



SETTLING AN ESTATE

AN EXECUTOR'S GUIDE TO ESTATE ADMINISTRATION

PREPARED FOR:

NAME OF ESTATE:

DATE OF APPOINTMENT:

TIME OF APPOINTMENT:

(see page 17 for what to bring to your appointment)



People face a number of significant life events over the years. Being called upon to act as an executor to settle the estate of a loved one is one of those life events. In addition to going through the process of grieving, executors are called upon to make timely, critical, and sometimes life-changing decisions about the conclusion of an estate and distribution of assets to beneficiaries. It can be an intimidating and stressful time. Depending on the situation, inexperienced executors may inadvertently put themselves, or the estate's assets, at risk if the estate is incorrectly administered.

At Synergy Credit Union, we are committed to assisting newly-appointed executors in understanding their role, the alternatives that are available to help make informed decisions, and selecting the solutions that meet their needs.



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Role of an Executor

Acting as the executor for an estate involves a significant personal commitment. It's common for a relatively simple estate to require 12 - 18 months of your time to complete. An executor acts as the personal representative for a deceased person (referred to as an Estate Trustee in Ontario and Liquidator in Quebec) and is responsible for settling the estate – also referred to as estate administration.

Estate administration happens under the watch and direction of the executor and brings to a close a person's personal and financial affairs. As the executor or personal representative named in the Will, you are responsible to manage the estate from start to finish, regardless of the length of time required.

The executor is responsible to correctly interpret and carry out the terms of the Will. The administration of an estate must be conducted in accordance with established trust law as well as the applicable provincial and federal requirements.

As an executor, you must ensure that::

- All beneficiaries are treated fairly and equitably, and receive proper information and reporting
- Assets are identified, located and protected
- Debts, liabilities and taxes are discovered, and paid
- Investments, real estate holdings, creditors and business interests are properly managed, and overseen
- Estate assets are distributed to the correct beneficiaries in accordance with the terms of the Will and any applicable legislation

Executors may engage agents (such as trust professionals, accountants and lawyers) to assist with the administration. However, under the law, the executor retains full legal liability for the actions of those agents.



How to Begin



LOCATING THE WILL

The very first step is to locate the Will. Common places to look for a Will include safety deposit boxes, personal files, or a home safe. It could also be on file with one of the individual's personal advisors such as their estate planner, financial advisor, accountant or lawyer.

If there is no Will, the situation is much more complex and an administrator must be appointed. Synergy Credit Union can help you access professional advice to ensure you understand the issues and can make informed decisions.

VALIDATING THE WILL

A valid Will defines who has the authority to take control of the estate assets and make decisions on behalf of the estate. While only a court can authenticate a Will as being valid, it is important to review the document that is presented as the Will to see if there are any obvious issues or irregularities.

If there are concerns about the validity of the Will, or a reasonable belief that a newer Will exists, it is important to seek professional advice before taking any further steps to the administration of the estate.

THE EXECUTOR

Once the Will is located, it is important to identify the executor. A named executor can decline the appointment. To avoid unnecessary liability, executors wishing to renounce their appointment should do so before taking any action in regard to the estate.

When a Will appoints more than one person to act as executor, all executors must agree to every action being taken and they are jointly liable for the actions and decisions of the other executors.

Making Funeral Arrangements

There are many decisions to make when arranging the funeral, usually in a very short time period. The first step is to select a funeral director who can carry out the deceased's funeral arrangements.

Typical decisions are needed on:

- Where and when will the funeral be?
- Will there be an obituary and funeral announcement published in the local newspaper?
- Will there be a burial or cremation, and where will they be laid to rest?
- What format will be used for the service?
- Who will deliver the eulogy?

It is the funeral director's role to help guide executors through these decisions.

When possible, arrangements should be in accordance with the late person's wishes, whether those have been shared verbally, described in the Will, or in other documents. Regardless of

instructions or wishes from either the deceased or their family members, as executor, you are ultimately responsible for funeral arrangements.

