COX LAW, PLLC

FLORIDA PROBATE · FIDUCIARY PRACTICE TOOL

Florida Personal Representative Fiduciary Checklist

A practitioner-oriented risk-control tool organized around Fla. Stat. § 733.602, with the master deadline docket, statutory-class payment order, and personal-liability trigger matrix a Florida personal representative and counsel need in one document.

Not Legal Advice This document is a general reference tool. It is not legal advice and does not create an attorney-client relationship. Every estate is different; consult a Florida-licensed probate attorney about your specific matter.

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Scope and Governing Standard

This checklist is a risk-control tool for formal administration of a Florida decedent's estate. It is organized around section 733.602, Florida Statutes, but incorporates related statutes, Florida Probate Rules, and federal tax requirements that give operational content to the personal representative's fiduciary duty. It should be conformed to the will, letters of administration, court orders, local administrative orders, the estate's solvency, homestead status, elective-share issues, tax profile, pending litigation, and the dates of death and appointment.

Section 733.602 establishes the governing standard: the personal representative is a fiduciary subject to trustee standards of care; must settle and distribute the estate under the will and Probate Code as expeditiously and efficiently as the estate's best interests permit; and must exercise statutory, testamentary, and court-conferred authority for the best interests of interested persons, including creditors (Fla. Stat. § 733.602). An authorized act of administration or distribution is protected from liability if it was authorized when taken, but administration and distribution remain subject to the rights of interested persons (Fla. Stat. § 733.602(2)).

PRACTICE WARNING "Promptly," "diligent search," "reasonably necessary," "expeditiously," and "best interests" are fact-dependent standards, not safe-harbor periods. Calendar the numerical outer deadlines below, but do not treat them as permission to delay a task that the statute requires promptly.

Master Deadline Docket

TRIGGER	DEADLINE	REQUIRED ACTION	AUTHORITY & EXPOSURE CONTROL
Issuance of letters	**Immediately**	Obtain EIN; open estate account; secure property; redirect income; establish asset, claim, tax, and deadline ledgers	The personal representative must take possession or control of estate property, other than protected homestead, and take reasonably necessary preservation steps (Fla. Stat. § 733.607); the IRS directs the fiduciary to obtain an EIN and file required returns (IRS Publication 559).
Issuance of letters	**Within 60 days**	File inventory, unless previously filed; seek extension before expiration if cause exists	Fla. Prob. R. 5.340 requires filing within 60 days, reasonable detail, date-of-death values, and identification of apparent protected homestead.
Appointment / admission of will	**Promptly**	Serve notice of administration on required known persons	Fla. Stat. § 733.212.
First publication of notice to creditors	**Promptly commence; publish once a week for 2 consecutive weeks**	Publish in the county newspaper or, if none, a newspaper of general circulation in the county	Fla. Stat. § 733.2121(1)-(2).
Creditor identification	**Promptly**	Conduct and document a diligent search; promptly serve reasonably ascertainable creditors, including unmatured, contingent, and unliquidated creditors	Fla. Stat. § 733.2121(3)(a).
First publication; decedent age 55 or older	**Within 3 months after first publication**	Serve AHCA with notice to creditors and death certificate, unless AHCA already filed a claim	Fla. Stat. § 733.2121(3)(d).
Creditor claim period	**Later of 3 months after first publication or, for a creditor required to be served, 30 days after service**	Docket claims; distinguish timely, late, secured, insured, contingent, and administrative matters	Fla. Stat. § 733.702(1).
First publication / claim filing	**Later of 4 months after first publication or 30 days after timely claim or amendment**	File and serve any objection to claim; obtain an extension for good cause before relying on one	Failure to serve abandons the objection (Fla. Stat. § 733.705(2)).
Service of objection on claimant	**30 days after service**	Monitor claimant's independent or declaratory action; any written extension should be executed before expiration	Fla. Stat. § 733.705(5).
First publication	**No compelled debt payment during first 5 months; generally pay claims within 1 year**	Preserve liquidity; pay allowed claims in statutory class order; seek extension for good cause or unresolved claims	Fla. Stat. § 733.705(1).

