



THE OFFICIAL EXECUTOR GUIDE

*Helping **Canadian** executors
get their tasks done right.*

Executor Name:

For the Estate of:

Glossary of Estate Terms

Frequently Asked Questions

Estate Information Template

Executor Task Checklist

Introduction

Being named in a Will as the executor or estate trustee reflects the high standing you have held with another person and is, perhaps, one of life's highest compliments.

BUT what most people don't know - whether when naming an executor in their own will, or agreeing to act as executor for someone else - is that the executor is **personally** liable to the beneficiaries, creditors, and perhaps others that have business with the estate.

The executor is the personal representative of the decedent. He or she can sue others on behalf of the estate; he or she is also the person that may be sued by others on behalf of the estate. Your personal liability as executor is not over simply because you have distributed the estate assets; it may continue for many years depending on the contents of the will and the nature of the assets.

The executor may be held accountable to a much higher standard than the manner in which he or she manages his or her own affairs, should it be measured by a court during a lawsuit arising out of an alleged mistake during the estate administration.

The executor role is complex and it is important to be **prepared**. Part of good preparation is planning; this document will provide some assistance in identifying the people, assets, information and tasks related to the estate. The other part of a good plan is mitigating risk and financial exposure for the executor(s).

- » If you're considering acting as an executor, discuss the will with the friend or loved one you plan to act for as executor. Ask them to sign and date the insurance direction on page 13 of this booklet and keep it for your records.
- » If you're planning your own will, make sure your lawyer adds a provision to include estate administration protection (draft wording is included on page 13).

Estate administration insurance protects both the executor and the estate assets for the beneficiaries. It is arranged at a low cost at the time of death and is often paid for by the estate.

This guide is a good start, but it isn't exhaustive; estates are all different and often unpredictable. Insurance is a wise consideration regardless of how safe and low risk it may appear at the outset.

Finally, we recommend competent legal, accounting, financial advisory and real estate advice.

You may find that managing the relationships and personalities of the beneficiaries (and the other people that influence them) is arguably the most significant challenge of the estate administration process.

Communication with beneficiaries is a key factor in successful estate administration, and you may wish to share the contents of this workbook with them.

How to use this Executor Planning Guide

This guide is broken into three general areas that are intended to help you in your role as Executor.

PART ONE is general information including a glossary of terms and frequently asked questions.

PART TWO identifies basic but crucial information you should secure, if possible, from the individual who has named you as executor.

If you are already beginning to act as executor, you will still need to obtain this information, however, the task may be more difficult.

PART THREE assesses Estate Risk issues and provides you with tools to help mitigate your risk. It's difficult or impossible to predict when a beneficiary, creditor, or even a charity with some expectation of entitlement becomes frustrated with the speed of the process, amount of money available, decisions, or even the communication style of the executor and decides to take action. There is a specimen will precedent that everyone should include within their will. One area often overlooked is executor and estate protection.

PART FOUR provides you with a list of key items and activities related to the executor role. Not all are relevant to every estate, but the framework will provide you some guidance when you begin your administration role.

You will likely see that the number of executor tasks is extensive. No one can predict when private family dynamics can complicate an otherwise simple and apparently low-risk estate by way of a lawsuit from a beneficiary, would-be beneficiary, or disgruntled third party you never expected.

We hope this guide helps you prepare for the role of executor, offers some basic direction when acting, and provides you some simple ways to mitigate risk for the estate and for you, personally.

Glossary of Estate Terms

Here are a few terms or expressions you may run into in a will or estate context. These are not precise legal definitions; for precision you can look these definitions up yourself or consult with a lawyer or notary for clarification.

