

Estate Administration | General Guidelines

The estate trustee carries out the following duties:

- Determines that the will appointing him or her as the estate trustee is the last will of the deceased.
- Arranges for the proper funeral and burial of the deceased (contrary to what many people believe, these arrangements are not made by a surviving spouse or other family member unless they are also the named estate trustee).
- Determines the names, addresses and ages of the beneficiaries and notifies them of their interest in the estate.
- Determines the nature and value of the assets and debts of the deceased and compiles a detailed inventory, which includes the contents of safety deposit boxes.
- Ensures that property is protected (e.g., that real property has sufficient insurance and appropriate supervision).
- Continues and oversees the operation of any business interests.
- Converts non cash assets into cash (e.g., selling real estate property) (depending on bequests in will)
- Arranges for all estate funds to be deposited into Estate Account or Lawyer Trust Account.
- Pay all debts, including income tax due.
- Files final income tax returns and pay taxes owing:
 - If the death occurred between **January 1 and October 31**, the due date for the final return is April 30 of the following year.
 - If the death occurred between **November 1 and December 31**, the due date for the final return is six months after the date of death.
 - Report income earned **after** the date of death on a T3 Trust Income Tax and Information Return.
- Hold back sufficient funds in the estate until a Clearance Certificate is received from Canada Revenue Agency.
- Keeps records of all financial transactions of the Estate.
- Provide an accounting to the residual beneficiaries.
- Distributes the assets according to the terms of the will and obtain releases from the residual beneficiaries.
- “Executor’s Year” – estate trustee arranges to call in the assets and arranges for payment of debts. At the expiration of a year, the trustee should be in a position to distribute the assets, unless there is a contrary intention provided in the will.
- Obtain a Clearance Certificate from Canada Revenue Agency.
- Prepare final distribution of the hold back funds remaining.

Retains a lawyer to advise and assist in the administration of the estate.

- Instructs the lawyer to prepare the documents necessary to apply for a Certificate of Appointment of Estate Trustee With a Will (formerly “letters probate”), if required.
- Arrange for the payment of debts and contests debts if not convinced of their validity.
- Refer Estate Trustee to an Accountant to prepare and file the necessary income tax returns in all relevant jurisdictions and pay any tax owing.
- Maintains proper accounts/keeps receipts.
- If required to do so, provides the beneficiaries and the court with an account of all dealings with the estate assets during the term of administration.
- Sets up and administers any trusts established by the will.
- Distributes the assets according to the terms of the will and obtains releases from the beneficiaries.

A lawyer may be retained to advise the estate trustee and to offer assistance as required, including with all of the foregoing, but all decisions must be made by the estate trustee, who cannot delegate this decision-making responsibility to others.

The estate trustee will often look to the lawyer to:

- advise on all legal matters involving the interpretation of the will and the administration of the estate;
- prepare and file the application for the certificate of appointment of the estate trustee with the Ontario Superior Court of Justice;
- prepare the advertisement for creditors if the estate trustee wishes to advertise for claims against the estate and/or advertise for other wills;
- assist the estate trustee in the transfer and/or sale of assets by preparing any documents required for that purpose;
- assist the estate trustee in maintaining bookkeeping records/preparing estate accounts;
- assist the estate trustee in preparing for and attending to Court (if necessary); and
- prepare documents for the beneficiaries to sign to acknowledge that they have received their entitlement under the will and to release the estate trustee from liability.

Disclaimer: *The comments and opinions expressed in this paper are provided for information purposes only. They do not constitute nor should they be relied upon as legal advice.*

December 2013