

17 Gavin Street
Ottawa, Ontario
K1V 9X4



(613) 614-7140
lkerr@estateslaw.ca
www.estateslaw.ca

DUTIES OF EXECUTORS AND ADMINISTRATORS

Although it is an honour to be entrusted with the administration of an estate, it is also a burden imposed on you at a difficult time. The following checklist sets out the most important tasks that you or your lawyer may be required to perform.

First considerations

- Locate and review the Will, and notify beneficiaries of their interests under the Will.
- Make funeral and burial arrangements.
- Hold preliminary conferences with family members and business associates, and provide for their immediate personal and financial requirements.

Identification, protection, and valuation of assets

- Make sure that the property of the deceased (such as real estate, household contents, and automobiles) is properly insured.
- Arrange for someone to continue the operation and management of any business run by or participated in by the deceased.
- List contents of safety deposit boxes.
- Collect valuables (such as cash, securities, jewellery, real estate deeds, and insurance policies) and transfer them to a safe location.
- Arrange for an inventory and valuation of furniture, automobiles, art, collections, jewellery, and other household goods and personal effects.
- Ascertain particulars of any insurance policy, including the amount payable, designated beneficiary, and procedure for making a claim.
- Determine the death and survivorship benefits, if any, due under the Canada Pension Plan and private pension plans.
- Contact deceased's employer to obtain details of outstanding salary, commissions, bonuses, accrued sick and vacation pay, and benefits due under personal and group life insurance plans, stock option and profit sharing plans, retirement plans, and medical and other health insurance plans.
- Inspect and value real estate (including any cottage, farm, commercial and apartment buildings), and check leases, mortgages, and taxes.
- Arrange for the collection of any income paid on securities, rental property, mortgages and other investments.
- Ascertain the deceased's interest in any estates and trusts.
- Determine whether any debts are owing to the deceased.
- Cancel credit cards, memberships, subscriptions, and the payment of any pensions, annuities, or government benefits which cease on death.
- Arrange for the post office to redirect mail addressed to the deceased.

Realization of assets

- If necessary, apply to the Superior Court of Justice (Ontario) for a Certificate of Appointment of Estate Trustee ("Probate") and pay the necessary probate fees.
- Open a bank account in the name of the estate and arrange for the transfer into the estate account of all liquid assets.
- Transfer securities, real estate, etc. into the name of the executors.
- Sell any assets that will not be transferred directly to beneficiaries, and pay the proceeds into the estate bank account.
- Keep a full accounting of receipts and disbursements of the estate, and provide statements to the beneficiaries and the court when required.

Satisfaction of liabilities

- Advertise for creditors in a newspaper, and obtain an affidavit of publication.
- Determine the validity of all claims against the estate and, as funds become available, discharge all valid debts and liabilities, and obtain releases and discharges.
- Prepare and file tax returns, pay Canadian and foreign taxes, and obtain clearance certificate from the Canada Revenue Agency.

Distribution

- Make any charitable donations under the Will in the most tax-effective way.
- Consider making RRSP contributions for spouse and RESP contributions for children.
- Distribute the assets of the estate pursuant to the terms of the Will and obtain releases from the beneficiaries.
- Provide an accounting to the beneficiaries or have the estate accounts passed in court if required.

Testamentary trusts

- Segregate assets into the separate trusts created by the Will.
- Make proper investment of trust assets, and provide safekeeping of securities, deeds, etc.
- Make income payments to the income beneficiaries and, where permitted by the Will, exercise discretion to encroach on the capital of the trusts to meet the special needs of the beneficiaries.
- If a business of the deceased is to be continued, serve as a director or officer, arrange for competent management, and provide continuous supervision.
- Where directed by the Will, maintain, repair and insure any residence or personal possessions.
- Account regularly to the beneficiaries and to the court when required.
- Prepare trust income tax returns and provide annual income statements to the beneficiaries.
- Make a final distribution of the trust at the time directed by the Will.

Compensation

- Executors and administrators are entitled to "such fair and reasonable allowance for the care, pains and trouble, and the time expended in and about the estate, as may be allowed by a judge" or agreed to by the beneficiaries.
- Traditionally, compensation has been allowed in the amount of 2.5% of capital and income receipts, 2.5% of capital and income disbursements, and 0.4% of the annual average value of the assets as a care and management fee.

For more information, please contact Laura Kerr at (613) 614-7140 or lkerr@estateslaw.ca.