

## GUIDE FOR EXECUTORS

A close friend or family member has passed away, and has appointed you as Executor (or Trustee) of their Estate in their Will. At this emotional point of your life, it is hard to know where to start and what your duties are. The following step by step guide can help:

1. Locate and review the original Will. If you can't find the original, some places to check are the deceased personal files, any safe in his/her home, any safety deposit box held at a financial institution, and the office of a lawyer they may have used. If you are still unable to locate the original Will, you can do a Wills search at the British Columbia Department of Vital Statistics - Wills Registry ([www.vs.gov.bc.ca/wills](http://www.vs.gov.bc.ca/wills)). The deceased may have filed a Wills Notice there. Once you have located the original Will, confirm that you are the named Executor.
2. The next step (and maybe the first depending on how long it takes to locate the Will) is to make funeral arrangements. The Executor has the legal responsibility for disposal of the deceased's body. If you have located the Will, or a copy of it, check the Will for specific funeral wishes, and if possible follow the deceased's wishes. The person who instructs the funeral director is liable to him for his account but is entitled to reimbursement as a first charge against the assets of the deceased's estate, provided they are not excessive. You can obtain an original death certificate from the funeral home.
3. At this point you should consider whether you want to take on the responsibility of acting as Executor. Your duties as Executor may carry on for years, and may take up a considerable amount of your time. If you do not want to accept this responsibility, you should renounce as Executor immediately. By undertaking the responsibilities of an Executor, such as taking control of the deceased's assets, the Executor "intermeddles" with the estate and loses the ability to decline the job. We recommend you get some advice from a lawyer before you decide to take on the job as Executor.
4. As soon as possible, after the death, the deceased's assets should be safeguarded. Some steps to be followed are outlined below:
  - a. Search for cash, securities, jewellery, and other valuables and arrange for safekeeping.
  - b. Lock up residence and advise police if it is not under proper supervision.
  - c. Check the insurance of the deceased's assets (motor vehicle, house, furniture, etc.) for coverage, including expiry date, and notify the deceased's insurance agent or insurance company. A 30 day vacancy limit applies in most policies insuring residential property (the period may be shorter).
  - d. Arrange for interim management of the deceased's business (if necessary).
  - e. Arrange for collection or redirection of mail (if necessary).
  - f. Check mortgage and agreements for sale and arrange for payment of instalments.
  - g. Check leases and tenancies, arrange for payment of rent and give notice if necessary.
  - h. Collect and bank outstanding cheques, e.g. pensions, dividends, interest and salary.
5. Collect all of the deceased's financial and income tax records and information on things that he or she owned and debts that were owned. Once you have reviewed the information you should prepare a rough balance sheet for the deceased as of the date of death. Make note of any assets that were owned jointly with others and the details of any life insurance policy or RRSP beneficiary designations. Make sure you check if the deceased had a safety deposit box at their bank where valuables may have been kept.

6. Collect and record information about the deceased and his family, including:
  - a. Death Certificate, Birth Certificate and Social Insurance Number.
  - b. Full legal name and any other names used by the deceased.
  - c. His/her date and place of birth.
  - d. Deceased's occupation and address as of the date of death.
  - e. The full names, addresses, relationships of beneficiaries under Will and the immediate family members of the deceased, including spouse, ex-spouses, children, parents, and siblings. If any children or siblings have passed away, you will also need the full names and addresses of the children of that deceased person. If any of these relatives are minors, get birth dates and names of parents/guardians.
7. Apply for the Canada Pension Plan Death Benefit. This is an amount up to \$2,500.00 which if the deceased is eligible for, is paid by CPP to the Estate for funeral expenses. The surviving spouse and children of the deceased should also apply for Canada Pension Plan Survivors' Benefits. For more information contact the Income Security Programs of Human Resources Development Canada which can be found in the blue pages of your phone book under the Government of Canada - Pensions heading.
8. Determine whether or not the Will needs to be probated. Probating the Will is essentially having the courts review it and confirm that it is valid and binding. You do not have to obtain Probate if everything the deceased valuable assets were owned jointly with others (such as the family home being owned jointly with the spouse), the Estate is not very big (you can usually avoid Probate if the estate is worth less than \$25,000) or if the only asset is a bank account which the Bank is willing to transfer without probate (this will depend on the banks internal rules - some banks will allow very large accounts to pass to a spouse without probating the Will).
9. Probate the Will if required.
10. Administer the Estate in accordance with the deceased's wishes outlined in the Will. You must determine and pay the deceased's debts and taxes. The balance must be paid out to the beneficiaries or held in trust in accordance with the Will.
11. Prepare an accounting of the estate when the job is complete (or periodically for long term trusts) and get it approved by the beneficiaries or the courts.

Being an Executor can be a difficult job and we recommend that you retain the services of lawyer and an accountant to assist you. Probating a Will requires the preparation and swearing of several Affidavits and is difficult to do without any legal advice. In addition, the job of Executor carries some risk of personal liability. Executors can be held liable for unpaid debts and taxes or claims of disinherited or contingent beneficiaries if they pay out the estate incorrectly or before taking protective measures.

We can assist you in all aspects of your job as Executor. Please contact us if you have any questions.

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