



 Duties of an  
Executor





## Duties of an Executor

An Executor can be required to provide the following services themselves or arrange for them to be completed by the appropriate professional, e.g., solicitors, accountants.

### **Notify all Beneficiaries**

The Executor should then immediately notify all parties to the Will, such as Beneficiaries, business associates, partners, guardians.

### **Statement of Assets and Liabilities**

The Executor is to make a list of all assets and liabilities of the deceased person. Where appropriate, obtain all insurance policies, superannuation policies, title deeds, bank account statements, share statements, mortgage documents, lien documents, etc.

### **Protect and Safeguard the Estate**

It is extremely important that the Executor ensures that all assets, including business or residential properties, antiques, valuables, etc are kept in a safe place and where necessary arrange insurance protection. In some instances, it may be necessary to remove the assets from the deceased's usual place of residence.

### **Value the Assets of the Estate**

If necessary, obtain valuations or appraisals on items of property where true value is unknown. This may simply be writing to the bank or perhaps obtaining a valuation from a real estate agent on a property.

### **Obtain Authority to Administer the Estate**

The assets determine if authority to administer the estate is required. If the value of an asset exceeds the threshold set by a financial institution or company that holds the asset then the asset cannot be released until the appropriate authorisation is obtained.

The Executor must apply to the Supreme Court of Western Australia for an authority to deal with the deceased's Estate. This is referred to as obtaining a Grant of Probate of the Will.

In some circumstances it is appropriate to apply for a Grant of Probate regardless of the assets held by the Deceased simply because the Executor can leave themselves exposed to risk i.e., it is determined at a later date that the Will held was not the last Will of the deceased.

### **Tax Returns**

A final tax return should be lodged with the Australian Taxation Office ("ATO") on behalf of the deceased up to the date of death.

Before the assets of an Estate can be distributed it is necessary to lodge a tax return with the ATO on behalf of the Estate and an Executor must provide details of all income earned during the current financial year. Capital gains tax is an important consideration.

### **Payment of Debts**

All debts of the Estate are to be paid before distribution of the Estate is made to the Beneficiaries. This may mean placing an advertisement at least once in the Government Gazette and in the newspaper requesting all creditors to provide details of moneys owing to them.



## **Distribution of Estate**

When all debts have been paid, the Executor can arrange for distribution of the remaining assets pursuant to the directions in the Will. All beneficiaries should acknowledge receipt of their beneficial entitlement.



## **Trusts**

Directions may have been made in the Will for a trust or trusts to be established on behalf of a beneficiary. This can be for a number of reasons such as protection of assets, a beneficiary of the Will may be a minor or legally incapacitated. The trust must be audited and maintained until the Beneficiary attains the age of entitlement or if the Beneficiary is incapacitated then for the remainder of their life.



## Duties of an Executor

### Have you been appointed an Executor of a Will?

#### Consult the experts – Allion Legal

There's simply no substitute for experience.

For more than 30 years Allion Legal have specialised in preparing Wills. With our help, you can ensure that those you care about are looked after in the way that you wish.

Contact us today for assistance with making or updating your Will, and let us keep it secure for you and your loved ones.

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