

INSTRUCTIONS TO ESTATE TRUSTEES

NOTE: Please read the attached document, “**Estates - Plan Coverage**” NOW, before you read the rest of these instructions.

Estate Trustee’s Work

You must take steps 1 to 10 quickly! Instruct your lawyer immediately, if you need help.

1. Locate the original will and read it immediately.
 2. Make funeral and burial arrangements (any special instructions in the will or elsewhere?).
 3. Find all beneficiaries and notify them, in writing, of their interests.
 4. Determine immediate cash requirements of dependents.
 5. Obtain funeral director’s Statement of Death (or provincial death certificate).
 6. Make an inventory of and a valuation of the entire estate.
List all information concerning debts and assets (e.g. rent, mortgage, credit cards, lines of credit, bank accounts, safety deposit boxes, life insurance policies, real estate, mutual funds, GICs, bonds, share certificates, pensions, RRSP).
 7. Secure all estate assets (including personal belongings).
 8. Insure all estate assets (especially vacant premises).
 9. Open estate bank account, if required.
 10. Notify the following:
 - post office, to redirect mail;
 - credit card companies, to cancel and to pay outstanding balances (destroy all credit cards)
 - OHIP, SIN and Driver’s Licence, to return/cancel cards (attach copy of death certificate)
 - Old Age Security, to stop cheques
 - Canada Pension Plan, to apply for death benefits, survivor’s benefits, if applicable
 - landlord, telephone company, cable TV, memberships, subscriptions, to cancel
 - deceased’s employer, to apply for death benefits or survivor benefits
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11. Sign “Retainer and Fee Agreement” with lawyer.
 12. Instruct lawyer regarding advertising for creditors and court application for “Probate” (discuss advertising costs and “probate” fees).
 13. Collect income, make investment decisions, sell/ transfer assets as appropriate, pay debts.
 14. File and pay taxes within the time limit of each relevant jurisdiction and obtain tax clearances and indemnifications. (see “Additional Information for Estate Trustees”)
 15. Maintain estate accounts for approval by the beneficiaries or examination by the court. The accounts show all dealings with the estate assets during the course of your administration. You must keep accurate records of all monies spent and received, together with the date and an explanation of the transaction. Also you must keep records of all items of estate property that come under your control and what if anything happens to them. You will need this information to properly account to the beneficiaries and to demonstrate that you have done your job properly.
 16. Keep detailed records of your time spent and of all your out-of-pocket expenditures. This may be needed to justify a claim for “executor’s compensation” (see “Additional Information for Estate Trustees”).
 17. Distribute the assets of the estate according to the terms of the Will. Obtain a “Release” from each beneficiary and a tax clearance certificate before you distribute, or you may be personally liable (see “Additional Information for Estate Trustees”).

(see reverse side for a list of information and material that may be required)

INSTRUCTIONS TO ESTATE TRUSTEES

INFORMATION AND MATERIAL THAT MAY BE REQUIRED

The following may be needed. **Instruct your lawyer immediately, if you need help.**

Your lawyer may already have some of this (e.g. original Will). Please do not concern yourself if the information or material is not readily available. Most of it can be obtained during the course of the estate administration without causing undue delay.