TRIGGER	DEADLINE	REQUIRED ACTION	AUTHORITY & EXPOSURE CONTROL
Date of death	**2 years**	Treat as the general outside bar for decedent claims, subject to statutory exceptions for recorded mortgages, security interests, possessory liens, and enforcement rights	Fla. Stat. § 733.710.
Notice of administration served	**3 months after service**	Monitor objections to will validity, venue, or jurisdiction; specialized outside limit is the earlier of discharge or one year after service, with only the statutory estoppel extension	Fla. Stat. § 733.212(2)(c), (3).
Notice of administration served	**4 months after service, subject to the separate 40-day alternative**	Monitor petitions for exempt-property determination	Fla. Stat. § 733.212(2)(d).
Notice served on surviving spouse / death	**Earlier of 6 months after service or 2 years after death**	Monitor elective-share election, subject to statutory extension procedure	Fla. Stat. § 733.212(2)(e).
Decedent's normal individual-return due date	**Generally April 15 following year of death for a calendar-year taxpayer**	File final Form 1040/1040-SR and any delinquent prior returns; an extension to file does not extend payment	IRS Publication 559.
End of estate tax year	**15th day of 4th month after year-end**	File Form 1041 when required; calendar-year return generally due April 15; Form 7004 gives an automatic 5½-month filing extension but not a payment extension	IRS Instructions for Form 1041.
Date of death	**9 months**	File Form 706 when required or to elect portability; pay estate tax unless a valid payment extension applies; Form 4768 can provide a 6-month filing extension	IRS Instructions for Form 706.
Issuance of letters	**Usually within 12 months if no federal estate-tax return is required**	File and serve final accounting and petition for discharge, or timely seek a court extension for cause	Fla. Prob. R. 5.400(c).
Federal estate-tax return due date	**Usually within 12 months after the return is due when Form 706 is required**	File and serve final accounting and petition for discharge, or timely seek extension for cause	Fla. Prob. R. 5.400(c).
Completion of administration	**Before final distribution / discharge**	File final accounting and petition for discharge with complete distribution plan; pay or provide for claims, taxes, and expenses	Fla. Prob. R. 5.400(a)-(b).

Appointment and Governance Controls

Authority File

- [ ] Obtain certified copies of the death certificate, admitted will and codicils, order admitting will, letters of administration, bond, and every later order affecting authority.
- [ ] Prepare a one-page authority matrix identifying:
    - assets the personal representative may possess;
    - restricted or special assets;
    - powers granted or limited by the will;
    - transactions requiring court approval;
    - co-personal-representative signature requirements;
    - homestead, exempt property, family allowance, and elective-share issues;
    - interested-person consent requirements; and
    - pending contests, appeals, creditor disputes, or removal proceedings.
- [ ] Do not distribute apparently intestate assets if aware of a proceeding challenging intestacy, appointment, or fitness to continue; the safe authorization in section 733.602(2) depends on the personal representative's knowledge at distribution (Fla. Stat. § 733.602).
- [ ] Record material decisions in a fiduciary decision log: issue, facts reviewed, governing authority, alternatives, advice obtained, conflicts, expected benefit or cost to estate, decision, and follow-up date.
- [ ] Obtain court instructions before a material, conflicted, disputed, novel, or authority-sensitive transaction rather than relying on informal beneficiary acquiescence.

Financial Segregation and Records

- [ ] Obtain an estate EIN and provide it to financial institutions and payers of post-death income; do not use the decedent's SSN for estate income after the final individual return (IRS Publication 559).
- [ ] Open an estate fiduciary checking account titled in the estate's name.
- [ ] Deposit all estate receipts into the estate account; never use a personal account.
- [ ] Prohibit cash withdrawals except documented, unavoidable petty-cash items.
- [ ] Require invoices, receipts, written purpose, payee, matter category, and approving authority for each disbursement.
- [ ] Reconcile bank and investment accounts monthly; retain statements and images of paid items.
- [ ] Maintain separate ledgers for principal, income, sales, gains/losses, claims, administration expenses, professional fees, taxes, distributions, reserves, and property held for others.
- [ ] Do not borrow estate assets, pledge them for personal obligations, commingle funds, make undocumented loans, or favor one beneficiary or creditor outside statutory priority.