- Beneficiary is a person or organization that is entitled to receive some advantage under a will, sometimes a gift of money or property or use of property.
- Creditor is an individual or organization to whom an estate owes a debt.
- Decedent is the term given a person who is deceased.
- Estate is the total property (both real and personal) that is owned by the decedent immediately prior to death.
- Executor, Executrix, Estate Trustee are terms to describe a person or institution appointed by a testator to carry out the terms of their will.
- Family Law regulates the rights of spouses and dependants in regard to property, support inheritance and other matters of marriage, divorce and separation.
- Implied Trust is a trust arrangement inferred by law. It presumes an intention on the participants, for instance in a non-spousal joint investment account, to create a trust arrangement upon the death of one of the joint account holders for the benefit of another. A good example: a mother and daughter are joint account holders of mother's investment account to avoid paying probate fees when mother dies. The account passes into daughter's hands at mother's death but in the absence of evidence of mother "gifting" the investment account to daughter, daughter is deemed to be holding the investment in trust for mother's beneficiaries. Such situations often result in litigation between competing parties.
- Joint Account means a bank or investment account owned by two people, and which passes into the hands of the survivor upon the death of the other owner. Jointly owned real estate has a similar feature. Joint accounts or joint ownership will often allow bank and investment accounts to pass outside of probate.
- Litigation means the process of taking legal action by taking a case to court so that a judgement can be made.
- Power of Attorney is the authority to act for another in legal, financial or health matters. The person given the right to act is the attorney for property; he or she is improperly but nonetheless typically referred to as the Power of Attorney or POA.
- Probate is the process whereby a court establishes the validity of a will. Courts may levy a fee for probate which many people call "probate fee" or "probate tax", and which is based upon the value of the estate. Probate is usually required by financial institutions and provincial land registry systems in order to transfer bank and investment accounts and change title to property.
- Testator is the formal name of the person who has prepared a will. They may also be referred to as a will-maker.
- Will is the name of the document that directs the will-maker's final instructions on division and distribution of his or her assets at the date of death.
- Wills and Estates Succession Act (WESA) is British Columbia legislation that governs wills and estate matters. It has gained some attention as a result of a provision which, in certain circumstances, allows a court to add an individual as a beneficiary to a will in which they had been excluded.

Frequently Asked Questions

The executor role is complex, challenging, and often time consuming. For most executors, this is a once or twice in a lifetime role, with a steep learning curve and little room for error, while making the numerous decisions you're facing.

Q. What do "estate" and "executor" mean?

An **estate** is the total property (both real and personal) that is owned by the decedent immediately prior to death.

The executor is the *personal representative* of the decedent and **has essentially the same rights, duties and obligations that the decedent had while they were alive**. The executor is able to sue other parties and is the individual that is sued by other parties in respect to issues related to the estate. This may come as a surprise to family members who thought the "estate" is a specific legal entity.

Q. What is the executor's legal duty?

The executor has a **fiduciary duty** to the parties to the estate. A fiduciary duty is a much higher standard of care and performance than is typically required in a non-fiduciary role because it involves the management and distribution of money belonging to other parties. The required standard of care is often **much higher than a person might generally exercise in respect of their own personal business**.

Q. Who is the executor responsible to?

The executor is **personally liable** for his or her actions to the following groups or individuals:

- » Beneficiaries and creditors for investment losses and breaches of trust; and
- » Other parties, with whom the decedent may have had dealings, for contractual obligations and wrongs in law (tort)

Q. Do I as executor have a financial obligation if I make a mistake?

People don't typically think about the role of executor as having a personal financial risk but nothing could be further from the truth.

It's important that people understand they are effectively **pledging their own personal assets should a significant loss of estate value occur** that results from an error he or she made while administering the estate as the executor.

If you are asking someone to act as executor on your behalf, it's equally important to understand the imposition.

Q. Is the executor's liability limited to executor compensation or fee?

An executor who makes a significant error in the estate administration may very well not be permitted to collect the executor fee that is typically allowed; he or she can also be required to write a personal cheque to reimburse the beneficiaries or creditors for the mistake, and to pay a litigation lawyer to settle the matter.

Q. Does my home insurance cover liabilities occurring when acting as an executor?

No, typical home insurance covers injuries and property damage to other parties but **does not cover estate administration errors** that result in financial loss to other parties.

Q. What kinds of tasks am I responsible for as executor?

This is a brief summary of tasks pertaining to the financial aspects of your duties. There are a number of non-financial related tasks that must be performed as well.

- » obtaining the probated will of the decedent;
- » advertising for and/or notifying creditors and claimants/beneficiaries;
- » accounting for the assets and liabilities of the estate;
- » collecting and securing the assets of the estate;
- » protecting the assets of the estate;
- » determining tax liabilities by jurisdiction or residency;
- » paying the liabilities of the estate and collecting any receivables;
- » filing final tax returns of the estate;
- » verifying claims against the estate, including dependant relief claims;
- » liquidating the assets of the estate;
- » distributing the assets of the estate; and
- » accounting for the administration of the estate.