Consideration should be given to the associated expenses and the ability of the estate to pay. In most instances, the financial institution holding the deceased's account will allow funeral expenses to be paid from this account.

In addition to the funeral services, funeral directors provide multiple copies of the Funeral Directors Statement of Death which will be needed during the administration of the estate.

If the deceased does not have enough money in their bank to pay the funeral expenses, the executor (on behalf of the estate) assumes the responsibility for paying "funeral and testamentary expenses". An executor may even be personally liable to cover these costs unless or until estate assets can be liquidated to pay them.



Settling the Estate

Once the funeral is over, family members and beneficiaries are often anxious to know about the estate, what happens next and when they will receive their inheritance.

On average, the time needed for an executor to settle an estate is approximately 12 to 18 months. Highly complex, multi-jurisdictional estates or contested Wills may take years. Some of the factors that influence how long estate administration will take include:

- The nature and location of assets
- The type of debts and the claims against the estate
- The financial arrangements and estate planning the deceased completed during his/her lifetime
- The complexity and the clarity of the Will, if one exists
- The level of animosity or distrust that may exist among family members or others involved in the estate
- The skills, ability and expertise of the executor/administrator

Reviewing and Interpreting the Will

Executors should keep in mind that their key duty is to ensure the estate is settled properly, in accordance with the terms of the Will, as well as the legal requirements imposed on the estate and the executor.

Executors who give in to pressure from family or beneficiaries may find they have made inappropriate decisions, exposing themselves to unnecessary risk and liability.

The executor must take the time to thoroughly review and interpret the Will. Even if the terms of the Will appear to be simple and explicit, it's always wise to get professional assistance before taking any action.

The possibility that the Will may not have been properly executed or contains unclear, contradictor or unenforceable provisions is highest when the Will was prepared without professional assistance.

Communicating with Beneficiaries

Once the executor understands the terms of the Will, including any potential issues, it is important to communicate with the beneficiaries. Although it's not mandatory, holding a meeting with the beneficiaries allows the executor to:

- Review the terms of the Will and explain next steps
- Set expectations around timelines for completing the administration and distributing the assets
- Discuss the different duties and liabilities of the executor
- Request approval for compensation if the executor intends on charging a fee. If all beneficiaries refuse to approve the executor's compensation, the executor would be required to get a court ruling to approve the compensation.
- Gather personal information from the beneficiaries (e.g. name, address, Social Insurance Number)
- Determine if the spouse has sufficient support or if there are any dependent children in need of support
- Take possession of the deceased's identification cards, credit cards, security certificates, deeds and other important papers, including prior years' tax returns
- Discuss how the personal assets will be divided

REGULAR REPORTING TO BENEFICIARIES

It's important to provide regular reporting to beneficiaries to ensure they are aware of and understand the actions taken by the executor. Communication with beneficiaries is most critical at the following milestones in the estate administration process:

1. After debts, bequests and legacies are satisfied – The executor is required to provide an accounting of the estate administration to the beneficiaries. This accounting is a chronological account of the events, detailed history of the estate's assets and liabilities and any transactions that have resulted since the date of death. Included with the accounting is a schedule of distribution which sets out the manner and amount of assets that will be distributed from the estate.
2. Once a Clearance Certificate is received – And assets are distributed, a final accounting is provided to the beneficiaries before the estate is closed.

For example, if one of the assets in the estate was a house, the accounting would include the value of the house as at date of death and the proceeds realized on sale, including real estate commissions and legal fees.

Protecting the Estate



The executor must also take the necessary steps to protect the estate against liability, handle financial transactions and protect the estate's assets against damage or loss.

