

Estate planning

# For your executor



Distributing your  
property according  
to your wishes







# What will your executor do?

If you have a will, your executor will distribute your property according to your wishes after you die. (If you don't have a will, provincial laws will determine how your assets are distributed.) So it's good to know you and your executor are on the same page about their role.

**This document can help.** While not a substitute for legal advice, it gives you a general understanding of the responsibilities your executor may carry out on your behalf. And it can be a guide for your executor after you die. (This is why later sections of this document talk about “the deceased person.”)

## Discuss your wishes with your executor

- Include your decisions about your estate and the reasons for them.
- Get their agreement to take on this responsibility.
- Review this document together. Discuss and clarify your expectations. Taking time to do this now helps ensure your wishes will be carried out the way you want. (Bear in mind, this document doesn't include every single task an executor might have to do. On the other hand, not all tasks apply in every situation.)
- Tell them where your important documents are, including the inventory of your estate. Also think about listing your online accounts, profiles and logins (sometimes known as a “digital will”). To help with this, you can use our *Personal records organizer* (form 17-8125). It's available in print and electronically. Ask your advisor for a copy.
- Consider naming more than one executor. If you do, decide whether you want them to always act jointly. Also consider naming alternate executors, in case the first person isn't available.
- Document in your will your choice of an executor and your instructions to the executor.

### In Quebec

In Quebec, executors are known as liquidators. So in this document, the term “executors” includes liquidators.

People often use notaries for estate planning, rather than lawyers, although they may also use lawyers specialized in estate planning.



# Overview of executor's duties

- 1 Arrange the funeral
- 2 Make immediate arrangements
- 3 Contact key organizations and claim benefits
- 4 Manage the estate's assets and debts
- 5 Prepare an inventory of assets and debts
- 6 Pay debts and taxes
- 7 Distribute the estate

## 1

### Arrange the funeral

- List the names, addresses and birth dates (or approximate ages) of immediate family members, including spouse, children, grandchildren, siblings and parents.
- Notify family, friends, heirs and employer about the death.
- Arrange for funeral services and burial or cremation, following the deceased person's wishes. They may have described their wishes in their will. They may already have made funeral arrangements.





## 2

### Make immediate arrangements

- Consider consulting or hiring a lawyer (generally a notary in Quebec).
- Obtain proof of death. This can be:
  - A death certificate from the attending physician, including date and place of death
  - A coroner or medical examiner's report
  - Or in some provinces, a funeral director's statement
- Locate the will.
- Locate life insurance policies.
- Locate other key documents, such as trust documents.
- To gather documents, consider using services that can simplify this part of your role. For example, Estate at Ease™, offered through Canada Life™. This service can quickly and accurately prepare forms and documents involved in settling an estate. Ask your advisor for a copy of *Simplify your role as executor* (form 70-0280).
- List the names, addresses and birth dates of heirs named in the will and beneficiaries named in life insurance policies or other documents. Note that for privacy reasons, the executor may not always know who is named as a beneficiary of investment and insurance products.
- Where you know who is named as a beneficiary outside the will (for example, in life insurance or annuity policies), notify them of the deceased person's intentions for them. These beneficiaries may include charities.



- Determine whether any immediate family members have urgent financial needs. If so, look to assets, outside the will, that name family members as beneficiaries or allow family members access to the assets. For example:
  - **Life insurance** – Benefits may be payable to family members.
  - **Pension plans, life income funds (LIFs) or locked-in retirement accounts (LIRAs)** – A death benefit or annuity payment may be payable immediately to the family member.
  - **Tax-free savings accounts (TFSAs), registered retirement savings plans (RRSPs) or registered retirement income funds (RRIFs)** – Family members may have a right to a rollover, death benefit or annuity payment.
- Arrange for care of pets.
- Lock up the home, where appropriate. Tell the police and home insurer the home is vacant. In winter, to prevent freezing, keep the house heated or drain the pipes.
- Arrange with the local post office to forward mail. You need to provide proof of death.
- Cancel driver's licence, magazine subscriptions, club memberships and online accounts that are no longer needed.
- Arrange the payment or termination of recurring bills. For example, heat, electricity, internet, car payments, home and car insurance, mortgages and leases.

