



Settling an estate can be unsettling

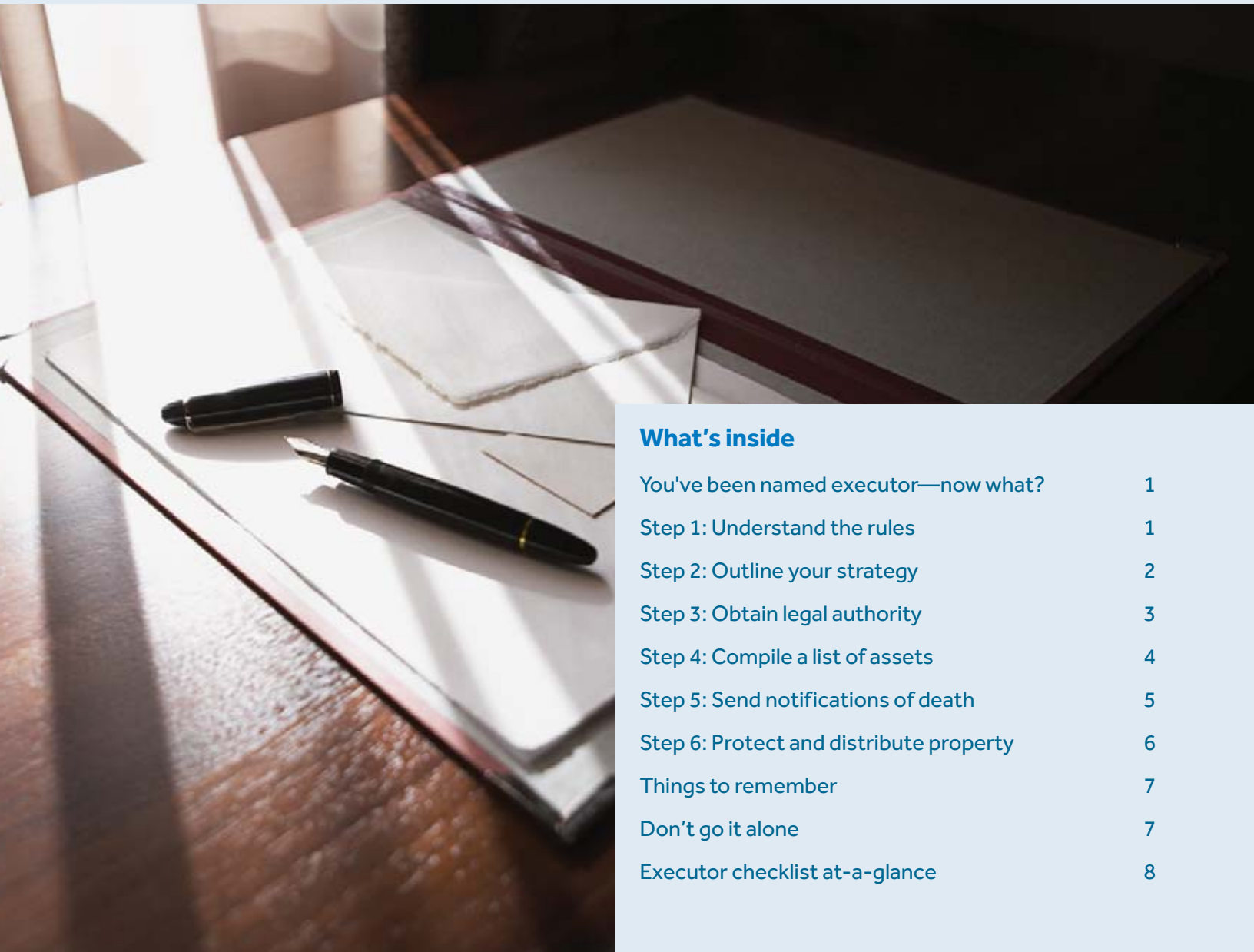
With the right strategy, it doesn't have to be.



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You've been named executor of someone's estate.

