

# Settling an Estate

## An Executor's Guide to Estate Administration



People face a number of significant life events over the years. Being called upon to act as an executor to settle the estate of a loved one is one such life event. In addition to going through the process of grieving, executors are called upon to make timely critical, and sometimes life-changing, decisions about the conclusion of an estate and distribution of assets to beneficiaries. It can be an intimidating and stressful time. And, depending on the situation, inexperienced executors may inadvertently put themselves, or the estate's assets, at risk if the estate is incorrectly administered.

At **The Energy Credit Union Limited**, we are committed to assisting newly-appointed executors in understanding their role, the alternatives that are available to help make informed decisions, and selecting the solutions that meet their needs.

In partnership with our trust company, Concentra Trust, **The Energy Credit Union Limited** is pleased to provide **Settling an Estate – An Executor's Guide to Estate Administration**. Designed for executors and administrators of a Will, this resource is intended to help you to attain a broader understanding of the complexities of estate administration and may assist you in making important estate planning decisions.

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Concentra Trust is a wholly-owned subsidiary of Concentra Financial, a credit union company. Concentra has been an integral partner of Canadian credit unions for almost sixty years and delivers a wide range of specialized personal trust and estate services throughout Canada.

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### **Jenny's Story...**

*10 years ago, George called his sister Jenny to let her know he was*

*going to name her as the executor of his Will. Jenny felt very special and was honored that George had such faith in her ability and that he had chosen her over other family members and friends to fill this special role.*

*She never thought to ask if the Will was signed or where it was located. Out of respect for George's privacy she didn't ask any details about his assets, the Will or his beneficiaries. Jenny was confident she could handle the job. After all, she ran her own very successful business in a neighbouring city. She was certain that when the time came she'd be able to figure things out.*



*Two days ago, George died suddenly of a heart attack.*

*George had never married and over the years he and Jenny hadn't kept in close touch. They lived in different cities and rarely visited. However she recalls being told about him naming her as executor. Jenny isn't sure if his Will was ever finalized and has no idea where it would be located.*

*To complicate matters, some family members have started helping themselves to George's belongings and everyone is arguing about the funeral...*

## **What is the role of an executor?**

Most people are so honored that a deceased loved one wanted them to take care of settling their estate, they agree to act as **executor** without fully understanding what that job entails.

Settling an estate, or **estate administration**, is the process by which a deceased person's personal and financial affairs are brought to a close, and can take a significant amount of time. The executor or personal representative (*Estate Trustee in Ontario, Liquidator in Quebec*) named in the Will has the responsibility for the proper completion of that administration.

The executor is responsible to correctly interpret and carry out the terms of the Will. The administration of an estate must be conducted in accordance with established trust law as well as the applicable provincial and federal legislative requirements.

Beneficiaries must be treated fairly and equitably. The executor must ensure beneficiaries receive proper information and reporting.

Assets must be identified, located and protected. Debts, liabilities and taxes must be determined, assessed and paid.

The executor needs knowledge, ability and understanding to properly manage and oversee investments, real estate holdings, creditors and business interests.

Finally, the executor is responsible to ensure the estate assets are distributed to the correct beneficiaries in accordance with the deceased's wishes, the terms of the Will, and applicable legislation.

Executors may engage agents (such as trust professionals, accountants and lawyers) to assist with the administration. However, under the law, *the executor retains full legal liability* for the actions of those agents.

**The Energy Credit Union Limited** can help individuals navigate through the complex obligations of being an executor.

Backed by our trust company, Concentra Trust, we have ready access to specialized expertise in estate and trust administration



## **Jenny's Story...continued**

Given the conflict that was adding to their grief, Jenny knew that someone had to take charge.

She convinced the family to help her find the Will. After searching through his entire house they discovered George's Will, neatly tucked away in his sock drawer.



The Will, dated close to the time George had spoken to Jenny, had been prepared by a local lawyer, Bob Arrister, and was signed and witnessed. Jenny's sister was sure the witnesses were two of George's former co-workers.

In the Will, George specified his funeral wishes were to be cremated and his ashes scattered to the wind. Specific bequests of personal items were outlined for Jenny and her siblings. The Will certainly looked valid to Jenny.



As expected, the Will also named Jenny as George's executor.

Jenny decided to take on the job of settling George's estate. She was optimistic she could carry out his wishes as stipulated and ease the family's disagreement on his final arrangements.