Asset Collection, Control, and Preservation

Section 733.607 requires the personal representative to take possession or control of the decedent's property, except protected homestead, and to take all reasonably necessary steps to manage, protect, and preserve the estate until distribution (Fla. Stat. § 733.607). Estate property and its income are held for administration expenses, taxes, claims, statutory entitlements, devises, contribution, and distribution (Fla. Stat. § 733.608(1)).

Locate and Marshal

- [ ] Search the residence, safe-deposit records, mail, email, tax returns, financial statements, password manager, cloud storage, and business records.
- [ ] Identify bank, brokerage, retirement, digital-asset, insurance, annuity, partnership, LLC, corporate, intellectual-property, vehicle, vessel, aircraft, real-estate, mineral, refund, litigation, and receivable interests.
- [ ] Distinguish probate assets from jointly owned, beneficiary-designated, trust, transfer-on-death, payable-on-death, protected homestead, and exempt assets. Confirm title and beneficiary designations rather than relying on family descriptions.
- [ ] Request date-of-death statements and valuations; obtain qualified appraisals where value is material, disputed, illiquid, unique, or tax-sensitive.
- [ ] Redirect rents, royalties, dividends, refunds, receivables, and other post-death income to the estate account.
- [ ] Pursue recovery or title proceedings when needed; section 733.607 permits an action to recover possession or determine title (Fla. Stat. § 733.607).
- [ ] Investigate transfers, beneficiary changes, withdrawals, exploitation, fraudulent transfers, and claims belonging to the decedent or estate before limitations periods expire.

Secure and Preserve

- [ ] Change locks and access credentials; inventory persons with keys or digital access.
- [ ] Photograph and video real and tangible property; obtain signed receipts when property remains with or is delivered to a presumptive recipient.
- [ ] Maintain appropriate property, casualty, flood, wind, vehicle, business, vacant-property, umbrella, cyber, and fiduciary coverage. Notify carriers of death, vacancy, rental, and change in control.
- [ ] Protect perishable, volatile, concentrated, leveraged, or wasting assets; obtain investment advice and document any hold-versus-sell decision.
- [ ] Continue critical utilities, mortgage, association dues, storage, security, taxes, and maintenance when economically justified.
- [ ] Secure firearms, controlled substances, sensitive records, jewelry, collectibles, vehicles, digital wallets, and private keys.
- [ ] Calendar leases, options, loan maturities, tax sales, foreclosure dates, business filings, licenses, litigation deadlines, and policy renewals.
- [ ] Assess ongoing businesses immediately. Do not continue operations beyond authorized scope without addressing section 733.612 authority, liquidity, insurance, employee, regulatory, and creditor risk.
- [ ] For property that appears to be protected homestead, do not treat it as an ordinary probate asset. Section 733.608 authorizes but does not require limited possession to preserve, insure, and protect unoccupied apparent homestead, includes lien procedures for recoverable expenditures, and protects the personal representative from liability for failing to take possession or expend funds on it (Fla. Stat. § 733.608(2)-(11)).

Inventory

- [ ] File within 60 days after issuance of letters, absent a court-granted extension.
- [ ] List assets with reasonable detail and date-of-death fair market value; identify apparent protected homestead.
- [ ] Serve the inventory and amendments on persons required by the current rule and file proof of service as required.
- [ ] File and serve an amended or supplemental inventory when property was omitted, a description or value was erroneous or misleading, or an unknown value becomes known.
- [ ] Preserve confidential inventory and appraisal information; use redaction and protected filing procedures.
- [ ] Reconcile the inventory to estate tax returns, Form 1041 opening balances, accountings, sales records, and final distribution schedules.

