

ALWAYS  
YOUR TRUSTED  
PARTNER

# Crash Course for Executors

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**BEING AN EXECUTOR IS A BIG RESPONSIBILITY.**

Being named an executor can be an honor. However, unless you're an attorney or have previous experience, it can be a bigger job than you probably think. With this in mind, Investor's Resource has created this guide to assist you as you perform your required duties.

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In 2018, a research study from EstateExec was conducted to better understand estate sizes and issues that arise in the settlement process. It outlines the need for families to be more proactive in their estate planning and illustrates the gap that exists within families to plan beyond simply making legal documents. And, it is part of the education effort we believe is so crucial between the generations of families today.

**DID YOU KNOW?**

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**16 mo.**

Approximate timeframe needed to settle an estate.

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**570 hrs.**

Approximate timeframe needed for an executor to perform their duties.

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**44%**

of cases experience family conflict during the settlement process.



## STEP 1

# Read the will, make a list of all assets and liabilities, and determine if probate is necessary.

### LOCATING AND READING THE WILL

The first step is to locate and read the will. Original wills are often stored in safe deposit boxes, held at the attorney's office where the document was drawn up or kept in home filing systems. As executor you have the authority to access the will at a bank or the attorney's office.

After reading the document, you will deliver the original to the probate court, so make several copies for reference later. If it is stapled or bound, do not remove any staples or binders, as this adds to "validity."

If the original will cannot be located, the estate will likely be considered "intestate" and will follow the state laws to dispense property.

### REQUEST DEATH CERTIFICATES

You will need to request certified copies of the death certificate from the funeral director or from the county health department. Separate certificates are often needed to transfer each piece to property, account, insurance policy, safe deposit box and tax return, so getting 10-20 copies isn't unusual.

### DETERMINE IF PROBATE IS NECESSARY

If there are only a few assets and liabilities, it might be possible to settle the estate without going through a process called probate. However, the more complicated the estate is, the greater the chance you will need to go through probate, which involves the court system.

## What is probate?

Probate is a legal process conducted by a court in the county where the decedent lived. Probate procedures vary from state to state, but typically include:

- Deeming the will to be valid
- Making sure all debts, taxes, and expenses are paid
- Distributing assets to the rightful heirs or beneficiaries

In your role as executor, you are responsible for administering only probate assets.

<p>PROBATE PROPERTY MUST BE HANDLED BY EXECUTOR GOVERNED BY THE WILL</p>	<p>NON-PROBATE PROPERTY CAN BE HANDLED BY ANYONE GOVERNED BY ASSET TITLE OR BENEFICIARY</p>
<p>Individual accounts (one name on asset).</p> <p>Often assets start off in a joint name or with a beneficiary designation. When one individual passes away, the property ultimately is deemed individual property and may get pulled into probate upon the death of the last surviving person.</p>	<p>Joint WROS (with right of survivorship) Joint TIC (tenants in common)</p>
	<p>IRAs, employer pre-tax retirement accounts, and Roth IRAs if beneficiary is a person or a trust</p> <p>If beneficiary is the estate, if no designation is made, or if beneficiary is deceased, it becomes probate property</p>
	<p>Annuities are treated the same as IRA</p>
	<p>TOD/POD (transfer on death or payable on death) accounts</p>
	<p>Life insurance proceeds are treated the same as IRA</p>
	<p>Living Trust accounts. Since the subject of trusts is complex, seek advice of your wealth advisor and attorney in these situations to clarify options</p>
<p>529 accounts with no successor participant</p>	<p>529 accounts with a successor participant</p>

**ABOUT NON-PROBATE ASSETS**

Again, in your role as executor, you are only required to handle probate assets. However, because you are closely involved with the estate, you may be inclined—or asked by someone—to assist with the administration of non-probate assets. This is strictly optional and up to you.

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Settling these assets usually involves filing a claim form or similar paperwork from the government, business or insurance company and providing a certified copy of the death certificate. If you are asked to handle these assets, sending documents through registered or certified mail is recommended.

