FOR ADVISORS AND THEIR CLIENTS

A Guide for Executors

What to do when you are named as executor of an estate. A step-by-step reference covering the probate process, your legal responsibilities, tax obligations, and how to work with professionals.

ABOUT THIS GUIDE

This guide is provided for informational and educational purposes only. It does not constitute legal, tax, or financial advice. Estate administration is governed by state law and varies significantly by jurisdiction. Every estate has unique circumstances that require professional guidance. Consult with an estate attorney and CPA before making decisions about probate filings, tax returns, asset distributions, or creditor claims.

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When You Are Called to Serve

An executor (called a "personal representative" in many states) is the person named in a will to manage the estate after someone dies. If you have been named, you are not required to accept. But if you do, you take on a legal duty to act in the best interest of the estate and its beneficiaries.

570	16 mo.	46%
AVERAGE HOURS AN EXECUTOR SPENDS SETTLING AN ESTATE	AVERAGE TIME TO SETTLE AN ESTATE FROM START TO CLOSE	OF EXECUTORS DID NOT KNOW THEY HAD BEEN NAMED UNTIL AFTER THE DEATH

This guide walks you through the process from beginning to end. It is not a substitute for legal advice. Every estate is different, and state laws vary significantly. But it will give you a clear framework for what to expect, what to do first, and when to call a professional.

THE FIRST 48 HOURS

The immediate period after a death is overwhelming. These are the priorities. Not everything needs to happen at once, but these should not wait.

- [ ] Locate the will. Check the decedent's home (safe, desk, filing cabinet), their attorney's office, and any safe deposit box. You need the original, not a copy.
- [ ] Obtain death certificates. The funeral home typically orders these. Request 10-12 certified copies. Banks, insurers, courts, and government agencies will each require an original.
- [ ] Secure the property. Lock the home. Collect mail. Protect valuables. If the home will be vacant, ensure it remains insured and that utilities stay on.
- [ ] Notify immediate family and close friends. This is personal, not legal. Handle it before the administrative work begins.
- [ ] Care for dependents and pets. If the decedent had minor children, elderly dependents, or pets, make sure they are safe and cared for immediately.
- [ ] Do not distribute any assets. No matter how clear the will seems, do not give anything away yet. Debts and taxes must be addressed first.

> **Do not pay debts from your own funds.** All estate expenses, including funeral costs, utility bills, and mortgage payments, are paid from estate funds, not your personal accounts. Open an estate bank account as soon as you receive your letters testamentary.

Understanding Probate

Probate is the court-supervised process of validating a will, paying debts, and distributing assets. Not every estate goes through probate, but if the decedent owned property in their own name (not in a trust, not with a beneficiary designation, not jointly held), probate is required.

WHEN PROBATE IS NOT REQUIRED

Several types of assets bypass probate entirely:

- Trust assets. Property held in a revocable living trust passes according to the trust terms. No court involvement needed.
- Joint tenancy property. Assets owned as joint tenants with right of survivorship (JTWROS) or tenants by the entirety (TBE) pass automatically to the surviving owner.
- Beneficiary designation assets. Life insurance, retirement accounts (IRA, 401k), annuities, and POD/TOD accounts pass directly to the named beneficiary.
- Small estates. Most states allow simplified procedures for estates below a threshold (varies by state, from $25,000 to $184,500 depending on the jurisdiction). Often a simple affidavit is sufficient.

> **Even with a trust, probate may be needed.** If the decedent had a trust but failed to transfer some assets into it, those unfunded assets may still require probate. This is why estate plans include a "pour-over will," to sweep remaining assets into the trust through the probate process.

THE PROBATE TIMELINE

Week 1-2: File the will with the probate court

Most states require filing within 30 days of death. Submit the original will, a death certificate, and a petition for appointment as executor / personal representative.

Week 2-4: Receive Letters Testamentary

The court issues a document (called "Letters Testamentary" or "Letters of Administration") confirming your authority to act. This is required by every bank, insurer, and institution before they will work with you.