### In Quebec

- Obtain official proof of death from the Registrar of Civil Status (Directeur de l'état civil).
- Locate the last will by contacting the Chamber of Notaries (Chambre des notaires) or the Bar of Quebec (Barreau du Québec).
- If the will was not notarized, have a court or notary verify it.
- If there is no will, obtain a Declaration of Heredity (Déclaration d'hérédité) from a notary. This declaration can also designate the liquidator.
- Publish the designation of liquidator in the Register of Personal and Movable Real Rights (Registre des droits personnels et réels mobiliers) and in the Land Register (Registre foncier), where applicable.





# 3

## Contact key organizations and claim benefits

### Life insurance companies

Contact each company and complete a claim form if the benefit is payable to the estate. Other beneficiaries need to make their own claims. Once the company has the information it needs, it reviews the claim. Once the claim's approved, the company pays the proceeds according to the contract. Information you need to make the claim includes:

- Policy numbers
- Deceased person's full name, plus any nicknames or other names they used
- Home address
- Social insurance number, plus veteran's file and service number, if applicable
- Birth certificate, including place of birth
- Proof of death (as mentioned earlier, this can be a death certificate, coroner or medical examiner's report, or funeral director's statement)
- Names, addresses and birth dates of beneficiaries named in the policies



## Banks, credit unions and trust companies

Contact each financial institution where the deceased person had an account. Determine whose name the accounts are in. Determine the balance in each account.

If there are outstanding loans, including credit cards balances, check for creditor life insurance. This insurance may automatically pay off the loan at death. For example, a mortgage, personal loan or vehicle loan may carry this type of insurance.

Open an account in the estate's name. Use this account to gather money and pay estate expenses and debts.

Be aware that financial institutions may not honour cheques written by the deceased person that hadn't cleared before their death.

## Employers

Check on unpaid salary, commissions, bonuses, vacation, sick pay, group life insurance or pension or other group savings plan benefits. Have these benefits made payable to the estate or to beneficiaries.

If the deceased person was retired, check with the organization providing pension payments. Ask about any payment on death owed to beneficiaries or the estate.

## Canada Pension Plan (CPP) or Quebec Pension Plan (QPP)

With the CPP, you have 60 days after the date of death to submit the estate's claim for a lump-sum payment on death. After that, the person who pays for the funeral can claim it.

With the QPP, the person who pays for the funeral has 60 days after the date of death to claim the lump-sum payment on death. After that, the heirs, if they accepted the estate, can claim it.

For both the CPP and QPP, the surviving spouse can claim a survivor's pension. Children up to age 18 (and for the CPP, students up to age 25) can claim children's benefits.

A disability benefit may be payable if the deceased person was disabled for four months before death. If they were receiving CPP or QPP benefits, the cheques may be cashed up to and including the month of death. Any cheques after that must be returned.

## Employment insurance

If the deceased person was receiving employment insurance benefits, the estate is eligible to receive benefits for two weeks after their death. Contact the local employment insurance office.

## Veterans Affairs Canada

Veterans may be eligible for additional benefits. Contact your nearest veteran's affairs office.

## Unions, clubs, business or fraternal associations, and credit cards

Check whether the deceased person had group life insurance or other benefits.



# 4

## Manage the estate's assets

- Store jewellery and other valuables in a safety deposit box at a bank.
- Re-register assets in the estate's name, if applicable.
- Make sure there's adequate insurance against fire and other risks for estate assets. For example, motor vehicles, house, furniture, jewellery and art.
- For motor vehicles, check the insurance policy for adequate coverage and permitted uses. If someone uses a vehicle and coverage is inadequate, the estate may be liable, or you may be personally liable as executor.
- Organize interim management for the deceased person's business or farm, where applicable. Get help from an accountant or lawyer (or notary in Quebec). If you decide to run the business yourself, consider the issue of personal liability.
- Collect income generated by the estate assets or payable to the deceased person. Arrange to have any un-cashed cheques made payable to the estate.
- Check on property insurance. Arrange for transfer of the insurance to the estate, if necessary. Ensure premium payments continue until the property is sold or transferred to heirs.
- Check leases and tenancy agreements. Arrange for payment or collection of rent. Give notice, if appropriate.
- Cancel charge accounts and destroy credit cards.
- Set aside reserve funds for estimated debts, taxes and your compensation as executor.
- Include funds for potential taxable capital gains. To calculate capital gains and losses, the Canada Revenue Agency (CRA) considers that the deceased person sold all their fixed assets and investments right before their death. (This is called "deemed disposition.") This can create taxable capital gains. Potential sources of capital gains include, for example, vacation cottages, bonds, shares, mutual funds and segregated fund policies.