**DECEDENT-OWNED BUSINESS**

Chances are there will be legal business agreements which will cover the specifics of how the business is handled. If not, you will need to consult an expert to value the business and help you determine the next step.

**WHEN TO CONSULT EXPERTS**

Typically, the more property that will need to go through probate, the more help you'll probably need. This commonly involves hiring an estate attorney.



## STEP 2

# Oversee the transfer or sale of personal effects according to the provisions of the will.

Furniture and other personal effects are often bequeathed to individuals in the will. However, you should not distribute these items until you are certain there is enough cash in the estate to cover all debts and expenses. Otherwise, the items might need to be sold to help cover expenses.

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If there is enough cash, you can proceed to oversee the transfer of the items in accordance to the provisions of the will.

## STEP 3

# If there are minor children, petition the court to officially appoint guardians.

If the decedent leaves minor children, a guardian must be appointed by the probate court as soon as possible so someone has the authority to address their needs, such as medical treatment and school enrollment.

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If there is no guardian listed in the will, the court will typically appoint a close relative. Assets owned by the children can be placed in trust. Again, to ensure the best interests of the children are fully protected, you should hire an experienced attorney.

## STEP 4

## Apply for the probate of the will and the granting of Letters Testamentary.

File an Application for Probate with the court and attach the original of the will. Notice is then posted by the court, and a hearing is scheduled. In the hearing, you will be asked to prove the death occurred in that county, the validity of the will, and your ability to serve as executor.

After the hearing, you'll file an oath with the court saying you will perform all necessary duties. In a few weeks, the court will issue certified Letters Testamentary in your name proving you have the legal power to represent the estate. You will use them to conduct estate business going forward.

### SHORTER PROCESS FOR SIMPLE ESTATES

Some states have a small estate procedure to transfer certain assets through a shorter, less costly method. Consulting an attorney about state laws and procedures can save time and money, especially in simple estates.

## STEP 5

## Notify the IRS and all creditors of the death and redirect all mail to you.

### NOTIFYING THE IRS

You should notify the IRS via Form 56, Notice Concerning Fiduciary Relationship. While not mandatory, this form is highly recommended so the IRS will know to send mail and tax notices to you instead of the decedent's former address.

### SECURING ESTATE TAX IDENTIFICATION NUMBER

The next step is to secure a federal taxpayer identification number ("EIN") for the estate. This can be obtained online at [www.irs.gov](http://www.irs.gov) by telephone or by mail by filing IRS Form SS-4, Application for Employer Identification Number. You will use this number on estate income tax forms instead of the individual's Social Security number.



## STEP 6

## Open a checking account for estate expenses.

OPEN A TEMPORARY CHECKING ACCOUNT TO PAY FOR FUNERAL COSTS, CREDITOR CLAIMS, TAXES, AND OTHER EXPENSES. THE ACCOUNT SHOULD BE OPENED AS ESTATE OF (NAME OF DECEASED); JOHN SMITH, EXECUTOR. ONCE OPENED, YOU WILL USE YOUR NAME TO ENDORSE ALL CHECKS YOU DEPOSIT INTO THE ACCOUNT.

### ESTATE CHECKING ACCOUNT FUNDING

Usually, the funds you will put in the estate account come from the decedent's bank accounts or insurance proceeds not paid to a beneficiary. If there is not enough cash to cover all expenses, you can sell other assets such as securities, real estate, promissory notes, vehicles and other personal property.

However, unless the will expressly authorizes certain sale of assets, you may need to obtain court approval to allow for the sale. If there is no specific reference in the will, state laws provide an order of priority in reducing bequests made in the will when necessary to pay claims.

### PAYING BILLS AND CREDITORS

Bills, debts and expenses should be paid as soon as proven legitimate to avoid late payment charges if the cash is available. If there is not sufficient cash to cover all expenses, you might need to delay payment.

Some debts might be covered by insurance or other protections: for example, loans secured with life insurance, credit card vendors who charge no additional interest after death, or additional health insurance claims for medical bills. As the executor, it is your job to determine if any debt coverage exists.

