

Executor's Guidelines

How to Divide Without Conquering

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In 35 years as an advisor, I have seen a lot of important but relatively easy things that should be done before an executor is called into service. The larger and more complex an estate is the more care that should be taken. In addition to the financial and family issues, privacy is paramount.

These suggestions are geared to the executor who is a close family member or the child of a parent, but most are helpful in all cases. Each state has specific requirements so be sure to know what is required in yours. A few hours of planning can save a lot of hassle and maybe prevent a lifetime of familial discord.

When You Accept

1. Do what you can, while you can. When you accept the role as Executor or Co-Executor (also referred to as personal representative in some states), there are a handful of things that should be done right away. This can save both time and trouble.

2. Know the basics. Know the names and contact information of the estate attorney, the CPA, the investment advisor or financial company, and the life insurance agent.

3. Professional assistance. At some point you will want to seek an attorney's assistance. Too many costly mistakes are made by trying to save money, especially in larger estates.

You may suggest that a professional executor be named in your stead if the estate is complex or if there are strained relationships among beneficiaries [or family members]. It may be better for someone else to be the "bad guy" if there is a difficult message to be delivered. Investing in familial harmony is money well spent.

In lieu of hiring a professional to be the executor, consider hiring him or her as agent. This is often less expensive and fees can be better negotiated before the death. Statutory fees for executors can be higher.

4. Read the Last Will and Testament.

Knowing where the Will is and what it contains are essential. You don't need to know all of the details, but you should know what

you are expected to do. Ask if there are any unusual or specific provisions. If the instructions aren't clear to you, they won't be clear to others. This is also a good time to find out if any of the beneficiaries may be surprised by the provisions of the Will. This is not the time to solve family problems, but the executor should understand the complexities that might arise.

5. Safety deposit box. Become the co-owner of the safety deposit box, if there is one, so you can get into the box on your own signature. Do not rely on a power of attorney. It expires upon the principal's passing. If there is a safe or lock box at the home make sure you or the attorney knows the combination.



6. Special bequests and heirlooms. It is essential for the owner to have advanced discussions with all relevant people to inform them of his/her intentions. These plans should be written because people remember things differently. Clarifying the plans while one is alive is better than burying a time bomb that could create lasting problems.

Financial Assets

7. Register individually owned stocks, savings bonds. It is less common now but some people still have investments in the form of paper certificates. Check tax returns and bank accounts for direct deposits to see if dividends have been paid and move them into a brokerage account. Replacing lost certificates is never simple and it's even more difficult after the owner has died. You will want to be able to transfer all investment related assets with a single paperwork transaction.

8. List of assets, aka, personal financial statement. Your job will be much easier if there is a list of all assets and liabilities including ownership interests in various legal entities. Ask that the CPA compile one annually and include account numbers, ownership titles, property, cars, land, employer retirement and beneficiary designations, etc. This takes time but the owner knows what to look for and where to find it.

9. LLCs, private equity and direct investments. Most of the entities will be handled by bylaws and the estate plan. However, if some of these are owned in the name of the decedent it could be a long process transferring ownership into the estate and then dividing the interests. Some partnerships do a good job dealing with estate issues; others do not, particularly if you have interests in feeder funds. The equitable allocation of fractional interests in illiquid and difficult to value assets is complicated. Try to simplify these issues in advance if possible.

10. Usernames and passwords. One significant challenge is to maintain a current inventory of username passwords. Computers, phones, emails and bank accounts, credit cards all require passwords and needs to be updated frequently. Consider asking that username and passwords be categorized into two or three "buckets".

a. Passwords for non-sensitive things like Facebook can all be the same, semi-sensitive access such as email and very sensitive such as financial accounts should be different and updated more frequently. Ask that this information be kept with the estate attorney, locked in a secure place or with a digital security company. In the week following the death, begin reviewing everything.

b. Addressing the complex and changing tax laws is beyond the scope of this essay. Although, it is critical to highlight the benefits that even a few hours of optimal tax planning has for families and charities, as recipients of the assets from the deceased.

