



## OLD NORTH STATE TRUST, LLC

### **Being Executor of an Estate is Tough, Not a Job for Just Anybody**

Being named executor of a relative's estate is both an honor and a burden. Anyone who is designated to settle an estate should be prepared to meet some serious obligations that can't be taken lightly. Many of the issues an executor faces are also matters that the estate's owner should think about while deciding who will get that responsibility. Thinking about what an executor has to do should also be a reminder that leaving a mess after you're gone is no favor for anyone. Not for the heirs, and especially not for the executor.

We can't stress enough that being an executor for anyone's estate, especially a loved one, is a huge responsibility. So many important duties must be carried out during a time that one isn't usually thinking clearly, and probably doesn't want to deal with such issues. It's important to understand just how big a job it is to settle an estate. It's almost always time consuming, easily taking from several months to more than a year. We once helped handle an estate that took seven years to settle! In that case, the chief complication was that a family business had been left to a relative who wasn't really qualified to manage it.

An executor must also realize that the job comes with strict legal requirements. Wills are official documents, filed with the Clerk of Court, and executing them requires very specific forms and deadlines. If those legal requirements aren't met, the clerk of court will send you a stern notice, personally served on you via the sheriff's office. Nobody wants to see a deputy on their doorstep!

Another strict requirement is usually simpler. The federal government must be informed when a Social Security recipient dies, so benefits can be stopped. Usually the executor doesn't have to notify the Social Security Administration directly; typically, the funeral home takes care of that detail. But the executor is still responsible for making sure it gets done. Any deposits or checks received after the death must be returned to the government. In fact, Social Security Administration usually pulls any funds paid to the decedent back out of their accounts as soon as they are informed of the death.

Looking at this from the owner's perspective, it's important that you don't choose an executor just for the honor of being one. Whoever you name to settle your estate must be capable and have both the time and energy needed. Even with the best planning in the world, we have never seen anything such as an "easy" estate. If nothing else, the beneficiaries are usually standing in line, waiting to get ahold of their money as soon as possible.

Remember that an executor has a fiduciary duty. That means a special legal obligation to be honest and work for the estate's best interests. Bungling the job could mean the executor incurs liability for mismanagement or causing losses to the heirs. Because of all these requirements, it's a good idea for anyone named as an executor to do some research ahead of time. For starters, familiarize yourself with what state law requires in terms of duties and

timetables. These rules vary from state to state. Generally, the laws of the state where the deceased person lived will govern how the estate is handled.

The other matter to get familiar with, of course, is the particulars of the estate itself. It may have complexities that can make the job far more difficult; if you don't understand all the ins and outs, it's best to be able to ask questions while the owner is still around to answer them.

Since the executor is responsible for communicating with financial institutions, beneficiaries, government agencies, employers, and service providers, details about all of them should be current and readily available. Often, institutions will ask executors for a copy of the will or other court-certified document that proves they have the right to do business on the estate's behalf.

First order of business is arranging to pay funeral and burial costs. At the same time, the executor will need to get copies of the death certificate. Often the funeral home will help with this undertaking. Death certificates are needed for certain official tasks, such as presenting the will to the court for probate, claiming life insurance benefits, reporting the death to government agencies, and transferring assets to beneficiaries.

Also important in the first days after the death is protecting the estate's assets. For example, what will happen to the deceased person's home? If nothing else, is the lawn being mowed and the mail picked up? Arrangements may be needed to secure property, both personal and business, including changing the locks. Current obligations like mortgages and utility bills need to be met, and investments monitored. Final income tax returns must be filed with the IRS and state tax authorities, and special estate tax and gift tax returns may also need to be prepared.

Then comes what may be the most grueling part of the job, taking inventory of personal belongings. Too many of us have had the task of sorting through a family member's lifetime accumulation of belongings, separating the valuable property from the junk. This is one very important matter that all estate owners should think about – and if possible, do some sorting of their own. If valuables aren't specifically allocated in the will, they may need to be appraised and sold. Likewise, a home and other real estate may also need to be listed for sale.

Along with assets, the executor must deal with the liabilities. Both taxes and debts – such as final medical bills and credit card balances – are paid from the estate's assets. Only after all debts, taxes and expense have been paid can the estate's net assets can be distributed as the Will specifies. Avoiding such delays is one of the many reasons for putting assets into a trust. This ensures those assets go precisely where their owner intended them to, and faster than with the probate process. A trust's holding usually can be distributed much sooner after the owner's death than otherwise would happen with just a will.

So even if only to simplify matters for your executor, it's worth looking into how a professionally designed trust can help ensure that your wishes are fully carried out after you're gone.

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