Because George had outlined what he wanted to give to his siblings, Jenny allowed them to continue taking personal items from his house.

She would handle liquidation and eventual distribution of the larger assets in George's estate.

## **How do I begin?**

### **Is there a Will and where is it?**

The very first step is to **locate the Will**.

Common places to look for a Will include safety deposit boxes, personal files, or a home safe. It could also be on file with one of the individual's personal advisors such as their estate planner, financial advisor, accountant or lawyer.

If there is **no Will**, the situation is much more complex and an administrator must be appointed.

**The Energy Credit Union Limited** can help you access professional advice to ensure you understand the issues and can make informed decisions.

### **Does the Will appear to be valid?**

A valid Will defines who has the authority to take control of the estate assets and make decisions on behalf of the estate.

While only a court can say for certain that a Will is valid, it's important to review the document that is presented as "the Will" to see if there are any obvious issues or irregularities.

If there are concerns about the validity of the Will, or a reasonable belief that a newer Will exists, it is important to seek professional advice before taking any further steps in relation to the administration of the estate.

### **Who is the Executor and will s/he take on the role?**

Once the Will is located, it is important to **identify the executor**. A named executor can decline the appointment.

To avoid unnecessary liability, executors wishing to renounce their appointment should do so **before** taking any action in regard to the estate.

When a Will appoints more than one person to act as executor, **all executors must agree to every action being taken** and they are jointly liable for the actions or decisions of the other executors.



## Jenny's Story...continued

Since the family was arguing about George's funeral, Jenny decided to start there. The funeral director was very helpful and put together a package detailing the services the family eventually agreed to along with the associated costs.

It was not permissible to spread ashes to the wind, so they decided to host his service at Mount Pleasant View, one of George's favorite hiking spots, and inter the ashes at the local cemetery. The funeral director was going to run George's obituary in the local paper the very next day.

Jenny knows George owned his house, a truck and had other assets. Even though she hadn't checked the specific details of his financial affairs, she personally approved the contract with the funeral director so the funeral could proceed.



At George's funeral service, Jenny and several other family members noticed a woman with a young, wheelchair-bound child that no one seemed to recognize. The woman introduced herself as Ruby, an old friend of George's from years ago. Jason, the boy with her, was her son.

Ruby had been saddened to see George's obituary and had to come to pay last respects. She asked to speak with George's wife and children, to express her condolences.

Jenny was pleased George's friend had come to the funeral and informed Ruby that George had never married and had no children. She confided that the only people George left behind were his siblings.

## Make Funeral Arrangements

There are many decisions to make when arranging the funeral, usually in a very short time period. The first step is to select a funeral director who can carry out the deceased's **funeral arrangements**.

Typical decisions are needed on: Where and when will the funeral be? Will there be an obituary and funeral announcement published in the paper? Will the deceased be buried or cremated and where will s/he be laid to rest? What format will be used for the service? Who will deliver the eulogy? It's the funeral director's role to help guide executors through these decisions.

When possible, arrangements should be in accordance with the deceased's wishes, whether they've been shared verbally, described in the Will or through other documents.

Regardless of any instructions or wishes, from either the deceased or family members, it's the executor who is ultimately responsible for the funeral arrangements.

There's also the cost of funeral arrangements to consider, along with the ability of the estate to pay. In most instances, the financial institution where the deceased had his/her account will allow funeral expenses to be paid from that account.

*If the deceased does not have enough money in his/her bank account to pay the funeral expenses, the executor (on behalf of the estate) assumes the responsibility for paying "funeral and testamentary expenses".*

In addition to the funeral services, funeral directors provide multiple copies of the **Funeral Directors Statement of Death** which will be needed during the administration of the estate.

*An executor may even be personally liable to cover these costs unless or until estate assets can be liquidated to pay them.*



### **Jenny's Story...continued**

After the funeral, her family began asking when they would receive the rest of their share of George's estate. Jenny assured them that she would take care of things as quickly as she could; reminding them that she needed time to figure out what to do as George's executor.

Jenny did some online research, learning that settling an estate could get complicated, depending on a wide variety of factors. She also realized, in hindsight, that she probably shouldn't have let family members take any items from George's house, including what he had bequeathed to them.

But, she told herself, they were family after all and a few personal items wouldn't cause any problems, would they?