You're honored to be entrusted with carrying out their wishes, but you may have questions—What now? What does it all mean? What's the first step? This brochure can help you understand the process, get organized, and create a plan to tackle the task with ease.



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You've been named executor— now what?

An executor, in its broadest sense, is a person responsible for carrying out—or executing—a task.

As the person in charge of settling someone else's estate, you will be responsible for protecting their assets and property, and distributing them to their beneficiaries. There is no legal obligation to accept the job. If you wish to decline, you should inform the court of your decision as soon as possible, so an alternate executor can be appointed.

But, if you choose to accept, you will be looked upon to be honest, prudent, loyal, and impartial until your task is complete. And, while it's an honor to be named someone's executor, it's also a lot of administrative work.

If you take on the role of executor, the following steps may help you outline a strategy to settle the estate as efficiently as possible.

Step 1: Understand the rules

As with any job, you need to become comfortable with your role, so part of your responsibility as an executor will be to familiarize yourself with the various rules. Every state has different probate and tax laws, so you should become acquainted with the guidelines in the deceased's state of permanent residence.

The laws can be complicated, so you should seek help from local experts, including estate lawyers and tax professionals. The more you understand the rules, the more effective and efficient you will be in settling the estate.





Step 2: Outline your strategy

In most cases, the will outlines the deceased's wishes about who gets what from the estate. Even if the instructions are clearly summarized, you still need to define your strategy. As executor, you will be responsible for paying bills associated with the estate, filing and paying all necessary taxes, contacting beneficiaries, and carrying out probate court administration.

Without being prepared and organized in your course of action, you could overlook key tasks, and expose yourself to liabilities associated with mismanagement. It's a good idea to work with local legal and financial professionals to help establish your strategy and ensure that you are covering all essential tasks in the required time frames.

Set up a filing system

Keeping a filing system with the deceased's documents and your notes is the foundation of your success as an executor, and can help to minimize questions, insecurities, and even lawsuits between family members. Staying organized will also help you track the inevitable calls from creditors, beneficiaries, banks, and insurance companies. Set up a file for correspondence and include a copy of any communication you send. Remember, you are carrying out the wishes of another—not yours—so always take a business-like approach.

This will surely be a difficult time for the family. If you know that you have been named executor, while not required, it would be a welcome support for you to offer assistance with the funeral and burial arrangements. These are costs you will most likely be responsible for paying from estate funds.

Did you know...

For a will to be valid, it must be in writing, signed, and dated by the person who created it. And, in accordance with state law, it must also be signed by a witness.

Step 3: Obtain legal authority

Before you do anything, you will need to be granted the legal authority to finalize the estate. The first step is to locate the will. Start with the person who informed you that you were named executor. They should have a copy of the will or know where it is located. If not, ask the deceased's attorney or spouse.

You will need to obtain the most current, signed, and original copy of the will. Then, file a certified version along with any separate amendments, called codicils, with the local probate court. This begins the process of executing the will. Probate is the legal process of administering an estate by resolving all claims and distributing a deceased person's property under a valid will. A probate court interprets the instructions of the deceased, confirms an executor as the estate's personal representative, and "referees" the interest of anyone having a claim against the estate. Most probate courts require the will to be filed within one month of finding it. Not filing it could lead to civil or criminal penalties.

Decide if probate proceedings are necessary

While you must file the will with the local probate court, you may be able to avoid formal probate proceedings if the deceased's personal property is worth less than a certain amount. However, if there are substantial assets, they may be considered probate assets. Check the state laws for guidance on probate limits.

Obtain letters testamentary

You must also obtain documents called "letters testamentary," which indicate that a copy of the will has been filed with a probate court and that you have been formally appointed as the executor of the estate. These letters certify you to act on behalf of the estate. Think of letters testamentary as a license that allows you to perform banking, financial and tax transactions, real estate dealings, or any other action necessary to settle the estate.



