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Marc A. Hebert's 'Money \$ense':Settling an estate

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USUALLY when asked to be the executor of a family member's estate, the person feels honored and trusted. It's a big responsibility since the executor will be tasked with carrying out a loved one's final wishes.

If you are asked to be an executor, it is a good idea to know some of the duties it entails before taking on the task. By definition, an executor is the person named to distribute a deceased person's property that passes under his or her will. Another main function of an executor is to arrange for the payment of debts and expenses.



If the executor is not willing or able to perform, there is usually an alternate executor named in the will. If there is no alternate, then it is up to the courts to approve an executor for the estate.

Depending on the estate, it can be a difficult and time-consuming task to settle everything. Each state has its own rules. In some cases, the deceased may have left a letter of instruction making the process easier. The letter could contain information such as a list of the deceased's important documents, contacts for attorneys and accountants, a list of creditors, login information for important web sites, and final burial wishes.

Among the documents is usually a will. The executor will need to obtain a copy and read and understand it. Discussion with an estate-planning attorney is also needed to decide what type of probating (a process of getting a court to approve the validity of the will) is necessary.

An inventory of assets the deceased owned is taken and may be required by the probate court. Assets may need to be appraised. If the deceased had a safe deposit box, the contents need to be secured. Once the probate process is finished, assets then may be sold or gifted according to the deceased's wishes.

Asset protection is a top priority during this time. This could include changing locks on property. The executor may pay mortgages, utility bills and maintenance costs on any property. The executor will need to change the name of the insurance on home and auto policies. Brokerage accounts will need to be retitled.

Final expenses also need to be paid. The funeral home or coroner will provide death certificates that will be needed later on. For example, when presenting the will to the court for the probate process, a death certificate is presented as well. The filing of life insurance claims is another example in which a death certificate will be necessary.

Other debts and taxes will require payment. Medical bills, credit card debt and taxes should be paid out of the estate. The executor and/or heirs are typically not personally responsible for the debts of the deceased that exceed the value of the estate.

If the deceased was collecting benefits, such as Social Security, the appropriate agency will need to know of the deceased's passing so benefit checks can be stopped. Any checks received after death will need to be returned.

As the saying goes, two things are certain in life: death and taxes. A final federal and state tax return for the deceased may need to be filed. An estate and gift tax return may also be necessary.

As can be seen, an executor has lots of duties. There is the need for the person to be honest, impartial and financially responsible. Estate assets need to be managed properly. The word for this in the law is a "fiduciary duty".

All of these steps can be made easier with the advice and guidance of an estate-planning attorney. Consulting with an attorney is generally the best way to make sure there is compliance with all of an executor's duties.

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