

Estate Administration – The Musical

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“What’s a short certificate, and how do I get one?” This is a question I often receive from a first-time caller who has been unsuccessful at the bank following a family death. The caller arrived at the bank armed either with a power of attorney or a Will, only to be told by the bank that he or she will need to “go to the Courthouse and get a short certificate.” When they ask the bank how to do that, they’re told that they’ll have to speak with a lawyer. So, they call me up, expecting (at no cost, of course – doesn’t everybody have the Constitutional right to free legal services?) instructions for popping into the Register of Wills office and paying a few bucks for some sort of form that they can take to the bank and – presto, problem solved! My response is to ask them if they’ve ever seen *The Music Man*. They say, “Sure, why?” “Because,” I reply, “Ya got trouble, right here in River City! With a capital “T” and that rhymes with “P” and that stands for **PROBATE.**”

Now, they’ve already gotten advice from both the bank and from me that there’s Trouble ahead, but they’re still in I-can-do-it-myself mode. So (as I slip further and further into I-probably-won’t-take-this-case mode), I explain that power of attorney ceases at death and that you’re not an executor just because the Will says so. I explain that a “short certificate” is a one-page copy of the Register of Wills original decree granting Letters Testamentary (to an “executor” when there is a Will) or Letters of Administration (to an “administrator” when there is no Will). I explain that you need to make proper application in person using a specific form for grant of Letters, pay a fee based on the value of the estate, **and thereafter comply with all of the legal duties that the law imposes upon an appointed personal representative.** I explain that the executor or administrator may purchase as many “short certificates” as needed, and that these constitute official proof of authority to act on the estate’s behalf that a bank will accept. At this point, if the caller is the type of person who believes that you can safely ignore notices that your house is up for delinquent tax sale until you get one that’s in Spanish, the caller will hang up with a quick “Thanks” and go off on their own after the bank account. I’ll close my temporary file with a sigh (and a reminder note not to take the case in the future), knowing that it’s only a matter of time before the caller runs into Trouble and starts calling around for more free legal advice. Of course, I have no idea what other issues the caller might encounter; all I’ve been told is that there’s a solely-owned bank account in the decedent’s name. But I also know from experience that there can be lots of work involved in even the simplest of estates, and that there are usually plenty of potential legal punji sticks hidden along the path to success. My caller doesn’t yet appreciate that, and may indeed receive initially positive results, although Trouble is right around the corner.

The Register of Wills will be happy to provide the necessary application form, take the caller's money, swear them in, and issue the "short certificate" allowing them to zip off to the bank to claim the decedent's account, oblivious of the above boldface underlined advice and the fact that they've just painted a target on their back. They succeed this time at the bank, too, departing with a cashier's check for the account balance payable to "Estate of (whoever it is), deceased." Unfortunately, they quickly discover that the "Estate of (whoever it is), deceased" doesn't have a bank account into which the cashier's check can be deposited. No real problem here – any bank will be happy to open an account for the estate, but not unless it's registered for income tax purposes under a Federal tax identification ("EIN") number. Don't have one of these? Again, no real problem - the bank might help get it, or it can (usually) be obtained over the Internet, after which the new estate bank account can be opened, thereby allowing access to the decedent's funds. However, the estate will then be on the IRS's radar screen. In fact, the IRS correspondence assigning the tax ID number will specify the date that you're expected to file your initial Form 1041 return. Not familiar with this tax form? We'll, it's sort of like the Form 1040 returns that you file yourself (and now have the legal duty as personal representative to file on behalf of the decedent), but not quite. The state individual and fiduciary income tax forms are similar, too. But not to worry, you'll have plenty of time to get used to filing estate income tax returns, because no matter when you think you've finally finished administering the estate, there will always be another April 15th out there on the horizon that you'll still have to deal with. So, unless you happen to be a lawyer or accountant, how about **TAXES** for **Trouble** with a capital "**T**?"

If my caller's estate had nothing in it but the one bank account, they probably thought that their job was finished once they got the funds and divvied them up. If they were to ask me, however, I'd have to essentially advise them, "Well, as Pink Floyd once said, I've got some bad news for you, Sunshine." Their job has just begun, and the Register of Wills office is going to be on their case to make sure that they do what the law requires them to do. They're required to advertise the estate, give written notice of its existence directly to all beneficiaries, and file all sorts of documents with the Register of Wills, including a written certification of having notified the beneficiaries, an Inventory of all estate assets, a Pennsylvania Inheritance Tax return, and periodic Status Reports as administration proceeds. If they don't do all of these things by the statutory deadlines, they will at some point end up subject to legal compliance proceedings. And not only will compliance be **Troublesome** without a lawyer's assistance, most lawyers will be unwilling to get involved in an estate that the personal representative has completely neglected to administer properly. This is especially true to the extent that the estate is more complex. Unpaid creditors or real estate involved? Didn't pay taxes on time? Beneficiary disputes? **Trouble** with a capital "**T**" indeed!