Can You Execute?

Being the “Personal Representative” or “PR” of an estate – the modern term for executor – is not a task to take lightly. The Personal Representative is responsible for managing the administration of a deceased individual’s estate. Although the time and effort involved will vary with the size of the estate, even if you are the executor of a small estate you will have important duties that must be performed correctly or you may be liable to the estate or the beneficiaries.

How do you become a Personal Representative? The PR is either named in the will or if there is no will, appointed by the court. You do not have to accept the position, even if you are named in the will.

The average estate administration takes six months to one year, although small estates typically can be resolved in a few months. Following are some of the duties you may have to perform as executor:

- **Locate documents**. If there is a will, but you don’t already know where the will is or the will hasn’t already been brought to court, you may need to find it among the deceased’s belongings. If all you have is a copy of the will, you may need to get the original from the lawyer who drafted it. You will also need to get a copy of the death certificate.
- **Hire an attorney**. You are not required to hire an attorney, but mistakes can cost you money. You may be personally liable if something goes wrong with the estate or the payment of taxes. An attorney can help you make sure all the proper steps are taken and deadlines met.
- **Apply for probate**. If there is a will, the court will grant you “letters testamentary” If there is no will, you will receive letters of administration (although in

some states, like Maryland, letters of administration are used in both cases.) This will officially begin your work as the executor.

- **Notify interested parties**. Notify the beneficiaries of the will, if there is a will, as well as any potential heirs (such as children, siblings, or parents who may or may not be named in a will). In addition, you will have to place an advertisement for potential creditors in a newspaper near where the deceased lived.
- **Manage the deceased's property**. You will need to prepare a list of the deceased's assets and liabilities, and you may need to collect any property in the hands of other people. One of the executor's jobs is to protect the property from loss, so you will need to assure the property is kept safe. You will also need to hire an appraiser to find out how much any property is worth. In addition, if the estate includes a business, you may have to make sure the business continues to run.
- **Pay valid claims by creditors**. Once the creditors are determined, you will need to pay the deceased's debts from the estate's funds. The executor is not personally liable for deceased's debts. The estate usually pays any reasonable funeral expenses first. Other debts include probate and administration fees and taxes as well as any valid claims filed by creditors.
- **File tax returns**. You need to make sure the tax forms are filed within the time frame set under the law. Taxes will include estate taxes and income taxes.
- **Distribute the assets to the beneficiaries**. Once the creditors' claims are clear, the executor is responsible for making sure the beneficiaries get what they are entitled to under the will or under the law, if there is no will. You may be required to sell property in order to fulfill legacies in a will. In addition, you may have to set up any trusts required by the will.
- **Keep accurate records**. It is very important to keep accurate records of everything you do. You will need to

create a final accounting, which the beneficiaries must review before the distribution of the estate can be finalized. The accounting should include any distributions and expenses as well as any income earned by the estate since the deceased died.

- **File the final accounting with the court**. Once the final accounting is approved by the beneficiaries and the court, the court will close the estate. File a final report with the court and close the estate.

All this can be a lot of work, but remember that the executor is entitled to compensation, subject to approval by the court. Keep in mind that the compensation is counted as income, so you will need to declare it on your income taxes.

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