



TB Vets Charitable Foundation

HOW TO BE AN EXECUTOR

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Introduction

When someone's died, sorting out Wills and estates might be the last thing on your mind, or it could be a welcome distraction. However, **if someone has asked you to be the executor of their estate, after their death there are things you'll have to do.** In this guide we'll explain what's expected of you, the steps you need to follow and where to find help if you need it.

What is an executor?

Anyone who makes a Will must name an executor. An executor is legally responsible for handling a person's estate (their money, property and possessions) when they die and for carrying out the instructions in their Will.

Who can be an executor?

You can act as an executor even if you're going to inherit something from the Will. In fact, an executor is often a spouse, child or other family member. The person making the Will can appoint up to four executors, so you can share the responsibility with others, but all decisions must then be made jointly. There can often be at least two executors appointed, for example a family member and a professional, such as a solicitor, just in case one dies or is otherwise unable to carry out their duties.

What do executors do?

- They make sure all property owned by the person who's died is secure as soon as possible.
- They collect all assets and money due to the estate (including property).
- They pay any outstanding taxes and debts (out of the estate).
- They distribute the estate to the people who are entitled to it under the terms of the Will.
- They arrange the funeral, if the Will contains specific instructions for them to do so.



BEFORE YOU AGREE TO BE AN EXECUTOR

Being an executor isn't easy. It can take up a lot of your time and might be the last thing you feel like doing when you're grieving, so think carefully before you agree to take on the responsibility.

Can I change my mind?

Once you've accepted the role, you have several options if you later change your mind:

- If you can, talk about your decision with the person who appointed you so they can change the name of the executor in their Will.
- Immediately after the person has died, but **before you've started to deal with the estate**, you can sign a **notice of renunciation** of the B.C. Supreme Court Civil Court, and file the renunciation with the court. This will alert the Court that you are stepping aside as the executor.
- After the person has died and **when you've started to deal with the estate**, you cannot step down unless you have a good reason, such as ill health or a family emergency.

Executor's Checklist

Estate administration is demanding and time-consuming. In addition to the paperwork, executors must cope with tax laws, inheritance laws, family property laws, court procedures and the demands of beneficiaries.

This checklist has been prepared as a guide for the responsibilities and duties that are likely to fall on anyone acting as an Executor/Executrix.

Estate Name _____

Executor Name _____

Executor Mailing Address _____

Email _____

Telephone _____

EXECUTOR'S RESPONSIBILITIES

A. Immediate Steps

- Locate Will and any accompanying memoranda and review important provisions
- Determine special funeral directions, if any
- Assist in making funeral arrangements, if requested
- Ascertain whereabouts of beneficiaries
- Determine immediate family cash requirements
- Obtain several copies of the funeral director's death certificate for later use
- Look through important personal papers kept by the deceased at home or place of business
- Arrange for safe custody of personal valuables and important documents of the deceased

B. Immediate Follow-Up Steps

- Review the Will to determine its major provisions
- Review all financial records and statements
- Notify the deceased's banker, lawyer and other professional advisors
- If the deceased lived in a rental property, terminate the lease or arrange sublet
- Transfer vehicle ownerships
- Ask Canada Post to reroute mail
- Complete or cancel outstanding broker's orders
- Compassionate travel benefits may be available for immediate family members if applied for within 90 days of death and accompanied by a death certificate, boarding pass and copy of the ticket
- Meet with family members and beneficiaries to discuss the provisions of the Will (an ongoing procedure)
- Verify short-term cash needs of family or beneficiaries
- Confer with solicitor or trust company where necessary
- Consider changing the locks on any residences if there are concerns about security
- Investigate private and business interests, and take necessary protective measures
- Collect all credit, debit and charge cards and destroy or store in a secure place
- Cancel driver's license, credit cards, magazine and newspaper subscriptions, cable television, club memberships, telephone, and request refunds if appropriate.

C. Insurance

- Review adequacy of property and other insurance and change if necessary
- Add your name to the house and car insurance and all other property insurance
- Cancel health insurance coverage
- Notify life insurance companies including employer plans and supply a copy of the death certificate and complete and submit claim forms

D. Pensions and Tax Benefits

- Determine benefits due under pension plans
- Consider entitlement to and apply for Canada Pension Plan Death Benefits, Survivor's Benefits and Orphan's Benefits
- Apply for Civil Service, Union or Veteran's benefits, if applicable
- Cancel Old Age Security
- Cancel Child Tax Benefit
- Cancel GST cheques
- Check for and arrange rollover or transfer of RRSP/RRIF proceeds
- Apply for proceeds of private pension plans or arrange continuance
- Check with the deceased's employer for any money owing including death benefits
- Obtain details of employee benefits: group insurance, stock options, profit sharing, and outstanding salary

E. Beneficiary Notifications

- Send a copy of the Will to each beneficiary
- Notify beneficiaries of any benefit to be received under the Will
- Notify charities of charitable bequests

F. Property Management and Protection of Assets

- Close bank accounts and transfer balance to estate bank account
- Prepare detailed inventory of assets
- Invest surplus cash until monies are needed
- Arrange to take an inventory of the safety deposit box
- List and value all household goods and furnishings
- List and value all other personal property, including cars, boats, jewelry, etc.
- Arrange for inspection and valuation of all real estate
- Ascertain property management is in place
- Transfer ownership title to all registered property to estate
- Obtain schedule of investment portfolios and arrange for a review of the portfolio and the need for any immediate action

...continued (*Property Management and Protection of Assets*)