### INSUFFICIENT FUNDS

If the estate's assets are insufficient, some creditors will not be entitled to be paid in full. If the estate is small, state law might not require payment to all creditors. State laws include a prioritized list for which bills should be paid in what order.

## Protecting Assets

You are also required to use estate funds to protect assets during the probate process. For instance, money should be used for general upkeep and protection of the decedent's home or car. Valuables such as jewelry or securities that are part of the estate should be kept in a safe place. Other preservation requirements include:

- Paying mortgages and insurances
- Paying utilities to keep property from deteriorating
- Filing Medicare and other medical claims
- Seeking reimbursement for credit card annual fees, prepaid club memberships or unused airline tickets
- Canceling margin or securities-based lending arrangements with brokerages



## STEP 7

# Submit a detailed inventory of probate assets to the court.

One of your most important jobs is to find, inventory and assign a proper value to all the decedent's assets. You are required to locate and provide records including the following:

- Bank accounts including cleared/canceled checks, checkbooks
- Income tax returns and all prior gift tax returns
- Insurance policies and appraisals
- Medicare information
- Credit card statements
- Business records including salary records for any employees
- Securities and brokerage account statements
- Deeds, mortgages and auto titles
- Information about jewelry, art and other valuables

Ideally, this information would have been included in the decedent's pre-planning documents. However, if they did not leave an updated Letter of Instruction, the following documents on the right can help you locate assets:

### **BANKS RECORDS OR CHECK REGISTER**

Look for payments made for investments, insurance, debts, mortgages, medical expenses, tax payments, vehicle registration fees and safe deposit box rental fees.

**INCOMING MAIL** Look for dividends, pensions and payments of various types owed to the decedent; bank or brokerage statements; insurance premium notices; and charge account bills, etc.

### **PRIOR YEAR'S INCOME TAX RETURN**

The income listed on the return indicates many income-producing assets.

**SAFE DEPOSIT BOX(ES)** Look for a small flat key with a number imprinted on it among the decedent's belongings, or you may find a statement or a canceled check for the yearly rental fee.



## STEP 8

## File and pay income taxes.

You are responsible for filing the final federal and state income tax returns required in the year of death. Determining tax liabilities is one of the most complicated aspects of settling an estate, and it is highly recommended—especially with a complex estate—to consult attorneys and/or CPAs for this step in the process.

### AFTER DEATH, THERE ARE THREE POTENTIAL TAXPAYERS:



The estate, which may have to pay federal income, estate or generation-skipping tax



The decedent, who is subject to income tax for the portion of the year before death



The beneficiaries, who may have to pay income tax when income from the estate assets is distributed to them

## Determining Tax Liabilities

### GENERALLY

- The decedent owes tax for the portion of the year they were alive.
- In most cases, income that is retained by the estate during the tax year is taxed to the estate.
- If assets are distributed to the beneficiaries, the beneficiary is liable for the taxes.

Again, hiring an accountant familiar with probate and estate tax matters, particularly where a federal estate tax return is required, could be well worth the expense.

## STEP 9

## File an estate tax notice and/or estate tax return along with any other state-specific inheritance related forms.

As mentioned previously, when it comes to taxes, consider consulting with both a CPA and an attorney to ensure all required taxes are paid. This is particularly true for large, complex estates.

### ESTATE TAX RETURN (FORM 706)

This is due nine months after the date of death if the total estate (before deductions) exceeds the filing threshold or \$11.58 million (as of 2020). The return is still required even if no estate tax is due.

### FOR LARGER ESTATES

If estate tax thresholds are a consideration, you must attempt to reconstruct all taxable gifts, transfers of property for less than fair market value, and powers of appointment held by the decedent during his lifetime. In these larger estates, additional state inheritance taxes may be due.

## STEP 10

## Submit a final accounting form.

While the final accounting process varies from state to state, you will typically get the final accounting form from the probate court. Once completed and filed, you will sign a document stating all assets have been collected and distributed to the proper heirs and creditors have been paid.