Notice to Interested Persons and Creditor Administration

Notice of Administration

- [ ] Identify and promptly serve all persons required by section 733.212, including the surviving spouse, beneficiaries, trustees as applicable, and persons who may be entitled to exempt property (Fla. Stat. § 733.212).
- [ ] Confirm that the notice contains every statutorily required warning and deadline.
- [ ] Retain signed waivers or service proofs and calculate service-based deadlines separately for every recipient.
- [ ] If a later will or codicil is admitted, promptly serve a new notice as required.
- [ ] Track the will/venue/jurisdiction objection period, exempt-property deadline, elective-share deadline, and any homestead or family-allowance proceeding.

Diligent Creditor Search

- [ ] Publish notice to creditors once per week for two consecutive weeks.
- [ ] Search for reasonably ascertainable creditors promptly. The statute does not require impracticable or extended searches, but it expressly covers unmatured, contingent, and unliquidated creditors (Fla. Stat. § 733.2121(3)(a)).
- [ ] Review at least:
    - decedent's mail, email, bank and credit-card statements;
    - tax returns, loan files, mortgages, UCC records, judgments, liens, and pending litigation;
    - medical, nursing, assisted-living, funeral, and last-illness records;
    - recurring payments, subscriptions, guarantees, leases, and business books;
    - contracts, indemnities, co-signatures, surety obligations, and threatened claims;
    - Medicaid/AHCA, federal, state, and local tax records; and
    - communications with the surviving spouse, family, accountant, business associates, and counsel.
- [ ] Create a creditor-search memorandum listing sources searched, dates, searcher, results, follow-up, service decision, and reason any person was deemed not reasonably ascertainable.
- [ ] Promptly serve each reasonably ascertainable creditor unless the claim was filed, paid in full, or included in a timely personal representative's proof of claim.
- [ ] If decedent was 55 or older, serve AHCA and a death certificate within three months after first publication unless AHCA already filed.
- [ ] Serve Florida Department of Revenue only if determined to be a creditor under the diligent-search standard.

Claims Review and Payment

- [ ] Stamp every claim with filing and service dates and record class, amount, basis, maturity, security, insurance, objections, settlement authority, and disposition.
- [ ] Do not treat informal recognition, partial payment, or interest payment as a substitute for a timely filed claim; section 733.702 generally makes covered claims nonbinding unless timely filed (Fla. Stat. § 733.702).
- [ ] Determine whether a late claimant has a plausible fraud, estoppel, or insufficient-notice extension ground; do not voluntarily pay a barred claim without authority and solvency analysis.

- [ ] File and serve objections by the later of four months after first publication or 30 days after the timely claim or amendment. Failure to serve the objection abandons it (Fla. Stat. § 733.705(2)).
- [ ] Calendar the claimant's 30-day action period after service of an objection and document any pre-expiration written extension.
- [ ] Do not obtain discharge while an unmatured or contingent claim remains unresolved unless handled by agreement, reserve, security, valuation, court-approved equitable disposition, or another procedure in section 733.705(7)-(8) (Fla. Stat. § 733.705).
- [ ] Pay expenses and obligations in section 733.707 class order:
    - administration costs and expenses, personal-representative compensation, and specified attorney fees;
    - reasonable funeral, interment, and grave-marker expenses up to the statutory aggregate cap;
    - federally preferred debts and taxes and listed governmental claims;
    - reasonable and necessary medical and hospital expenses of the last 60 days of last illness;
    - family allowance;
    - child-support arrearage;
    - authorized post-death business debts, limited to business assets; and
    - all other claims and statutory excess amounts (Fla. Stat. § 733.707).
- [ ] If funds cannot pay an entire class after prior classes, pay creditors within that class ratably; do not prefer an insider, beneficiary, or more aggressive creditor (Fla. Stat. § 733.707(2)).
- [ ] If probate assets are insufficient, evaluate the estate's right to payment from a qualifying revocable trust under sections 733.607(2), 733.707(3), and 736.05053 before declaring insolvency or short-paying claims.