Jenny decided to take a closer look at George's Will to be sure she clearly understood how he wanted his estate distributed. While he had made bequests of specific personal items to family members, he had also asked that his assets be liquidated and the proceeds divided equally amongst his siblings "and their issue", which Jenny believed meant their children.

This was confusing. Jenny wasn't sure if George meant to provide equal shares to his siblings and each of his nieces and nephews, some of whom were just babies or larger portions to the siblings with the most children.

Jenny called Bob Arrister, who clarified the legal interpretation of the clause. His bill promptly arrived the following week.

## **What's involved in settling the estate?**

Once the funeral is over, family members and beneficiaries are often anxious to know about the estate, what happens next and when they will receive their inheritance.

On average, the time needed for an executor to settle an estate is usually about 12 to 18 months. However, highly complex and/or multi-jurisdictional estates or contested Wills can take years. Some of the factors that influence how long estate administration will take include:

- The nature and location of assets
- The type of debts and the claims against the estate
- The financial arrangements and estate planning the deceased completed during his/her lifetime
- The complexity and the clarity of the Will, if one exists
- The level of animosity or distrust that may exist among family members or others involved in the estate
- The skills, ability and expertise of the executor/administrator

## **Reviewing and interpreting the Will**

Executors should keep in mind that their key duty is to ensure the estate is settled properly, in accordance with the terms of the Will, as well as the legal requirements imposed on the estate and the executor.

*The possibility that the Will may not have been properly executed or contains unclear, contradictory or unenforceable provisions is highest when the Will was prepared without professional assistance.*

Executors who give in to pressure from family or beneficiaries may find they have made inappropriate decisions, exposing themselves to unnecessary risk and liability.

The executor must take the time to thoroughly **review and interpret the Will**. Even if the terms of the Will appear to be simple and explicit, it's always wise to get professional assistance before taking any action.



## Jenny's Story...continued

Jenny called the family together to talk about what she had

learned about the interpretation of George's Will. Her brother was thrilled to learn that his family was going to receive more than anyone else.

While everyone was together, Jenny went through the terms of the Will, what everyone could expect to receive from George's estate and the steps that she would be taking next.



Jenny had always been known for being very organized and she promised to keep everyone informed as she proceeded with the administration of George's estate. No one had any doubts that she would be thorough.

She showed the family the total bill for George's funeral arrangements and obituary notice. Jenny didn't know these types of expenses could be paid directly from the deceased's bank account, so she had paid the bill herself.

Jenny wanted everyone to know that she wanted to be reimbursed for this as well as the quick consultation with the lawyer. She didn't even consider charging a fee for being executor.

Together, with her siblings, they began to put together a detailed list of things that needed to be done to close out George's estate.



Jenny decided to stay a week or so longer to take care of these tasks. If she rearranged a few meetings, she could take a short break from her own business.

## Communicating with beneficiaries

Once the executor understands the terms of the Will, including any potential issues, it is important to **communicate with the beneficiaries**. Although it's not mandatory, holding a meeting with the beneficiaries allows the executor to:

- review the terms of the Will and explain next steps
- set expectations around timelines for completing the administration and distributing the assets
- discuss the different duties and liabilities of the executor
- request approval for compensation, if the executor intends on charging a fee. If all beneficiaries refuse to approve the executor's compensation, the executor would be required get a court ruling to approve the compensation.
- gather personal information from the beneficiaries (e.g. name, address, SIN)
- determine if the spouse has sufficient support or if there are any dependant children in need of support
- take possession of the deceased's identification cards, credit cards, security certificates, deeds and other important papers, including prior years' tax returns
- discuss how the personal assets will be divided

## Regular reporting to beneficiaries

It's important to provide regular reporting to beneficiaries to ensure they are aware of and understand the actions taken by the executor. Communication with beneficiaries is most critical at the following milestones in the estate administration process:

**After debts, bequests and legacies are satisfied**, the executor is required to **provide an accounting** of the estate administration to the beneficiaries. This accounting is a chronological account of the events, detailed history of the estate's assets and liabilities and any transactions that have resulted since the date of death. Included with the accounting is a schedule of distribution which sets out the manner and amount of assets that will be distributed from the estate.

*For example, if one of the assets in the estate was a house, the accounting would include the value of the house as at date of death and the proceeds realized on sale, including real estate commissions and legal fees.*

Once a **Clearance Certificate is received**, and assets are distributed, a **final accounting** is provided to the beneficiaries before the estate is closed.



