

What Happens to Your Debts After You Die?

5 Things Loved Ones Will Have To Do To Settle Your Accounts

by Patricia Amend, [AARP](#), March 5, 2021



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When loved ones pass away there's way too much to handle in a short time: notifying others despite feelings of intense grief; funeral arrangements; living without the departed individual; keeping or dispensing with their possessions; a potential change in income and other financial matters.

And this is a just [partial list](#).

There's also the matter of the debts the person left behind, which raises a flurry of questions. Will they be forgiven somehow? If not, how are they to be paid? What if the liabilities exceed the assets? Who is responsible for them, and under what conditions? Will debt collectors come calling? It's complicated but not insurmountable.

1. The estate should cover most bills

A person's financial obligations are not automatically forgiven once they've died. According to the Consumer Financial Protection Bureau, in most cases, any unpaid debts are covered by the [person's estate](#) — the total assets owned at death. If the individual appointed a personal representative, executor or administrator, he or she is responsible for paying any debts from the estate, including medical debt.

Creditors have their rights, too, says Martin Hewitt, a lawyer in New York City who's also a member of the American Bar Association's Commission on Law and Aging: "They can file claims in probate [the process of establishing the validity of a will], and can sue heirs who may try to bypass the probate process."

Debts must be settled before heirs receive any money. If there is no will, a judge will decide how the assets should be distributed, and will appoint an administrator to carry out those decisions.

2. Exceptions to the rule

"If the debt is in the decedent's name, the decedent's estate will be responsible," says Rachael K. Pirner, a lawyer in Wichita, Kansas, who's a fellow of the American College of Trust and Estate Counsel. However, if you're responsible for seeing that debts are paid, you may want to consult a probate lawyer before paying anything, she advises. Doing so may help things go as smoothly as possible. "Most state bar associations have a lawyer referral service, and that is a good place to start," she says.

Obtaining legal advice may be wise because you may not be aware of some situations. Parents may be responsible for a dead child's medical bills and hospice care, for example, and spouses may also be responsible for similar debts from a deceased spouse. A lawyer can let you know what bills you might be responsible for.

If you cosigned a loan with the decedent, you owe the debt. Also, a joint account holder on a credit card will be responsible for the debts of the deceased co-owner.

3. State law matters

State law may require a spouse to pay certain debts. It may, for example, require the estate executor or administrator to pay an outstanding bill out of property that was jointly owned by the surviving and deceased spouse.

Also, in community property states — Alaska (if a special agreement is signed), Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington and Wisconsin — the surviving spouse may be required to use community property to pay debts of a deceased spouse. If there was no joint account, cosigner or other exception, the estate of the deceased person owes the debt.

What if the debts exceed the estate's assets? State statute directs who gets paid and how much, Hewitt says. "An insolvent probate is like a bankruptcy with the unpaid balances being written off by the creditors. On joint accounts, the creditors can generally collect from any joint account holder. Often the best course of action on an insolvent estate is to turn it over to an attorney or to the court public administrator, if the court has one."

4. Mistakes happen

Fortunately, you don't have to settle things immediately, so [take your time to avoid errors](#). “Generally there is a minimum period in state probate law for creditors to present a claim, or let the estate know they are owed money,” Hewitt says. “On, average this is between three and six months. If you are sure there will be more than enough money to pay all debts, you can pay sooner.”

Common mistakes include the failure to notify known creditors of the person's death; distributing the assets before determining if there is enough money to cover all debts; and overlooking secured debts, such as car loans or mortgages, when deciding what assets to keep or how to distribute them. “People often owe more on cars than they're worth, and if the lender will take the car in exchange for discharging the debt, then let it go,” Hewitt says.

5. Debt collectors may understand

What to do if you hear from [debt collectors](#)? “Let them know what has happened, and what is being done to sort out the estate,” Hewitt says. “As long as reasonable progress is being made in settling the estate, most creditors will be understanding. By law, if the estate is filed for probate, the creditors need to file claims and will do so.”

Pirner concludes: “Should the creditor persist and the debt is only in the decedent's name, you should consult a lawyer. If you can't afford one, check with Legal Services or Legal Aid.”

Note to self: Learn from the experience

To spare your loved ones unnecessary grief when your time comes, keep a list of all of your accounts, creditors and account numbers, and let an appropriate person know where to find it. “Make sure that your financial affairs are in order and your electronic passwords are available to a family member,” Pirner insists.

Patricia Amend has been a lifestyle writer and editor for 30 years. She was a staff writer at Inc. magazine; a reporter at the Fidelity Publishing Group; and a senior editor at Published Image, a financial education company that was acquired by Standard & Poor's.

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