

A General Guide for Executors

As mentioned in [my post on executors](#), taking on this role is a big job. What follows is a list of the tasks that need to be done in many estate settlements. Not all steps will pertain to every situation and there will always be cases where additional work needs to be done. If you're an executor and in doubt about any of your duties, consult a lawyer or estate planning expert.

The information that follows is assuming the deceased left a will. If you've been appointed to manage an estate where there was no will, you need to refer to the legal guidelines and procedures of the jurisdiction the estate must comply with. Getting legal advice in such a situation is advised.

Three phases

I view the executor's job as having three phases:

- 1) **Before probate** - what steps to take right after a person's passing and the preparation for probating the will
- 2) **During probate** - tasks that can be done while waiting for probate to be granted
- 3) **After probate** - the final steps of settling the estate, paying debts and taxes, and distributing the assets

If you're unclear on what probate is, please refer to my post on probate.

The responsibility for settling the estate lies squarely on the executor's shoulders and occasionally it is a solo effort. However, it is common for duties such as funeral arrangements to be handled by the deceased's family. Other jobs may be coordinated by the estate's lawyer, like preparing to file for probate. An accountant is often used to file the deceased's last tax returns. Don't be afraid to ask for help. Remember that an executor also has the right to retain an "agent for executor" such as a trust company, which is a wise choice if the estate is large or complex.

It's a good idea to buy a notebook specifically to keep track of the many details you'll be attending to. Also, you'll want to start a filing system for record keeping along the way. An accordion file may suffice, or you may wish to devise your own system. Keeping accounting records on a spreadsheet (with regular backups) is also a good idea.

Keep notes of conversations you have with the spouse or partner of the deceased and any other beneficiaries. Write a summary of every meeting you have with lawyers, accountants, financial representatives, real estate agents and any other people who have role in the settlement of the estate. Being able to refer back to your notes will save you a lot of headaches as you work through your duties.

Now here's an outline of what needs to be done.

1) Before Probate

The very first thing to do is to find the latest copy of the will.

- Be sure to look for any codicils, personal memoranda, or written amendments.
- Read through the will to get a familiarity with its contents.
- Look to see that the will was indeed witnessed. If it is not witnessed, has no date on it, or if you think the deceased may not have been of sound mind when it was written or it was written under duress or undue influence, speak to a lawyer immediately for advice.

Contact immediate family and advise any estranged family members or former spouses of the death. Determine if support payments for children or former spouses will be required.

Locate the deceased's personal ID and critical documents such as birth certificate, driver's license, passport, and credit cards. Secure these to prevent identity theft.

Make the final arrangements. When there are no family members able to look after final arrangements, the executor will have to do so. See my **Funeral Checklist**.

Obtain originals or certified copies of the death certificate (get at least a dozen) and a few notarized copies of the will. If applicable, you may also need copies of the burial certificate and a coroner's report.

File for any and all life insurance benefits.

- Try to collect as soon as possible, as this can be a much needed source of liquidity before probate is granted. This usually requires submitting proof of death to the insurance company.
- If the policy had a named beneficiary, such as the spouse, payment can be made quickly and must go directly to that person.
- If the beneficiary is stated as "the estate" you must wait until probate is granted before receiving the funds.
- If the beneficiary is a minor or disabled person, there could be additional steps necessary to get the funds released and it may also require waiting for probate to be granted.
- If there are no personal policies, don't forget to check with the deceased's employer to see if any group insurance is available or from any other associations (union, alumni, professional groups, etc.).
- Credit cards may have life insurance built into their fees, often stipulating that the proceeds must be used to pay off any balances.

Notify the deceased's employer if the family hasn't already done so.

- Determine if any employment earnings are payable to the estate including unpaid wages, salary, accrued bonuses and vacation pay.
- Arrange any transfer of group retirement plans, pension or benefits to the surviving spouse or named beneficiaries.

Contact the appropriate government authorities to notify them of the death and to apply for any eligible death benefits.

- Apply for any government benefits that may be available for the surviving spouse and dependants.
- Depending on the jurisdiction, this may include a death benefit, a transfer of government pension benefits, orphan benefits, and perhaps even transferable tax credits.
- The tax department for the country or state/province should have info about this on their website. Funeral homes will often help you apply for available benefits.

Determine if any family members have immediate needs. This may include accommodating day-to-day living expenses, paying child support, or covering tuition, among other things.

If the deceased was living in a rental property, advise the landlord of the death. Find out if any rent is due and talk to the landlord about how long it may take to move the deceased's belongings out of the property.

Arrange for pet adoption if necessary.

Contact any beneficiaries named in the will.