## **Jenny's Story...continued**

The next day, Jenny visited George's credit union. The member services representative was very helpful, posting a 'deceased member' notice on George's accounts. An estate account was set up so Jenny could readily handle financial transactions on behalf of the estate.

George had a safety deposit box and a number of investment accounts with the credit union. Jenny made an appointment to come back in a couple of days to gather all the details of his financial affairs.

Before she left, Jenny was also provided with an Executor Kit, including a guide, checklists and a brochure on something called Executor EASE, from Concentra Trust.



Back at George's house, Jenny took a closer look at the Executor Kit. She realized, with some surprise, that as executor she was personally liable to protect the assets in the estate. She immediately began looking for George's insurance information...

George had been a great guy, but he had never been well organized. She found an overdue renewal notice for his home insurance policy in a stack of unopened mail. She grabbed her car keys...



...With the home insurance situation resolved, including coverage if the house was vacant, Jenny wondered what else George may have forgotten to pay.

She placed an ad in the local paper to advertise for creditors and claimants.

## **Protecting the estate**

The executor must also take the necessary steps to protect the estate against liability, handle financial transactions and protect the estate's assets against damage or loss.

The actions the executor needs to take will differ based on the type of estate assets.

*Immediate action is required if there is the potential for a lawsuit by or against the estate or if there are circumstances which could cause a significant drop in the value of the estate's real property, personal property or business interests.*

### **Financial transactions**

- a 'deceased client' notice will be placed on the account as soon as a financial institution is made aware of the death of the account holder
- an executor will be required to open an estate account to process cheques payable or process bills on behalf of the estate

### **Real property**

- review insurance (including vacancy riders) and amend coverage as needed
- change/re-key locks
- cancel or continue utility services, as appropriate

### **Personal Property**

- make certain that adequate insurance is in place
- take possession of valuable items and/or place them in safekeeping or storage until they can be distributed to beneficiaries, sold or otherwise dealt with.

### **Business interests**

- fulfill obligations on existing contracts and cancel pending contracts
- notify suppliers and cancel open orders
- review and understand shareholder agreements that may be in place
- review and understand any obligations if an operating company is involved

### **Advertising for creditors**

- advertising for creditors and claimants in the local newspaper ensures that all debts and obligations are identified
- if this isn't done, and there is a valid claim on the estate after the assets have been distributed, the executor may be personally liable for those debts unless the beneficiaries are willing and able to cover those claims from their inheritance



## Jenny's Story...continued

Jenny knew that, to prepare for probate, she would need to gather a lot more information and details on the value of George's whole estate. Not only were there his personal belongings (and Jenny was sure he had never thrown anything away) there was life insurance, investments, his pension and who knew what else?



She and her siblings spent three long, emotional days cleaning out George's home and sorting through the rest of his personal property.

Hidden in an old shoebox under his workbench, they even found a few love letters from Ruby, the woman from the funeral. But, sadly, in the last one, dated seven years ago, Ruby told George she was leaving and never wanted to see him again.

Jenny was deeply saddened that she hadn't known about George's love affair or the loss he must have felt.



Later that week at the credit union, the manager outlined the details of all George's accounts and outstanding loans, providing Jenny with access to George's safety deposit box.

As she mentally crossed that task off her list, Jenny pictured how much more there was to do and how long she'd been away from her business. It just seemed so overwhelming. Before she knew it, she was confiding to the manager that she didn't know how she was going to manage it all. He listened closely and, handing her a business card for Executor EASE, recommended that she contact Concentra Trust for assistance.

## Gathering personal and financial information

In order to move forward to the administration of the estate it is necessary to **gather personal and financial information**. One of the best places to start looking for sources of personal and asset information is to review the deceased's tax return. The deceased's safety deposit box may also contain important papers and other assets such as coins or jewelry.

### Inventory and valuation of assets and liabilities

It's important for the executor to create an inventory of all **assets** and **liabilities** of the deceased, valued as at the date of death.