Tax Identification, Filing, Payment, and Clearance

Federal Income and Transfer Taxes

- [ ] Obtain EIN as the first tax-administration step and file Form 56 when the necessary information is available to notify the IRS of the fiduciary relationship (IRS Publication 559).
- [ ] File the decedent's final Form 1040/1040-SR on the ordinary due date and file any delinquent prior-year returns. Pay by the original due date even if Form 4868 extends filing.
- [ ] Select and document the estate's calendar or fiscal year on the first Form 1041; the first year cannot exceed 12 months and must end on the last day of a month (IRS Publication 559).
- [ ] File Form 1041 if the domestic estate has at least $600 of gross income, a nonresident-alien beneficiary, or another applicable filing trigger; issue Schedules K-1 and pay the tax due by the original deadline (IRS Instructions for Form 1041).
- [ ] Evaluate estimated-tax duties. A decedent's estate generally is exempt for tax years ending before two years after death; afterward, quarterly estimates may apply if the estate expects to owe at least the applicable threshold (IRS Instructions for Form 1041).
- [ ] Determine whether Form 706 is required under the exclusion amount for the year of death or desirable for portability, alternate valuation, elections, basis consistency, or other transfer-tax reasons. File and pay within nine months after death unless a valid extension or payment election applies (IRS Instructions for Form 706).
- [ ] Obtain appraisals and maintain consistency among Form 706, basis reporting, inventory values, fiduciary accountings, and beneficiary information returns.
- [ ] Evaluate gift-tax returns, generation-skipping transfer tax, employment tax, household employment tax, business returns, information returns, foreign reporting, and state tax filings based on the decedent's facts.
- [ ] Before final distribution, request transcripts or other verification as appropriate; calculate tax on post-death sales and income; and reserve for audits, amended information returns, penalties, interest, and professional fees.
- [ ] Consider Form 4810 after filing income-tax returns to request prompt assessment, reducing the ordinary assessment period to 18 months after receipt; consider Form 5495 after filing returns to request discharge from personal liability for the decedent's income, gift, and estate taxes (IRS Publication 559).
- [ ] File a terminating Form 56 when the fiduciary relationship ends.

Florida Tax

- [ ] Confirm the decedent's date of death and proceeding date. Florida states that no Florida estate tax is due for decedents who died on or after January 1, 2005 (Florida Department of Revenue).
- [ ] For contemporary administrations, do not reflexively file obsolete DR-312 or DR-313 affidavits. Effective July 1, 2023, personal representatives generally are no longer required to file those affidavits for post-2004 decedents; verify the current rule and title facts before concluding no lien-release filing is useful or required (Florida Department of Revenue TIP 23C03-01).
- [ ] Pay and document other Florida obligations that may apply, including final sales and use tax, reemployment tax, documentary stamp tax, corporate or partnership filings, tangible personal property tax, and real property tax.

Federal Priority and Personal Exposure

- [ ] Before paying lower-priority creditors or beneficiaries from an insolvent or potentially insolvent estate, determine all known federal claims and obtain tax advice.

- [ ] The federal priority statute can impose personal liability when a fiduciary pays other debts before a federal claim in an insolvent estate, to the extent of the improper payment; the IRS expressly flags this exposure under 31 U.S.C. § 3713(b) (IRS Internal Revenue Manual).
- [ ] Maintain a written solvency analysis before each material interim or final distribution and whenever a new claim, assessment, audit, or litigation event arises.

