

HOW TO HANDLE THE CHALLENGES BEING AN ESTATE EXECUTOR

At some point in your life, you may be asked to serve as executor of a loved one's estate—a spouse, a parent, a good friend. Actually, you may not even be asked, but simply find yourself named in the deceased's will. But before accepting out of love and duty-bound honor, be aware of the many duties and challenges of this job.

And it can be a job. Serving as an executor can be time-consuming, complex, emotionally frustrating and an exhausting experience, even for a modest-size estate. It even carries legal responsibilities. As "fiduciary," you must act with the utmost honesty, impartiality and scrupulousness on behalf of the deceased and the estate's beneficiaries. This all comes on top of the fact that you're going through the emotional loss of the loved one.

Fortunately, you can hire professionals—a financial planner, an attorney, an accountant—who can provide advice and do much of the actual work. Still, you as executor must ensure that all work is accomplished and done properly. So keep the following in mind when deciding whether to accept the role.

The role of an executor—called a personal representative in some states—is to ensure that the deceased's estate is properly settled. To adequately accomplish this task, you ideally should have the time and live near the deceased because you'll need to go through their records and work with local officials and state laws. You should be an organized person, with financial savvy and attention to detail. You should be fair minded (especially if you're one of the beneficiaries), yet strong enough to handle squabbles among heirs.

As executor, first thoroughly read the will and any letter of instructions from the deceased, and you may need to register the will with the court. You'll need to determine the estate's heirs and inventory all property and financial assets to see what passes via the will versus what goes directly to an heir outside of the will (such as life insurance or a retirement

account). Are there any existing trusts or trusts created by the will, for which you or someone else serves as trustee?

All property and financial assets, ranging from insurance policies to bank accounts and real estate, will need to be identified and valued, either by yourself or by outside professionals. This process may be relatively simple if you're the deceased's spouse and records are in good order. On the other hand, a poorly managed estate for which you have little or no direct knowledge can be a nightmare to inventory.

You'll need to manage estate assets until they are used to pay ongoing estate bills and debts or they are distributed to the heirs. This is one area where liability can arise. You're not legally responsible just because the value of some assets might decline under your management (markets obviously go down as well as up). But you could be held responsible if you mismanage them. For example, the three executors of the estate of a world-famous artist were assessed millions of dollars in damages and fines by the probate court because they sold the estate's paintings at well below market value.

You'll need to determine valid creditor claims and be sure the estate pays off any debts.

You're responsible for filing the estate's taxes, which probably will be an income tax return on behalf of the deceased, and federal and possibly state estate tax if the estate is large enough.

Naturally, you'll see that the estate's remaining assets are properly distributed to the heirs. Here's where conflicts can erupt, with heirs fighting over personal possessions or other assets. If you're also a beneficiary, you might be accused of partiality. Some battles end up in court.

You can dramatically reduce the potential for problems by working with outside financial advisors and, if possible, by being sure the person who has named you as executor has a well-prepared estate plan.

For all your troubles, you may collect a fee as executor (two to five percent of the estate's value is common), though you may pass because it's better financially for the estate's heirs (of which you might be one). Or, of course, you can simply decline to serve as an executor in the first place and a successor executor will be identified.