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What it Means to be the Executor of an Estate

By Martha Taylor

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At one time or another, we will all experience the loss of someone we love. Dealing with that death is difficult because we are not only dealing with our own emotions, but with those of family and friends whose sorrow may be even more painful than our own.

You may also have the responsibility to act as executor for the decedent's estate if you are a spouse, a son or daughter. While it may be practical to say that everyone needs to make a will, put their 'final arrangements' in writing and leave instructions for the heirs, I'm sure it wouldn't surprise us to learn that many people do not take this sensible approach. Consequently, after they die, their family members and friends proceed in a state of semi-confusion trying to wrap up the decedent's affairs.

If you are an executor and find yourself in a similar situation, take heart. There are now more options available to you than running off to the lawyer's office. You have the option to hire a lawyer to act as a coach and have him answer your legal questions, do some research and review legal paperwork before submitting them to the court or mailing them.

Other options include hiring a document preparation service, like DocuPrepUSA, to prepare the probate paperwork and the myriad of correspondence needed to wrap up the decedent's affairs. If you are the do-it-yourself kind, you can also consult some books written for non-lawyers.

The Executor's Handbook, by Theodore E. Hughes and David Klein (Facts On File) is a general but useful guide to an executor's duties. How to Settle an Estate, by Charles K. Plotnick and Stephan R. Leimberg (Plume) also has general coverage of executor's duties, but the emphasis is on financial issues. So review your options carefully, and if you choose wisely, you will save yourself and your family a lot of unnecessary expense.

There are many ways to establish your assets prior to death that would help your family avoid the expense of probate. First and foremost, it will be the executor's task to decide whether probate court proceedings are needed. However, probate is an entirely different matter that needs to be address in another article. Let's look at some of the duties we may not be familiar with that are undertaken by an

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executor.

Giving Notice

Usually the Funeral Director orders as many certified copies of the death certificate as you request. Sometimes, they even notify the Social Security Administration too.

Here is a list of institutions that the executor needs to contact in order to learn whether they want certified copies of the death certificate:

- a.) Every insurance company that insured the decedent (life, health, auto, home)
- b.) Decedent's pension fund

- c.) Each credit card company used by decedent
- d.) Every financial institution (banks, brokers)
- e.) Government agencies (Social Security, IRS, Medicare, Veterans Affairs)
- f.) Title company that insured decedent's real estate

You can usually order extra copies of the death certificate from the bureau of vital statistics in your state. If the decedent owned property in another state, then a death certificate may need to be recorded in the county where that property is located. In many states, the death certificate is recorded along with the deed of transfer.

Other Duties

An executor has a number of duties, the complexity of which depends upon the deceased person's estate. Typically, an executor must:

Locate and secure the deceased person's assets and then sensibly manage them during the probate process, which commonly takes about a year. Depending on the contents of the will, and the financial condition of the estate, this may involve deciding whether to sell real estate or securities owned by the deceased person.

Handle day-to-day details, such as terminating leases, credit cards and other outstanding contracts, and notifying banks and government agencies—for example, the Social Security Administration, the post office, Medicare and the Department of Veterans Affairs—of the death.

Set up an estate bank account to hold money that is owed to the deceased person—for example, paychecks and stock dividends.

Pay continuing expenses—for example, mortgage payments, utility bills and homeowner's insurance premiums.

Pay any debts that the estate is legally required to pay.

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The executor must also notify creditors of the probate proceeding. State law will define the required method of notice. Creditors have a certain amount of time—usually about four to six months—to file a claim for payment of any bills or other obligations you have not voluntarily paid. The executor decides whether a claim is valid.

Pay income taxes. Federal tax returns must be filed for the year in which the person died.

Pay estate taxes if necessary. It is unlikely, but state and federal estate tax returns may be required. Only very large estates owe federal estate tax; for deaths in 2001, if someone leaves less than \$675,000 worth of property, no federal estate tax is due. (And any amount of property left to a surviving spouse who is a U.S. citizen is estate tax-free.) This exempt amount is set to rise until it hits \$3.5 million in 2009, and the federal estate tax is scheduled to be repealed in 2010. However, the tax will reappear in 2011 unless Congress extends the repeal.

Most states do not collect estate taxes of their own, but take a piece of the federal taxes due, if any. Some states impose inheritance tax; rates depend on who inherits the property. Check with your states' taxing authority.

Supervise the distribution of property—such as cash, personal belongings and real estate—to the people or organizations named in the will.

When debts and taxes have been paid and all the property distributed to the beneficiaries, ask the probate court to formally close the estate.

Being an executor involves lots of details and handling many mundane tasks. So, some may think that being meticulous is the most important attribute to look for when naming the executor of your will. However, I think trust is really the characteristic you want for your executor.

Others choose someone who stands to inherit a substantial amount of their property. Naturally, a person with an interest in the outcome is likely to be conscientious in managing your affairs after your death. When you consider the alternative, that executors are only paid a small percentage of the estate (the exact amount is state regulated) you will want to choose someone who will honor their fiduciary responsibility and is willing to do the job.

Ref: Guiding those Left Behind in Pennsylvania, Amelia E. Pohl, Esq. And Harold N. Fliegelman, Esq., and Nolo's Encyclopedia of Everyday Law, edited by attorneys Shae Irving, Kathleen Michon & Beth McKenna

Martha is the owner of DocuPrep and works with people of all ages assisting in preparation of legal documents, for much less than an attorney. She can be reached through <http://www.seniorsapprove.com/docupreppa.html>

The Estate Planning Process

By News Canada

(NC) – How do I begin? Start by making a list of those you wish to remember in your Will. You will want to provide for your dependants first, but here is your chance to be creative. You can give a meaningful item to a favourite relative, honour a friend or arrange gifts to organizations and charities that you believe in and support.

Prepare a list of the names and addresses of all the people that you'd like to include in your Will. File this list in your Important Document File.

Accuracy in naming the individuals and organizations to whom you wish to leave money or property is most important when you make your Will. Your Will should leave no room for doubt. Identify each beneficiary clearly and precisely. Use care, various organizations may have almost identical names. Organizations will gladly supply you and your advisor(s) with all necessary information.

Decide upon an Executor or Co-Executors

One of a Will's important functions is to name an Executor (your personal representative) to settle your estate and carry out your Will's terms. Choose your Executor with care. You might wish to name co-Executors, one a family member, the other a lawyer, bank or trust company. The role involves filing tax returns, investing assets and valuing and selling (or retaining) property. The job of estate settlement includes submitting the Will for probate (proof of validity), safeguarding and inventorying all your assets and liabilities, paying your debts and taxes, and then distributing what is left as your Will directs.

One of your most important estate planning decisions is your choice of Executor. Even the best-laid plans will fail if the individual you select is not up to the job. An Executor should be:

Trustworthy.

Willing, and have the time to act.

Impartial toward all beneficiaries.

Able to make decisions in a timely fashion.

Proficient in business, investment and administrative matters at a level sufficient to handle your estate.

Knowledgeable and experienced in estate and trust law and administration.

Ideally, your Executor should be younger than you

Tips

Name an alternate in case your Executor cannot act or dies before you

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An Executor, whether an independent professional or a family member, is entitled to reasonable fee from the estate

Ask the person first to make sure they understand all the duties involved

If you do not have a Will, or if your Will has not been updated recently, perhaps it is time to meet with a lawyer and get the job done. Take the first step; call Ontario March of Dimes

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The Estate Planning Process

Death And Taxes – Two Certainties Of Life

What You Should Know About Probate

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English Slang Dictionary

Home Remodeling Secrets

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