

Probate Primer: How to Be an Estate's Executor



Serving as the executor of someone's estate often takes a lot of time and energy, as the job comes with a laundry list of duties that include settling unpaid debts and transferring assets to beneficiaries, among others.

What's more, the job is often carried out at a time of emotional turmoil involving both grieving the loss of a loved one and family members staking claims on the assets of the deceased, or testator as he or she might be known in probate legalese. And there are fiduciary duties an executor is obliged to follow as per the law, which may vary by state.

"The executor's role is to be diligent, not steal from the estate, and to follow the requests of the testator found in their will," says Meredith Hill, an estate planning attorney and owner of the Hill Law Group in Maryland.

Before accepting or declining the job, then, it's practical to acquaint yourself with the requirements and challenges and understand what you are signing up for. Here are some tips from estate experts and advisors.

First Things First

The first step for executors after their appointment—whether they're just learning about it or had long known they'd be named—is to spend as much time as possible learning about the role and compiling a list of all that will need to be done.

Typically, the job involves three big matters: collecting the decedent's assets; taking inventory of his or her liabilities and financial obligations; and dividing assets among the beneficiaries. More specifically, an executor's responsibilities could entail settling debts, filing a final tax return, transferring accounts to the rightful beneficiaries and, if required, disposing of the assets of the deceased.

Depending on the size of the estate and complexities, there could be a host of additional tasks an executor must carry out, such as dealing with disputes over assets or litigation.

"If you're lucky to know that you've been appointed to be an executor while the testator is still alive, take some time to sit down with the individual and go through all assets and liabilities," says Randa Hoffman, founder of Radiant Wealth Planning in Newport Beach, Calif. "I have seen so many times children not aware of all of their deceased parent's investments only to later find stock certificates in the back of a sock drawer."

Ask the testator to share statements and other financial documents so that nothing is missed. Another pragmatic step is to help the testator consolidate accounts, if possible, "so that you have fewer companies to communicate and deal with," says Hoffman.

It's not necessary but beneficial for the executor to meet the family members of the testator while he or she is still alive. "Getting to know the heirs can be helpful to establish a good working relationship or to identify areas of potential dispute in advance," says John Cocklereece, an attorney at Bell, Davis & Pitt in North Carolina.

Potential Pitfalls

Many executors believe the role will be much simpler than it typically is. The executor must be able and willing to devote the time necessary for the estate administration process. The estate, for instance, can't be closed until the Internal Revenue Service confirms acceptance of the final estate tax return, a drawn-out process that can take two years or more from the date the person died. It may take longer if the estate is disputed, the IRS has further questions, or there are creditor claims, according to the [American College of Trust & Estate Counsel](#).

You can be held personally liable for losses experienced by the estate should you fail to perform executorial duties in accordance with the law. Therefore, it pays off in most circumstances to hire an estate administration, or probate, attorney. "Probate attorneys will do the brunt of the work and make the process much easier for the executor," says Hill.

If there are substantial financial assets in the estate, the executor may also need to engage “an investment advisor to advise on investment strategies and an accountant to help get tax returns filed,” says Cocklereece. Fees for professional services can come from the estate.

Further, it’s not uncommon for things to turn acrimonious between family members and executors. “The executor must be able to deal with unpleasant interpersonal conflict,” says Cocklereece.

A person’s death sometimes triggers a rush to their valuable possessions and sentimental items. As a precautionary measure, the executor should have a plan in place to secure or safe keep valuable objects so that nobody walks off with them. To that end, when possible, it’s important for the executor to speak with the testator about a plan before his or her death.

“Good estate planning in advance and/or the decedent taking steps to make sure their desires about the personal stuff are known can minimize friction,” Cocklereece says.

Hill’s advice is more straightforward: Get keys to the house and change the locks. “Otherwise, there is no guarantee against someone else coming in and taking items,” she cautions.

Bottom Line

An executor is generally entitled to a fee, or commission, for their services. The amount he or she would receive—either a flat fee or a “reasonable remuneration”—may be stated in the will. However, in the absence of a specific amount or the will itself, each state has a default fee schedule (usually a percentage of the estate) used to calculate how much the executor is owed.

Reasonable remuneration aside, the job of executor can be complex and emotionally fraught. “That’s why some people decide not to do it on their own,” says Hoffman, “or not do it at all.”