



Acting as an Estate Trustee – A Checklist

If you are acting as an estate trustee (formerly “executor”), you are responsible for administering the estate of a deceased person. If that person named you in his or her Will as an estate trustee and if the deceased person’s estate must be “probated”, your appointment as estate trustee is approved by the Court and you are granted a **Certificate of Appointment of Estate Trustee with a Will**. The process of submitting a deceased person’s Will to Court and obtaining the certificate is referred to as “probating the Will”. If a person is appointed as estate trustee where a deceased person did not leave a Will, the Court grants a **Certificate of Appointment of Estate Trustee without a Will**.

This brochure provides lists of duties normally performed by a solicitor in assisting an estate trustee to obtain probate and administer the estate. It also provides a list of estate trustee duties which the estate trustee may carry out personally or through a professional which he or she hires such as a lawyer or an accountant. The lists provided in this brochure cover most of the duties to be performed; however, the lists are not exhaustive as requirements will vary depending upon the amount, nature, and complexity of the assets, the age and residency of the beneficiaries, and the knowledge and skill of the estate trustee.

Solicitor’s Duties

- Review the *Succession Law Reform Act* with the estate trustee and advise as to the distribution of estate required by law;
- Outline the duties of the solicitor to the estate trustee;
- Advise the estate trustee on the scope of their duties in connection with the administration of the estate;
- Advise the estate trustee regarding funeral arrangements and any special instructions regarding donation of the body or organs;
- Review the assets of the estate;
- Prepare the statement of the original assets;
- Prepare and file the application for a Certificate of Appointment of Estate Trustee;
- If no Will, advise solicitor to apply for Certificate of Appointment of Estate Trustee Without a Will;
- Transmit the deceased’s property into the estate trustee’s name;
- Prepare documents for registration of securities;
- If instructed by estate trustee, arrange to advertise for creditors;
- Receive a list of debts and advise the estate trustee as to payment of the deceased’s debts;
- Advise on potential claims under provincial family law legislation;
- Advise regarding the settlement of claims against the estate;
- Perform corporate services for any company of the deceased;

- Assist the estate trustee in making proper decisions;
- Prepare documents to transfer property to the beneficiaries;
- Assist in the preparation of accounts;
- Pass accounts, if needed;
- Prepare beneficiary releases;
- Search executions, if needed;
- Prepare applications for paying money into court, where necessary;
- Discuss income tax returns and who will complete them;
- Represent estate trustee in court to obtain advice in the administration of the estate, to interpret the Will, to contest questionable claims, to settle claims under the family law legislation;
- Prepare application to court permitting payments to be made to a foreign beneficiary who is resident in a country designated in regulations, if necessary.
- Open estate bank account;
- Review insurance coverage and insure estate assets against fire and other perils;
- Make provision for the immediate needs of deceased's spouse and any other dependants of the deceased;
- Collect income generated by the estate assets or payable to the deceased;
- Pay bills, mortgage payments, insurance premiums, credit cards;
- Re-direct mail;
- Cancel health insurance coverage, driver's license, cable, telephone, club memberships, subscriptions, credit cards and obtain any refunds where appropriate.

Interim Matters

Estate Trustee's Duties – Administering the Estate

Immediate Matters

- Make proper funeral and burial arrangements, and pay funeral expenses;
- Make a thorough search for a Will;
- Supply solicitor with information required for above application;
- If prior year income tax returns were not completed, file (or arranged to have filed) income tax returns for year of death and for all prior years which are due but were not filed at the date of death;
- Determine, locate and notify beneficiaries of their interest;
- Determine, secure and protect assets;
- Dispose of all perishables;
- Prepare inventory of original assets including safety deposit box listing, real estate, monies on deposit at financial institutions, personalty, life insurance, any interest in an estate or trust and any other investments such as a mortgage;
- Arrange valuation of assets where necessary;
- Advertise for creditors and prepare inventory of debts;
- Ascertain any debts to family members and locate evidence regarding loan balance;
- Consider any claims or potential claims against the estate and obtain legal advice if necessary;
- Set aside reserve funds for estimated debts, taxes (including potential taxable capital gains on property such as a cottage), and estate trustee's compensation;
- Prepare interim release and make interim distribution to beneficiaries if appropriate; where a clearance certificate has not yet been obtained and there are no outstanding prior year income tax returns, interim distributions should never exceed one-half the estate value; if there are outstanding prior year income tax returns or the estate trustee is not familiar with the affairs of the deceased, no interim distributions should be made until a

clearance certificate with respect to the terminal return has been obtained.

Final Matters

- Convert investments and other assets to cash and deposit to estate account or, if estate balance is substantial and final distribution will be delayed, invest balance in interest-earning investments pending final distribution to beneficiaries;
- Re-register assets in estate's name, if applicable;
- Prepare transfer/deed for conveyance of real property, if required by the Will;
- Arrange rollover of RRSP or RRIF to the deceased's spouse if appropriate;
- Settle to pay all legitimate claims against the estate;
- Apply for any benefits payable on death including the C.P.P. death benefit, life insurance proceeds, death benefits from pension plans or annuities, and deposit to estate account;
- File a T-3 Trust Return, if appropriate;
- Obtain clearance certificates from Canada Revenue Agency (CRA, formerly Canada Customs and Revenue Agency) with respect to the terminal income tax return and any subsequent T-3 Trust Returns;
- Prepare and maintain estate accounts for approval by the beneficiaries or examination by the court if a passing of accounts is appropriate or required;
- Prepare and have beneficiaries sign releases prior to distributing funds;
- If no Will, distribute assets according to rules for intestate succession;
- Prepare cheques and pay shares to beneficiaries;
- Advise beneficiaries regarding inclusion of income from estate in income tax, if appropriate;
- Close the estate account.

Copyright © 2001-2009 Donna S.M. Neff

Reproduction of this brochure is only permitted with written authorization by the author. If you have questions or if you would like more information, please call us at 613-836-9915. This brochure is not intended to be legal advice but contains general information. The information in this brochure is not intended to be legal advice. Please consult a lawyer if you have questions.

R:\Files2\ADVERT\Brochures\Current\WordVersions\Acting as an Estate Trustee - A Checklist.doc

Version:20070319