When the Person Dies

11. Day One. The day the person dies, there are three things to do:

a. Notify the investment advisor and ask him or her to collect and print all of the date of death valuations. Also ask to cease any systematic withdrawals going to banks or other places.

b. Get the keys to the home and don't let anyone in when you are not there. If there are beneficiaries, they are expecting you to make sure everything is present and accounted for. The last thing you want is one of the beneficiaries to start distributing the deceased's property.

12. Day Two. Notify nursing homes or landlords and stop subscriptions that will no longer be used. Smaller items like cable and newspapers are not time critical but if you are being charged for a nursing home unit move out ASAP. Long-term healthcare insurance will no longer cover it.

a. Ask the funeral home to contact Social Security to stop future checks. Wait a week and call to confirm. Automatic deposits after death will have to be returned. Request 20 death certificates from the funeral home. This may sound like a lot, but you will need them to transfer financial accounts and real estate holdings as well as a surprising number of things. Finally, find and re-read the will and instructions.

13. Optional – get a scanner. Most entities will require originals but in situations that do not, they should accept emailed scanned documents. Having an electronic copy of all of your documents, when it was sent, to whom, and knowing it was received, can be a big time saver.

14. Now, go take care of the family. At this point, if you have addressed all of the above, you are off to a great start. Go and spend time attending to the emotional needs of the family.

After the Funeral

15. Redirecting mail/change of address.

Redirect the decedent's mail to yours or a PO Box to avoid the need for visiting their house/properties every day to collect bills and other relevant mail. This will be helpful in processing claims against the estate. This is easily done at the post office or online. When you do it online (recommended) you have to

“prove” you are the person who died. Most use the decedent's still active credit card to do so. The Post Office will charge \$1.00. Check the box that forwards the mail of “the entire family” to ensure mail addressed to you, the executor, is also forwarded.

16. After death certificates are received.

Notify all companies sending pension checks – either physical or automatic deposits – and ask them to stop. Every payment after death will have to be repaid and that can be a real hassle. They will request a death certificate. Ask if a copy is OK and if so, be sure to fit the copy on one page as originals are oversized.

17. Bank accounts. Find the checks and statements and notify the bank that the decedent has passed away. If you are not co-owner, the bank will freeze the account(s) immediately. Fortunately, all checks written prior to the date of death will be honored. You will need to set up an “Estate of” bank account.

18. Accessing the safe deposit box. If you are not the co-owner you will need to ask the bank for the procedures in your state. Generally, you will need certain documentation such as a death certificate, the will, a marriage certificate, executor appointment AND that you are the spouse, executor or descendant, for access to be granted. The requirements vary by state so call the bank before you go to verify what is needed.

19. Which bank. Decide if you want to use the decedent's bank or your own. If you want to change banks, it will require two sets of documents, two trips and an asset transfer. You will need notary services and medallion guarantee stamps (more on this later). For ease, many people just choose to use the existing bank.

20. Probate – what to bring. Each state has specific steps but the first step everywhere is to have the will, not a copy. Then go on line to the state website of the decedent's legal residence and read the specific steps and requirements. Typically you will need:

- Decedent's Last Will and Testament
- Decedent's full name, address and Social Sec. #
- Death Certificate
- Funeral contract or bill
- Estimated value of the estate
- Title to automobiles
- Full names and addresses of all direct decedents and persons named in the will

- Names and address of all the will's witnesses
- Appointment of Resident Agent, if required
- Notice-waiver forms, if applicable
- Your photo ID

21. Probate – before you go. Call ahead. You may need an appointment and if you live out of state you may need an in-state (friend or relative) Resident Agent. The Resident Agent form must be signed before you go. There are three types of estates: small, large and modified (modified means you don't need to file an inventory with the court – which is good). Odds are that yours will be defined as large. Avoid full accounting. Full accounting can be costly and time consuming. If there is real estate in another state, find out if there are any special requirements. Finally, decide which bank you will use for the Estate checking account ahead of time.

