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# Executor checklist

## Tax and estate planning

The duties of Executor/Executrix/Liquidator in Quebec (referred to as the Executor throughout this document) require you to take on the responsibility of administering the estate and carrying out the last wishes of the deceased. The Last Will and Testament is the legally binding record of the wishes of the deceased regarding the distribution of his or her assets. If no Will exists the deceased is considered to die intestate and your appointment by the Court as administrator of the estate will place the same responsibilities with you. In Quebec, the heirs of the estate will appoint a liquidator if there is no Will. This checklist lays out the main duties and responsibilities you will need to consider when handling an estate.

### Step 1 – Locate and review the will

Locate the Will and/or codicil and review to determine whether there are any special funeral directions.

Talk to an estate lawyer (notary in Quebec) to obtain notarized copies of the Will.

If the deceased died intestate, determine administrator and beneficiaries.

Consider opening an estate bank account – this can help you keep track of money as it is received by the estate.

### Step 2 – Make funeral arrangements

Assist in funeral arrangements if necessary.

Obtain copies of the death certificate (you can get more than one) from the funeral director.

### Step 3 – Solicit professional counsel

If it is referenced in the Will you can engage a lawyer, accountant or other professional to help you settle the estate. The cost of the professional is generally an expense of the estate.

If it is not referenced in the Will, you may engage professional assistance but beneficiary consent is advised.

### Step 4 – Notify beneficiaries and others

Locate contact information for all beneficiaries.

Notify beneficiaries of their inclusion in the Will.

### Step 5 – Identify and secure estate assets

Review immediate financial requirement of deceased's family. The following are potential sources of funds:

- Life insurance policies – only viable if the designated beneficiary(ies) are immediate family.
- Employment pay – if the deceased was an employee at the time of death, there may be some type of termination pay available (only viable if payable to a family member and not estate);
- Death benefit – there may be a death benefit through the employee's pension plan;
- Canada Pension Plan (Quebec Pension Plan) – if the deceased contributed to the CPP (QPP in Quebec), one can potentially obtain a lump-sum death benefit, while the survivor and children may be entitled to monthly payments.



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Arrange for safe custody of any valuables, such as cash, securities, jewellery etc.

Stocks and bonds listing.

Private company shares listing including share class ownership, tax returns, financial statements, articles.

Real estate information.

Location of any digital assets.

If the deceased was a party to an agreement, such as a rental agreement, notify the landlord and arrange to terminate.

Gather information regarding the deceased's RRSPs, RRIFs, annuities, pension and other type of retirement plan.

Make a list of outstanding debts and liabilities.

Notify CRA of the death.

Notify Service Canada to arrange cancellation of Canada Pension Plan or Old Age Security payments.

List and cancel driving license, magazine and newspaper subscriptions, cable, club memberships, telephone, internet, etc. and arrange for refunds as necessary.

Cancel health insurance coverage.

Notify life insurance companies of the death and include an original copy of the death certificate.

Lock up the residence if the deceased lived alone, and arrange for security and maintenance until arrangements are made according to the Will.

If necessary, change the address with Canada Post to reroute any mail.

Examine insurance coverage and insure estate assets (motor vehicle, house, furniture, jewelry, art, etc.) against perils and fire.

Locate and obtain title documents for real estate, mortgages, share certificates, bonds, debentures, and guaranteed investment certificates.

Arrange to review investment portfolio.

Locate shareholder agreements, if any.

Organize interim management for the business of the deceased, where applicable. If you, as the executor, decide to run the business, you must consider matters of personal liability.

Arrange for listing of safety deposit box, if necessary.

Contact credit card or loan companies to get the balance owing and arrange for payment and cancellation.

**Note: Since renunciation is always a possibility, executors should be mindful of how involved they become in dealing with estate assets as they may be deemed to have accepted the responsibility of administering the estate.**

## **Step 6 – Submit will for probate**

Determine need for probate filing (this requirement varies by province so you should speak with the estate lawyer to determine the need for this tax filing). In Quebec, the holograph Will and the Will made in the presence of witnesses will need to be verified.

## **Step 7 – Advertise for creditors**

It is advised that executors advertise for creditors.

The requirement to advertise for creditors varies from province to province so you should determine what the requirement is in your province.

Some provinces may allow you to advertise online rather than in the local paper.



## **Step 8 – Pay debts and complete final Income Tax returns**

Are the tax returns of the deceased up to date? Obtain prior year tax returns and notice of assessments/reassessments.

If the taxpayer dies between January 1st and October 31st, the T1 terminal return must be filed by April 30th of the following year.

If the deceased passed away between November 1st and December 31st the T1 terminal return is due 6 months after the date of death.

You may be required to file a return for rights or things – these are amounts that had not been paid to the deceased at the time of his/her death and that, had the person not died, would have been included in his/her income when received.

The partnership or sole proprietorship stub period return.

Return for income from a graduated rate estate – optional return for a deceased person who received income from a graduated rate estate (GRE). The GRE may have a fiscal period that does not start or end on the same dates as the calendar year. If the person died after the end of the fiscal period of the GRE, but before the end of the calendar year in which the fiscal period ended, an optional return can be filed for the deceased.

Election to opt out of the regular spousal rollover under subsection 70(6.2) or the election regarding the spousal rollover of resource property.

The election under subsection 164(6) to carry back a loss realized in the deceased's graduated rate estate's first taxation year to the terminal tax return to offset capital gains tax.

The election to pay the deceased's tax in yearly installments under subsection 159(5).

For estates with foreign assets, consider tax and disclosure reporting in foreign countries.

## **Step 9 – Distribute inheritances**

If a dependent relief claim is made against the estate the executor is not able to make distributions from the estate until the claim has been resolved. If the executor distributes the estate before the dependent relief claim has been resolved the executor could be held personally liable for the distributions they made.

If the executor is receiving compensation to settle the estate the executor compensation needs to be paid prior to distributing the proceeds of the estate. Executor compensation is taxable to the executor in the year it is received.

If other professionals were engaged (i.e., lawyer, accountant etc.) they need to be paid prior to distributing the estate.

The executor may want to consider obtaining a release from the beneficiary(ies) prior to distributing proceeds of the estate to the beneficiary(ies).

Once all the tax returns have been filed it is necessary to obtain a clearance certificate from Canada Revenue Agency (CRA) before the executor distributes any of the deceased's (estate's) property to the beneficiaries.

## **Step 10 – Keep accurate records**

As an executor you are accountable to beneficiaries of the estate and should keep accurate records, complete accounting records, invoices and receipts.

In Ontario, you can also be audited for probate purposes for four years and by CRA for income tax purposes for three years but the Income Tax Act requires that you retain records for six years after the return is filed.