

The Role of the Estate Trustee or Executor

The deceased's Will is a legally binding expression of that person's wishes for the distribution of his or her property. As the Executor, your responsibility is to carry out those wishes as you manage and control all aspects of the estate's administration. In your role, you are representing the deceased and are legally accountable to the beneficiaries.

1. Immediate Issues

There will be many things that require your immediate attention. This might include finding and reviewing of the most recent Will, arranging the funeral, determining if any family members have immediate financial needs, and applying for a Certificate of Appointment of Estate Trustee.

2. Determining Estate Value

Once the estate has been identified, it needs to be valued.

This may include a detailed inventory of assets and liabilities such as but not limited to

- Household goods
- Furniture
- Artwork
- Automobiles
- Investments
- Insurance Policies
- Pension Plans

3. Protecting the Estate

Your role includes identifying the deceased's assets and protecting them until final distribution. For example: you may need to arrange for the care of any vacant property, safe custody of personal valuables and important documents, cancel club memberships, health insurance, subscriptions, credit cards, etc. and ensure adequate property insurance exists.

4. Tax Issues

Neither the federal nor the provincial government imposes direct death duties; there are several tax issues that arise when a person dies, due to actual or deemed transition of property. You will need to determine capital gains at the date of death, make the various elections permitted under federal and provincial laws. Prepare and file final Income Tax returns and request for Clearance Certificates.



The Role of the Executor...continued

5. Administration and Distribution

Finally, you will be required to clear the estate through the distribution of the assets. This may include arranging for probate of the Will, if necessary, settling all claims and debts, investing surplus cash and managing the investments to ensure that enough money is available to pay income tax and other liabilities. You should distribute any personal property which was bequeathed. Discharge any bank and private loans, mortgages or other liabilities, and pay any legacies or other bequests. Then distribute the residual assets to the beneficiaries or trusts set forth in the Will. Beneficiaries will require a full accounting of the estate's administration.

Who Should Be Your Executor?

There are several things to consider when pondering the question of whom you should choose as executor or executrix. Your personal situation may affect your decision, but your executor should be someone who:

- Shares your faith, is trustworthy and agrees with your wishes.
- Has the capabilities to perform the duties required. A professional executor should be considered in complex estate situations.
- Is likely to outlive you.
- Is geographically close to you so that duties may be performed without inconvenience or delay.
- Is Impartial, if you anticipate controversy, choose someone other than a family member.
- You have spoken to this person, about taking on this responsibility.

Executor's Compensation

Although many family members and close friends may choose not to be compensated, the law allows appointed Executors to charge for their services. If not stipulated specifically in the will, the percentages may range from 1-5% of the value of the estate, by law, depending on the complexity of the estate and the time required. This guideline is generally followed but in the case of conflict or pressure from the beneficiaries, the courts will establish a "fair and reasonable compensation"

PROVINCIAL DIFFERENCES

The principals shared above apply across Canada but it is important to recognize provincial differences in terminology, documentation and requirements. Check with your provincial government sites to help you access the applicable materials.

Reference sites:

Alberta Courts <https://albertacourts.ca/court-of-queens-bench/frequently-asked-questions>

British Columbia <http://www2.gov.bc.ca/gov/content/life-events/death-and-bereavement/wills-estates>

Ontario Attorney General <http://www.attorneygeneral.jus.gov.on.ca/english/estates/estates-FAQ.php>

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