The actions the executor needs to take will differ based on the type of estate assets:

FINANCIAL TRANSACTIONS

- A 'deceased client' notice will be placed on the account as soon as a financial institution is made aware of the death of the account holder
- An executor will be required to open an estate account to process cheques payable or process bills on behalf of the estate

REAL PROPERTY

- Review insurance (including vacancy riders) and amend coverage as needed
- Change/re-key locks
- Cancel or continue utility services, as appropriate

PERSONAL PROPERTY

- Make certain that adequate insurance is in place
- Take possession of valuable items and/or place them in safekeeping or storage until they can be distributed to beneficiaries, sold or otherwise dealt with

BUSINESS INTERESTS

- Fulfill obligations on existing contracts and cancel pending contracts
- Notify suppliers and cancel open orders
- Review and understand shareholder agreements that may be in place
- Review and understand any obligations if an operating company is involved

ADVERTISING FOR CREDITORS

- Advertising for creditors and claimants in the local newspaper ensures that all debts and obligations are identified (if this isn't done, and there is a valid claim on the estate after the assets have been distributed, the executor may be personally liable for those debts unless the beneficiaries are willing and able to cover those claims from their inheritance)

Gathering Personal and Financial Information



In order to move forward with administering the estate, you will need to gather personal and financial information. In addition to the personal identification and credit cards you've already obtained, one of the best sources of personal and asset information is to review the deceased's tax return. A safety deposit box may also contain important information such as life insurance policies or stock certificates, or other assets such as coins or jewelry.

INVENTORY AND VALUATION OF ASSETS AND LIABILITIES

As executor, you will need to create an inventory of all assets and liabilities belonging to deceased, valued as at the date of passing.

The letters you write to request this information will need to include proof of death, as well as a copy of the Will in order to demonstrate your authority as executor, to act on behalf of the estate. Most often, a Funeral Director's Statement of Death will suffice, however, there may be situations requiring submission of a death certificate, as issued by Vital Statistics.

Information will be required from:

- Financial institutions – to obtain details on savings accounts, chequing accounts, investments, loans, mortgages, etc.
- Government departments – to provide notice of the death, cancel payments, apply for death benefits and request copies of necessary documents
- Life insurance companies – to detail with annuity payments or death settlements
- Pension plan administrators – to obtain commuted values of pensions, annuities, etc.
- Investment advisors or stock brokers – to cancel open orders and obtain date of death account values
- Credit card companies and mortgagors – to confirm details of balances at date of death or confirm if loan/mortgage is life insured

As it affects the preparation of income tax returns and the distribution of assets, it is important to gather information on how assets are registered (solely, jointly with right of survivorship or as tenants in common) and whether there is a "designated beneficiary" on the company's records.

Probating the Will

Probate is the legal process by which a person's Will is reviewed and authenticated by the court as the individual's "last Will."

Certain assets and some estate issues can only be dealt with after probate is obtained, but not all estates must be probated. Where an estate is probated, there may still be assets, like insurance policies with a named beneficiary, that are exempt from probate and the terms of the Will.

It is wise to consult an estate professional on the benefits and costs associated with obtaining probate before making the final decision.

Each province and territory requires different forms to be completed in the probate application, but basic information needed includes:

- Personal information about the deceased (i.e. full names or aliases, address, date of birth, place of death, etc.)
- The original Will and affidavits from the witnesses
- A sworn affidavit from the executor(s)
- Information about the beneficiaries (name, address, age, share of estate)
- An inventory of the deceased's assets and liabilities that places an approximate value on the estate
- A cheque paid by the estate to cover the court costs/probate fees

The court clerk can assist the executor in submitting a probate application to the court by answering general questions and providing a package of probate forms for that jurisdiction. If the forms aren't correctly completed, the application will be returned to the executor.

The time required for the court to process an application can vary from a couple of weeks to several months. A lengthy delay could result in a number of unwanted situations such as falling real estate value, unhappy creditors or angry beneficiaries. Most executors seek professional assistance to prepare and submit the application for probate.

A grant of probate (Certificate of Appointment of Estate Trustee in Ontario) is a document sealed by the court which legally authorizes the executor named in the Will to proceed with the administration of the estate.

The executor should never release the original grant of probate; those requesting a copy of the probate document should be given a notarized copy.

If the deceased has not provided for a spouse or child, as required by provincial legislation, there will be a prescribed waiting period before assets can be distributed. Failure to comply with legislation could make the executor personally liable for any losses.

