

LEGAL EASE



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Some advice for executors of wills

They say that the only certainties in life are death and taxes. If you are named Executor of an estate, your job will be to deal with both. But just what are the duties and responsibilities of an Executor? It is important to be aware of these duties, both when choosing an Executor and when accepting the appointment for yourself.

When someone dies with a valid Will in place, an Executor is named in the document. This Executor can be a spouse, a child or other relative, or a corporate fiduciary, such as the trust department of bank. The first responsibility of the Executor after someone dies is to locate the original Will. With that document in hand, the Executor generally consults an attorney of the Executor's choice to arrange to probate the Will. Probate involves filing the Will and certain other documents with the Register of Wills in the county where the person lived before his or her death. If a married person dies, leaving a spouse, and all the property is titled in joint names, probate may be unnecessary. It is wise to consult with an attorney if you are unsure.

After the Will is probated, the next duty of the Executor is to gather the information on all of the assets. This includes property owned by the person at his or her death, including bank accounts, real estate, stocks and bonds, retirement accounts, etc. A valid Power of Attorney expired at the point of the person's death. A new bank account must be opened using the Executor's power as given by the Register of Wills. The Executor has an important fiduciary duty to the heirs of the person who died, in that the Executor is held accountable for the careful administration of the estate. An inventory and accounting will be required by the end of the estate administration, to show all of the heirs how their inheritance was managed.

After all of the assets are gathered, and apportioned according to the terms of the Will, all just debts must be paid. All creditors must be notified, including the advertising of the estate administration for those creditors unknown to the Executor. There are the inevitable taxes to be paid, inheritance, death, estate and income taxes, which are dependent upon the size of the estate. After all is said and done, an accounting must be prepared and shared with all of the heirs, who will then indicate their approval by signing a release. The best method to conclude the estate is a joint decision of the attorney and the Executor, as factors particular to each situation must be considered.

When you are preparing a Will, a useful tool for both you and your Executor is a planner, such as the Estate Mate Planner available on www.owmlaw.com. As you can see by the above, it will be extremely helpful for your Executor to have ready access to a list of all of your property and its location, including the location of your Will. Such a planner also helps to coordinate your Will with your assets, so that it is possible to distribute them as you planned, and to make sure that the appropriate beneficiaries pay the appropriate taxes. You should review your Planner periodically, to make sure that you still own certain property, and that your beneficiary designations, such as are found on life insurance policies, are up to date. Choosing an Executor is an important job, but helping him or her to do the job well requires lifetime assistance from you.