

An Executor Checklist

The steps you may need to take to fulfill a major responsibility.

If you are an executor to an estate, you must carry out your duties responsibly. Fulfilling these duties is not only a measure of your ability, but a measure of your character. You can approach these tasks methodically. In fact, it is probably best if you do. Here are the common steps required of executors, before and after the death of a testator.

What should you do now, before having to assume the role of executor? The most important thing you can do is to communicate with him or her. Ask where the will and other foundational estate planning documents are, so you can locate them when the time comes. See if they want an elaborate funeral, a simple service, or no service at all – and yes, ask whether burial or cremation is preferred. Ask for the contact info of the key financial, insurance, tax, and legal professionals connected to the testator’s financial situation, plus contact info for business partners, creative collaborators, and any relatives you may not know well.

There is merit in compiling and confirming certain things. Many married people choose to leave the bulk of their assets to their spouse. To facilitate that, assets should be jointly titled where appropriate. Is the testator okay with the named beneficiaries of their retirement plans and life insurance policies? Who should receive this or that item of sentimental value? (Make a list.) Ideally, an executor assumes their responsibilities with an up-to-date list of all the testator’s assets and a sealed document (prepared by the testator, to only be opened upon death) containing logins and passwords for digital accounts, so the executor can close them or claim balances belonging to the estate.¹

When the time comes, what steps need to be taken? The first step is to determine whether you require assistance in carrying out your executor duties. You may want it, particularly if the deceased had notable tax or legal problems, significant business or real estate investments, or disputes with intended or potential heirs.

Does that mean hiring an attorney? Maybe, maybe not. Attorneys can be hired for a lump sum, an hourly fee, or a consulting fee payable from the estate. They can take on all the work or serve as consultants. (If someone challenges the legality of the will, hiring an attorney is a must.) Did the deceased have a simple estate? Then a lawyer’s advice may not be necessary. Your questions might be adequately answered through a chat with a probate court clerk. Or, you might find them online or in a guidebook.^{2,3}

Speaking of probate, the next step is figuring out the degree of probate for the estate. Many assets do not require probate. Assets with designated beneficiaries, jointly owned assets, assets held within trusts, and securities and bank accounts with “payable on death” transfer forms are commonly exempt from the process.²

In most states, probate is necessary to legally validate a will and close an estate. That means filing the will in probate court. As you do that, you must ask the court to confirm you as executor, and you must also notify the actual and potential beneficiaries of the estate's assets: the named beneficiaries as well as immediate family members who could be in line to receive assets should the probate court rule the will invalid. Next, you must compile an inventory of all the assets of the deceased, those subject to probate and not. (Non-probated assets, of course, may be distributed well before the end of the probate process.)^{2,3}

Probate may go on for many months. During this time, you will have more duties to carry out. You must manage assets on behalf of the estate. You must contact Social Security, Medicare, and other state and federal government agencies, and perhaps past employers.²

Payments must be made from the estate, too: tax payments, mortgage payments, homeowners insurance premiums, and utility bills related to a primary residence. Outstanding consumer debts have to be addressed, and state laws will tell you how to notify any creditors who should be told of the testator's death. Typically, they have up to six months to file a claim for collection of a debt; as executor, you make the call whether that claim is valid or not.²

There will also be inflows to the estate, not just outflows – setting up a bank account on behalf of the estate may be very useful. It may come to hold dividends, royalties, rents, and forms of work-related income.²

Finally, the executor oversees the distribution of assets per the instructions in the will or other estate planning documents. Once you follow through on that task, the last step is to ask the probate court to formally settle the estate.²

It is no small responsibility to serve as an executor, especially for a complex estate. Prepare for the tasks ahead of you, so that you may do them well.²

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Citations.

1 - investopedia.com/articles/retirement/11/executors-checklist-7-things-before-they-die.asp [4/30/18]

2 - nolo.com/legal-encyclopedia/executor-estate-checklist-29458.html [12/12/18]

3 - info.legalzoom.com/assets-distributed-after-probate-will-3959.html [12/12/18]