Step 4: Compile a list of assets

Hopefully, you have access to a detailed list of assets, their location, and beneficiaries. If not, you will need to create one. Look for ownership documents such as titles, deeds, account statements, maintenance records, and receipts. You may need to establish date-of-death fair market values for estate assets, which could include obtaining appropriate appraisals and filing an inventory with the probate court.

Common assets to look for include:

- **Cash.** Cash gifts outlined in the will are not distributed first. Instead, they come from the residuary estate, which is what is left after all debts and expenses have been paid. Some states require that the estate pay interest on cash gifts if they are not made within a certain time frame. Consult state laws for specific information regarding timing and interest payments.
- **Transfer-on-death assets.** Many larger assets, like trusts, jointly owned property, retirement savings accounts, and some bank accounts,

will already have a beneficiary designated. That allows those assets to immediately pass payable-on-death (POD) or transfer-on-death (TOD).

- **Trusts.** Trusts can be established from a will to safeguard assets, specify how the assets can be used, and how the trustee should make decisions about spending the trust money. These types of trusts are called testamentary trusts, and are common when young children are involved.
- **Conditional gifts.** Conditional gifts require that a specific action happens before an asset can pass to the beneficiary. For example, a gift of \$10,000 may be given to the deceased's brother only if he quits smoking. These types of gifts should be handled prudently. Often, they do not carry any specific time frames or guidelines, so the terms need to be agreed upon by you and the beneficiary.

Other asset types can include:

- Retirement accounts—401(k), IRA, Roth IRA, Keogh
- Pension
- Securities—stocks, bonds, mutual funds, etc.
- Business property
- Business interests—sole proprietorship, corporation, limited liability company, partnership
- Cash accounts—offshore accounts, checking, savings, CDs, etc.
- Life insurance and annuities
- Real estate
- Loans to family members
- Collections—antiques, books, stamps, cameras, art, china, silver, coins, etc.
- Jewelry and precious metals
- Copyrights, patents, and trademarks
- Royalties
- Personal property—furniture, vehicles, etc.

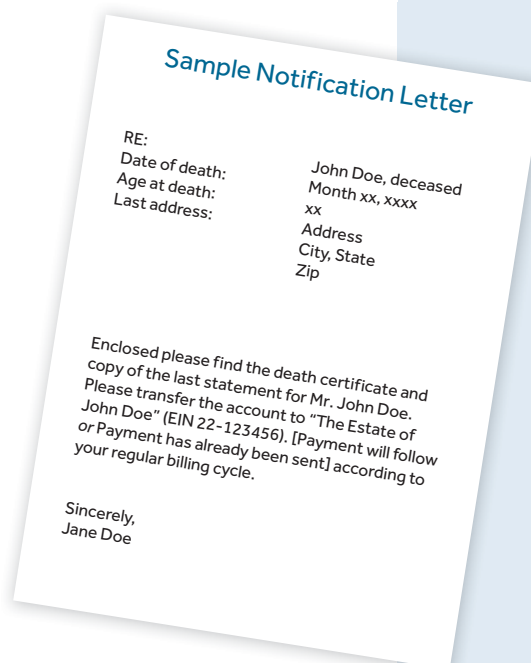
Helpful hint...

If the deceased was a veteran or eligible for Social Security benefits, inform both Social Security Administration and the U.S. Department of Veterans Affairs. The family may be eligible for benefits.

Step 5: Send notifications of death

You will need to order copies of the death certificate. As the official evidence of death, they are required to close out accounts, continue or stop Social Security payments, and claim life insurance and retirement benefits for a beneficiary. You can contact the local county office to order death certificates. It's a good idea to ask for at least 10 copies, but you may need more depending on the number of accounts you need to manage. Anticipate paying up to \$25 for the first copy, and less for additional copies. Any out-of-pocket expenses associated with settling the estate should be reimbursed to you from the estate.

Once you receive the death certificates, you will need to send copies to notify various parties of the death. (A sample notification letter is shown below.) This will allow you to inform beneficiaries and heirs that an executor has been appointed, change ownership of assets and accounts to either the estate or a beneficiary, and give creditors an opportunity to come forward. Start with the deceased's mail to determine who should be notified.