If your compensation as executor was not specified in the will or another document, then do not take any compensation until it's approved by the beneficiaries or court.



- If you need to raise cash, sell investments or other assets. Deposit the funds into the estate account. Sale of investments may create taxable gains or losses for the estate. Consider tax implications. For example, avoid cashing out assets that could be rolled over to the surviving spouse.
- Invest the estate balance, if appropriate, pending final distribution to beneficiaries. Interest earned is taxable to the estate.
- If you make investments for the estate, do not do so in your own name, but always in your capacity as executor for the estate.



# 5

## Prepare an inventory of assets and debts

- Review the deceased person's personal papers for assets and debts.
- Locate any safe deposit box. Obtain the keys. List the contents.
- Identify trust agreements outside the estate. Determine if assets are held in trust separately from the estate.
- Place newspaper ads to locate creditors. Do this if you're concerned additional debts could be found after you settle the estate, or if the estate's large or unfamiliar to you.
- Have items like jewellery, artwork or heirlooms valued, if necessary.
- In your inventory, include information such as:
  - **Bonds** – Kind of bond, serial numbers, adjusted cost base, face value, interest rate, maturity date, market value at death and currently, total value, interest payments received, and the name and location of registration for any corporate bonds.
  - **Stocks** – Company name, any stock certificates, type of shares, whether transferable or non-transferable, adjusted cost base, market value at death and currently, for all shares.
  - **Non-registered mutual funds and segregated fund policies** – Fund name or contract number, market value at death and currently, and adjusted cost base, for each fund.



- **TFSAs** – Type of TFSA, any beneficiary, whether a beneficiary can transfer amounts they receive to their own TFSA, and whether any income was earned after the date of death. Seek professional advice about closing TFSAs, because it may be advisable to do so as soon as possible after the date of death.
- **Pension plans and locked-in contracts** – Whether a death benefit or annuity is payable to the spouse, a beneficiary or the estate.
- **Business and farm assets** – Equipment, machinery, accounts receivable and inventory. Consider getting professional help in this valuation.
- **Real estate** – Residential property, rental housing, vacation homes, agricultural or commercial land owned by the deceased person. Perform a title search. Determine ownership details. Obtain legal descriptions. Consider getting professional help for the title search and liquidation of real estate.
- **Personal belongings** – Household furniture and goods, clothing, jewellery, artwork, stamp and coin collections, electronic and sports equipment. For motor vehicles and recreational vehicles, include details on registration, insurance and leases.
- **Debts to family members** – Find evidence of the loan balances.
- **Email, social media, online accounts and other digital assets** – User IDs, passwords, type of assets (for example, family photos).
- Determine if any money is owing on mortgages or other claims against estate property. (These claims are called “encumbrances.”)
- Assess the rights of the surviving spouse under provincial family law. You may be required to advise them they may have a claim and should seek independent legal advice.
- Assess the rights of anyone financially dependent on the deceased person.
- Consider any claims against the estate. Include actual and potential claims. Obtain legal advice, if necessary.
- Establish whether the estate has enough assets to pay its debts. (The estate is “solvent.”) If not, get legal advice before settling the estate or paying claims against the estate.

### In Quebec

When locating assets, run a free online search with the Register of Unclaimed Property (Registre des biens non réclamés) on Revenu Quebec’s website.

After completing the inventory, publish a notice of closure of inventory (avis de clôture d’inventaire) in a newspaper where the deceased person lived. Also publish this notice in the Register of Personal and Movable Real Rights (Registre des droits personnels et réels mobiliers).