Please note that this is merely an overview - a more comprehensive list of tasks is included in PART FOUR of this guide.

Q. Can the ex-spouse of a decedent or beneficiary have a claim on the estate even though they were not named in the will?

Given the frequent nature of divorce and remarriage, family law issues that may frustrate the efforts of the executor trying to settle the affairs of the estate are not unusual. Family law issues involve some tension. Lawsuits arising out of the executor or estate not recognizing or providing for obligations under Family Law are not uncommon.

Q. After acting as a parent's Enduring Power of Attorney for Property -- should we be concerned if we also act as executor?

Beneficiaries are often much more vigilant in examining the actions of the executor who has previously managed the financial affairs of the decedent. Some beneficiaries, including charitable organizations to which the decedent has left a gift, may look more critically at executor performance following their activities as power of attorney.

Q. We put Mom's investments and her house in our joint names. Who gets the money?

Many individuals conclude, often incorrectly, that the ownership of joint investments or real estate holdings pass to the joint account holder automatically when the other account holder dies. **A joint account, including ownership of property and or financial assets, is a common and growing area of potential litigation in estate administration.** Such ownership structures can have serious tax and estate administration implications for all parties involved.

Q. Just in case we forget something, we are planning to hold back money from distribution until we're more comfortable. Is this an issue?

Maybe not. Withholding money to allow for contingencies may be prudent if you can establish good grounds for doing so. The executor's liability can continue for some years for certain activities (resulting from an audit under Ontario's Estate Administration tax Act provisions, for example). Beneficiaries are not consistently patient with this practice and sometimes take legal issue with it.

Q. There are two charities named as beneficiaries -- should we be concerned?

The realities of modern corporate governance require charities to no longer be simply patient and grateful to receive a bequest. ***Many charities are now much more diligent in their review of executor performance, and less likely to forgive any errors that impact the financial value of their bequest.*** Certain prominent charities describe themselves as “professional beneficiaries”; they may try to impose strict rules upon the administration of the estate. This may include litigation against the executor if the organization believes that such action will improve the financial result.

Q. We are managing the financial investments and selling the real estate privately -- do we have a risk?

A growing number of people opt for “Do it Yourself” in an effort to reduce commissions related to real estate or financial investments. ***DIY activities can cause the estate to lose some or all of the statutory consumer protections which exist at law by using a licensed advisor or real estate agent.*** This may mean that the estate is exposed to the legal liability risks that arise from these activities - potentially expensive in the case of real estate sales.

Q. Mom left some valuable jewelry to our sister but we can't find it. What now?

The question of when the asset went missing is important. ***The executor is responsible to protect the assets of the estate,*** including changing the locks if necessary. Many don't, and the members of the family “help themselves” because they feel entitled, or believe that Mom or Dad promised an item to them while they were alive. Ultimately this can result in significant problems for the executors, even when the property has no significant value.

Q. Mom loaned some money to my nephew a few years ago. She never told anyone about it while she was alive, but we found the promissory note in her papers. My sister says Mom told her son, my nephew, that he doesn't have to repay the loan. What now?

The executor is required to not only pay the bills of the estate but must collect and account for any monies owed to the estate, including loans to the beneficiaries and their families. ***This is a common source of tension that can result in litigation when such loans, perhaps poorly documented, are required to be withheld from one of the beneficiaries or collected from their family members.***

Q. Mom left a small trust to our nephew who has some serious disabilities. Should we be concerned?

A testamentary trust may go on for some time, and ultimately will be required to be liquidated and distributed in terms of the will. ***This may be far in the future, but the trustee (sometimes the executor, or other times another individual) has a fiduciary duty to the individual named in the ongoing trust.***

Q. It looks like Dad made some serious investment mistakes and we think his estate may be bankrupt. Should we be concerned?

Maybe not; there are established guidelines that the executor can follow to deal with a bankrupt estate. One risk, however, is that there may be unsatisfied creditors that pursue the executor after the estate has been distributed and the cost of defending yourself in such a case may be a financial burden for the executor.