Letters requesting this information will need to include proof of death and a copy of the deceased's Will to demonstrate the executor's authority to act on behalf of the estate. Most often a Funeral Directors Statement of Death will suffice; however, there may be situations where a government issued Death Certificate will need to be submitted. Information will be required from:

- Financial institutions - to obtain details on savings accounts, chequing accounts, investments, loans, mortgages, etc.
- Government departments - to provide notice of the death, cancel payments, apply for death benefits and request copies of necessary documents
- Life insurance companies - to deal with annuity payments or death settlements
- Pension plan administrators - to obtain commuted values of pensions, annuities, etc.
- Investment advisors or stock brokers - to cancel open orders and obtain date of death account values
- Credit card companies and mortgagors - to confirm details of balances at date of death or confirm if loan/mortgage is life insured

*As it affects the preparation of income tax returns and the distribution of assets, it is important to gather information on **how assets are registered** (solely, jointly with right of survivorship or as tenants in common) and whether there is a "designated beneficiary" on the company's records.*



## Jenny's Story...continued

That night, over dinner with the family, Jenny informed them that she had finally finished estimating the total value of George's estate. Her brother immediately asked when their shares would be paid to them. Jenny told them that she knew the Will would have to be probated, but didn't think it would take all that long. She naively guessed another few weeks.



The next day, looking over the probate forms she'd obtained from the court, Jenny's hopes for a quick and simple application process were dashed. The forms were complicated and very detailed. To top it off, the clerk had made a pointed remark that if they were incorrectly submitted, they would be returned to the executor.

Jenny decided that the credit union manager was right; it was time to get professional help from Concentra Trust. After a brief phone discussion, Jenny hired them to act as her agent to complete several administrative tasks including the dreaded probate application.



Concentra completed the probate application on Jenny's behalf. When Jenny took the documents to the court, the court clerk advised her that she could expect to wait at least a month or more before a grant of probate would be issued.



Leaving the house in her brother's care, Jenny decided that she could finally go back home to take care of her business.

## Probating the Will

**Probate** is the legal process by which a person's Will is reviewed and authenticated by the court as the individual's "last Will".

Certain assets and some estate issues can only be dealt with after probate is obtained, but not all estates must be probated. Where an estate is probated, there may still be assets, like insurance policies with a named beneficiary, that are exempt from probate and the terms of the Will.

*It's wise to consult an estate professional on the benefits and costs associated with obtaining probate before making the final decision.*

Each province and territory requires different forms to be completed in the probate application, but basic information needed includes:

- Personal information about the deceased (i.e. full names or aliases, address, date of birth, place of death, etc.)
- The original Will with affidavits from the witnesses
- A sworn affidavit from the executor(s)
- Information about the beneficiaries (name, address, age, share of estate)
- An inventory of the deceased's assets and liabilities that places an approximate value on the estate
- A cheque paid by the estate to cover the Court costs/probate fees

The court clerk can assist the executor in submitting a probate application to the court by answering general questions and providing a package of probate forms for that jurisdiction. If the forms aren't correctly completed the application will be returned to the executor.

The time required for the court to process an application can vary from a couple of weeks to several months. A lengthy delay could result in a number of unwanted situations such as falling real estate value, unhappy creditors or angry beneficiaries. Most executors seek professional assistance to prepare and submit the application for probate.

A **grant of probate** (Certificate of Appointment of Estate Trustee in Ontario) is a document sealed by the court which legally authorizes the executor named in the Will to proceed with the administration of the estate.

*The executor should never release the original grant of probate; those requesting a copy of the probate document should be given a **notarized copy**.*



## Jenny's Story...continued

*Since her business was booming, Jenny knew she wouldn't be able*

*to find the time to deal with George's Final T1 tax return. She was grateful that she had arranged for Concentra Trust to prepare all the necessary information for CRA filing. Jenny reviewed the return and mailed it off.*



*As time wore on, Jenny continued to closely track expenses and income to the estate. Concentra Trust had apprised her that there would be at least one more tax return required, a T3 Trust return.*



*Although the process was moving much more slowly than she or her family had anticipated, it seemed to be going quite smoothly.*

*However, two months after filing for probate, Jenny received a letter from a lawyer. According to the letter, Jason, the disabled boy who had been at George's funeral with Ruby, had been proven to be George's biological son.*

*Consequently, a claim was being made for Jason to gain a share of the estate to support his ongoing care.*



*Four months after George's death, Jenny finally received the grant of probate from the court.*

*But, to the family's dismay, Jenny still couldn't distribute any assets until a court order was issued that gave directions about Jason's entitlement.*

If the deceased has not provided for a spouse or child, as required by provincial legislation, there will be a prescribed waiting period before assets can be distributed. Failure to comply with legislation could make the executor personally liable for any losses.

