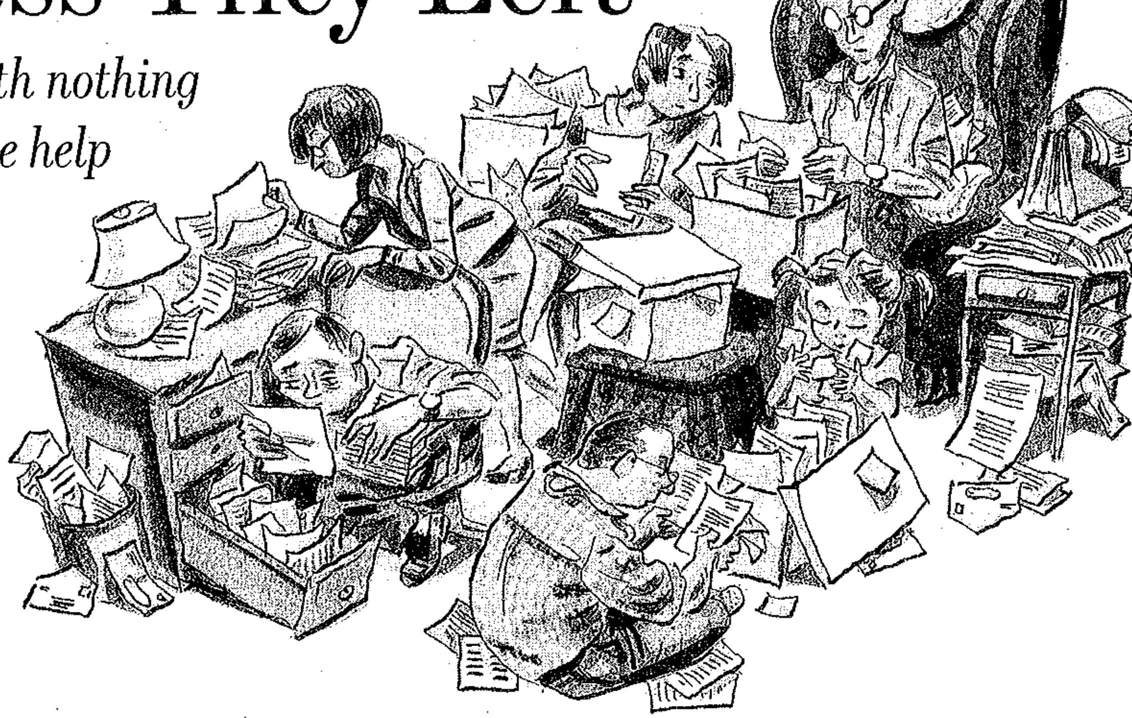
The Mess They Left

Many people die with nothing in order. Here's some help sorting it all out.

By Suzanne Barlyn



Rob Shepperson

IN THE TORRENT of estate-planning advice out there, one simple but crucial bit of wisdom often gets overlooked: Keep your stuff in order.

Surviving family members can get overwhelmed when loved ones leave behind disorganized financial statements and cluttered homes. Heirs and executors must become de facto investigators, sorting through the junk to figure out where the assets are—and what should be done with them.

Prevention is, of course, the best solution, such as asking blunt questions about where wills and other important papers are located. Many people, however, avoid the subject or die unexpectedly, leaving survivors with the burden of chaos.

"No one is sitting around while they're alive preparing their items for someone to go through after they die," says Lori Perlman, an estate-planning attorney in New York.

With that in mind, here's advice about untangling some common messes.

A Missing Will

Estate planning is useless if crucial documents are missing after a person's death—and perhaps most crucial of all is the will.

Safe-deposit boxes are among the most common repositories, says Lawrence C. Wohl, an estate-planning attorney in Princeton, N.J. Many banks allow survivors to search a decedent's deposit box for a will—but in the presence of a bank employee, to prevent the removal of valuables that should be distributed through the estate. Banks will typically drill open the box if the key is missing, for about $150.

If a search fails, survivors and executors must often track down advisers who helped the decedent during life.

Cathy Curtis, a financial planner in Oakland, Calif., served as executor to an estate with a missing will. Ms. Curtis helped search while emptying the decedent's home, which she says was stuffed to the rafters with clocks, paint cans and power tools.

She and family members reviewed every document in the filing cabinet, looking for professional advisers who may have known about a will. Finally, they called a lawyer whose letterhead they found in the pile. The decedent, they learned, consulted the lawyer for advice, but never executed the will.

Friends and social organizations can also provide information. Matthew A. Lapides, managing director in the wealth-management division of Gibraltar Private Bank & Trust in Coral Gables, Fla., recalls one family that tracked down a couple's advisers through fellow members of a polka-dancing club.

Once you give up, you should ask the local surrogate or register of wills—a public official—to appoint an administrator to oversee the distribution of assets. It will often be one of the surviving children.