Q. The will has some obvious problems -- it's not clear who gets what. Should we be concerned?

If the beneficiaries, including any charities, or creditors believe that the executor's interpretation of the will is incorrect, they may choose to litigate the matter through the court.

Q. As her health failed, Mom made several wills with different provisions and beneficiaries all within the last few years. Should we be concerned?

Probably. Legal capacity issues are a common and growing area of estate litigation.

Q. Our brother has been living in Mom's house for 20 years and insists that Mom said he could live there as long as he wants. We need him to vacate in order to sell the house. Should we be concerned?

Probably. In the event he can't be convinced to leave on his own, it may require stronger measures which may end up in litigation at potentially significant cost to all parties.

Q. The bank suggested that we hire its trust company to help with the technical parts of the administration. Does this eliminate our personal liability?

Trust companies that act as the Executor's agent may help you perform the duties with more confidence, but the executor is ultimately personally liable for the estate administration. If there is a lawsuit against both you and the trust company because of negligent administration, ***the trust company is not obligated to defend on behalf of the executor.***

Q. What happens if one of us dies while acting as executor?

The liabilities that arise out of activities when acting as executor for another person become a liability of your own estate which will need to be administered by the executor of your estate. When this happens, the liabilities you incurred as a result of acting as executor for someone else may require monies to be withheld from the beneficiaries of your *own* estate.

Q. What happens if the estate gets sued after the estate is distributed to the beneficiaries?

There are statutory limitation periods that exist at law - dates after which no claims may be brought against the estate. The limitation period may be as short as two years from the last date of some activities; in other cases, the window to sue remains open for much longer. In order to claim protection under an applicable limitation period, ***the executor may have to pay personally in order to defend or settle a claim.*** Ultimately, some or all of the cost of defense may have to be "clawed back" from the beneficiaries.

Q. Is insurance available for protecting the assets of the beneficiaries from mistakes during estate administration?

Yes. Insurance can be purchased at nominal cost and covers many aspects of the risks of estate administration. It simply has an insurer pay the covered legal expenses and judgment for damages imposed to make the estate whole.

Insurance allows for the settlement of many typical problem scenarios without causing the family to "go to war" financially and emotionally.

Please call ERAssure at 1-855-636-3777 to determine what risks may be present in the estate you're handling, and arrange for insurance, if the risk assessment indicates so.

Planning

Note: If you're planning to act as executor in the future, obtaining this information from the will-maker in advance is the most practical approach.

Estate Information:

Name	SIN
Address	Passport Number
Date of Birth	Employer

The Will is stored at:
The funeral arrangements are with:
The bank is: Branch Location:
The safety deposit box is located:

Key Contacts:

Lawyer

Name	Firm	Phone Number
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Accountant

Name	Firm	Phone Number
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Financial Advisor

Name	Firm	Phone Number
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Insurance Broker

Name	Firm	Phone Number
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Key Business Contact

Name	Firm	Phone Number
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Key Family Member

Name	Relationship	Phone Number
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Executor Liability Insurance - ERAssure®:

Name	Customer Service Representative	1-855-636-3777
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Power of Attorney Information

Name	Address	Phone Number	Care Property
Name	Address	Phone Number	Care Property

Financial Institution Information

Name	Account Type	Account Holder(s)	Account Number
Name	Account Type	Account Holder(s)	Account Number
Name	Account Type	Account Holder(s)	Account Number

Insurance Information (Life)

Insurance Company	Agent	Policy Number	Beneficiary	Face Amount
Insurance Company	Agent	Policy Number	Beneficiary	Face Amount
Insurance Company	Agent	Policy Number	Beneficiary	Face Amount

Insurance Information (General)

Insurance Company	Broker	Policy Number
Insurance Company	Broker	Policy Number

Investment Information

Company	Broker	Account Number
Company	Broker	Account Number

Pension/Annuity Information

Company	Date of Deposit:	Amount of Deposit:
Company	Date of Deposit:	Amount of Deposit:

Properties

Address/Location	Property Manager	Key Location	Mortgage Holder
Address/Location	Property Manager	Key Location	Mortgage Holder
Address/Location	Property Manager	Key Location	Mortgage Holder

Measuring Estate Risk

This questionnaire provides a quick overview of the common variables that most often are responsible for triggering a problem for executors. Circle the number corresponding to your answer to each question, and total your score on the next page.