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If everyone agrees to the final settlement, the Petition for Final Settlement is presented to the probate court along with consents by all heirs or beneficiaries. The court will then close the matter.

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If there is disagreement about settlement, you will hold all assets until a final hearing during which the court will issue a ruling on how to distribute the assets.





#### **ABOUT THE AUTHOR**

Shari Burnum, CFP®, founder and president of Investor's Resource located in Madison, Alabama, is an independent wealth manager with over 30 years of experience working with individuals, families and investors who have complex needs. She draws insights from her experience in wealth management as well as extensive research and good old-fashioned street smarts. You can reach Shari by email at [shari@invresource.com](mailto:shari@invresource.com).

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#### **WHY WE WROTE THIS E-BOOK**

Unfortunately, too many families don't talk about money. This often results in the loss of time and money as family members try to figure out how to care for loved ones and settle estates after death. Much of this can be avoided with more complete planning and better communication.

The steps and information contained in this booklet are part of our VisionMapping program. This is a proprietary process Investor's Resource developed to help individuals and families who want to preserve their wealth and leave a legacy beyond their monetary assets. It creates a comprehensive life plan, involves a deeper level of planning and goal setting and is designed to help you leverage your assets to create a richer, more rewarding life and legacy.





## **YOUR TRUSTED PARTNER FOR LIFE**

Life isn't all about money. This sentiment might sound odd coming from a team of financial advisors, yet it is a foundational belief that leads us to deliver a different level of services to our clients.

Experience has taught us success comes when you are able to pursue your true passions, seek fulfillment, and share your vision with those you love. Over the years, we have also learned just how much money can shape life experiences and change how your story plays out.

We believe holistic financial planning is an integral part of preparing for and living your best possible life. It's purposeful planning that can give you confidence, peace of mind, and the freedom to pursue what brings you joy.

This is what makes us different at Investor's Resource. We're not about selling products and sending you reports. And we

don't see life in terms of dollars and cents. We are about giving you the solutions, advice, and creative guidance you need to live confidently to and through retirement.

We want to provide solutions and services that give you the ability to answer life's greatest questions. Because answering questions like "What's next?" and "Why not?" builds a more enriching story.

We believe this commitment to your entire life—not just your retirement—is what sets us apart. It's what makes us different, better, and not just a financial advisor. It makes us a lifelong partner.



## OUR CORE VALUES

We can say we're better than other firms and get results for our clients all day long. What really sets us apart—and makes us who we are—is what we believe. These beliefs drive everything we do, every single day.

### TRUST

Perhaps nothing is more important to an advisor-client relationship than trust. But we know trust isn't something you give away easily. Trust is earned, and our people know exactly how to earn it: by working harder and smarter to get you results. Tireless effort goes into keeping our finger on the pulse of what's important to you and helping you achieve it. We are completely committed to a trusted partnership to help you live a fulfilling, rewarding life.

### OBJECTIVITY

Objectivity is a value we've held since day one because it gives us the ability to do what's best for you—to search high

and low to find the resources to help you achieve your goals. It means we don't have preferences or relationships that affect our judgment. We've actually taken this objectivity and independence to the next level, becoming personal fiduciaries aligned with a registered investment advisor firm.

### INTEGRITY

Building a lasting relationship with you is of utmost importance to us. Because we're so invested in you, your story, and your legacy, we want to see it through. To see our work help you live the life you want. But lasting relationships are built on integrity. Sincerity. Transparency. Honesty. Respect. You can rest assured if you work with us for five years or fifty, we will always do the right thing. Without exception.

## LET US HELP YOU BUILD A RICHER LIFE.

Only an experienced team dedicated to looking at all the dimensions of your life can provide an added level of guidance needed to build a richer life. Only a business committed to best-in-class resources in a constantly changing world can serve as a true trusted partner. Our business and its people are passionate about you, your vision, your life and your legacy—and how money can further those to and through retirement. The possibilities within your life story mean everything to us.

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