The estate is then divided up according to state law, as happened in the case Ms. Curtis handled. The process took about a year, she says.

A Tangled Money Trail

But the will is only part of the critical paperwork. If heirs can't find all of a decedent's financial records, they might not be able to trace all of his or her assets. So, they might not get everything they're entitled to, and the unclaimed assets will eventually revert, or "escheat," to the state.

People who die suddenly usually leave behind the most disorganized paperwork, says Daniel Kurtzman, a lawyer in Haddonfield, N.J. "That's when the executor comes in with bags full of papers in total disarray," he says.

There's just one way to start. "You reach in, grab some handfuls of papers and start making notes of what assets you find," says Mr. Kurtzman.

Recent tax returns, which usually include names of financial institutions that paid interest or dividends, may help. Mr. Lapides says institutions and transfer agents can provide additional details, such as account balances and shares of stock.

However, he adds, it's sometimes impossible to identify every asset. Family members should check online services, offered by states free of charge, that list unclaimed assets. You should keep checking the services for at least several years after a relative's death, since it can take that long for the assets to escheat to the state.

But beware of private companies offering to track down missing assets. They usually just search the state databases, then contact family members and offer to retrieve the money for a fee. Family members can retrieve the money themselves, usually for free, by filing a claim, often with the state treasurer.

Another crucial part of the money trail: automated payments. Survivors may not be able to stop online transactions, such as sending life-insurance premiums, if they don't know passwords and user IDs, says Helen Modly, a fee-only financial planner in Middleburg, Va. The executor is typically granted access to password information after being officially appointed through the probate process, which may not occur for weeks after a death. Be prepared to present a death certificate and other documents the institution requires.

Digging Out the House

Wills typically don't provide instructions for distributing personal items. A tangible personal-property memorandum—an addendum to the will that designates who receives certain personal items—can prevent family disputes. But many people never draft the document.

And that often makes disposing of possessions time-consuming and emotional. Mundane objects, such as a dilapidated recliner, can evoke memories—and provoke fights. "These things really tear families apart," says Mr. Lapides.

Ms. Curtis, the Oakland-based financial planner and executor, says the family she aided avoided rifts by drawing numbers. They lined up in order of the numbers chosen, and each selected one item during their respective turns, repeating the process numerous times.

Estate liquidators can sell and remove anything that family members don't want, typically for 30% of the gross. Give any remaining items to charities, and arrange a bulk trash pick-up with your city or town for old, worthless furniture, says Mr. Lapides.

Paying Off Debts

The sour economy is likely to leave people cash-strapped in death as well as in life. Mr. Wohl says declining real-estate values likely mean a growing number of people leave estates with insufficient assets to pay off debts.

If that happens, the executor can try to negotiate lower amounts with creditors. If they can't agree, the executor can ask a court to declare the estate insolvent. Certain types of creditors will then have priority, says Mr. Wohl. For example, state laws may require a secured debt, such as a mortgage, to be paid in full, ahead of a credit card.

Ideally, the executor will know about all existing debts and pay them out of the estate. But if a debt, such as a tax bill, surfaces after the estate is settled and heirs received their money, they won't have to cover the difference out of their own pockets. They're generally responsible for up to the amount they inherited. That's still a problem, however, if the heirs have spent the money. Be sure the executor settles debts in advance, to avoid future hassles. Otherwise, creditors could puruse the estate—as well as the executor and beneficiaries.

And, in some cases, creditors have a long time to take action. Beneficiaries, by then, have often spent their distributions and can't pay the debt, says Ms. Perlman.

Accounting for Missing Returns

Many people who are chronically ill or dying don't bother to file tax returns. But the estate is still on the hook to the Internal Revenue Service, and the longer it takes the estate to file, the bigger the penalties.

Piecing together unpaid taxes can be a challenge. Usually, the most recently filed return, as well as bank statements, can offer clues about the financial institutions that hold assets, retirement-account distributions and direct deposits. To get a copy of a previous return, executors can file Form 56 with the IRS, which notifies the agency about the executor's fiduciary status. From there, the executor would use Form 4506 to request a copy of a return.

Still, the IRS may show mercy to families dealing with loved ones' unpaid taxes. Linda Gadkowski, a fee-only financial planner in South Easton, Mass., recalls one client whose father didn't file while terminally ill. Ms. Gadkowski sent an apologetic letter to the IRS, along with a death certificate and a doctor's letter. The tax agency waived late-filing penalties, she says.

Patience, whether dealing with taxes, or any other aspect of estate administration, is the key to preventing future hassles, says Ms. Modly. "What really causes messes is when people are in too much of a hurry to settle," she says.

Ms. Barlyn is a staff reporter for Dow Jones Newswires in Jersey City, N.J. She can be reached at suzanne.barlyn@dowjones.com.

WSJ.com

JOURNAL PODCAST: Hear Matthew Lapides of Gibraltar Private Bank & Trust discuss how to deal with disorganized estates, at **WSJ.com/Reports.**