Month 1-2: Notify beneficiaries, heirs, and creditors

Send formal notice to all beneficiaries named in the will and all legal heirs. Publish a notice to creditors in a local newspaper (required in most states). Send direct notice to known creditors.

Month 1-3: Inventory and appraise assets

File a complete inventory of estate assets with the court. Obtain appraisals for real estate, business interests, and valuable personal property. This establishes the date-of-death value for tax purposes.

Month 2-6: Creditor claims period

Creditors have a limited time to file claims, typically 4 to 6 months after the notice is published. Review each claim. Accept valid debts and reject invalid ones. Pay accepted claims from estate funds in the order required by your state's priority rules.

Month 6-12: File tax returns and pay taxes

File the decedent's final income tax return (Form 1040). File an estate income tax return (Form 1041) if the estate earns income during administration. File a federal estate tax return (Form 706) only if the estate exceeds the federal exemption.

Month 9-16: Distribute assets and close the estate

Prepare a final accounting. Distribute remaining assets to beneficiaries per the will. Obtain receipts or releases from beneficiaries. Petition the court to close the estate and discharge you from further responsibility.

Your Responsibilities

As executor, you are a fiduciary. This means you have a legal obligation to act in the best interest of the estate and its beneficiaries, not in your own interest. Fiduciary duty applies to every decision you make, from investing estate funds to selecting professionals.

CORE DUTIES

1. Locate and secure all assets

Identify every asset the decedent owned: real estate, bank accounts, investment accounts, retirement accounts, life insurance, vehicles, business interests, personal property, and digital assets. Check tax returns, bank statements, and mail for accounts you may not know about. Change mailing addresses to the estate's address.

2. Open an estate bank account

Apply for a federal Employer Identification Number (EIN) for the estate. This is free and can be done online at irs.gov. Open a checking account in the name of the estate. All estate income and expenses flow through this account. Never commingle estate funds with your personal funds.

3. Pay valid debts and expenses

After the creditor claims period closes, pay debts in the order required by your state's priority rules. Typical priority: funeral expenses, administrative costs (court fees, attorney fees, executor compensation), taxes, secured debts, then unsecured debts.

> **Debt priority matters.** If the estate does not have enough assets to pay all debts (an insolvent estate), you must follow your state's priority rules exactly. Paying a lower-priority creditor before a higher-priority one can expose you to personal liability. When in doubt, consult the estate attorney.

4. Manage assets prudently during administration

You are responsible for maintaining property (insurance, upkeep, mortgage payments), managing investments conservatively, collecting income owed to the estate, and protecting assets from loss. This is not the time to make aggressive investment decisions.

5. Keep detailed records

Document every transaction, decision, and communication. Keep receipts, statements, correspondence, and a log of your time. You will need to prepare a final accounting for the court and the beneficiaries, and you may need to justify any decision you made.

6. Communicate with beneficiaries

Keep beneficiaries informed of progress, timelines, and any issues. You are not required to share every detail, but silence breeds suspicion. Regular updates, even brief ones, prevent most disputes before they start.

7. Distribute assets and close the estate

Once debts, taxes, and expenses are paid, distribute the remaining assets according to the will. Obtain a signed receipt or release from each beneficiary. File a final accounting with the court and petition for discharge.

> **Personal liability is real.** If you distribute assets to beneficiaries before paying all debts and taxes, you can be held personally liable for the shortfall. If you mismanage estate assets, breach your fiduciary duty, or fail to follow the will, beneficiaries can sue you. The most common causes of executor liability: premature distributions, missed tax deadlines, commingling funds, and failure to properly notify creditors.

Tax Obligations

Tax compliance is one of the executor's most important, and most anxiety-producing, responsibilities. You do not need to prepare these returns yourself, but you need to understand what is required so you can work effectively with the estate's CPA.