	YES	MAYBE	NO
Was the will prepared more than 5 years ago or within 6 months of the date of death of the decedent?	2	1	0
Was the will prepared by a lawyer?	0	1	2
Is there more than one executor?	2	1	0
Are there more than 5 beneficiaries?	2	1	0
Are you, the executor, also a beneficiary under the will?	2	1	0
Did the will-maker have any serious health issues in the year before the will was prepared?	2	1	0
Did you, the executor, act as Power of Attorney while the will-maker was living?	2	1	0
» If yes - Did any executor hold investment accounts or real estate in joint names with the decedent while alive?	2	1	0
» Are any of these assets transferring as a gift under the Power of Attorney?	2	1	0
Did the Power of Attorney see the contents of the will while the decedent was alive and before they started to act?	0	1	2
Is the will-maker or are any of the beneficiaries separated or divorced?	2	1	0
Are any adult children living in the will-maker's home or another property belonging to the will-maker?	2	1	0
Has the will-maker ever loaned money to or paid any of the household expenses of any other person, including beneficiaries to the estate?	2	1	0
Does the will establish any trust arrangement for any of the beneficiaries?	2	1	0
Was anyone included or excluded as a beneficiary that might be surprised by contents of the will?	2	1	0
Are there any charities named as beneficiaries in the will?	2	1	0
Have final arrangements been outlined clearly?	0	1	2
» If yes, do the family and executor know the details?	0	1	2
» Have funds been set aside to allow for quick access by the executor?	0	1	2
Is there anything in particular that you're worried about in terms of the estate?	2	1	0

PART THREE - Measuring Estate Risk (continued)

TOTAL ESTATE RISK SCORE:

If your score is:

- 0-5 ➤ The estate risk is relatively low; estate administration insurance may be useful to manage the executor's liability but the assessment indicates the risk picture is manageable.

- 6+ ➤ The estate includes complexities that significantly increase estate administration risks and the opportunity for executor error. Estate administration insurance for the executor, estate assets and beneficiary inheritance should be arranged at the commencement of the estate administration.

Estate Administration Insurance Direction

Inclusion of Executor, Estate Trustee or Administrator Errors and Omissions Insurance

As my Executor(s)/Trustees I authorize you to purchase, at the expense of my estate:

- Professional services as you deem fit and appropriate in the care of my estate. The intent of this direction is to ensure that my Executor(s) charged with administering my estate, have the benefit of professional resources where required to manage investments, property, and business interests, and to provide legal, accounting and tax advice, ultimately for the benefit of the beneficiaries; AND
- Executor Liability Insurance. The intent of this direction is to ensure that the Executor/Estate Trustee/Administrator(s) whom administer my estate are protected by insurance.

Signature of Testator:
(Will-maker)

Date:

(dd/mm/yyyy)

Testator Information:

First Name Initial Last Name

Street Address

City Province Postal Code

Suggested Clause for Inclusion in a Will:

I authorize my Executor(s)/Trustee(s) to purchase, at the expense of my estate, such errors and omission insurance as my Executor(s)/Trustee(s) determine(s) in his/her/their sole discretion is sufficient to protect my Executor(s)/Trustee(s) against claims and losses arising from any error of judgment or mistake of law or other mistake or for anything, save the willful misconduct or willful breach of trust or fraud by such Executor(s)/ Trustee(s), during the course of the administration of my estate. The cost of such insurance shall not be deducted from the compensation to which my Executor(s)/Trustee(s) is/are otherwise entitled for so acting.

Executor's Tasks

This list is one of general information for Estates with a valid Will in common law jurisdictions and may not be exhaustive. See a lawyer for more details.

