

EXECUTOR CHECKLIST

A step-by-step checklist of the duties and responsibilities of an executor.

An executor's job can be demanding and time consuming. As the executor, you will be responsible for carrying out the instructions in a Will. The process can be daunting if you are unprepared for it.

To make your job easier, the following checklist includes steps for many of the duties and responsibilities of an executor. It will provide you with a starting point and can function as a cross-checking tool to help confirm you complete many of the required steps.

Immediate matters

- Make appropriate funeral arrangements and pay for this expense. Note that:
 - most banks will pay out funds from the deceased's bank account to cover the cost of the funeral, upon presentation of the funeral home's bill;
 - the deceased may have had a prepaid funeral arrangement; and
 - life insurance funds or social assistance may be available, depending on the deceased's circumstances.

- Retain a solicitor.

- Locate the last Will of the deceased.

- Open an estate bank account.

- Identify the beneficiaries and obtain their names and addresses.

- Notify the beneficiaries of their interest.

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Immediate matters cont'd

- Determine whether immediate family members have any urgent financial needs. The following are good sources for funds when an immediate family member has urgent financial needs, and cannot wait for the estate to distribute assets:
- life insurance policies – only viable if the designated beneficiaries are immediate family;
 - employment pay – if the deceased was an employee at the time of death, there may be some type of termination pay available (only viable if payable to a family member and not to the estate);
 - death benefit – there may be a death benefit through the employee's pension plan (only viable where directly payable to family); and
 - Canada Pension Plan (C.P.P.) – if the deceased contributed to the C.P.P., one can potentially obtain a lump-sum death benefit, while the surviving spouse and children may be entitled to monthly payments.
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- Search for assets and safeguard them until distributed or sold:
- search for cash, securities, jewellery and other valuables, and arrange for safekeeping;
 - lock up the residence and notify the police that the home is vacant (in winter, ensure that the house remains heated or drain the pipes to prevent freezing);
 - examine the insurance coverage and insure estate assets (motor vehicle, house, furniture, jewellery, art, etc.) against perils and fire;
 - for motor vehicles, check the insurance policy for adequate coverage and permitted uses (for example, if someone is using the vehicle and there is not adequate coverage, the estate may be liable, or you, the personal representative, may be liable); and
 - dispose of all perishable assets (for example, if the deceased owns a business and he or she sold perishable produce), so that the value of the estate is not diminished.
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- Organize interim management for the business of the deceased, if applicable. If you, as the personal representative, decide to run the business, you must consider matters of personal liability.
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- Collect income generated by the estate's assets or payable to the deceased.
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- Pay bills, mortgage payments, property taxes, income taxes, insurance premiums and credit cards.
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- Check leases and tenancy agreements, arrange for payment or collection of rent and give notice, if appropriate.
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- Find out if any banks or other financial institutions have refused to honour cheques written by the deceased prior to his/her death.
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- Redirect or cancel newspaper and magazine subscriptions.
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Immediate matters cont'd

- Redirect mail and cancel health insurance coverage, driver's license, cable, telephone, memberships, subscriptions and credit cards.

- Arrange for the care of pets.

- With respect to farm property, arrange for the care and management of livestock and crops.

Interim matters

- Prepare an inventory of original assets, including safety deposit box listing, real estate, moneys on deposit at financial institutions, personal items, life insurance, any interest in an estate or trust, and any other investments such as a mortgage held on property.

- Arrange for the valuation of assets, where necessary.

- Advertise for creditors and prepare an inventory of debts.

- Ascertain any debts to family members and locate evidence regarding loan balances.

- Instruct solicitor to apply for the appropriate grant or certificate.

- Supply solicitor with information required to make the application.

- Prepare and file income tax returns for the year of death and all prior years due, but not filed, at death.

- Make reasonable inquiries for next of kin.

- Consider any claims or potential claims against the estate and obtain legal advice:
 - assess the rights of the surviving spouse under provincial family law (depending on the province, the personal representative is generally required to advise the surviving spouse that he or she might have a claim, and to seek independent legal advice); and
 - assess the rights of any dependants who were financially dependent on the deceased.

- Set aside reserve funds for estimated debts, taxes (including potential taxable capital gains on property, such as a cottage), and executor's compensation.

- Prepare an interim release and make an interim distribution to beneficiaries.

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Final matters

- Convert investments and other assets (except those specific assets to be given to individuals under the Will such as a car, a watch or a house) to cash, and deposit to the estate account, or invest the estate balance in interest-earning investments pending final distribution to beneficiaries.

- Re-register assets in estate's name.

- Prepare transfer/deed for conveyance of real property, if required by the Will. As real estate transactions can be quite complex, a solicitor should probably prepare the legal documents.

- Arrange the rollover of an RRSP or RRIF to the spouse, if required.

- Settle and pay all legitimate claims against the estate.

- Apply for any benefits payable at death, including C.P.P. death benefit, life insurance proceeds and death benefits from pension plans and annuities. Deposit benefits received in the estate account.

- File a T-3 income tax return.

- Obtain tax clearances from Canada Revenue Agency.

- Prepare and maintain estate accounts for approval by the beneficiaries or examination by the court, where appropriate.

- Prepare final releases.

- If there is no Will, distribute assets according to the rules for intestate succession.

- Dispose of or distribute assets personally, according to the Will.

- Prepare cheques and pay legacies and transfer bequests, as provided in the Will.

- Invest assets for establishment of trusts, if the Will so directs.

- Send releases to beneficiaries and request signatures.

- Prepare cheques and pay balances to residuary beneficiaries.

- Advise beneficiaries regarding the inclusion of income from the estate in their income tax forms, if appropriate.

- Close the estate account.

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Income tax filing deadlines and requirements

- Regular Form T1 Terminal Year Return – In general, if the taxpayer dies before November in a calendar year, the return must be filed by April 30 of the next calendar year. If the death occurred in November or December, the return must be filed within six months of the date of death. An exception is made where property passes to a spousal trust to which subsection 70(7) applies, in which case the terminal return is to be filed within 18 months of the date of death.

- Prior Year Return – If the death occurred before May in the terminal year, the prior year's tax return is due within six months of death.

- Partnership or Sole Proprietorship Stub Period Return – Subject to the same filing deadline as for T1 terminal returns.

- Testamentary Trust Stub Period Return – Subject to the same filing deadline as for T1 terminal returns.

- Rights or Things Separate Return – The return must be filed within one year of the date of death or 90 days after the mailing of a notice of assessment for the terminal year (whichever is later).

- Election to Opt Out of the Regular Spousal Rollover under Subsection 70(6.2) or the Election Regarding the Spousal Rollover of Resource Property – These elections are made in the regular terminal return.

- Election under Subsection 164(6) to Carry Back a Loss from the Estate's First Taxation Year to the Terminal Year – The election must be made in writing by the filing deadline for the terminal year or that of the estate's first taxation year (whichever is later).

- Election to Pay Deceased's Tax in Yearly Installments Under Subsection 159(5) – The election Form T2075 must be filed by the filing deadline for the T1 terminal year returns.

- Clearance Certificate – The application can be made at any time, but the certificate must be received from Canada Revenue Agency before the estate trustee distributes any of the deceased's (estate's) property to the beneficiaries.

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Want to learn more?

The checklist above doesn't include all the duties and responsibilities of an executor but it does provide a good overview of the principal tasks. For more information, your financial advisor can talk to Empire Life's tax and estate planning professionals about your obligations as an executor.

Source: CCH Estate Planning Guide, 2010

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