

# Choosing an Executor



# What We'll Discuss

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- What is an estate?
- What is an executor?
- What are an executor's responsibilities?
- How do you choose an executor?



# What's an Estate?

- Entity created at your death
  - All your assets, or everything you owned
  - Income from assets or rental property
  - All your unpaid financial obligations
- Composed of two parts
  - Assets and obligations subject to a court-supervised legal process called probate
  - Assets and obligations that are not subject to the probate process



# The Probate Estate

- Possessions identified in your will for specific beneficiaries
- Other possessions not mentioned in will
- Your financial obligations
- Digital assets



# Non-Probate Estate

- Assets with named beneficiary
- Jointly held assets with right of survivorship
- Assets in bank accounts titled payable on death (POD)
- Assets in investment accounts titled transfer on death (TOD)
- Assets in trust accounts



# What's an Executor?

- Named in your will to handle your probate estate
- Authorized to act by state probate court
- Under probate court supervision
  - Assembles documents for the court
  - Manages probate estate's business
  - Distributes probate assets as directed
  - Settles, or ends, the estate



# Executor's Initial Tasks

- Assembles information required for court
  - Secures death certificates
  - Files will, list of beneficiaries, list of creditors
  - Estimates total estate value
  - Identifies witnesses to the will
- Chooses simplest settlement method
  - Summary administration for small estates
  - Uniform Probate Code
  - Traditional probate



# Formal Authorization

- Probate court confirms executor's authority
- Provides *letters testamentary* or documents that verify the executor's identity
- Executor may be required to post bond
  - Insurance policy to protect estate
  - Wills often say no bond is required
  - Can be paid for with estate funds



# Documents the Executor Needs

- Birth and marriage certificates
- Death certificate of previously deceased spouse
- Deeds and titles for real and personal property
- Bank, investment and credit account records
- Military service records, such as DD214, Certificate of Release or Discharge from Active Duty



# Details to Resolve

- Secure residence and personal property
- Notify Social Security, the DMV, the VA, and credit reporting agencies
- Contact employer, former employers, life insurance companies
- Inform banks and other financial institutions
- Notify credit card issuers



# Executor's Next Duties

- Apply for estate tax identification number (EIN)
- Open an estate bank account
- Calculate estate debts and pay bills
- Categorize and value estate assets
- Distribute the assets



# Calculating and Paying Debts

- Final expenses, administrative costs
- Regular short-term bills
- Longer-term loans and other obligations
- Joint debts are responsibility of survivor



# Paying Taxes

- Ensuring income taxes are paid
  - Income before death is personal income
  - Income after death is estate income
- Filing estate income tax returns if necessary
- Filing federal or state estate tax returns if required



# Distributing Assets

- Distribution is last major responsibility
- Personal assets transferred directly
- Traded financial assets and real estate are retitled
- Process simplified in some cases
  - Provisions of the will are straightforward
  - Majority of assets not subject to probate



# Your Personal Responsibilities

- Review your will and update if necessary
- Secure the consent of the executor you name
- Share the details of your intentions with beneficiaries
- Be clear about your final wishes



# Choosing Your Executor

- Individuals
  - Spouse, adult child or children
  - Close friend or other family member
- Professionals
  - Attorney, CPA
  - Trust company, bank trust department
- An individual in collaboration with a professional



# Whom Should You Choose?

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- Trust is key
- Someone you believe will be efficient and can communicate clearly
- Someone who knows your beneficiaries and their dynamic
- Be alert to red flags



# Other Considerations

- State law may impact who can serve
  - Non-citizens may not qualify
  - Out-of-state residents may not qualify or may need local agent
- Smart to name successor or alternate executor



# Addressing Concerns

- Can I change my mind?
- Must the executor follow my instructions?
- Does the executor report to anyone?
- Can the beneficiaries appeal an executor's actions?



# Executor as Fiduciary

- Must always act in best interest of beneficiary or beneficiaries
- Must manage the estate prudently
- Complexity may arise if
  - Best interests of beneficiaries conflict
  - Beneficiaries have irreconcilable differences
  - Assets must be liquidated to pay debts



# Probate Court Oversight

- Verifies validity of will
- Oversees executor's management of estate
- Handles payments to creditors if required
- Requires a final financial report
- Requires final list of distributed assets



# Summary

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- Executor is responsible for the estate
- Obligated to follow terms of the will
- Trust is essential in choosing executor
- The clearer your wishes, the easier they are to follow





# Assembling Important Records

You can make your executor’s job easier if you organize your legal and financial documents and provide a list of what you have and where to find them.

Legal Documents	Completed	Location
Will		
Living trust documents		
Birth certificate(s)		
Marriage license		
Prenuptial agreement		
Divorce decree and related documents		
Military service records		
Real estate deeds/titles		
Rental property contracts		
Vehicle titles		
Naturalization papers		
Partnership agreements		
Passport		
Other		



Financial Records	Institutions/Account numbers	User Name/ Password	Location
Checking accounts			
Other bank accounts			
Brokerage firm accounts			
Mutual fund accounts			
Pension account			
401(k), 403(b), TSP plan			
IRAs			
Life Insurance policies			
Annuity contracts			
Credit card accounts			



Financial Records	Institutions/Account numbers	User Name/ Password	Location
Loan and lease documents			
Tax returns			
Social Security records			
Safe deposit box			
Other			

Professional Advisers	Contact Information
Estate attorney	
CPA/Tax preparer	
Investment adviser	
Other	
Other	



## Evaluating Potential Executors

If you are planning to name an individual rather than a professional as executor of your estate, you may find this checklist helpful in making your decision.

After answering the questions for each of the people you may be considering, note the number of times you chose “no” as an answer.

1. Is the person trustworthy? Think about what being trustworthy means to you based on your past experiences with the person.  
 Yes  No
2. Is the person efficient? In this case, efficient means being able to handle a lot of details and meet deadlines.  
 Yes  No
3. Does the person communicate well? Will he or she be able to talk effectively with court officers, bank and investment company representatives, and family members?  
 Yes  No
4. Does the person have a relationship with your family that will help ensure he or she will be committed to act in the best interest of your beneficiaries?  
 Yes  No
5. Could he or she stand up to people who object to the wishes you have expressed in your will?  
 Yes  No
6. As far as you know, is the potential executor in good health and likely to be able to serve when the time comes?  
 Yes  No
7. Does the person meet the legal requirements of your state?  
 Yes  No
8. Can you say without hesitation that the person you are considering is the best choice?  
 Yes  No

You can find a list of state probate courts at  
<https://estate.findlaw.com/probate/state-probate-courts.html>

