

What you need to do as estate executor: A bigger responsibility than you might expect

By Executor's Resource, Inc.

When someone with an estate dies, an executor or personal representative as designated in the will or by law is appointed by the court. If you are the one selected, you may find the responsibility much more than you anticipated in terms of time, expense and heartache.

An executor settles your estate, taking care of debts and creditors and getting assets to your heirs, sort of a CEO of the afterlife.

"If you really want to know what executors do, go to a circus and watch the clown in the center ring juggle several balls while riding a unicycle-- despite the glare of spotlights and the kids bawling in the third row," wrote Joan Lisante in a 2003 Washington Post article.

Typically, executors are close family members, more often than not a surviving spouse, child or close relative. Most people accept the appointment as both an honor and responsibility to those close to them. Rarely do they have an idea of what's in store.

Wealthy estate holders have it easy. Their executors can hire a team of specialists – attorneys, accountants, financial planners – to handle the endless details. Most middle class estates can't afford the high fees charged by these experts, leaving the "amateur" executor to navigate solo along the time consuming and often tricky route to final estate settlement.

A Long List of Responsibilities

An estate of modest size is not necessarily simple. Regardless of estate value, the executor is required to settle all creditors' claims, file individual and estate tax returns, accumulate and value all assets, close bank and investment accounts and transfer them to newly created estate accounts, handle the immediate needs of the family, and, finally, disburse the assets to the beneficiaries.

The complexity escalates if there are challenges to the will or if the decedent and the executor reside in different states, as is often the case. Legal proceedings must occur in every state in which there are assets. And although most states have similar probate codes, they're not identical, and an executor must be prepared to encounter unique rules.

Following is a detailed list of the challenges and responsibilities an executor can be expected to face:

Immediate Responsibilities

1. **Security of Family:** Insure that decedent's home and possessions are protected. Provisions need to be made for any family financial assistance if required.
2. **Organ donation:** Determine immediately if the decedent had directions for organ donation.
3. **Funeral Arrangements:** Determine that funeral arrangements have been made and paid for.
4. **Obituary:** Help prepare facts surrounding the death and also chronicle achievements of the person's life and distribute them to the media.
5. **Bank Notification:** Insure that banks are aware of decedent's passing and arrange for all automatic payments to be ceased.

Initial Administration

1. **Location of Will and Trust Agreements:** These are the executor's governing documents and are likely maintained in a safe deposit box or by the decedent's lawyer. Identify beneficiaries and determine needs of survivors.
2. **Death Certificate:** Certified copies or photocopies are required for transfer of assets and resolving creditor accounts.
3. **Insurance Policies:** Contact insurance agent(s) and obtain copies of life, mortgage and loan insurance policies.
4. **Important Contacts:** Contact the following to determine if benefits may be available:
 - a. Social Security Administration: Death should be reported and determination of available benefits.
 - b. Current Employer: Several immediate benefits may be available including group life, health plans, vested interest in pension, stock or savings plans and final paycheck.
 - c. Pension Plan Administrators: If decedent was retired or vested, surviving spouse and children may be entitled to benefits.
 - d. Veteran's Administration: If decedent was a veteran, burial and other benefits may be available.
 - e. Post Office: Have mail sent to executor and cancel subscriptions.

Estate Administration

1. **Obtain Formal Appointment as Executor or Personal Representative:** Obtain "Letters of Appointment" from probate court to legally act on behalf of the estate.
2. **Open Estate Bank Account:** Open a separate bank account to deposit liquid assets, manage creditors and maintain accounting of expenses.
3. **Retain Attorney:** Preferably an attorney familiar with the estate, family and who may have prepared the will.
4. **IRS:** Obtain a Federal Identification Number for the estate using IRS form SS-4. Notify IRS of authority to act on behalf of the decedent.
5. **Submit Will for Probate:** Upon consultation with attorney, petition court to admit the will. Consider simplified administration for small estates.
6. **Obtain Bond, If Required:** Based on consultation with attorney if bond is recommended or required.

Estate Management

1. **Pay Current Obligations:** After consultation with attorney and assuming the estate is solvent, assemble and pay all obligations including mortgages, utilities, credit cards, medical bills, funeral arrangements and other costs covering continual maintenance of home, businesses, properties etc. Determine immediate and ongoing needs of surviving family.
2. **Identify and Locate Assets:** Identify, locate and inventory all decedent's assets, including:
 - a. Real Estate: Arrange for security, maintenance and upkeep assuring that all payments are made and partners, tenants etc. are notified of new ownership.
 - b. Life Insurance: Identify all policies and determine beneficiaries. File appropriate claims. (See assets not subject to probate below).
 - c. Valuables: Arrange for protection and safety of decedent's valuables and appraisals if necessary.

- d. Safe Deposit Boxes: Contact bank(s) and arrange for opening and inventory.
 - e. Bank Accounts: Arrange for transfer of funds to new account in estate's name.
 - f. Investment Accounts: Identify all investment accounts and arrange for transfer to estate's name. Determine if any investment action is required.
 - g. Businesses: Determine decedent's ownership or interest in businesses and notify partners, if any, of decedent's death.
- 3. Appraise or Value Assets:** Determine if outside appraisers or business consultants are necessary to appraise assets and make appropriate arrangements. File inventory with the court if required.
- 4. Identify Assets not Subject to Probate:** Identify and locate all assets that are not subject to probate and that can pass directly to beneficiaries such as:
- a. Property held in joint ownership with right of survivorship.
 - b. Pay-on-death bank accounts and transfer-on-death securities
 - c. Trust account assets.
 - d. Life insurance with living beneficiaries other than the estate.
 - e. IRA, Keogh, SEP, deferred compensation and other accounts not payable to the estate.
- 5. Manage Assets:** Manage existing and on-going assets such as businesses, investments, properties etc. The executor determines whether to continue, sell or liquidate.
- 6. Manage Creditors and Liabilities:** Assure that all creditors' claim are handled.
- a. Advise all creditors in writing of decedent's death and the need to resolve all outstanding claims within specified timeframe.
 - b. Post notice for all creditors to make claims known.
 - c. Examine all creditor and liability claims to determine their validity.
 - d. Make final payment of approved creditors and claims.
- 7. Tax Management:** Depending on the complexity of the estate, determine, with advice from financial consultants, appropriate tax strategy.
- a. Income Taxes:
 1. File decedent's final federal, state and local income tax returns.
 2. File estate's federal, state, and local income tax returns for income earned during administration from investments or businesses.
 3. Use appraisals to establish stepped-up income tax basis.
 4. Handle any tax audits.
 - b. Death Taxes:
 1. Value estate assets for tax purposes.
 2. File federal estate tax return if estate value exceeds exclusion amount.
 3. File state inheritance or estate tax return if required.

Distribution and Closing

- 1. Distribute Assets:** Upon payment of all claimants, distribute all remaining assets to beneficiaries as prescribed by will and obtain receipts.
- 2. Final Accounting:** Prepare final estate accounting including reports of all receipts and disbursements and distribute to court if required and beneficiaries.
- 3. Discharge:** Obtain court order discharging executor and closing estate.