Filing Taxes

The executor is responsible for ensuring all necessary income tax returns are filed. Depending on the nature of the estate's assets and the time of year the individual died, it may be necessary to complete and file up to six separate tax returns. In addition, the executor is required to make any income tax elections on behalf of the deceased and the estate.

In many cases, elections which are helpful to the estate or some of the beneficiaries may not be favourable for all the beneficiaries. This can result in conflict and disagreement among the beneficiaries.

In all cases, the executor will need to file a Terminal or Final T1 return that reports income from January 1 of the year of death to the date of death. A copy of the death certificate and a copy of the grant of probate must be included with the T1 return.

Provided there are adequate assets, it's common to make an interim distribution of a portion of the residue once the Final T1 return has been filed or once the Notice of Assessment on the Final T1 return has been issued by CRA.

Additionally, the executor must report income received from the date of death until the date the assets in the estate are distributed. This income is reported on a tax return, known as a T3 Trust return.

It's best practice to ask the beneficiaries sign a release form to approve the executor's accounts and compensation, returning it prior to making an interim distribution. The approval and release form will help to indemnify the executor against future claims.



Distributing Assets

Before assets are fully distributed to beneficiaries, the executor must ensure that all debts, testamentary expenses and taxes have been paid and all claims against the estate have been satisfied. If claims arise after the assets are released, the executor would be personally liable to cover these costs if they were unable to get the necessary funds back from the beneficiaries.

After debts and expenses have been satisfied, and provided there are sufficient residual assets to cover all taxes, the executor may distribute the specific bequests. These may be legacies which are gifts of money, specific assets, and personal property or devises which are gifts of real property.

These gifts may be outright, conditional (upon the happening or non-happening of an event or contingent upon a future event). The estate is required to pay any costs necessary to carry out a bequest or devise unless the Will directs otherwise.

A chronological accounting of transactions undertaken in the estate's administration to date must be provided to beneficiaries at this point in time. (See 'Communicating with Beneficiaries')

The executor will be in a position to apply for a Clearance Certificate for Distribution Purposes once all tax returns, including the T3 Trust return, have been assessed and balances paid. The Clearance Certificate enables an executor to distribute the residue of the estate without incurring personal tax liability.

The residue, as the term implies, is whatever is left to be distributed directly to the residual beneficiaries or to a trustee to be held in a trust created under the Will (referred to as a testamentary trust).

Based on the complexity and duration of the testamentary trust, many trustees obtain professional assistance to ensure the trustee's obligations are fulfilled and discretionary decisions are prudently made.

Wrapping up Administration

Once the executor is satisfied that all debts have been paid, all obligations have been satisfied and all releases have been returned, the executor can make a final distribution from the estate, provide a final accounting to the beneficiaries and close the estate account.

Common Tasks Required of an Executor

The following checklist captures the most common tasks required of an executor. Depending on the complexity of the deceased's Will, the nature and location of their assets, business ventures and the relationships between family members and beneficiaries, additional duties may be required.

YOUR FIRST STEPS

- Locate the Will
 - Identify and confirm the executor
 - Make funeral arrangements
 - Review and interpret the Will
 - Ensure the family's immediate financial needs are met
 - Communicate with beneficiaries and provide them with a copy of the Will, as applicable
 - Obtain several original copies of the Funeral Director's Statement of Death or a Death Certificate from Vital Statistics
-

PROTECT THE ESTATE

- Ensure adequate insurance is in place to protect estate assets
- Re-route mail
- Notify financial institutions where deceased held accounts
- Open an estate account at the credit union to deposit income and pay expenses, transferring any balances in accounts held exclusively in the deceased's name
- Prepare a listing of safety deposit box contents
- Arrange for safekeeping of valuables
- Obtain the contents of the safety deposit box after providing required estate documentation; return keys and close safety deposit box
- Advertise for creditors

