

# “Will you be my Executor?”

*Have you been asked this question? Before you say yes, make sure you know what you’re getting into.*



Being an Executor is a role many of us are called upon to perform in life. At some time in the future, members of your family, business associates, relatives or friends may ask you to be Executor of their estates. What will you say?

At first people feel honoured to be trusted with such an important task. But being an Executor is also a hefty responsibility. Liquidating assets, filing taxes, dealing with banks, businesses, creditors, lawyers, government agencies, grieving relatives....a good Executor needs to be a decision maker, a diplomat and a detail person.

In this brief article, the estate and trust professionals at EPR answer some of the most frequently asked questions about being, and choosing an Executor.

## **Q: What exactly is an Executor?**

When someone dies, an Executor is the person or persons responsible for controlling and distributing the property of the deceased as set out in the Last Will and Testament.

## **Q: Is the term Executrix still used?**

In some provinces, yes. In Quebec, the Executor of an estate is known as the “Liquidator”. In January 1995, Ontario adopted the new generic term “Estate Trustee” to replace Executor and its feminine equivalent, Executrix. All terms however, are valid.

## **Q: What is the difference between an Executor and an Administrator of an estate?**

If an individual dies without a valid Will, someone must apply to the appropriate court for Letters of Administration, and the person appointed to control the estate is called an Administrator rather than an Executor. Duties are similar except Administrators must distribute the estate assets in accordance with Provincial legislation rather than the instructions in a Will.

## **Q: What are my legal responsibilities as an Executor?**

Executors can be held personally liable in situations where they are found to have breached fiduciary duty or been negligent in the administration of the estate. A sobering thought. It is strongly recommended that Executors obtain adequate legal advice and utilize professional accountants for financial and tax matters.

## **Q: How much work is involved?**

That depends entirely on the size and complexity of the estate. EPR publishes an Executorship booklet that will give you a good idea of the duties and protocol involved in everything from locating the Will to filing a T3 Estate Tax Return.

## **Q: What is Probate?**

Probate is the process of “proving the Will” or confirmation by the court that the Will truly represents the deceased’s wishes for her/his estate. Probate also grants proof of authority to the Executor. Preparing probate documents can be a complex matter and is usually best handled by an estate lawyer in collaboration with the deceased’s accountant.

## **Q: I need an Executor. What qualities should I look for?**

*Availability* is key - the job requires a significant time commitment. It is also more efficient if your Executor resides in the same area as your major interests. *Integrity and Capability* - an Executor needs considerable judgment in controlling your assets and dealing with beneficiaries, lawyers, accountants, insurance companies, government agencies, etc. Ask yourself – is this person up to the task?

EPR Coquitlam

2nd Flr – 566 Lougheed Highway, Coquitlam, BC V3K 3S3

web: [www.eprcoq.com](http://www.eprcoq.com) phone: 604-936-4377 e-mail: [epr@eprcoq.com](mailto:epr@eprcoq.com)

**Q: How about my business?**

The choice of an Executor is particularly important when a business is to be continued or liquidated. Valuing and packaging a business for sale requires specific expertise. It is wise to seek services of lawyers and accountants in such cases.

**Q: Is it better to have more than one Executor?**

Generally, no. A single Executor can work promptly and effectively. Co-Executors often work by committee, so you might have two or three siblings acting together. In that case, problems may arise when you have to decide whether to accept or reject an offer on Mom’s house.

**Q: What about alternative Executors?**

This is an excellent idea. In the event your Executor declines the responsibility, you’ll have a backup plan in place. Also your Executor could predecease you. If you have not named an alternative, your estate could become the responsibility of the person administering your late Executor’s affairs.

**Q: As Executor, do I have to consult the beneficiaries on everything?**

No, but the situation requires extreme tact. Beneficiaries – particularly immediate family members – often assume they have a right to decision making on all matters. This is where the Executor must take charge. Suggest practical areas where they can help but keep in mind that all of these chores should be organized under your direction as Executor. These could include

- canceling telephone, memberships, subscriptions, medical coverage, etc
- maintaining real estate and preparing it for sale
- sorting and cleaning personal effects, helping move furniture, preparing for disposal of household items

**Q: What if I don’t want to be an Executor?**

Tell the person now. The fact that you are not willing to act as an Executor because of location, responsibilities, the time commitment, or simply your own comfort level should be respected. There is no law that compels you to be anyone’s Executor.

**Q: What if I say yes, then change my mind later?**

If, when the time comes, you feel you cannot do the job, you can renounce your appointment by signing a

Renunciation form. The Renunciation is unconditional and effective immediately. It is generally filed with the alternative Executor(s) named in the Will.

**Q: Are Executors paid?**

Executors should expect to receive compensation for their work. When the Executor and beneficiaries are family, often no fees are involved. These arrangements should be understood at the time of appointment to avoid the possibility of hard feelings or conflict at a later date. Although fees are always a consideration, the competency of an Executor or Administrator and their ability to carry out the required duties are more important considerations. Fees paid to professionals such as accountants, lawyers, appraisers, etc., do apply and are the responsibility of the estate.

**Q: Like to know more?**

Ask an EPR professional for a free copy of the *Executorship*, a comprehensive booklet published by EPR. Whether you’ve just been asked to be an Executor, you’re appointing one for yourself , or you’re in the midst of settling an estate right now, this booklet is designed to make your life easier. EPR is qualified to assist you in all estate planning and administration matters.

**There are many important events in life that have consequences far into the future. And while you can’t predict the future, you can prepare for it.**

**EPR can help you plan wisely for today and tomorrow. We provide a full range of services for individuals that includes estate and will planning, valuations, succession planning, personal tax and retirement planning.**

**Professional advice tailored to your specific needs is just a phone call away. Please call us today for an appointment.**