

Executor

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What Is an Executor?

An executor of an estate is an individual appointed to administer the last will and testament of a deceased person. The executor's main duty is to carry out the instructions to manage the affairs and wishes of the deceased.

The executor is appointed either by the testator of the will (the individual who makes the will) or by a court, in cases wherein there was no prior appointment.

KEY TAKEAWAYS

- An executor is the person who administers a person's estate upon their death.
- An executor is often named by the testator before their death, or else by a court.
- The primary duty is to carry out the wishes of the deceased person based on instructions spelled out in their will or trust documents.
- This means ensuring that assets are distributed to the intended beneficiaries.
- Being an executor is a large responsibility where potential hazards and complications may arise.

How Executors Work

The executor is responsible for making sure all assets in the will are accounted

for, along with transferring these assets to the correct party (parties). Assets can include financial holdings, such as stocks, bonds, or money market investments; real estate; direct investments; or even collectibles like art. The executor has to estimate the value of the estate by using either the date of death value or the alternative valuation date, as provided in the Internal Revenue Code (IRC). ^[1]

The executor also needs to ensure that all the debts of the deceased are paid off, including any taxes. The executor is legally obligated to meet the wishes of the deceased and act in the interest of the deceased. ^[2] The executor can be almost anyone but is usually a lawyer, accountant, or family member, with the only restriction being that they must be over the age of 18 and have no prior felony convictions.

Some people agree to be an executor thinking that it will be years before they have to do any work. However, doing the job properly means going to work immediately. In the words of Jim Morrison, "The future's uncertain, and the end is always near," so agreeing to be an executor means that your legal responsibility could be called upon at any time.

Being an Executor

To be prepared to act as executor, you should:

- Make sure the testator is keeping a list of assets and debts, including bank accounts, investment accounts, insurance policies, real estate, and so on.
- Know where the original will and the asset list are being held and how to access them.
- Know the names and contact details of attorneys or agents named by the testator, and what their function is.
- Discuss the testator's wishes as far as a funeral or memorial service, including instructions for burial or cremation.
- Discuss the will with the testator and, if possible, with the beneficiaries in order to minimize problems in the future.
- Have a copy of [all these documents](#).

Again, it is important that you have the time to gather this information as soon as possible after [you've agreed to be the executor](#).

Executors and Estate Planning

Executors are key in [estate planning](#) for individuals and their families and beneficiaries. Estate planning is an all-encompassing term that covers how an individual's assets will be preserved, managed, and distributed after death. It also takes into account the management of this individual's properties and financial obligations (i.e. debts) in the event that s/he becomes incapacitated.

Individuals have various reasons for planning an estate, including preserving family wealth, providing for surviving spouses and children, funding children and/or grandchildren's education, or leaving their legacy behind to a charitable cause. The most basic step in estate planning involves writing a will. Other major estate planning tasks include:

- Limiting estate taxes by setting up trust accounts in the name of beneficiaries
- Establishing a guardian for living dependents
- Naming an executor of the estate to oversee the terms of the will
- Creating/updating beneficiaries on plans such as life insurance, IRAs, and 401(k)s
- Setting up funeral arrangements
- Establishing annual gifting to qualified charitable and non-profit organizations to reduce the taxable estate
- Setting up a [durable power of attorney](#) (POA) to direct other assets and investments

While it is an honor to be selected as an executor, executing a will takes more work than you might think. Before you agree to act as an executor, understand some of the hazards that can result. And know how you can address some of these potential hazards so that being an executor can run smoothly.

Important: The feminine form of the word “executor” is "[executrix](#)." It refers specifically to a woman who has been assigned responsibility for administering a deceased person's estate and executing the provisions set forth in a last will and testament. "Executrix" is pretty obsolete now, in favor of the gender-neutral "executor," but the term may still be found in older wills and other documents.

Disputes With Co-Executors

Often when a parent has more than one adult child, all children are named as co-executors so as not to show favoritism. For those who are named, however, this arrangement may not work smoothly. Some children may be out-of-state, or even out-of-country, making it difficult to handle the hands-on activities, such as securing assets and selling a home. Some lack the financial ability to deal with creditors, understand estate tax matters and do an accounting audit to satisfy beneficiaries that things have been properly handled. Also, having multiple executors adds greatly to the amount of paperwork.

For example, forms that need to be signed by all executors must be sent around to all (in some cases, scanned documents that have been signed are acceptable, but in others only originals are acceptable).

How to Solve These Disputes

See if co-executors can agree to allow only one individual to serve; the others simply waive their appointment. This waiver works well when co-executors trust the person who will serve as the sole executor. Another alternative is for all of the children to decline and instead let a bank's trust department handle the job (the will may name the bank as a successor executor). This costs money and is best suited for large estates. However, using an entity rather than an individual as executor can alleviate conflicts among the children and relieves them from what could be an onerous job.