- Ensure you have their current contact info.
- Provide them with your contact info.
- Give them a copy of the will or a copy of the section of the will that pertains to them, which they are entitled to see.
- Give them an idea as to how and when you plan to communicate with them with regular updates.

Notify any financial institutions where the deceased held accounts such as banks, investment firms, and insurance companies.

- You must show proof that you're the executor.
- You'll have to provide copies of the death certificate, often a notarized copy of the will and other documentation. They may also need to see letters of probate when granted. Find out what each institution's requirements are and get the necessary paperwork to them ASAP.
- Most banks and financial institutions are legally required to place a hold on assets until the will has been probated. As probate can take a while to be completed, discuss with the bank what measures can be taken to handle immediate expenses like funeral costs, utility payments, etc. The banks will be able to explain what types of payments can be met prior to probate being complete.
- You should set up estate accounts at each institution and move all assets into the estate account until disbursement or consolidation. It's a good idea to keep one account in the deceased's name open to receive any final payments that may be coming in their name.
- If the deceased had a safe deposit box, go through the contents, making notes on what may need to be accounted for probate. You may find personal items that have been earmarked to go to certain beneficiaries in the will. Look for stock certificates and other important documents that will need safe keeping until they can be dealt with. If you find a lot of valuables and important documents, keep the contents in the safe deposit box until everything can be dealt with.

Make arrangements for secure storage of any personal valuables and documents of the deceased. You may want to open a safe deposit box if the deceased didn't have one.

A major responsibility of the executor is to protect the estate's assets from loss by theft or destruction.

- Ensure all insurance policies (property, automobile insurance, etc.) are up to date and in place and will be until the estate is settled.
- Determine if the insurance coverage is adequate. As executor you can increase coverage if necessary, otherwise you could be at risk for losses not covered by insurance.
- Make certain that policy requirements are met. For example, property insurance typically requires weekly inspection of a property when it is vacant for more than a week in order for the policy to be kept in effect.

If the deceased held a mortgage on another property, you need to inform the mortgagor to make future payments to the estate.

Any personal retirement savings plans should be transferred to the named beneficiary (if any). If the beneficiary is identified only as "the estate" you must wait until probate is complete to carry out any distribution.

If the deceased owned and operated a business as a sole proprietor, a partner, or as a shareholder:

- Make arrangements for the continuity of the business. This can be simple or complex. You may need to retain help. As executor, you're responsible for ensuring the assets and documentation of the business are secure.
- If the deceased was a sole proprietor of the business, make sure all debts are paid when probate has cleared.
- If the deceased was in a business partnership, find out if there are any claims or liabilities resulting from the partnership (perhaps "key man" insurance).
- If the deceased owned shares in a private company find out if there are any rights or responsibilities pertaining to those shares. Note, that this doesn't necessarily mean the deceased owned the company entirely, but may have been a significant or minor shareholder.

If the deceased was involved in any legal proceedings or if the cause of death has created any legal action or liability claims, you will need to hire a lawyer to resolve any of these matters.

You need to find out if the deceased was an executor or co-executor of an estate at the time of passing. It is possible that those responsibilities may legally be passed on to you. This may also occur if the deceased was a trustee or co-trustee of a formal trust. If this is the case, you'll want to get legal advice before going any further.

Complete an inventory of the estate's assets and liabilities.

- Determine the values as at the date of the death. Accuracy of valuation is important, particularly when it comes to filing the tax returns. Sometimes valuations will be easy to determine. Other times, you may need appraisals to determine valuation or use other methods.
- Find out if the deceased owned any assets in other countries or jurisdictions where different laws and requirements are applicable.

Give public notice to alert any potential creditors.

- This is commonly done using an ad in the newspaper for a “reasonable” period of time although now days many notices are being posted online for much longer intervals.
- If there is considerable debt in the estate, it's a good idea to get legal advice on prioritizing payments. Certain liabilities may have the right to be paid before others. Legal advice will help in deciding which creditors get paid first.

Apply to have the will go through probate and pay any probate fees.

- To apply for probate, you're going to need the original will (not a copy) along with any codicils and memoranda.
- You'll need an affidavit of execution (sometimes called the affidavit of witness) which is a document signed by a notary stating that the will was properly witnessed.
- Most jurisdictions also require documentation stating the value of the estate assets.

2) While waiting for probate

Cancel any mail or email subscriptions. Redirect the deceased's mail to your address.

If the deceased was in the process of inheriting property or cash from someone else's estate, take the necessary steps to collect what is coming.

Cancel coverage of state or private health plans.

Cancel any memberships to professional organizations, unions, and clubs.

Collect any monies owing to the estate and deposit funds into the estate account.