Sales, Expenses, Compensation, and Conflicts

- [ ] Confirm authority before selling, mortgaging, leasing, exchanging, abandoning, compromising, borrowing, operating a business, or distributing in kind.
- [ ] Obtain independent value evidence and market exposure for insider or non-arm's-length transactions.
- [ ] Disclose conflicts and personal interests fully; obtain informed consent or court approval where legally effective.
- [ ] Do not purchase estate property, divert opportunities, use estate information for personal benefit, or favor a related party.
- [ ] Charge only authorized and reasonable compensation and expenses. Maintain time, task, value, complexity, result, and expense records sufficient to withstand review.
- [ ] Review personal-representative and professional compensation for duplication, nonprobate work, trustee work, ordinary versus extraordinary services, and benefit to the estate.
- [ ] Pay professionals from estate funds only for compensable estate services; segregate beneficiary, fiduciary-defense, trust, business, and personal work.
- [ ] Obtain court approval or releases when compensation, conflicts, extraordinary fees, or allocation is disputed.
- [ ] Contract expressly in fiduciary capacity, name the estate, and avoid personal guarantees. A personal representative is not individually liable on a properly entered fiduciary contract, other than an attorney-fee contract, unless representative capacity and the estate are not disclosed (Fla. Stat. § 733.619(1)).

Interim Distributions

- [ ] Confirm the will contest, venue, jurisdiction, exempt-property, elective-share, creditor, tax, and appeal periods material to the proposed distribution.
- [ ] Update the asset ledger, claim register, tax projection, fee estimate, and solvency analysis.
- [ ] Retain a documented reserve for:
    - allowed and disputed claims;
    - unmatured and contingent claims;
    - administration and closing expenses;
    - income, estate, gift, employment, property, and business taxes;
    - audits, penalties, interest, and professional fees;
    - litigation, appeals, indemnities, and warranties;
    - carrying costs and asset-preservation expenses; and
    - equalization, abatement, contribution, and valuation adjustments.
- [ ] Confirm distribution identity and entitlement under the admitted will, intestacy statute, beneficiary disclaimer, assignment, death, incapacity, guardianship, trust, or court order.
- [ ] Obtain receipts describing each asset, value used, income allocation, conditions, and whether the distribution is partial or complete.
- [ ] Do not use refunding agreements as a substitute for a reasonable reserve, priority analysis, or authority.
- [ ] Track basis, holding period, appraisals, deeds, assignments, titles, K-1 information, and income through the distribution date.

Final Accounting, Distribution, and Discharge

Closing Readiness

- [ ] Reconcile every inventoried and later-discovered asset to sale, expense, loss, transfer, or distribution.
- [ ] Reconcile estate bank accounts to the final accounting and distribution plan.
- [ ] Confirm all presented claims are paid, settled, adjudicated, barred, withdrawn, reserved, secured, or otherwise disposed of.
- [ ] Confirm taxes and administration expenses are paid or adequately provided for.
- [ ] Resolve homestead, exempt-property, family-allowance, elective-share, abatement, contribution, apportionment, and beneficiary identity issues.
- [ ] Obtain releases, receipts, waivers, consents, or court determinations appropriate to known disputes.
- [ ] File amended inventories, tax returns, and accountings needed to make the record accurate.

Petition for Discharge and Plan

- [ ] File a final accounting and petition for discharge with plan of distribution when administration is complete except for distribution.
- [ ] State that the estate has been fully administered.
- [ ] State that all presented claims have been paid, settled, or otherwise disposed of.
- [ ] State that taxes and administration expenses have been paid or provided for.
- [ ] Disclose compensation paid or proposed to the personal representative, attorneys, accountants, appraisers, and other agents, including the manner of calculation.
- [ ] Include prior distributions, assets remaining, proposed recipient and method for every remaining asset, and funds retained for closing expenses, as required by Fla. Prob. R. 5.400.
- [ ] Serve all persons required by the current rule and court orders; docket objection, hearing, and compliance periods.
- [ ] Obtain the order authorizing distribution when required, then distribute exactly under the approved plan.
- [ ] Record deeds, assignments, releases, and satisfactions; obtain receipts and proofs of transfer.
- [ ] Pay final expenses, transfer any residual balance, close accounts, and file supplemental proof of distribution or compliance if required.
- [ ] Obtain the final order of discharge. Statutory discharge releases the personal representative and bars actions against the representative in that capacity or individually, and against the surety (Fla. Stat. § 733.901).