Step 6: Protect and distribute property

Until the estate is fully distributed, you are responsible for opening accounts in the name of the estate. This will allow you to:

- Care for property until it is passed to the new owner.
- Pay bills, including the mortgage on a primary residence or rental property.
- Maintain the most prudent action for cash or investments.

Protect assets until they are distributed

Part of acting prudently is to keep all estate assets separate from your own to avoid conflicts of interest. Any interest earned on estate assets should be deposited into a checking or savings account of the estate, and never your own.

Follow the instructions in the will carefully, and don't take any unnecessary risks with estate money. If, in good faith, you take action to preserve the estate, but it suffers a loss in value, a court may not find you liable for the loss. However, if you acted imprudently or in violation of your duties, you could be removed as executor and sued by the beneficiaries and creditors.

Payment of estate debts and taxes

Normally, the estate is responsible for funeral and burial costs, health care bills associated with an illness prior to death, executor administration costs, and taxes. If there is not enough in the estate to pay for these costs, the state will prioritize the expenses, which may leave some creditors and service providers unpaid.

If there is enough money in the estate, and the will does not direct how bills should be paid, you should use your best judgment to satisfy the expenses. It is generally considered prudent to use non-investment money, such as cash and money market funds, to pay bills and taxes. If necessary, you may need to sell assets to cover expenses. Remember, the funds cannot come from another inheritor's assets unless specifically directed by the will. You should consult a qualified attorney and accountant for more information.



Things to remember

- Maintain control when distributing assets. You have a responsibility to manage property distribution in an orderly fashion.
- Unless you are a co-owner of inherited assets, you are not responsible for paying any estate taxes out of your own funds.
- If the deceased owned a home, put the lights on timers and continue to maintain the property. Collect any extra keys.
- Provide tenants of any rental properties with your contact information, and collect rent checks directly.
- Safely store any vehicles that will not be used.

Don't go it alone

An executor is responsible for the administration of an estate until all distributions are made to beneficiaries. This can be a complex and demanding task. Seek the help of an estate attorney, accountant, and qualified financial professional who can answer questions about the will, financial issues, and specific laws.

Executor checklist at-a-glance

Immediate Tasks
Find the will
Apply for an Employer Identification Number (EIN) from the IRS
Appraise assets, if needed
Arrange to publish a "notice of probate" in local newspapers
Determine whether probate proceedings are needed
Protect/Manage assets until distributed to beneficiaries
Collect money owed to the estate (wages, insurance benefits, rents, etc.)
Pay bills
File final income tax returns for deceased
File estate taxes, if necessary
Notify inheritors and beneficiaries
Typical Businesses and Agencies to Notify
Banks
Credit card companies
Utility companies and service providers (landscapers, trash haulers, etc.)
Post Office
Doctors or other health care providers
Employer and former employers
Investment firms
Insurance company
Landlord and/or tenants
Pension payers
Social Security Administration
U.S. Department of Veterans Affairs
State health/welfare departments
Documents Needed
Bank statements
Birth certificate
Brokerage account statements and investment records
Business co-ownership agreements
Checkbook(s)
Credit card statements
Disability-related documents
Divorce papers/Child support documents
Health insurance policies, statements, or bills
Immigration and citizenship documents
Life insurance policies and premium payment records
Marriage license/certificate
Military service records
Prenuptial agreement
Real estate deeds and tax records
Registration papers for vehicles or boats
Retirement account statements and pension records
Social Security records
Form W-2 showing wages for the current year
Workers' Compensation paperwork

Additional resources

The Executor's Guide

By Mary Randolph ©2008 Berkeley, CA: Nolo

The Executor's Handbook

By Theodore E. Hughes and David Klein, © 2001
Second Edition, NY: Checkmark

irs.gov > **IRS Publication 559 for Survivors,
Executors, and Administrators**

nolo.com > **"Estate Planning: Wills, Trusts & Probate" section**



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