Continue to pay any urgent bills or support payments. Financial institutions can make accommodations for certain types of payments prior to probate being granted.

Review the accounting records of the estate.

Start gathering the required information to file the deceased's final tax returns.

Clean up old belongings that are not being passed on to anyone:

- Clothes and personal items can be given to charity
- Shred any documents such as old bank statements that won't be required for taxes or other legal purposes. Shred anything that could be used for identity theft.
- Arrange an estate sale for items that aren't going to any beneficiaries.

Contact the beneficiaries to give them an update on what's been done and what's in process.

3) After probate

Provide all financial institutions with the letters of probate to show that it has been granted.

Close accounts as soon as it is prudent to do so including utility accounts, leases, memberships, and financial accounts.

When you feel you no longer need them, deliver the deceased's ID to the appropriate agencies such as passports, driver's licence, social insurance/social security for them to be properly cancelled. It's an excellent idea, however to make photocopies of them just in case you need to refer to the specific ID numbers during the remainder of the estate settlement.

Real estate will need to be re-titled into the surviving spouse's name or other beneficiaries, or put up for sale.

- If real estate was held in "joint-tenancy with right of survivorship" the property will be passed on to the surviving joint owner (often the spouse or partner). With this type of joint-tenancy, the executor doesn't have to do much to transfer the property to the survivor, but you need to make sure the property gets re-titled in the new owner's name.
- You may need to temporarily transfer the title to the estate, or into your name as executor of the estate, until the full transfer to the beneficiaries is complete or the real estate is sold.

Assess the amounts owing on any remaining bills or debts. Pay them off as fast as possible.

Review which assets are to be retained and/or distributed in the estate and which assets are to be sold.

- Some assets may be designated to be passed directly to beneficiaries.
- Others may need to be sold to raise cash for the estate.
- Certain assets may be retained for a time and then sold at a much later date (real estate, shares in a business, etc., can take some time).
- An executor must be very careful if re-investing the proceeds of asset dispositions. If there are no instructions in the will regarding how to invest the proceeds from dispositions, most jurisdictions have legislation that outlines an executor's fiduciary duties in this regard. Failing to act accordingly can leave the executor personally liable.

Cancel insurance policies when they are no longer needed such as auto policies when vehicles are sold, health insurance, etc.

Prepare and file all tax returns, personal and business related. Don't do this on your own unless you're an accounting professional. Get help, and don't use a garden variety accountant set up at a kiosk in a mall. Get an accountant that has experience in filing estate taxes.

Get a clearance certificate from the tax department when all the final tax returns have been submitted and paid in full. It's very important to get the clearance certificate from the government, which proves the estate doesn't owe any more taxes. Only after this certificate is received can you make the final distributions of the estate's assets.

After getting clearance from the tax department, distribute legacies (cash gifts) and bequests (personal items) as instructed by the will.

Establish any trusts as instructed in the will and move the stated assets into the trust.

- Occasionally the executor is also chosen to be the trustee (or one of the trustees). If so, you'll continue to work on managing the trust. If not, the other trustee(s) will oversee it from this point on.

To distribute vehicles, you should contact your local motor vehicle department to see what procedures and paperwork is required to transfer ownership to a beneficiary.

Transfer any remaining assets, often referred to as the “residue” of the estate, to the beneficiaries. This may require final liquidation of short-term securities at financial institutions and dividing up any last personal items or donating unwanted items to charity.

After completing the distribution of everything, you need to provide the beneficiaries with a final accounting of all assets, liabilities, and how everything was distributed.

- The beneficiaries then have to review the final accounting and sign off on approving it.
- You may need to resolve any issues if a beneficiary does not approve of the final accounting.
- If however you feel every thing has been completed as dictated by the will and in accordance to the law, you can apply to have the court to review the estate settlement and approve it.

That covers the majority of what a typical executor has to take care of while administering an estate. Again, it's not an exhaustive list. If you're not sure about anything regarding an estate you're working with, get professional advice rather than risk making an error.

IMPORTANT NOTES FOR THE EXECUTOR

- Estate laws vary from country to country and state to state. If you've been appointed an executor, you need to comply with the laws applicable to the estate. Use a competent lawyer to guide you.
- You do not have to act completely on your own, even if you're the sole executor. Many jurisdictions allow for an executor to use an agent. This permits you to retain professional help such as using a trust company, an estate lawyer, and tax experts. Because an executor can be held personally liable for any mishandling of the estate, using an agent is highly advisable, especially when the estate is large and the issues are complex. Using an agent will cost the estate money, however doing so will streamline the process and ensure that everything is handled timely, appropriately, and legally. This can take an enormous amount of work and stress off the executor and may even save money for the estate by lowering the potential of costly mistakes.