

Responsibilities and Duties of the Estate Trustee (Executor)

The estate trustee, personal representative or executor is responsible for completing a number of duties in order to properly administer an estate. Hope and Healing is blessed to be a beneficiary of your loved one's Will, and we look forward to being a part of the estate administration process.

Trusting that you will find it helpful, we have prepared a list of estate trustee duties. This listing will help you demonstrate that you have fulfilled the wishes of your loved one according to their last Will and Testament.

Thank you for your service in administering your loved one's estate.

DUTIES OF ESTATE TRUSTEE (EXECUTOR)

- Read the Will – direction must be taken from the Will.
- Determine that the Will is the last Will of the deceased.
- Instruct the lawyer to prepare the documents necessary to apply for a Certificate of Appointment of Estate Trustee with a Will or Letters Probate.
- Locate the beneficiaries – determine names, addresses and ages of the beneficiaries and give notice to beneficiaries. A copy of the Notice of Application is sent to all beneficiaries.
- Determine the nature and value of the assets and debts of the deceased and compile a detailed inventory.
- Within 90 days after the estate certificate is issued, provide estate information returns listing assets of the deceased and other such information as may be required by the Province to determine tax payable.
- Set up and administer any trusts established by the Will.
- Consider opening an estate bank account. Estate money should not be mixed with any other money. A separate account should be maintained for all estate funds.
- Advertise for creditors.
- Deal with liabilities and arrange for the payment of debts. The estate trustee may question any debts if not convinced of their validity.
- Prepare and file the necessary tax returns on time and pay any tax owing.
- Deal with claims against the estate.
- Distribute specific bequests.

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- Issue interim distributions to residual beneficiaries according to the terms of the Will and obtain releases from all residual beneficiaries. When an interim distribution is made to a registered charity, a receipt for income tax purposes will be issued.
- Starting in 2016, in order to have the flexibility to choose whether to claim the donation tax credit in the estate or on the terminal return and/or year prior to death, the estate must designate itself as a Graduated Rate Estate (GRE), and make the actual gift transfer (at Fair Market Value of capital property) to the charity within 60 months after death.*
- A sufficient amount of a holdback should be set aside to ensure funds are available for final taxes.
- Issue final distributions to the beneficiaries along with final accounting once the Clearance Certificate is received from Revenue Canada.
- Maintain accurate accounting records in relation to all estate assets. The executor/estate trustee will need to have these accounts approved by the beneficiaries periodically and at the conclusion of the administration of the estate. The accounting must include a full report and disclosure of capital and revenue receipts received, disbursements made, and investments made.
- Ensure receipts, cancelled cheques, bills, etc. are maintained in order to prove the accounts, if that should be necessary.
- Submit the amount of executor's compensation being requested for work done in the administration of an estate to the beneficiaries for their approval during the final stages of the administration of an estate. If the amount of compensation is pre-determined by a compensation agreement, send a copy of the agreement to each beneficiary. If the amount of compensation is outlined in the Will, then there is no requirement to have the compensation amount approved by all the beneficiaries.

The preparation of income tax returns and statement of accounts; management of investments; and other estate administration are the duty of the estate trustee. In some cases, these functions may be delegated to qualified experts such as accountants and lawyers.

* See the 2014 Federal Budget's new 'Estate Donation' rules and Bill C-43 for further details.

This material is provided for general information purposes only and is not to be construed as legal advice by Hope and Healing International. The estate trustee should seek the independent advice of their professional advisor(s).

REFERENCES

M Jasmine Sweatman, L. (June, 2003). Bequest Management for Charitable Organizations. LexisNexis Butterworths.

M Jasmine Sweatman, S. L. Webinar Part 1 & 2: Monitoring Bequests – Estate Administration in a Nutshell.

Hope and Healing's legal name is Hope and Healing International

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