Disputes With Heirs

An executor's job is to secure the assets of the estate and then distribute them according to the deceased person's wishes. In some families, heirs descend on a [decedent](#)'s home even before the funeral, cherry-picking heirlooms, and other

valuables.

Also, the will may give latitude to an executor in making disbursements to heirs (e.g., distributing property or selling property and distributing cash). An executor may create family disharmony for simply doing their job.

How to Solve These Disputes

Secure the home and other assets as quickly as possible. Inform heirs that this is the law. Also share information about the decedent's wishes, which may be described in a will or listed in a separate document (the separate document isn't binding on the executor but can be a good roadmap for asset disbursements).

Time Drain

One of the biggest drawbacks to being an executor is the great amount of time it takes to properly handle responsibilities. For example, think of the time involved in contacting various government agencies (e.g., Social Security Administration to [stop Social Security benefits](#) and, in the case of a surviving spouse, claim the \$255 death benefit; IRS and state tax authorities for income tax and death tax matters; state's unclaimed property departments to recoup utility deposits and other outstanding amounts that belonged to the decedent).
[3]

Streamline the Process With Outside Help

An executor can allow an estate attorney to handle many of these matters. However, the attorney will bill for their time and cost the estate money. Even if an attorney uses a paralegal for various actions, it can still be expensive. Also, a [CPA](#) or other tax preparers can work on the decedent's final income tax return as well as income tax returns for the estate. Where estates are modest, these fees can mean little or no inheritances for some heirs.

An executor in this situation should use the services of professionals sparingly and understand the time commitment they will need to make instead. Being organized (e.g., using a [checklist](#) like this one from Jonathan Pond) can help an

executor use time most efficiently.

Personal Liability Exposure

As an executor, you must pay taxes owed before disbursing inheritances to heirs. If you pay heirs first and do not have sufficient funds in the estate's checking account to pay taxes, you are personally liable for the taxes. ^[4]

While many estates no longer are concerned about federal income taxes because of the high exemption amount (\$11.58 million in 2021), many states continue to impose [death taxes](#) on smaller estates. ^[5] The value of the estate for death tax purposes is greater than the probate estate (the assets that do not pass automatically to named beneficiaries); it includes all assets in which the decedent had an interest (e.g., IRAs, annuities, life insurance owned by the decedent).

Explain to heirs who are eager to receive their inheritances that you are not permitted to give them their share until you have settled with creditors, the IRS, and others with a claim against the estate. (Creditors cannot go after the proceeds of a life insurance policy that has a specific beneficiary, however.) ^[6] Make sure to understand the extent of the funds needed to pay what's owed.

Out-of-Pocket Costs

An executor is allowed to receive compensation for their efforts. Usually, the amount of compensation is determined by the size of the estate (e.g., a percentage of assets). However, in many cases, particularly with smaller estates, an executor is asked to waive any payment.

Try to pay the expenses of the estate from an estate checking account. Keep track of out-of-pocket expenses (e.g. postal fees). Some of these expenses may be reimbursable by the estate.

What Is Another Word for Executor?

An executor is one who handles the wishes and instructions set out in a will.

Other terms for this role may include the will's administrator, enforcer, or steward; or the testator's personal representative, agent, or fiduciary. A female executor is referred to as an executrix.

Is an Executor the Same as a Trustee?

The two roles are similar, but an executor carries out one's will, often under the supervision of a probate court; while a [trustee](#) is responsible for one's [trust](#). In some cases, the two may be the same individual, although they don't have to be.

Can an Executor Also Be a Beneficiary?

Yes, and it is not uncommon for a will's executor to also be a named beneficiary. However, this can create accusations of perceived unfairness or conflicts of interest.

Do Executors Get Paid?

Executors are often entitled to payment for their time and effort, either through the terms of the will, or under state law pertaining to reasonable compensation. This can come in the form of a percentage of the estate's value, a commission on the transactions involved in settling the estate, as an hourly rate, or a flat fee. An executor may choose to decline compensation.

What Is a Gift Left in a Will Called?

A gift left in a will is known as a [bequest](#) or a [legacy](#).

The Bottom Line

An executor is the individual who carries out one's last will and testament, ensuring that the stipulations and wishes of the deceased are carried out properly. Subject to probate court oversight, this will often include disbursing the estate's assets, paying any taxes due, and covering outstanding debts. People often name the executor to their estate in their will prior to death. In the absence of a named executor, a probate court will assign one instead.

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1. Internal Revenue Service. "Publication 559 Survivors, Executors, and Administrators, <https://www.irs.gov/pub/irs-pdf/p559.pdf>," Page 14.
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