1. Original Will
2. Funeral Director's Statement of Death
3. Birth Certificate and Social Insurance Card of the deceased
4. Marriage certificate (if spouse alive); birth certificate for spouse and each dependant child
5. All health insurance cards (e.g. OHIP, Greenshield, Blue Cross)
6. Name and address of deceased's employer
7. Names and addresses of all estate trustees and beneficiaries
8. Passbook and/or statements for all bank accounts held by the deceased alone or jointly with another person, showing all entries since January 1 of the year of death
9. Confirmations for all term deposits held by the deceased alone or jointly with another (including those which matured since January 1 of the year of death)
10. Safety deposit box key, number and location
11. Certificates for all stocks, bonds, GIC.'s etc. held by the deceased at death
12. Statements and transaction slips from all investment dealers or brokers showing all transactions since January 1 of the year of death
13. Statements or transaction slips (or other information) from brokers showing the cost to the deceased of all securities:
 - (a) sold by the deceased since January 1 of the year of death; and
 - (b) held by the deceased on the date of death
14. Particulars of all pensions and annuities received by the deceased since January 1 of the year of death
15. Information regarding RRSP's, RRIF's, annuities, etc., and beneficiaries of same
16. Life insurance policies held by the deceased at the date of death and beneficiaries of same
17. Deeds (transfers) to all real estate held by the deceased at the date of death
18. If any of the real estate referred to above was not the deceased's principal residence, particulars of the deceased's adjusted cost base of such assets
19. Particulars of any business interests (including promissory notes, accounts receivable)
20. Driver's licence of deceased and ownership certificates for motor vehicles and boats
21. List of jewelry or other valuables
22. Estimated value of deceased's interest in household furnishing and personal effects
23. Any other assets not previously mentioned
24. Particulars of all outstanding debts, including names, addresses and account numbers of all creditors (e.g. mortgages, loans, credit cards, landlords, nursing homes, hospitals)
25. Name and address of general insurance agent(s) and copies of insurance policies on home, auto, boat, jewelry, etc.
26. Municipal property tax bills
27. Statements from various utilities (hydro, gas, oil, water and sewage etc)
28. Tax returns and assessments notices for the last two or three years.

ADDITIONAL INFORMATION FOR ESTATE TRUSTEES

Debts and Advertising for Creditors (if debts are greater than assets, contact a lawyer immediately)

If you distribute estate funds without advertising for creditors, you are personally liable to any creditors, to the extent of the lesser of (a) the debts owed to such creditors; and (b) the value of the estate. Consequently, many estate trustees advertise for creditors. If you decide that this is unnecessary, you should request each beneficiary to indemnify protect you, in writing, (i.e. "indemnify" you) against any claims which may arise, to the extent of such beneficiary's proportionate share of the estate.

No Distribution Until Surviving Spouse Consents

Until the surviving spouse elects to either accept the benefits provided by the will or the entitlement set out in the Family Law Act (in general, at least one-half of the value of the wealth acquired by both spouses during the marriage), the estate cannot be distributed to any beneficiaries without the consent of the surviving spouse or a court Order.

Distribution to Minors and to "Children"/"Issue" Out of Wedlock

If the will or any amendment (codicil) was executed after March 31, 1978, the terms "child", "children" and "issue" include those born out of wedlock unless the will specifically states otherwise. Also, you should not distribute funds directly to a minor (under 18) - discuss these issues with your lawyer.

Tax Issues - See an Accountant or Other Tax Specialist As Soon As Possible

The CAW Legal Services Plan does not give any tax or financial planning advice, nor does it prepare or file any income tax returns or "elections". Therefore it is important for you to see an accountant or other tax specialist as soon as possible. It is a complex task to determine the number and types of income tax returns and "elections" to be filed. Substantial tax savings may be achieved through the use of the proper choice of tax returns and "elections".

Obtain Tax Clearances and Indemnifications

An estate trustee who fails to file the necessary tax returns, pay any tax found to be owing, and obtain a clearance certificate from the Canada Customs and Revenue Agency ("CCRA", formerly called Revenue Canada), may be personally responsible for any unpaid taxes, interest and penalties to the extent of the lesser of (a) such tax liability; and (b) the value of the estate. Therefore, it is prudent for you not to distribute the entire estate until a clearance certificate is received. Hold back whatever amount is appropriate to cover any potential tax liability which may arise. You may also require a written indemnification from the beneficiaries, against any income tax liability which may arise to the extent of such beneficiary's proportionate share of the estate.

Purchase of Estate Assets By Estate Trustee

It is a well established principal of estate law that an estate trustee must not purchase estate assets unless there is specific authorization in the will, or unless the purchase receives court approval. If you purchase estate assets without such authorization or approval, the purchase may be set aside or you may be required to account to the beneficiaries for any profits you make from the purchase.

"Executor's Compensation"

An estate trustee is entitled to compensation (you must pay income tax on any fees received) for his or her efforts. Discuss this with your lawyer. Please see paragraph 4 of your Retainer and Fee Agreement.

THIS IS GENERAL INFORMATION ONLY. SEE YOUR LAWYER FOR FURTHER DETAILS