22. At the Probate Court. You want the name of the estate to be the decedent's full name, e.g. “Michael Smith Doe” and use it every time. Also, use your own full name every time. This will avoid confusion or questions regarding initials or middle names.

23. Letters Testamentary n. Get as many as they will give you (ask for at least 12) and wait for them even if it takes time to avoid having to return. Find out how to get more if needed. If given blank forms to fill out at home, get two blank copies in case you make a mistake.

24. Deadlines, notices and bonding. Understand the deadlines and the “wait until” dates for forms and filings. .

25. After Probate, before the Bank. You now need to open an “Estate of” bank account but before you do you need an Entity Identification Number (EIN). This takes five minutes online and can be done on your phone (even better with a hotspot connection and a laptop). Go to www.irs.gov. Choose the option to download the file as a .pdf and bookmark the page. If you plan to open the account that day, email it to your contact at the bank and call to let them know you are coming over.

26. Old bank. If you choose to use another bank, notify the old bank right away. Drop off the death certificate and Letters Testamentary or let them know they will be mailed (use UPS/FedEx or registered mail) and arrive soon. It is important to ask for all of the accounts in the decedent's name. There may be several, such as a savings account, certificates of deposit or in joint name. Get balances and account numbers. With everything paperless these days, be sure to ask.

27. Open Checking Account for the Estate.

Set up an estate account and move money to pay bills. You will need your Letters Testamentary, EIN and Death Certificate. If using the same bank you will probably be able to write a check from the old account to the new. If changing banks you may need to write a check from your own account to be refunded later. Ask for an ATM card on the account for after hour deposits and familiarize yourself with the online access.

28. Valuations – attorney client privilege.

If a valuation of an asset is required (e.g. private company or partnership interest), have the attorney hire the valuation expert to maintain client attorney privilege. No need to muddy the waters if recent asset transfers have included substantial discounts.

29. Real Estate in another state.

If real property is owned through a LLC or revocable trust, you may be able to avoid this step. However, if the property is owned in the name of the decedent, an ancillary estate will need to be opened. Find a local lawyer because you will need appraisals and a slew of work to be done.

30. Find everything. Go through past few years’ tax returns and look for dividends, interest, K-1s, partnership payments, and automated deposits. Review email accounts.

31. One month checklist. Notify pensions, retirement plans, cancel subscriptions, credit cards, driver’s license, utilities, auto and health insurance. Claim life insurance and change beneficiary designations, process surviving spouse Social Security benefits. Review credit cards and cancel continuing subscriptions. Cancel other insurance as appropriate. Add deceased’s name to the “Deceased Do Not Contact” list, maintained by the Direct Marketing Association. Notify club and alumni associations and send thank you cards.

32. Executor compensation. Being the executor of an estate takes time and the person can charge a fee. In many family situations, no fee is charged and only expenses, such as travel are deducted. However, each state has guidelines as to fair fees. It may make sense to gain concurrence from the family members prior to assessing fees in order to avoid problems.

33. Five mistakes to avoid. Don’t pick and choose from the instructions in the will. Don’t keep secrets from the family and beneficiaries. Don’t borrow from the estate. Don’t be afraid to ask for or pay for help when you need it.

Pay all debts before distributing proceeds. There can be personal liability if assets are incorrectly distributed, so take your time and do it right.

34. Random tip. Be thoughtful how to adjust each beneficiary’s share of the estate after the heirlooms are distributed. Be sure all involved agree on the economic value of the heirlooms. Perceptions of economic value will vary.

What comes next?

At some point tax returns will need to be filed for the decedent and the estate of the decedent. Seek good tax advice and do what you can as early as you can. The steps that follow the funeral can be tricky, but if done correctly the first time, they need not be overwhelming or frustrating.

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