Personal Liability Trigger Matrix

Florida law makes the personal representative liable to interested persons for damage or loss resulting from breach of the fiduciary duty owed by a trustee of an express trust, and litigation may produce taxable costs and attorney-fee awards (Fla. Stat. § 733.609). Separate rules govern individual liability on contracts, ownership/control obligations, and administration torts; tort or control-based individual liability generally requires personal fault (Fla. Stat. § 733.619).

TRIGGER	TYPICAL FACT PATTERN	POTENTIAL CONSEQUENCE	PREVENTIVE CONTROL
Unauthorized act	Sale, compromise, borrowing, business continuation, payment, or distribution outside statutory, testamentary, or court authority	Surcharge, rescission, denial of compensation, fee shifting, removal	Authority matrix; written advice; consent where effective; court approval before action
Failure to marshal	Ignoring accounts, receivables, refunds, claims, digital assets, or recoverable transfers	Liability for lost value or income	Asset-search protocol; tax and bank records; title searches; litigation and transfer review
Failure to preserve	Lapsed insurance, avoidable foreclosure, theft, deterioration, penalties, unprotected concentrated asset	Surcharge for preventable loss	Immediate inspection; insurance confirmation; calendar; periodic condition and liquidity review
Commingling or personal use	Estate funds in personal account; undocumented reimbursement; borrowing assets	Surcharge, tracing, removal, possible civil or criminal referral	Estate-only accounts; receipts; monthly reconciliation; dual review
Self-dealing or conflict	Insider sale, personal purchase, preferential use, conflicted investment, opportunity diversion	Rescission, disgorgement, surcharge, fee denial	Full disclosure; independent valuation; informed consent if sufficient; advance court approval
Creditor-notice failure	No diligent search; no service on reasonably ascertainable creditor; late AHCA notice	Estate exposure, delayed closing, extension litigation; personal exposure if bad faith or resulting fiduciary breach	Search memorandum; service log; AHCA age trigger; proof of publication and service
Claim-handling error	Late objection, failure to serve objection, voluntary payment of barred claim, wrong priority, insider preference	Claim deemed allowed or objection abandoned; surcharge; clawback; insolvency	Dual deadline review; class ledger; solvency analysis; court instructions
Premature distribution	Distributions before reserving for claims, tax, fees, litigation, elective share, or appeal	Surcharge; contribution or recovery action; inability to pay superior obligations	Written reserve calculation; interim accounting; receipts/refunding agreements; court approval
Federal-priority violation	Paying beneficiaries or lower-priority creditors while insolvent and knowing of federal tax debt	Personal liability up to the improper payment under 31 U.S.C. § 3713(b)	Federal-claim inquiry; tax transcripts; solvency memo; tax clearance and reserve
Tax filing or payment failure	Late 1040, 1041, 706, payroll, information return, or payment; inaccurate basis or K-1	Tax, interest, penalties, fiduciary personal exposure, delayed discharge	Tax calendar; CPA review; filing confirmations; Form 4810 and Form 5495 analysis
Contracting personally	Contract omits estate identity or fiduciary capacity; personal guaranty	Individual contract liability	Signature block identifying capacity and estate; no personal guarantee; counsel review

TRIGGER	TYPICAL FACT PATTERN	POTENTIAL CONSEQUENCE	PREVENTIVE CONTROL
Personal fault in tort or control	Negligent property management, unsafe premises, wrongful operation of business or vehicle	Individual liability under section 733.619(2)	Insurance; professional management; safety controls; avoid unauthorized operation
Excess or duplicate compensation	Charging trustee/nonprobate/personal work to estate; duplicative fiduciary and attorney services	Fee reduction, disgorgement, surcharge, fee litigation	Detailed time records; role coding; statutory reasonableness analysis; approval
Unequal or erroneous distribution	Wrong beneficiary, incorrect shares, failure to account for abatement, disclaimers, assignments, deaths, or tax apportionment	Return action, surcharge, correction costs	Distribution worksheet independently checked against governing instruments and orders

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A Florida-licensed probate attorney should be consulted for advice about any specific estate. To engage Cox Law, PLLC regarding a Florida probate matter, please contact the firm using the information below.

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