Initial Information

Name of Executor:	Co-Executor:
Name of Decedent:	Date of Death:
Decedent's Spouse:	Decedent's SIN:
Decedent's Address:	

Initial Work

- Make the funeral/burial arrangements (were any details pre-planned or pre-arranged?)
- Make special arrangements, such as organ donation
- Arrange for care of dependents or pets
- Identify immediate cash requirements for family
- Obtain the original death certificate (including several copies)
- Consider publishing an obituary

Locate the Will and Meet with the Legal Counsel

- Locate and review the Will
- Ensure that you understand your duties and personal liability as the Executor
- Identify any potential conflicts
- Obtain a proposal for ERAssure[®] Executor Liability Insurance coverage to protect you, as the Executor, and the estate assets - call 1-855-636-3777
- Maintain a detailed record of all the decisions you make, steps taken and financial transactions

Contact the Beneficiaries of the Estate

- Construct a genealogical family history (family tree)
- Set up a meeting with family members
- Discuss the Will and any pertinent information you require from them
- Gather preliminary information from the family
- Document the meeting and note the information gathered

Meet with the Beneficiaries (review the details provided by the beneficiaries with your Lawyer)

- Have the beneficiaries provide you with pertinent papers and information
- Give an overview of the Estate Administration process to the beneficiaries. e.g. tax issues, litigation, etc.
- Provide the beneficiaries with an expected timeline
- Determine the Estate's contractual obligations and the family's needs
- Document the meeting and note the information gathered

Set up an Estate Bank Account

- Notify all the financial institutions of the death. Note all the particulars about banking and accounts and open a new bank account for the Estate
- Determine if any bank accounts are jointly held. Joint accounts are dealt with based on the right of survivorship and providing the financial institution with the death certificate should allow the transfer of the account to the surviving joint tenant
- If the bank accounts are not jointly held, discuss the options with the financial institution
- If there is a safety deposit box, document its contents in the presence of a third-party
- Determine if funds are available to pay funeral expenses

Locate and Review the Important Documents

- Obtain and review any title documents for real property and mortgages
- Locate any share certificates, bonds, debentures and/or guaranteed certificates

Notify the Legatees and Residuary Beneficiaries

- Identify any charitable organizations named in the will. Do they still exist? Is their name noted correctly in the Will?
- Notify the charities (and regulators if necessary) of bequests made under the Will
- Notify the legatees/devisees of provisions under the Will
- Notify the residual beneficiaries of provisions under the Will and provide them with a copy

Set up a Diary of Time Limitations

- Consult with a lawyer to determine if there are any obligations or duties of administration that have a time sensitivity which can impact the Estate.
- Diarize these activities for attention

Prepare/Confirm Tax Information

- Notify Canada Revenue Agency of the death and cancel benefit payments in the name of the decedent
- Locate and collect tax information, medical receipts, charitable receipts, etc.
- Confirm the completion of tax returns for the last six years
- Prepare and file any unfiled tax returns for the previous years within six months of the date of death

Potential Immediate Activities

- 1) **Business interest and business investments** - Contact the lawyer/accountant used for business purposes
 - Where the decedent was the sole or controlling shareholder of a business, ensure control of operations and continuation of the business.
 - Arrange for a review of the investment portfolio with decedent's financial advisor
 - Make reasonable decisions regarding the business investments
- 2) **Real Estate**
 - Obtain the keys to all real estate holdings and consider changing the locks to restrict access to the property
 - Acquire and review any real estate deeds and mortgage documents
 - Review the property insurance coverage and make provision for vacancy, if necessary
 - If the decedent was the sole occupant of a rental premises, terminate the lease or arrange a sublet
 - For vacant real estate, arrange for maintenance, protection and care of the property.
- 3) **Chattels**
 - Confirm auto insurance is in effect to cover physical damage and liability for operation of the vehicle(s)
 - Determine if any assets require special insurance coverage while they are still in the home or if they are being stored elsewhere
- 4) **Inventory**

Collect, secure, protect and maintain an inventory listing of:

 - Securities
 - Jewelry and other valuables
 - Cash on hand
 - Other documents or items of potential value
- 5) **Mortgages - receivable**
 - Notify the payer to redirect the mortgage payment. Cheques should now be payable and deposited to the Estate account
 - Collect on outstanding mortgage
- 6) **Rental Properties**
 - Advise tenants to redirect the payment of rent for rental properties. Cheques should now be payable and deposited to the Estate account
- 7) **Investment Accounts**
 - Advise the decedent's financial advisor of their death
 - Arrange for a review of the investment portfolio and document a plan on managing the portfolio with the financial advisor
 - Cancel any open or pending orders
 - Change the mailing address for the account statements
 - Obtain list of securities held with their original cost information
 - Document meeting details