Pay debts  
and taxes



- Do not pay off any debt until you know whether creditor insurance was in place to cover the debt.
- Check the accuracy of bills and pay them. For example, credit card bills, medical and dental bills, personal loans, utility charges, property taxes and repair bills.
- Consult an accountant or other tax professional to help you file returns for the deceased person and the estate. They can help you determine whether to file or re-file returns for any previous years and whether there are any delinquent tax payments. They can also advise whether you can reduce taxes by filing optional tax returns, in addition to the final return.
- File the deceased person's final income tax return. You may also need to file a T3 return or Relevé 16 slip for the estate as a trust.
- Obtain a tax clearance certificate from the CRA. To make sure you're not liable for unpaid taxes, obtain this clearance before you pay any claims on the estate or distribute assets to heirs. If you distribute assets without the clearance, you could end up liable for unpaid taxes.

### In Quebec

- Trusts may have to file a TP-646-V Trust Income Tax Return (TP-646 Déclaration de revenus des fiducies).
- Before paying any claim on the estate, obtain a Notice Before Distribution of the Property of a Succession (Avis de distribution de biens dans le cas d'une succession) from the Minister of Revenue, in addition to the tax clearance certificate from the CRA.



# 7

## Distribute the estate

- Except in Quebec, obtain the court's authority to distribute the estate.
  - **If there's a will** – A court must confirm its validity. This process is called probate. Have your lawyer (or notary in Quebec) apply to the court for letters probate, also known as a grant of probate. In Ontario, apply for a Certificate of Appointment of Estate Trustee.
  - **If there's no will** – Apply to the court for letters of administration. Distribute assets according to provincial rules for when someone dies without a will.
- Settle and pay legitimate claims against the estate.
- **Real estate** – Prepare a transfer or deed for conveyance of real property, if required by the will. Your lawyer (or notary in Quebec) will most likely prepare the legal documents.
- **RRSPs and RRIFs** – Arrange for the direct transfer (or "rollover") of money from these accounts into a registered plan of the surviving spouse, common-law partner or dependent child, if required.

Any benefits a spouse receives from the deceased person's RRSPs, pension plans or deferred profit-sharing plans are taxable income. You can defer the tax by transferring the money directly into the spouse's own registered plan.
- **TFSAs** – If the surviving spouse or common-law partner was named the successor holder, inform the company that issued the TFSA.
- **Payouts on death** – Distribute the proceeds to the heirs. These payouts include CPP and QPP death benefits, life insurance proceeds and death benefits from pension plans, annuities and other registered and non-registered products. If no beneficiary is named, or the estate is named as the beneficiary, then deposit the proceeds into the estate account.
- Maintain estate accounts for approval by beneficiaries or examination by the court, where appropriate.
- Have your lawyer (or notary in Quebec) prepare and send final releases for heirs to sign, stating they won't make any further claims on the estate.
- Dispose of or distribute personal property, as provided in the will.
- Prepare cheques, pay gifts of money (often called "legacies") and transfer gifts of property (often called "bequests"), as provided in the will.
- Advise beneficiaries about including income from the estate in their income tax, if appropriate.
- Invest assets to establish trusts, if required in the will.
- Pay funeral expenses.
- After you pay all debts, taxes and final expenses, and distribute all specific gifts in the will, and distribute all property outside the will, there may be some assets remaining. Distribute them to the beneficiaries named in the will to receive this remainder. (These are called "residuary beneficiaries.")
- Close the estate bank account.



## Have the conversation now

Take time now to help your executor understand your situation, your wishes and your expectations.

When you do, you can both be confident that when the time comes, your executor can distribute your property the way you want.

### In Quebec

- If a notary did not prepare the will, it must go through Quebec's probation process (also referred to as a verification or homologation process), which is different from the probate process in the rest of the country. Once that's done, obtain a copy of the probated will from a notary or the court.
- After distributing the estate's assets, declare to the Public Curator (Curateur public) any estate property worth more than \$25,000 that was paid to a minor.
- After closing the liquidator's account, publish a notice of closure of the liquidator's account (avis de clôture du compte du liquidateur) in the Register of Personal and Movable Real Rights (Registre des droits personnels et réels mobiliers).





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