## Taxes

The executor is responsible for ensuring all necessary **income tax** returns are filed. Depending on the nature of the estate's assets and the time of year the individual died, it may be necessary to complete and file up to six separate tax returns. In addition, the executor is required to make any income tax elections on behalf of the deceased and the estate.

In many cases elections which are helpful to the estate or some of the beneficiaries may not be favorable for all the beneficiaries. This can result in conflict and disagreement among the beneficiaries.

In all cases, the executor will need to file a Terminal or Final T1 return that reports income from January 1 of the year of death to the date of death. A copy of the death certificate and a copy of the grant of probate must be included with the T1 return.

Provided there are adequate assets, it's common to make an interim distribution of a portion of the residue once the Final T1 return has been filed or once the Notice of Assessment on the Final T1 return has been issued by CRA.

*Its best practice to ask the beneficiaries sign a release form to approve the executor's accounts and compensation, returning it prior to making an interim distribution. The approval and release form will help to indemnify the executor against future claims.*

Additionally, the executor must report income received from the date of death until the date the assets in the estate are distributed.

This income is reported on a tax return, known as a T3 Trust return.

## Distributing Assets

Before assets are fully distributed to beneficiaries, the executor must ensure that all debts, testamentary expenses and taxes have been paid and all claims against the estate have been satisfied. If claims arise after the assets are released, the executor would be personally liable to cover these costs if they were unable to get the necessary funds back from the beneficiaries.



## Jenny's Story...continued

Jason's claim also meant that Jenny had to ask her siblings to

return all of the more valuable personal items they had taken, or pay the estate the cash equivalent value.

Jenny's brother and sister were furious with her.



Even after receiving the court order, which awarded the majority of the estate to Jason, Jenny's job was not done.

The final T3 tax return needed to be filed to report income that was earned from the date George had died until the date of distribution.

Once the return was assessed, then she was able to make an application for a Final Clearance Certificate for Distribution from the Canada Revenue Agency.



Finally, over two years after George's death, Jenny received the Clearance Certificate and was able to make a final distribution, wrap up the administration and close the estate.

Despite Jenny's ongoing efforts to smooth things over with her siblings, her relationship with them was never the same. They never completely forgave her for having to give back items they'd wanted.



The last Jenny heard, Jason and Ruby were doing very well; on their way to Australia where Jason was competing in wheelchair basketball games.

After debts and expenses have been satisfied, and provided there are sufficient residual assets to cover all taxes, the executor may distribute the **specific bequests**. These may be legacies which are gifts of money, specific assets, and personal property or devises which are gifts of real property.

These gifts may be outright, conditional (upon the happening or non-happening of an event) or contingent upon a future event. The estate is required to pay any costs necessary to carry out a bequest or devise unless the Will directs otherwise.

A **chronological accounting** of transactions undertaken in the estate's administration to date must be provided to beneficiaries at this point in time. (See page 7 - Communicating with beneficiaries)

The executor will be in a position to apply for a **Clearance Certificate for Distribution Purposes** once all tax returns, including the T3 Trust return, have been assessed and balances paid. The Clearance Certificate enables an executor to distribute the residue of the estate without incurring personal tax liability.

The **residue**, as the term implies, is whatever is left to be distributed directly to the residual beneficiaries or to a trustee to be held in a trust created under the Will (referred to as a **testamentary trust**).

*Based on the complexity and duration of the testamentary trust many trustees obtain professional assistance to ensure the trustee's obligations are fulfilled and discretionary decisions are prudently made.*

When all or part of the residue is distributed to a testamentary trust, an account will need to be set up to receive the funds and arrangements will need to be made to invest the funds.

As long as the funds are held in that trust, the executor is required to file annual tax returns and statements of account for the testamentary trust.

## Wrapping up administration

Once the executor is satisfied that all debts have been paid, all obligations have been satisfied and all releases have been returned, the executor can make a final distribution from the estate, provide a final accounting to the beneficiaries and **close the estate account**.



### **Jenny's Story Epilogue**

*It certainly isn't common, as illustrated in this fictional story, for an unknown person, such as an illegitimate child, to suddenly appear and make a claim against an estate. But it is possible.*

*An executor must be prepared to deal with all types of unusual situations.*



*Even making a quick decision, on what appears to be a relatively simple matter of allowing family members to take personal mementos from the deceased's estate, can cause issues. If all claims and debts aren't clearly known, the result could be unexpected personal liability for the executor.*



*Whenever an executor becomes embroiled in settling a complex estate situation, feels overwhelmed, or simply doesn't know what to do, it's a good idea for them to seek professional guidance and help as soon as possible.*

*Estate administration experts like the Trust Officers at Concentra Trust can help executors:*

- *avoid making mistakes that can result in personal liability*
- *deal with impatient beneficiaries*
- *ensure the estate is correctly settled, as quickly as possible*

## **How do I know if I need help?**

Acting as an executor and administering an estate can be time-consuming, complicated, and potentially filled with unexpected personal liability.

