Page 11)

- Gifts and gift tax returns
 - Request copies of Form 709's from the IRS
- Inherited assets
 - And to be inherited assets (may require additional estate planning)
- Decedent's financial advisor and CPA
 - Identify if appropriate to refer to an affiliated financial advisor and/or CPA

PART 3 – Gather Other Info (Page 11)

- If real estate is likely to be sold, find out if family has a real estate broker
 - Potential referral opportunity
- This may be a good time to mention the need for an appraiser

PART 4 – Legal Analysis (Pages 12-21)

- You may want to request a few moments to review the documents
 - This pause can be helpful in holding their attention and giving them some space to process what has been discussed thus far
- Summary of Living Trust
 - Type of Trust (Single, AB Disclaimer Activated, AB Mandatory, ABC Disclaimer Activated, etc.)
 - Successor Trustees
 - Surviving Spouse Distribution Summary
 - Ultimate Distribution Summary
 - Identify any other trusts, other than Living Trust (IRA Trust, Lifetime Insurance Trust, CRT, etc.)

PART 4 – Legal Analysis (Pages 12-21)

- Review Ancillary Documents
 - Will
 - Separate Instructions Letter (e.g. for personal property)
 - Property Agreement (if married)
 - Pre-Nuptial or Post-Nuptial Agreements
- Briefly touch upon future estate planning needs
 - Advanced-level tax planning (if needed)
 - Estate planning for Trustee and/or beneficiaries
 - Begin to plant seeds and circle back at closing

Identify Legal Actions Required (Pages 17)

- Inventory and appraisal of all assets (date of death)
 - Great referral opportunity
- Court petitions needed
 - Spousal Property Petition
 - Probate
 - Summary Probate (known in California as [Heggstad](#) under Probate Code 850)
 - Others? (reformation, interpretation, clear title)

Identify Legal Actions Required (Pages 17)

- AB or ABC allocation/funding
- Disclaimers
- Gift tax returns to be prepared?
- Federal and state estate tax returns and payments (if applicable)
 - Defer until valuations completed?
 - Due 9 months after DOD
 - Need to request extension?
 - Estimated taxes due?
 - Identify hardship or other exemption allowing deferral to pay tax

Identify Legal Actions Required (Pages 17-21)

- Distribution to beneficiaries (single or second death)
 - Any specific issues with the Family Settlement Agreement?
 - Establish and fund trusts for beneficiaries ([Personal Asset TrustSM](#), lifetime, spendthrift, special needs)
- Any trust update amendment to be prepared?

Items Needed from Client (LAST PAGE)

- Blank page formatted intentionally as the last page of the Questionnaire
 - Provide client a copy before they leave
 - Can work on these items right away before Opening Package is sent to them
- Go through entire EA Questionnaire and identify any circled “open” items
- NOTE: This “To Do” list for the client could be addressed once they identify they want to engage the law firm and proceed with the Administration



BUILDING TO THE CLOSE ("HOW CAN WE HELP")

FIRST AND FOREMOST:

Is This a Case You Even Want to Take On?

- Are there parties or factors that are going to make this case difficult to take on and potentially create unnecessary headaches (or potential liability)?
 - Other advisors who want to “run the show”
 - Disinherited individuals or ones who think they’re not getting what they deserve (or want to control the Surviving Spouse or Trustee’s decisions)
 - Potentially different spouses of beneficiaries, siblings of Trustee or Co-Trustees

FIRST AND FOREMOST:

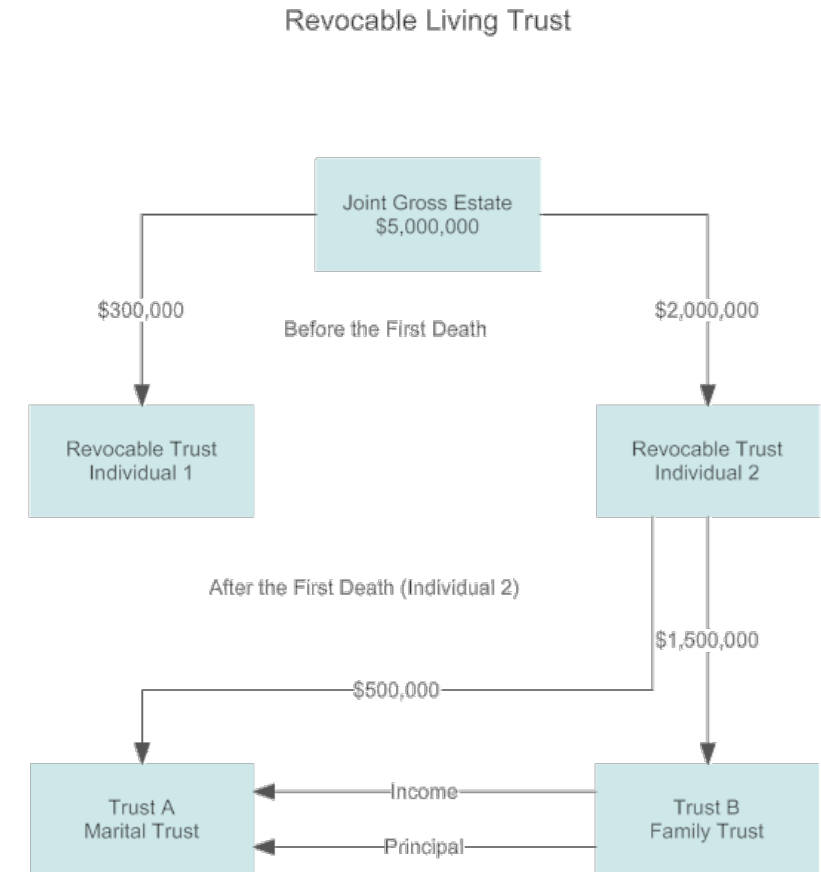
Is This a Case You Even Want to Take On?