ASSEMBLE AN INVENTORY OF ASSETS AND LIABILITIES

- Begin claims on life insurance policies including group insurance or other plans
- Contact the deceased's financial institution to gather information on account balances, loans outstanding and investments held
- Contact the deceased's employer to verify any income owing and to determine benefits to which the spouse/family may be entitled
- Contact Canada/Quebec Pension Plan to cancel pension benefits
- Contact Service Canada to cancel federal pension/income benefits
- Obtain a copy of the last tax return filed by deceased
- Contact Canada Revenue Agency (CRA) to cancel GST/PST quarterly credits
- Contact CRA regarding Child Allowance and Child Tax benefits received by deceased
- Establish eligibility of spouse/guardian or children for survivor or continuing benefits from each agency
- Assist family with application for benefits
- If the deceased was a veteran or member of the Canadian Forces, contact Veteran's Affairs Canada to determine benefits available
- Locate all original investment certificates, stocks, bonds, property deeds, etc.
- Prepare a detailed list of all assets and liabilities
- Document the value of each asset (current market value and original purchase price) for taxation (capital gains) purposes

Common Tasks Required of an Executor CONTINUED

ASSEMBLE AN INVENTORY OF ASSETS AND LIABILITIES (CONTINUED)

Investigate and pay all debts owed by the deceased

If loan(s) is/are insured, complete appropriate insurance forms

Cancel all credit card accounts and return cards to issuers

Cancel/memorialize social network accounts

In accordance with terms of the Will and wishes of beneficiaries, identify which assets will be sold, transferred in kind, or have title(s) transferred

Prepare a beneficiaries report of all assets, liabilities, expenses, etc.

PROBATE

Consult a professional concerning the probate of the Will

Supply required documents to court

Obtain court documentation attesting to the validity of the will and confirming you as legal executor

Pay probate fees to provincial government as determined

ADMINISTER AND DISTRIBUTE ESTATE

If required, return social insurance card, passport, driver's license and health insurance cards to authorizing organizations, obtaining any applicable refunds

Terminate the deceased's lease or arrange to have premises sublet

Cancel newspaper and magazine subscriptions; club memberships; telephone; cellular; cable/satellite TV; internet services; and gardening and/or snow removal contracts

Arrange for care or adoption of pets

Initiate sale of assets, transfer of titles, etc.

Invest income and/or surplus cash until estate is finalized

Distribute specific bequests (personal belongings) to respective beneficiaries according to the terms of the Will, obtaining receipts

Prepare and file final T1 tax return(s) and, if applicable, returns for international jurisdictions

File any outstanding returns from previous years, if not yet filed

Pay all income taxes owing

Complete final T3 tax return for the estate, as well as for the deceased's business, if necessary

Apply for Final Clearance Certificate(s) for Distribution Purposes from CRA (and/or Revenu Quebec if applicable) once the Notice of Assessment is/are received, confirming that all tax liabilities have been settled

Settle legitimate claims prior to final distribution of assets, obtaining receipts for any payments made

Begin distributing residual assets/cash to beneficiaries according to the terms of the Will, obtaining receipts from each beneficiary; ensure sufficient funds are retained to pay outstanding debts and taxes

Advise beneficiaries to consult with a tax advisor to ensure the most tax-advantageous treatment of registered investments

Assist in establishing any trusts stipulated in the Will

Arrange for final distribution of remaining assets, obtaining receipts from beneficiaries

Prepare a final beneficiaries report of all assets, liabilities, expenses (including executor compensation) and final distribution of assets

Have each adult beneficiary approve this report and sign a release

Advise the financial institution, in writing, to close the estate account once the estate is settled

Please contact us for more information or assistance.