REQUIRED TAX FILINGS

RETURN	FORM	WHEN REQUIRED	DEADLINE	KEY NOTES
Final personal income tax	1040	Always	April 15 of year after death	Covers Jan 1 through date of death
Estate income tax	1041	Estate earns $600+ in income	April 15 or fiscal year-end	Income earned by estate during administration
Federal estate tax	706	Gross estate exceeds exemption ($13.61M in 2024)	9 months after death	Most estates do not owe federal estate tax
State estate tax	Varies	Depends on state; thresholds vary	Varies by state	Some states tax estates as low as $1M
Gift tax return	709	Decedent made reportable gifts	April 15 of year after death	Filed with final 1040

THE STEPPED-UP BASIS

When someone dies, most of their assets receive a "stepped-up" cost basis equal to the fair market value on the date of death. This eliminates capital gains tax on any appreciation that occurred during their lifetime. For example, if the decedent bought stock for $10,000 and it was worth $100,000 at death, the beneficiary's cost basis is $100,000, not $10,000. If they sell immediately, they owe no capital gains tax.

This is why date-of-death valuations are critical. Document the value of every asset as of the date of death. For publicly traded securities, use the closing price on the date of death (or the average of the high and low). For real estate and business interests, obtain a formal appraisal.

> **Hire a CPA early.** The estate's CPA should be engaged within the first month, not at tax time. They will advise on the estate's fiscal year election (calendar year vs. fiscal year), estimated tax payments, and whether to make distributions before year-end to shift income to beneficiaries. IRS Publication 559 is the definitive reference for estate tax obligations.

Working with Professionals

You are not expected to do this alone. The estate pays for professional services, not you personally.

PROFESSIONAL	WHEN TO ENGAGE	WHAT THEY HANDLE
Estate attorney	Immediately, before filing anything	Probate filings, creditor notices, legal disputes, court appearances, final accounting
CPA / tax preparer	Within the first month	Final 1040, Form 1041, Form 706 if needed, stepped-up basis calculations
Appraiser	Within 1-3 months	Real estate, business interests, collectibles, jewelry, for inventory and basis
Financial advisor	Immediately if accounts need management	Investment oversight during administration, beneficiary rollovers, account transfers
Real estate agent	When property needs to be sold	Listing, marketing, sale. May need court approval depending on state and will terms.

Handling Specific Assets

Real estate

Secure the property immediately. Continue insurance, mortgage, property tax, and utility payments from estate funds. If the will directs that a specific person receive the property, transfer it by executor's deed after debts and taxes are settled. If the property must be sold, some states require court approval. Check with the estate attorney. Obtain a date-of-death appraisal for basis purposes.

Bank and investment accounts

Notify each institution with a death certificate and your letters testamentary. Accounts titled solely in the decedent's name will be frozen until the institution receives your documentation. Joint accounts with right of survivorship pass to the surviving owner automatically. POD/TOD accounts pass to the named beneficiary. Re-title remaining accounts to the estate.

Retirement accounts

Retirement accounts (IRA, 401(k), 403(b), pension) pass by beneficiary designation, not through the will. Notify each custodian. The rules for inherited retirement accounts are complex and depend on the beneficiary's relationship to the decedent (spouse, non-spouse, eligible designated beneficiary) and the SECURE Act's 10-year distribution requirement. The estate's CPA and financial advisor should handle this directly.

Life insurance

File a claim with each carrier using a death certificate and the policy number. Proceeds go to the named beneficiary, not the estate, unless the estate is named as beneficiary or all named beneficiaries predeceased the decedent. Claims are typically paid within 30-60 days.

Business interests

If the decedent owned a business, check for a buy-sell agreement first. It may dictate what happens to the interest. If no buy-sell exists, the interest becomes part of the estate. You may need a business valuation. Consider whether the business needs to continue operating during administration, and who will manage it.

Vehicles

Transfer title through the DMV with a death certificate and letters testamentary. If the vehicle is being sold, some states allow a direct transfer to the buyer without first re-titling to the estate. Keep insurance active until the vehicle is transferred or sold.

Digital assets

Check for a password manager, written list, or letter of instruction. Contact email providers, social media platforms, and financial apps to report the death. Every state has adopted a version of the Revised Uniform Fiduciary Access to Digital Assets Act (RUFADAA), which governs your access. Cryptocurrency wallets and exchange accounts require special attention. Without access credentials or seed phrases, these assets may be unrecoverable.