Combined with the grieving process of you, your family and friends, the prospect can seem overwhelming.

A few examples of situations when professional assistance can help to diminish conflict, reduce costs to the estate and increase security of assets include where the:

- Deceased did not leave a valid Will
- Deceased was embroiled in legal proceedings
- Beneficiaries are in conflict over distribution of estate assets
- Estate includes complex or significant assets and liabilities
- Estate includes offshore or out of country assets
- Deceased owned their own business
- Executor who doesn't have the time or expertise to deal with all aspects of the estate's administration

Losing a loved one hurts. Settling their estate doesn't have to.

**The Energy Credit Union Limited**, in partnership with Concentra Trust, can help you get through this challenging time by providing expert assistance and guidance in settling an estate.

For more information, contact us.

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with Concentra Trust,**

*a wholly-owned subsidiary of Concentra Financial*

# Executor's Checklist

## Your first steps

- Locate the Will
- Identify and confirm the executor
- Make funeral arrangements
- Review and interpret the Will
- Ensure the family's immediate financial needs are met
- Communicate with beneficiaries and provide them with a copy of the Will, as applicable
- Obtain several original copies of the Funeral Director's Statement of Death or a Death Certificate from Vital Statistics

## Protect the estate

- Ensure adequate insurance is in place to protect estate assets.
- Re-route mail.
- Notify financial institutions where deceased held accounts.
- Open an estate account at the credit union to deposit income and pay expenses, transferring any balances in accounts held exclusively in deceased's name.
- Prepare a listing of safe deposit box contents.
- Arrange for safekeeping of valuables.
- Obtain the contents of the safety deposit box after providing required estate documentation; return keys and close safety deposit box.
- Advertise for creditors.

## Assemble and inventory assets and liabilities

- Begin claims on life insurance policies including group insurance or other plans.
- Contact the deceased's bank or credit union to gather information on account balances, loans outstanding and investments held.

As applicable:

- Contact the deceased's employer to verify any income owing and to determine benefits to which the spouse/family may be entitled.
- Contact Canada/Québec Pension Plan to cancel pension benefits.
- Contact Service Canada to cancel Old Age Security pension benefits, Guaranteed Income Supplement
- Obtain a copy of the last tax return filed by deceased.
- Contact Canada Revenue Agency (CRA) to cancel GST/PST quarterly credits.
- Contact CRA regarding Child Allowance and Child Tax benefits received by deceased.
- Establish eligibility of spouse/guardian or children for survivor or continuing benefits from each agency.
- Assist family with application for benefits.
- If the deceased was a veteran or member of the Canadian Forces, contact Veteran's Affairs Canada to determine benefits available.
- Locate all original investment certificates, stocks, bonds, property deeds, etc.
- Prepare a detailed list of all assets and liabilities.
- Document the value of each asset (current market value and original purchase price) for taxation (capital gains) purposes.
- Investigate and pay all debts owed by the deceased.
- If loan(s) is/are insured, complete appropriate insurance forms.
- Cancel all credit card accounts and return cards to issuers.
- Cancel/memorialize social network accounts.
- In accordance with terms of the Will and wishes of beneficiaries, identify which assets will be sold, transferred in kind, or have title(s) transferred.
- Prepare a beneficiaries report of all assets, liabilities, expenses.

## Probate

- Consult a professional concerning the probate of the Will.
- Supply required documents to court.
- Obtain court documentation attesting to the validity of the Will and confirming you as legal executor.
- Pay probate fees to provincial government as determined.

## Administer and distribute estate

- If required, return social insurance card, passport, driver's license and health insurance cards to authorizing organizations, obtaining any applicable refunds.
- Terminate the deceased's lease or arrange to have premises sublet.
- Cancel newspaper and magazine subscriptions; club memberships; telephone; cellular; cable/satellite TV; Internet services; and gardening and/or snow removal contracts.
- Arrange for care or adoption of pets.
- Initiate sale of assets, transfer of titles, etc.
- Invest income and/or surplus cash until estate is finalized.
- Distribute specific bequests (personal belongings) to respective beneficiaries according to the terms of the Will, obtaining receipts.
- Prepare and file final T1 tax return(s) and, if applicable, returns for international jurisdictions.
  
