

Planning for major life transitions

End of life planning

The loss of a family member is one of the most difficult events in a person's life, with a mix of overwhelming grief and a sudden need to deal with practical affairs. The executor(s) of the estate must deal with a complex landscape of legal, financial and administrative tasks. Being proactive in planning ahead can help address the difficulties that will arise after a person's passing.

Role of the executor

Choosing an executor is one of the most important decisions in estate planning. Selecting the right person will help reduce the risk of mismanagement and disputes.

Administration of an estate has many tasks and can be quite burdensome. It is important to appoint someone who is trustworthy and will act in the best interest of the person's estate. It is advisable to have a conversation prior to appointing an executor to ensure they would be willing to act as needed.

An individual should also appoint alternates in case their first choice is unable to act for any unforeseen circumstance. This may include predeceasing the testator, health issues or no longer residing in the country. In an ideal situation, the executor would reside in the same province. If the person does not have close family they would like to appoint, or if they want to choose an executor with the skill and resources to effectively administer an estate, then the person may want to appoint a lawyer, accountant or trust company for the role.

Funeral arrangements

One of the first tasks an executor has to deal with is planning the funeral. Differences in opinion among family members regarding how to honour the deceased can lead to conflicts that make consensus difficult. To ease the burden on both the family and the executor, it is recommended to preplan or prepay for the funeral.

It will be important for the executor to get multiple certified copies of the death certificate, as the lawyer, accountant and financial institutions will request copies.

Probate

Probate is the legal process by which a person's estate is administered and distributed; it validates their will and appoints an executor or administrator. Before their will can go through probate, the executor needs a detailed list of their assets and debts. Some provinces will require executors to notify creditors before probate is granted.



Executors can face several roadblocks when trying to obtain probate. The first is if they are unable to locate the original will. This can be a challenge if the executor doesn't know if there is a will, where it is stored or if they are unsure of who drafted the will.

The executor also faces difficulty if they have no information regarding the person's assets. Without an inventory of assets, the executor has to search through financial records, tax returns and personal files, which can cause significant delays.

There is also an increased risk of forgotten assets, such as bank accounts, life insurance policies or digital assets. Executors are also responsible for paying off outstanding debts from the person's estate before distributing the remainder. By having a complete inventory, the executor can assess liquidity to ensure there is enough to cover debts and taxes. This inventory should be updated annually.

Executor's compensation

In Canada, an executor is entitled to fair and reasonable compensation, unless the will says otherwise. Compensation depends on the estate size, complexity of the estate, duties involved and time spent. A testator can choose to specify compensation in their will. If the will does not specify compensation, then provincial guidelines will aid in determining compensation.

Executor compensation is considered income and must be reported on the executor's tax return. An executor can choose to decline compensation, and this is often the case for close family members. Professional executors may charge higher fees due to their expertise and ability to settle the estate more effectively and efficiently. If there is more than one executor, they typically share the compensation.

End of life planning checklist

Pre-planning

- Create a will to outline the wishes for the distribution of the estate.
- Choose an executor to carry out the wishes and manage the estate.
- Name alternate executors in case the primary executor is unable or unwilling to act.
- Store the original will in a safe, accessible location, or with the law firm that drafted it.
- Inform the executor of the will's location and the law firm that drafted it.
- Create an inventory of assets and debts to make it easier for the executor to manage the estate.
- Update the inventory annually to ensure it is accurate and complete.

Funeral arrangements

- Consider preplanning and prepaying for a funeral to reduce the burden on the family and executor.
- Communicate funeral wishes to the family and executor to avoid conflicts.

Executor's responsibilities

- Obtain multiple certified copies of the death certificate.
- Gather all necessary documents, including the will, asset inventory and tax returns.
- Notify financial institutions and other relevant parties of the deceased's passing.
- Ensure Clearance Certificates are obtained prior to distributing estate assets.



Incapacity planning

Create a power of attorney (POA) for financial matters. Appoint someone trustworthy to manage finances in case of incapacity.

Name alternates in case the primary attorney is unable or unwilling to act.

Additional steps

Review the estate plan every three to five years, or if there are significant life changes.

Establish a relationship between a financial advisor and an executor and attorney.

Seek advice from a lawyer or other professionals to ensure the estate plan is complete and up to date.

By following this checklist, an individual can help ensure that their loved ones are prepared to manage their estate and make decisions on their behalf if the person becomes incapacitated or passes away.

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