Glossary

administrator

The person appointed by the court to manage and take charge of the assets and liabilities and handle the estate of someone who died without a Will, with a Will or no nominated executor, or the executor named in the Will has died, has renounced or has been removed.

beneficiary

A person or entity named in a Will or financial or insurance contract as the inheritor of property when the property owner dies. A beneficiary can be a spouse, child, charity, or any entity or person to whom the property owner would like to leave his or her possessions and assets. Caution must be exercised when someone other than a qualified beneficiary has been named on registered plans such as RRSP or RRIF.

bequest

The act of giving or leaving personal property by a Will; something that is bequeathed; a legacy

estate

The net worth of a person at any point in time. It is the sum of a person's assets – legal rights, interests and entitlements to property of any kind – less liabilities at that time. The estate of a deceased person consists of all the property, whether real or personal, owned by the person at the time of death.

estate administration

Process by which the deceased person's personal and financial affairs are brought to a close.

executor

An executor is the person or entity nominated by the testator (or Will maker) to carry out the directions of the Will.

grant of probate

A document sealed by the court which legally authorizes the executor named in the Will to proceed with the administration of the estate.

intestate

Not having made and left a valid Will. (verb) A person who dies without leaving a valid Will. (Noun)

joint tenancy

A type of ownership of real or personal property by two or more persons in which each owns an undivided interest in the whole. Joint tenancy is a special form of ownership by two or more persons of the same property. The individuals, who are called joint tenants, share equal ownership of the property and have the equal, undivided right to keep or dispose of the property. Joint tenancy creates a Right of Survivorship. This right provides that if any one of the joint tenants dies, the remainder of the property is transferred to the survivors.

jurisdiction

The practical authority granted to a legal body to deal with and make pronouncements on legal matters. The term is also used to denote the geographical area or subject-matter to which such authority applies.

liability

An obligation that legally binds an individual or company to settle a debt. Legal liability is the legal bound obligation to pay debts.

liquidate

To convert to cash.

personal representative

In common law jurisdictions, a personal representative is the generic term for an executor for the estate of a deceased person who left a Will, or the administrator of an intestate estate.

prescribed

To set down as a rule or guide; to establish rules, laws or directions.

probate

The legal process by which a person's Will is reviewed and, if valid, authenticated by the court as the individual's "last Will".

real property

A classification of property in common law that refers to land; also termed realty, real estate and immovable property.

residue

Whatever is left to be distributed directly to the residual beneficiaries or to a trustee to be held in a trust created under the Will.

Glossary CONTINUED

rider

Addendum, an additional provision attached to a contract, such as an insurance policy.

tenants in common

A form of concurrent ownership of real property in which two or more persons possess the property simultaneously; it can be created by deed, will, or operation of law.

testamentary

Of, pertaining to or of the nature of a testament or Will; given, bequeathed, done or appointed by Will; set forth or contained in a Will.

testamentary trust

A trust created within a will which does not take effect until the death of the testator.

testator

One who makes or has made a Will; one who dies leaving a valid Will.

Will

A legal declaration by which a person, the testator, names one or more persons to manage their estate and provides for the transfer of their property at death; a document or legal instrument in which a person specifies the method to be applied in the management and distribution of their estate after their death.

For Executors: Preparing for Your Appointment Checklist

The first step is to book an appointment with one of our experts. They will be your guide through this process. This checklist will help you prepare and determine what you need to bring to your appointment.

ITEMS NEEDED FOR YOUR APPOINTMENT

Funeral Director's Certificate of Death (Also referred to as Statement of Death)

Original and valid Will (If no Will is available or if it cannot be located, ask us for more details. We can assist you in the process.)

OPTIONAL ITEMS TO BRING TO YOUR APPOINTMENT TO HELP US ASSESS YOUR SITUATION

Financial Account Information (If it is easier, please bring any bank statements and we can assist you)

The deceased only has accounts at Synergy Credit Union

The deceased has accounts at multiple institutions

I am unsure where the deceased has accounts

TYPE OF ACCOUNT Deposit, Investments/ Savings, Loans, Mortgage, etc.	FINANCIAL INSTITUTION	ACCOUNT NUMBER	APPROXIMATE BALANCE	ACCOUNT OWNERSHIP Joint, Single, or Right of Survivorship

Life Insurance (If it is easier, please bring statement of coverage for insurance)

The deceased had life insurance

The deceased did not have life insurance

I am unsure if the deceased had life insurance

LIFE INSURANCE POLICY	LIFE INSURANCE BENEFICIARIES

Notes





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