

Duties of an Executor

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As an estate planning and administration professional, I am often asked questions about the role of the Executor of the Estate. An Executor is the person named in a Will to be responsible for settling a deceased person's probate Estate. This is general information regarding some of the more common duties and responsibilities that confront an Executor during the probate process. These same duties are performed by an Administrator when a person passes away without a valid Will. This brief list is not intended to be either exhaustive or technical.

The probate process transfers assets owned by the decedent to those persons entitled to the assets under the Will or under the laws of inheritance. As Executor, you have several duties, you have to follow up on many details, and you must always act in the interests of the beneficiaries, following the decedent's wishes as expressed in his or her Will. The specific details of an Executor's duties vary from state to state, and many of the steps that an Executor must take will depend on the provisions of the decedent's Will and the composition of the assets comprising the estate. The same types of duties are usually required whether one is appointed Executor, Administrator or Personal Representative. If all this sounds a bit overwhelming, keep in mind that you can hire professional help.

The Executor:

- Locates and studies the Will and arranges for it to be probated. This involves filing the necessary papers in the appropriate Probate Court, generally the Court In the county in which the decedent resided at the time of his or her passing.
- Receives court authority to act. Once that occurs, the Executor assembles, inventories and takes custody of all assets. If the decedent owned assets in another state, the appointment of an ancillary Executor in that state may be necessary.
- Reviews decedent's financial records and safeguards all assets. The Executor must inventory all assets and determine their value.
- Administers the estate. This is controlled by the provisions of the Will and by state law. Because an Executor is in a fiduciary position, he has a duty of care to impartially administer the Estate for the sole benefit of the Estate's beneficiaries. He must keep accurate records of all receipts coming into the Estate, as well as collecting and paying all appropriate expenses, such as disbursements for

preferred claims, for example funeral bills and administration expenses, and for other valid creditor claims.

- Considers nonprobate assets. Nonprobate assets do not pass under the terms of a Will, but they are important considerations in settling the Estate.
- Is responsible for all tax returns, including federal and state income tax returns for both the decedent and the Estate, and for federal and state estate and/or gift tax returns.
- Is entitled to compensation for his services to the Estate, which is calculated according to a statutory formula based upon the value of the assets comprising the Estate. Please note that any amounts received as Executor's fees are considered taxable income to the Executor.
- Distributes the Estate assets to the appropriate beneficiaries, including establishing and distributing to any Testamentary Trust created by the decedent's Will or to any other trust as directed by the decedent. Once all assets are distributed to the proper beneficiaries, the Executor will file the appropriate papers to finalize and close the Estate. Executors are currently expected to complete the administration of an Estate within six months of being appointed Executor unless some compelling reason exists to continue the administration, such as litigation involving the estate, the need for filing of estate tax returns, etc.

If you have questions, it is important to consult a professional regarding the duties applicable to your specific situation. At Stiller Law Offices we are accessible and are always available to assist you with resolution of your estate administration issues.