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The Savvy Investor
Executors
Frequently Asked Questions

An executor is the person you name in your will to handle your property after your death. The executor must be prepared to carry out a long list of tasks, prudently and promptly.

What Does an Executor Do?

Essentially, the executor's job is to protect the deceased person's property until all debts and taxes have been paid, and see that what's left is transferred to the people who are entitled to it. The law does not require an executor to be a legal or financial expert or to display more than reasonable prudence and judgment, but it does require the highest degree of honesty, impartiality and diligence. This is called a "fiduciary duty" – the duty to act with scrupulous good faith and candor on behalf of someone else.

Executors have a number of duties, depending on the complexity of the deceased person's estate. Typically, an executor must perform the following duties.

- **Determine who inherits property.** If the deceased person left a will, the executor will read it to determine who gets what. If there's no will, the administrator will have to look at state laws (called "intestate succession" statutes) to determine the deceased person's heirs.
- **File documents.** If probate is required, file the will (if any) and all required legal papers in the local probate court.
- **Manage investments.** Find the deceased person's assets and manage them during the probate process. This

may involve deciding whether to sell real estate or securities owned by the deceased person.

- **Handle day-to-day details.** Details must be managed, such as terminating leases and credit cards, and notifying banks and government agencies – such as Social Security, the post office, Medicare and the Veterans Administration – of the death.
- **Establish an estate account.** Set up an estate account to hold money that is owed to the deceased person – for example, paychecks or stock dividends.
- **Pay bills.** Use estate funds to pay continuing expenses such as mortgage payments, utility bills and homeowner's insurance premiums.
- **Pay debts.** As part of this process, the executor must officially notify creditors of the probate proceeding, following the procedure set out by state law.
- **Pay taxes.** A final income tax return must be filed, covering the period from the beginning of the tax year to the date of death. State and federal estate tax returns may also be required, depending on how much property the deceased person owned at death and to whom the property was left.

- **Distribute assets.** Determine if it's legally permissible to transfer certain items immediately to the beneficiaries, even if probate is required for other property. Supervise the distribution of the deceased person's property to the people or organizations named in the will.

How Do I Choose an Executor?

An executor doesn't need special financial or legal knowledge. Common sense, conscientiousness and honesty are the main requirements. An executor who needs help can hire lawyers, accountants or other experts and pay them from the assets of the estate. In fact, they probably will need this help.

The person you choose should be honest, with good organizational skills and the ability to keep track of details. If possible, name someone who lives nearby and who is familiar with your financial matters; that will make it easier to do chores like collecting mail and locating important records and papers.

Many people select someone who will inherit a substantial amount of their property. This makes sense because a person with an interest in how your property is distributed is likely to do a conscientious job of managing your affairs after your death. He or she may also come equipped with knowledge of where your records are kept and an understanding of why you want your property left as you have directed.

Whomever you select, make sure the person is willing to do the job. Discuss the position with the person you've chosen before you make your will.

Does the Person Named as Executor Have to Serve?

No. When it comes time, the person named in the will as executor can accept or decline this responsibility. And someone who agrees to serve can resign at any time. That's why many wills name an alternate executor, who takes over if necessary. If no one is available, the court will appoint someone to step in.

Does an Executor Get Paid?

Obviously, the main reason for serving as an executor is to honor the deceased person's request. But the executor is also entitled to payment. The exact amount is regulated by state law and is affected by factors such as the value of the deceased person's property and what the probate court decides is reasonable under the circumstances. Commonly, close relatives and close friends (especially those who are inheriting a substantial amount anyway) don't charge the estate for their services.

Must an Executor Hire a Lawyer?

Not always. Essentially, shepherding a case through probate court requires shuffling a lot of papers. In the vast majority of cases, there are no disputes that require a decision by a judge. So the executor may never see the inside of a courtroom. The executor may even be able to do everything by mail. Doing a good job requires persistence and attention to tedious detail, but not necessarily a law degree.

There are two ways for an executor to get help from a lawyer:

- **Hire a lawyer to act as a coach.** The lawyer will answer legal questions, might do some research, look over documents before the executor files them, or prepare an estate tax return.
- **Turn the probate over to the lawyer.** If the executor just doesn't want to deal with the probate process, a lawyer can do everything. The lawyer will be paid out of the estate. In most states, lawyers charge by the hour (\$150-\$200 is common) or charge a lump sum. But in a few states, state law authorizes the lawyer to take a certain percentage of the gross value of the deceased person's estate unless the executor makes a written agreement calling for less. An executor can probably find a competent lawyer who will agree to a lower fee.

Would you like more information about your responsibilities as an executor and how to handle investments in the estate? Then please contact us or visit our web site www.Sherwood-Investments.com.