- You will definitely want to consider your malpractice exposure and your current E&O coverage
- At the very least, be sure to quote an appropriate fee anticipating the necessary work and aggravation (and potential liability) by taking on this matter

IF APPROPRIATE:

Draw a Simple Diagram of the Plan

- It can be helpful to give the client a visual diagram of how the plan was set up (simple, hand-drawn is fine!)
- This can be a critical step in explaining what needs to be done and what's involved



“Here’s How We Can Help You...”

- Most law firms are taking anywhere from 9 months up to 2 years to help administer estates
- The two most critical areas where clients need the most help and where the most delays occur
 - Accessing Accounts
 - Obtaining DOD Values
- “We take this burden off your back by doing most of the work for you...”

CRITICAL AREA #1:

Accessing Accounts

- *“When you engage us, before you leave today, we have prepared for you a Trust Certification so that you can immediately have access to the accounts that you need to access...”*

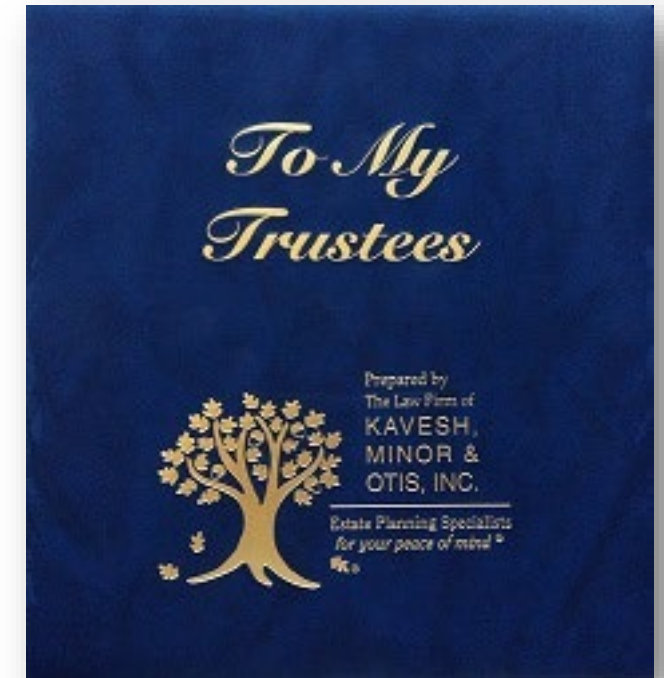
CRITICAL AREA #2:

Obtaining DOD Values

- *“The area where we find takes clients the longest is in obtaining date of death values for all of your accounts.”
[may wish to quickly summarize all of the accounts needed to get values for]*
- *“The good news is that this is an area where we’re helping clients the most and significantly reducing the amount of time involved. We have connections with most major financial institutions and we reach out to them on your behalf and have a diligent process to get them to expedite the request for information. This can easily cut down months or even a year from us being able to close this administration.”*

The Successor Trustee Manual

- If they are existing clients, confirm whether or not they have a Successor Trustee Manual (or if they need an updated one)
- If they are not clients, then also offer as a benefit of working with your firm that they will walk away today with a Successor Trustee Manual
- Helps eliminate a lot of basic questions clients often have and checklists gives Trustee the peace of mind that he/she is staying on track



LET'S TAKE A FURTHER LOOK AT

The Successor Trustee Manual

- Brief Overview of How a Living Trust Works
- Important “Do’s” & “Don’ts”
- Checklist of Immediate Actions Upon Disability or Incapacity, Death of the First Spouse, and Death of an Individual (Or the Surviving Spouse)
- Reviewing the Trust (And Other Estate Plan Documents)
- Tips On Working with an Attorney, Other Professional Advisors, and Beneficiaries