Contact Third Parties

- Document services are available to assist you with many of these routine but onerous tasks. Call ERAssure and we can assist you.
- Notify their service providers to reduce or cancel services and request rebates where available. These include: utility, television, home phone, cell phone and internet providers; magazine and newspaper subscriptions; club and/or fitness memberships and request rebates where available
- Call Service Canada to notify of the death and to obtain information regarding Canada Pension Plan or Quebec Pension Plan, Old Age Security and related benefits. 1-800-277-9914
- If the decedent received pension benefits or extended health and dental benefits, contact the plan administrator to advise of the death and to determine eligibility for continued benefit coverage for dependents;
- Contact Passport Canada to cancel decedent's passport, 1-800-567-6868
- If the decedent was receiving veteran's benefits, call Veterans Affairs Canada. 1-866-522-2122
- Cancel their Social Insurance card. 1-800-206-7218
- Cancel the decedent's driver's license
- Request Canada Post to redirect the mail
- Confirm outstanding balances and cancel the credit cards - determine if insurance exists to cover balances
- Contact Executors of any other Estates where the decedent may have entitlement
- Where decedent receives a pension from a foreign jurisdiction, notify the foreign jurisdiction, cancel the entitlement and make a claim for death benefits, if applicable

Collect Information on Assets and Liabilities

- Collect and review the liability information for the Estate
- If not already done, contact the banks to get the account balances, investment details, loan details, etc.
- Locate any personal property held outside the home, in storage or under repair
- Determine the need and pursue any outstanding litigation on behalf of the Estate
- Determine all liabilities outstanding at death, and interest accruing on the outstanding debt after the date of death
- Establish which liabilities should be paid to save interest
- Ascertain personal guarantees made by the decedent on loans

Inventory and Valuation of Personal Assets

- Create a complete inventory listing of the personal assets
- Obtain professional valuations of personal property, vehicles, real estate and securities
- Determine if any assets are missing

Foreign Assets (if applicable)

- Determine if a valid Will exists in the foreign jurisdiction for the foreign assets
- Hire an agent/solicitor, if appropriate, to deal with matters in the foreign jurisdiction
- If there is no Will, then determine the applicable legislation that applies

Valuation and Inventory of Financial Assets

- Review the finances of the Estate with an investment advisor and/or financial planner
- Create an inventory of the financial assets and liabilities
- List the assets by their class and value and include their full particulars
- Include their maturity dates and note the interest rate(s) applicable
- Calculate and record the accrued interest, where applicable
- List the payment amount(s) received and their frequency.
- Redirect any payments to the Estate bank account
- List the liabilities of the Estate including full particulars

Life Insurance

- Locate all the life insurance policies
- Confirm the benefit amount payable under any life insurance policies
- Determine if the insurance is payable directly to the Estate or to a designated beneficiary
- Ascertain if there are any outstanding liabilities against the policy
- Produce the necessary documents and arrange for the payment of the proceeds

RRIF/RRSP

- Request a confirmation of the benefits payable and the plan balances
- Determine if plans are payable directly to the Estate or to a designated beneficiary
- Produce the necessary documents and arrange for the payment of the proceeds

Designated Beneficiaries

When life insurance and RRSP/RRIF plans are payable to a designated beneficiary, please review the following:

- Confirm when and where the last beneficiary designation was made
- Confirm that the institution recognizes the last designation
- File all the documents necessary to make claims for or on behalf of beneficiaries

Application to the Court for Appointment as Executor (Probate)

- Meet with Estate lawyer to complete the application for the certificate of appointment
- Review the documents and the parties to be served. Request originals and notarial copies of final orders
- Arrange payment for any fees that may be applicable

Notice to Creditors/Debts of Estate

- Place a *Notice to Creditors* advertisement with www.noticeconnect.com
- Determine the expiry date for the *Notice to Creditors*, once probate is granted. Expiry Date:

- Provide beneficiaries with an update of ongoing activities
- Obtain releases, where applicable, to avoid a delay of distribution of assets

Distribution of Assets/Administration

Review with legal counsel for provincial legislation in the case of intestacy

1) Preliminary Matters

- Once probate is granted, obtain notarial copies to transfer assets
- The *Notice to Creditors* must expire prior to commencing distribution of assets
- If necessary, have the Estate lawyer register the certificate of appointment or grant of probate on title for real estate