- File any outstanding returns from previous years if not yet filed.
- Pay all income taxes owing.

- Complete a final T3 tax return for the estate as well as for the deceased's business, if necessary.
- Apply for Final Clearance Certificate(s) for Distribution Purposes from CRA (and/or Revenu Québec if applicable) once the Notice of Assessment is/are received, confirming that all tax liabilities have been settled.
- Settle legitimate claims prior to final distribution of assets, obtaining receipts for any payments made.
- Begin distributing residual assets/cash to beneficiaries according to the terms of the Will, obtaining receipts from each beneficiary; ensure sufficient funds are retained to pay outstanding debts and taxes.
- Advise beneficiary(ies) to consult with a tax advisor to ensure the most tax-advantageous treatment of registered investments.
- Assist in establishing any trusts stipulated in the Will.
- Arrange for final distribution of remaining assets, obtaining receipts from beneficiaries.
- Prepare a final beneficiaries report of all assets, liabilities, expenses (including executor compensation) and final distribution of assets.
- Have each adult beneficiary approve this report and sign a release.
- Advise the bank or credit union, in writing, to close the estate account once the estate is settled.

*The above checklist captures the most common tasks required of an executor. Depending on the complexity of the deceased's Will, the nature and location of his/her assets, business ventures and the relationships between family members and beneficiaries, additional duties may be required.*

*Please contact us for more information or assistance.*

# Glossary

<b>administrator</b>	The person appointed by the court to manage and take charge of the assets and liabilities and handle the estate of someone who died without a Will, with a Will with no nominated executor, or the executor named in the Will has died, has been removed or does not desire to serve.
<b>beneficiary</b>	A person or entity named in a Will or financial contract as the inheritor of property when the property owner dies. A beneficiary can be a spouse, child, charity or any entity or person to whom the property owner would like to leave his or her possessions and assets.
<b>bequest</b>	The act of giving or leaving personal property by a Will; something that is bequeathed; a legacy
<b>estate</b>	The net worth of a person at any point in time. It is the sum of a person's assets – legal rights, interests and entitlements to property of any kind – less liabilities at that time. The estate of a deceased person consists of all the property, whether real or personal, owned by the person at the time of death.
<b>estate administration</b>	Process by which the deceased person's personal and financial affairs are brought to a close.
<b>executor/executrix</b>	An executor (female form, sing. = executrix) is the person or entity nominated by the testator (or maker of a Will) to carry out the directions of the Will.
<b>grant of probate (Certificate of Appointment of Estate Trustee–ON)</b>	A document sealed by the court which legally authorizes the executor named in the Will to proceed with the administration of the estate.
<b>jurisdiction</b>	The practical authority granted to a legal body to deal with and make pronouncements on legal matters. The term is also used to denote the geographical area or subject-matter to which such authority applies.
<b>liability</b>	An obligation that legally binds an individual or company to settle a debt. Legal liability is the legal bound obligation to pay debts.
<b>liquidate</b>	To convert to cash.
<b>personal representative</b>	In common law jurisdictions, a personal representative is the generic term for an executor for the estate of a deceased person who left a Will or the administrator of an intestate estate.
<b>prescribed</b>	To set down as a rule or guide; to establish rules, laws or directions.
<b>probate</b>	The legal process by which a person's Will is reviewed and, if valid, authenticated by the court as the individual's "last Will".
<b>real property</b>	A classification of property in common law that refers to land; also termed realty, real estate and immovable property.
<b>residue</b>	Whatever is left to be distributed directly to the residual beneficiaries or to a trustee to be held in a trust created under the Will.
<b>rider</b>	Addendum, an additional provision attached to a contract such as an insurance policy.
<b>testamentary</b>	Of, pertaining to or of the nature of a testament or Will; given, bequeathed, done or appointed by Will; set forth or contained in a Will.
<b>testamentary trust</b>	A trust created within a will which does not take effect until the death of the testator.
<b>Will</b>	A legal declaration by which a person, the testator, names one or more persons to manage his estate and provides for the transfer of his property at death; a document or legal instrument in which a person specifies the method to be applied in the management and distribution of his estate after his death.