> **Cancel subscriptions and recurring charges.** Review the decedent's bank and credit card statements for recurring charges: streaming services, gym memberships, insurance premiums, subscription boxes, software licenses. Cancel each one and request refunds where applicable. This stops the estate from bleeding money during administration.

Common Mistakes

Most executor errors are preventable. These are the ones professionals see most often:

1. Distributing assets before paying debts and taxes. This is the single most common source of personal liability. Do not distribute anything until the creditor claims period has closed and all tax returns have been filed.
2. Missing filing deadlines. The will must be filed with the court, tax returns must be filed on time, and creditor notices must be published within required windows. A missed deadline can result in penalties, denied claims, or personal liability.
3. Commingling funds. Never mix estate money with your own. Every dollar should flow through the estate bank account. Pay yourself executor compensation through the estate account, not by helping yourself to estate funds.
4. Poor record-keeping. If you cannot document a decision, a payment, or a communication, you cannot defend it. Keep everything.
5. Failing to communicate with beneficiaries. Silence creates suspicion and disputes. Send regular written updates, even when there is nothing new to report.
6. Not getting professional help early enough. The cost of an estate attorney and CPA is paid by the estate, not by you. Waiting until problems arise costs far more than engaging professionals from the start.
7. Forgetting to formally close the estate. Filing the final accounting and obtaining a court discharge protects you from future claims. Without it, your liability remains open indefinitely.

Executor Compensation

Executors are entitled to compensation for their work. The amount varies significantly by state:

STATE APPROACH	HOW IT WORKS	EXAMPLES
Percentage of estate	Statutory sliding scale	CA: 4% of first $100K, 3% of next $100K, 2% of next $800K, etc. NY: 5% of first $100K, 4% of next $200K, 3% of next $700K, etc.
Reasonable compensation	Determined by the court based on complexity, time, and skill	Most states use this standard. Typical range: 1-5% of estate value. National average: $13,000-$23,500.
Will-specified	The will sets the fee	Some wills specify a flat fee or percentage that overrides the state default. You can typically petition for additional compensation if the actual work exceeds expectations.

Executor compensation is taxable income to the executor. You may also be entitled to reimbursement for out-of-pocket expenses (travel, postage, copying, storage) separate from your compensation. Family members sometimes waive compensation to preserve estate value. Discuss this with the estate attorney and CPA, as there may be tax implications.

The Emotional Side

Serving as executor is administrative work layered on top of grief. You are managing legal deadlines, financial decisions, and family dynamics while processing the loss of someone close to you. This is a recognized phenomenon. Estate professionals call it "executor burnout."

Give yourself permission to grieve while you work. Set boundaries on how many hours per day you spend on estate matters. Delegate tasks to family members and professionals. Communicate openly with beneficiaries about timelines and delays. And if the burden becomes unmanageable, know that you have the right to petition the court to appoint a co-executor or to resign entirely.

Glossary

Beneficiary

A person or entity named to receive assets under a will, trust, or account designation.

Creditor claims period

The window of time (typically 4-6 months) during which creditors can file claims against the estate.

Decedent

The person who has died.

Estate

All assets and liabilities owned by the decedent at death.

Executor / Personal Representative

The person named in the will to administer the estate. "Personal representative" is the modern term used in many states.

Fiduciary duty

The legal obligation to act in the best interest of the estate and its beneficiaries, with loyalty, prudence, and transparency.

Intestate

Dying without a valid will. Assets are distributed according to state intestacy laws (typically to spouse and children first).

Letters Testamentary

A court-issued document confirming the executor's authority to act on behalf of the estate.

Pour-over will

A will that directs any assets not already in the trust to be transferred ("poured over") into the trust at death.

Probate

The court-supervised process of validating a will, paying debts, and distributing assets.

Stepped-up basis

The adjustment of an inherited asset's cost basis to its fair market value on the date of death, eliminating unrealized capital gains.

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