2) Time Limitations

- Determine whether there are any time periods that remain outstanding which restrict distribution
- Review the dates on items such as dependent relief claims

3) Review the Will

- Review the order, division, and specifics for the distribution of assets under the Will
- Consult the beneficiaries regarding the distribution of assets in their current form (distribution in kind)

4) Realize Assets

- Close bank accounts and transfer remaining funds to the Estate account
- Invest any cash surplus based on terms of the Will
- Transfer or sell all real estate pursuant to the Will

5) Stocks and Bonds

- Complete and submit declarations documentation required to transfer the securities
- Liquidate the stocks or bonds as necessary to meet the cash flow requirements of the Estate.
- Liquidate the stocks and bonds for distribution or transfer to beneficiaries in accordance with the Will.
- Deliver the securities to the beneficiary and obtain receipts

6) Personal Effects

- Distribute personal effects as indicated in the Will and obtain receipts if the distribution is “in kind”
- If the Will stipulates that personal effects are to be sold, the cash becomes residuary for distribution

7) Prepare Payments

- Prepare cheque(s) for payment of outstanding debts
- Prepare cheque(s) for payment of legacies
- Prepare cheque(s) for payment of distribution

8) Trusts

- If required, set up testamentary trusts
- Arrange for an ongoing review of the investments
- Arrange for ongoing compliance within the rest of the terms of the trust
- Arrange for payment(s) of income, if necessary

9) Legatees

- Make payment(s)
- Obtain receipts for distribution

10) Tax Considerations

- Take into account unused expenses from current or previous years
- Estimate the current year and closing capital gains and exemptions
- Take into account any spousal trusts
- Take income splitting opportunities into account
- Note the filing deadlines and ensure that taxes are submitted on time to avoid penalty charges
- Take separate returns into account
- Consider transferring any unused RRSP/RRIF contributions to a surviving spouse
- Allow for charitable gifts; include in T1

11) Tax Returns

Obtain advice from professional accountant or tax preparer to review:

- Prepare and file the Terminal T1 Return with Canada Revenue Agency
- Prepare and file any other Canadian returns as necessary
- Request clearance certificate from Canada Revenue Agency and Revenue Quebec (if applicable)
- File foreign tax returns, if required
- Obtain Goods and Service Tax clearances, if applicable
- Final distributions should only be made once you have received the clearance certificate

12) Distribution

- Be sure to retain sufficient funds to cover income tax and any outstanding accounts, including legal fees
- If Will provides for outright distribution, obtain releases from the beneficiaries
- Distribute assets or funds to beneficiaries

13) Cancel Insurance

- Cancel the property insurance on any real estate once it has been transferred or sold
- Cancel the insurance on any vehicle(s) once they have been transferred or sold
- Cancel all other insurance policies in place once the assets have been transferred or sold

14) Fees

- Request a final accounting from Legal Counsel and other professionals
- Determine the Executor's compensation
- Retain a reserve of funds for any additional fees or expenses to be paid
- Communicate the status to the beneficiaries

15) Prepare Accounts

- Prepare a final *Statement of Accounts* for approval by the beneficiaries

16) Beneficiary Approval

- When Accounts are approved, confirm and send the release to the beneficiaries

17) If approval not provided by beneficiaries

- If the Accounts are not approved, they must be submitted to the courts
- Ask your Estate lawyer to assist you in passing of accounts before the court
- Complete the passing of accounts

Final Matters

- Distribute any remaining funds, deliver any remaining assets and obtain receipts for the distribution
- Pay the Executor's fees
- Pay all remaining professional fees
- Do not issue the final cheques until tax clearances are received. Maintain a reserve if necessary
- Communicate the final report on all aspects of the administration to the beneficiaries
- Confirm that all payments and cheques have cleared through the Estate account
- Close the Estate's bank account
- File all records and communications in a secure and safe place

Important note:

As you carry out your duties as Executor, make sure you keep complete and accurate records of all your decisions and actions. If you are asked for an accounting of your activities, thorough records are necessary.

This list is not complete, and requirements will vary by Estate and jurisdiction, but it does provide an overview that may help you understand your main duties and stay organized.

DO YOU HAVE QUESTIONS ABOUT
Executor Insurance?






