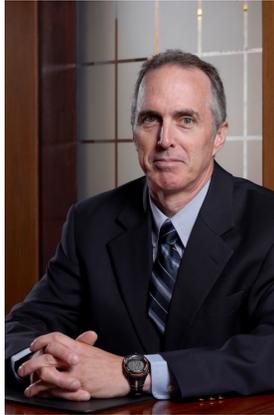




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LAWYERS

My Dad died recently and in his will he had appointed me his executor. What do I need to do now?

By: Brian G. Finnigan



An executor (now more commonly known as the “estate trustee”) is the person who is responsible for administering the estate. If you are the estate trustee, you will have a number of duties, including making the funeral arrangements, locating the will, securing the assets of the estate, determining if there are debts to be paid, filing tax returns, and distributing the estate in accordance with the will. In addition, you will have to determine if there are assets such as life insurance or retirement funds for which the testator designated beneficiaries, or assets that the deceased (the “testator”) held jointly with another person, because these assets may not be dealt with in the will or even form part of the estate, but may still be relevant to the administration of the estate.

Sometimes the testator will have prearranged the funeral. If not, you will have to make funeral arrangements. You will have to be careful to ensure that there will be enough funds in the estate after payment of debts and taxes to pay the funeral costs, because otherwise the funeral home may look to you to pay the costs personally. If various members of the family have different views on how the funeral will be held, it is you who has the legal obligation and authority to make a final decision about how the funeral is held.

To locate the will, you will normally contact the law firm of the testator to determine if the will is held by that firm. You may decide to have that firm assist in the legal aspects of the administration of the estate, but ordinarily you can deal with your choice of firm.

You must determine what the assets and debts of the estate are. Personal records of the testator are usually the first place to start, but banks, investment advisors, insurance agents, and public records such as those held by the land registry can be a good source of information also. You will need to confirm that assets such as real estate or personal property are insured appropriately. You will have to determine what debts there are, and you will have to make sure that tax returns of the testator are up to date, and you will need to file a “terminal return” for the year of death. If you do not determine what the debts are, or fail to file tax returns or pay taxes, and you pay money or transfer assets to a beneficiary, you may be personally liable for the debts or taxes. Any person you deal with will want to see evidence of your appointment. Depending on the assets and debts of the estate, you may need to have the will “probated”, which these days is called obtaining a “certificate of appointment” of estate trustee and is ordinarily obtained from the local court.

Once the assets are determined, the debts are paid and the tax returns filed and any final tax paid, you can apply for a tax clearance certificate, and transfer money or assets to the beneficiaries, as the will dictates. You are entitled to compensation for your duties, and this compensation is taxable as income to you.

Being an estate trustee can be difficult and can require you to deal with many issues. You should consult with a lawyer as to what the precise duties the estate you are to administer will require of you and how to deal with the many legal and practical administration issues that you will encounter.