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THE ROLE OF THE EXECUTOR OR ADMINISTRATOR

When an individual (referred to herein as a decedent) dies there has to be someone put in place to handle his or her affairs. This is true whether the decedent had a will or not. When there is a will, the person is called an Executor, but when there is no will, that person is called an Administrator. The Administrator is typically someone agreed upon by the family or simply someone who stepped up to be responsible for conducting the necessary business of the estate. Ultimately, this individual has to be approved and appointed by the Probate Court. Before any documents are prepared to initiate obtaining an Executor or Administrator, the process usually starts with a telephone call. A call is usually made to an attorney advising a loved one has died and the family needs help handling the estate.

The attorney then meets with the family and gathers specific information for filing a petition and other required documents. Next, a court hearing wherein all of the filed documents are discussed and reviewed by the Probate Court and if all is in order, the Court appoints an Executor or Administrator and issues "Letters of Office."

Once you have been issued Letters of Office from the Probate Court officially naming you as the Executor or Administrator of an Estate, what does it mean?

In a nutshell, it means you are now in a capacity to conduct any business necessary to wrap up any loose ends of the estate. Realistically, you may have already conducted some of the business. For instance, you may have already contacted the decedent's life insurer and arranged for his/her funeral and burial, received copies of the death certificate and provided such to the decedent's employer and service providers to cancel mail and credit cards, utilities and subscriptions. You may even have been maintaining the mortgage and car note. So what remains to do?

Within a relatively short period of time after appointment, the Executor or Administrator must file an inventory of all of the decedent's asset (i.e., house, condo, automobiles, stock, checking, savings or retirement accounts, collections, etc.) with the court. This process is called marshalling the assets. The inventory will included all of the decedent's probate property, as well as all non-probate property that names the decedent's estate or executor as the designated beneficiary. The attorney for the estate will assist you with this responsibility.

The inventory should include a complete description of all assets, including, when relevant, account numbers, names and addresses of financial institutions, and legal common descriptions of real property. In addition, the inventory should include the date-of-death value of all listed assets. You may require a professional appraiser to assist in making valuations of the assets.

The decedent may have property that needs to be disposed of and/or may have outstanding bills needing to be paid (i.e., medical bills and taxes). The Executor or Administrator is responsible for handling the estate's liabilities as well as the assets. You will be responsible for paying all valid creditor claims made against the estate. These include routine claims, such as telephone and utility bills, consumer credit cards as well as less usual claims, such as settlement of lawsuits.

As part of the settlement of the estate's liabilities, the Executor or Administrator must also arrange for the preparation of the federal and state estate tax return and the payment of those taxes within nine months of the decedent's death. Your accountant will assist you with this responsibility.

In order to begin conducting business as the Executor or Administrator, you must obtain an Employer Identification Number (EIN) for the Estate. Your attorney can assist in this process. Once an EIN is obtained, the Administrator can open bank accounts for the estate of the decedent. **Why open an account?**

The decedent may have money that is yet due to him/her. For example, a last paycheck or bonus, insurance proceeds or stock payments. Without any beneficiary designations, these payments legally can only be made to the decedent, so such necessitates having a depository to receive these payments.

Likewise, the decedent may have outstanding bills. Contrary to urban legends, your debts may not die with you especially in the event a decedent has assets to pay the debts. A checking account will be needed to pay any bills and claims made against the estate. So, there will be money coming in and money going out. Also consider that if there is property to be disposed of, once it is sold the proceeds collected will have to be accounted for and are best deposited into an account. Additionally worth noting, the Executor or Administrator is allowed to be paid an hourly fee for conducting the business of the estate as well as is repaid any bills he/she may have paid out of pocket, so having a checking account allows for payment of these fees as well.

After all valid creditor claims are paid, the Executor or Administrator can request permission from the court to distribute the estate. The Executor or Administrator distributes the estate according to the will and if no will, then according to the laws of intestacy. This may require the partial liquidation of estate assets in order to divide the estate or make cash disbursements.

In making distributions, the Executor or Administrator must prepare receipts to be signed by the beneficiaries and filed with court in order to provide documentation that the beneficiaries have in fact received the property. The attorney for the estate will assist with this responsibility. Beneficiaries must sign receipts (prepared by your attorney) BEFORE they can receive any distributions from the estate.

What happens after all the business is done? The Probate Court requires a Final Report and sometimes also an Accounting, of what all was done and what happened with the decedent's money and property. The Executor or Administrator is required to keep accurate receipts and records of all transactions. The attorney for the estate assists the Executor or Administrator in preparing these reports utilizing the receipts and records meticulously kept by the Executor or Administrator. Once the Final Report and Accounting are approved by the court-which may take multiple submissions- the receipts submitted and creditor claims either paid and released or disallowed, the estate can be closed by order of the court and the Executor or Administrator dismissed.