- Arrange comprehensive listing and valuation of deceased's household goods, furniture, objects of art, collections, jewelry, automobiles, and other personal effects if required
- Locate and obtain title documents for real property, mortgages, share certificates, bonds, debentures, and guaranteed investment certificates
- Arrange valuations of real estate
- Close bank accounts and transfer balance to estate bank account
- Notify dividend and bond disbursing agents to change addresses of record
- Consult with deceased's financial institutions holding cash and securities
- Write to banks, trust companies, credit unions, stock brokerage firms and other financial institutions the deceased may have dealt with for information on possible accounts
- Provide for supervision of vacant real estate
- Investigate deceased's interest in other estates and trusts
- Review portfolio of investments and provide continuous investment management of balance of estate investments, ensure adequate liquidity for payment of income tax and other liabilities

G. Liabilities

- Prepare detailed list of liabilities
- Confirm outstanding balances, pay off and cancel credit cards
- Consider advertising for creditors and make payment to valid claims
- Settle all claims and debts
- Check for other debts owed to the deceased
- Check all ongoing accounts such as charge accounts and utility bills
- Review real estate holdings for any mortgages
- Check with banks, trust companies and any other financial institutions the deceased may have dealt with for any loans

...continued (*Liabilities*)

- Discharge any bank or private loans, mortgages or business liabilities
- Pay funeral expenses and all taxes payable, such as income tax or municipal taxes
- Pay all legal and accounting fees and other expenses in administering the estate
- Reimburse executors for reasonable out-of-pocket expenses and executor fees
- Prepare cheques for payment of debts, legacies and interim distributions

H. Administration

- Ask estate solicitor to register probate on title to real estate if necessary
- Retain and meet with estate solicitor to complete application for probate if required
- Obtain several notarized copies of the Will to allow transfer of assets after probate is granted
- Report to beneficiaries on progress of administration and provide each beneficiary with a copy of the inventory of assets and liabilities
- Close safety deposit box
- Review and cancel memberships, health insurance, subscriptions, credit cards, etc.
- Report to beneficiaries on progress of estate administration

I. Organization of Assets for Distribution

- Review with estate solicitor any time periods or restrictions on distribution of estate (e.g. family law or dependents' relief applications)
- Complete declarations of transmission and powers of attorney required to transfer securities

...continued (*Organization of Assets for Distribution*)

- If joint accounts, with right of survivorship, provide financial institution with death certificate and request transfer to surviving joint tenant
- Review Will and determine scheme of distribution of assets
- Consult with beneficiaries regarding specie distribution (distribution in kind) where appropriate

J. Realization and Distribution of Assets

- Initiate re-registration and transfer of securities or arrange for sale of securities if converting to cash
- Deliver personal effects and obtain receipts following deceased's written instructions if they exist
- Deliver securities and obtain receipts for distributions in kind
- Deliver legacies and obtain receipts
- If the Will provides for outright distributions, obtain release for distributions, and transfer assets or funds to beneficiaries
- Retain sufficient funds as a reserve for income taxes and any outstanding accounts pending tax and other clearances
- Deliver personal possessions which have been bequeathed, and obtain receipts
- Arrange for balance of household and personal goods to be sold if necessary
- Pay cash legacies and other bequests
- Make interim distribution of bulk of assets to beneficiaries
- Make a final distribution of estate assets

K. Income Tax and Other Returns for Year of Death

- Obtain and review prior years' tax returns
- Prepare and file any tax return for previous years
- Prepare and file necessary estate tax returns for assets in foreign countries
- Prepare and file final tax returns (to date of death) and other returns with Revenue Canada

...**continued** (*Income Tax and Other Returns for Year of Death*)

- Obtain Goods and Services Tax clearances for businesses or rental properties
- If assets are held in other provinces or countries, confer with relevant jurisdictions
- Prepare and file necessary returns for foreign assets (e.g. US property) and pay balance owing to other government jurisdictions
- Determine estate fiscal year accounting period
- Analyze possible elections permitted under the federal Income Tax Act
- Consider advantages of filing Rights and Things return
- File income tax returns for the estate during the period of administration including the year of death and any previous years
- Request clearance certificates for final return and estate return
- If there are non-resident beneficiaries, determine if a certificate of compliance (T2062) is required under section 116 of the Income Tax Act before making distributions to non-residents
- If there is more than one residence that qualifies as a principal residence, determine which one should be elected as principal residence to minimize taxes
- Consider electing that distributions to spouse take place at fair market value for tax purposes if advantageous

L. Trusts

- If the Will provides for trusts, set up testamentary trusts and arrange for ongoing review of the investments, and ongoing compliance within the terms of the trust (e.g. payment of income, encroachment on capital, etc.)
- Prepare and file T3 Trust Information Return if required

M. Executor's Responsibilities

- Prepare accounts for passing or approval by beneficiaries
- Ask estate solicitor to prepare executor releases
- Calculate executor's compensation
- Request solicitor's bill
- Write to the beneficiaries with an accounting for the distribution of estate assets, all funds received and paid, and request each beneficiary's approval
- When beneficiaries approve accounts, confirm all releases received
- If accounts are to be audited by the Court, ask estate solicitor to prepare the application and all necessary notices and to arrange an appointment

N. Final Distributions and Report

- Arrange for closing of estate bank account after confirming all cheques have cleared
- Release the cash holdback following receipt of tax clearance certificates and satisfaction of all estate debts
- Distribute remaining funds or deliver assets.
- Write to beneficiaries with a final report on all aspects of estate administration

Executor's Notes



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