LET'S TAKE A FURTHER LOOK AT

The Successor Trustee Manual

- Trustee Duties, Powers and Liabilities
- Maintaining Title to Assets, Transacting Business & Paying Expenses
- Investing Trust Assets
- Recordkeeping and Accounting to the Beneficiaries
- Income and Estate Taxes
- Making Distributions to the Beneficiaries

LET'S TAKE A FURTHER LOOK AT **The Successor Trustee Manual**

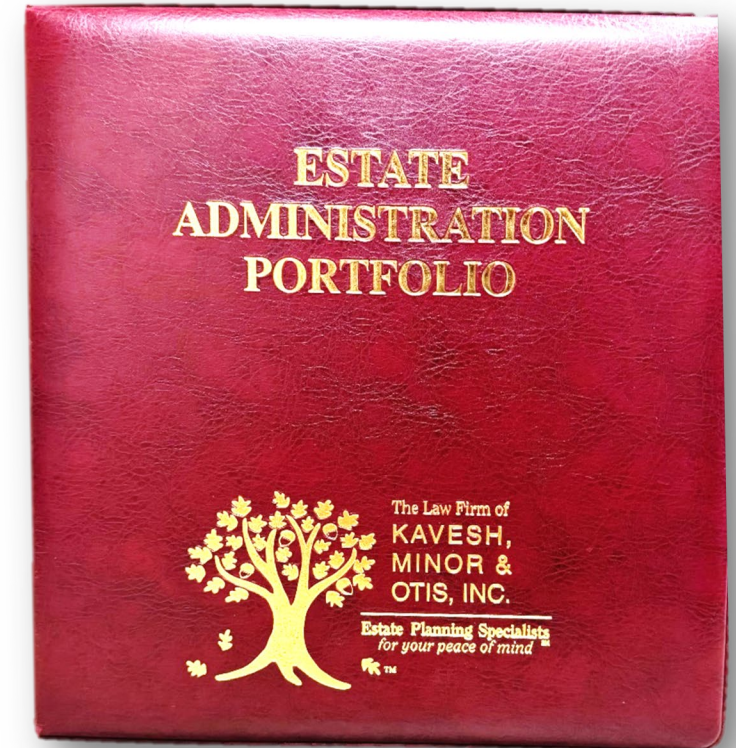
- Transition to Another Trustee
- Termination of the Trust
- Trustee and the Beneficiaries' Own Estate Planning
- Important Addresses and Phone Numbers, Location List and Other Documents

SEE EXHIBIT 8 FOR MORE DETAILS

FOR ESTATES THAT REQUIRE TRUST FUNDING

The Estate Administration Portfolio

- Show the client an example of your Estate Administration Portfolio binder they will get upon completion of the EA
- Like our Living Trust Owner's Manual, we provide a binder with all the documents prepared for the EA
- At this meeting, use to “show and tell” what you will do



LET'S TAKE A FURTHER LOOK

EA Portfolio Book

(EXHIBITS 102-136)

- IF APPLICABLE - Copy of Federal Estate Tax Return (Form 706) and all Exhibits
- IF APPLICABLE – Estate Planning Documents
- Letter of Instruction
- Disclaimer
- Asset Allocation Chart
- Personal Property Grant & Assignment

LET'S TAKE A FURTHER LOOK

EA Portfolio Book Table of Contents

(EXHIBITS 102-136)

- Deeds/Assignments of Promissory Notes
- Survivor's Trust Certification
- Survivor's Trust "Specific" Title Instruction Letters
- Survivor's Trust "Generic" Title Instruction Letters
- Exemption Trust Certification
- Exemption Trust "Specific" Title Instruction Letters
- Exemption Trust "Generic" Title Instruction Letters

LET'S TAKE A FURTHER LOOK

EA Portfolio Book Table of Contents

(EXHIBITS 102-136)

- Letter to Income Tax Preparer
- Statement of Legal Services Rendered
- Asset Statements (Tabbed)



QUOTING THE FEE

Quoting the Fee

- At this point, you should have clearly identified what needs to be done, how the firm can help and an idea of how complex the matter is
- You may wish to develop a simple one-page, two-sided flyer touting the benefits of choosing your firm to help them with the Administration (see **EXHIBIT 39**)

Quoting the Fee

- Estate Administration is typically easier to close than Estate Planning
 - Fee is paid from the estate/trust (not out of their personal pocket)
 - Fee may be tax-deductible
 - They need immediate assistance/guidance and don't really have the time or experience or emotional strength to do this on their own
- Have a fee sheet that you can reference and quote the fee, matter-of-factly and with firmness

Need Help Developing Your EA Fees?

- In the next Module #6, we will address the different structures for how to set and quote your fees for Estate Administration
- We will also cover how to use our simple one-page Fee Agreement to get going right away

The background of the slide is white and filled with numerous blue question marks of varying sizes and orientations, creating a theme of inquiry.

ANY QUESTIONS?

**SEND IN YOUR QUESTIONS TO
EVENTS@ULTIMATEESTATEPLANNER.COM**