



FOR YOUR EXECUTOR





This brochure is for you and your executor. It helps you understand the many responsibilities your executor will carry out on your behalf after you die. It also serves as a reference guide to help your executor understand what will be required of him or her upon your death.

You and your executor should review this brochure together, then discuss and clarify your expectations. Taking time to do so now will help ensure your final wishes are carried out in the way you intend.

*Please note:* In Quebec, executors are known as liquidators. Any references to executors in this brochure include liquidators in Quebec. Also in Quebec, some estate planning duties may be performed by either notaries or lawyers.

## Making arrangements

This brochure provides an overview of what you will need to do as an executor. Not all points will apply in every situation, especially if you're administering your spouse's estate.

It can be helpful to gather as much information as possible, while the person whose estate you'll be administering is still alive. The information and documents collected can be given directly to you in advance, or left in a location where you can access them when they're needed.

### Arrange the funeral

- Notify family, friends, heirs and employer about the death.
- Arrange for funeral services and burial or cremation, according to the deceased's wishes. The deceased may have already made funeral arrangements.

### Attend to personal matters

- Locate the will and all documents relating to the estate.
- Consider consulting or hiring a lawyer (or notary in Quebec).
- Locate all banking information, including bank account numbers, names listed on the accounts and the balances of each account.
- Unless you had a joint bank account with the deceased, you'll need to open a bank account in the estate's name to pay the estate's debts. The financial institution will close the deceased's personal accounts when the estate account is opened. It's important to note that banks and other financial institutions may refuse to honour cheques written by the deceased that had not cleared before his or her death.
- List names, addresses and birth dates of all beneficiaries named in the will or in other documents relating to the estate.
- Notify the beneficiaries of their interests.

### In Quebec

- Obtain official proof of death from the Registrar of Civil Status.
- Locate the last will and testament. In Quebec, there are three types of wills:
  - Notarial will (executed before a notary)
  - Will made in the presence of witnesses
  - Holograph will (written by the testator and signed by him or her, without the use of any mechanical process)

You must make every effort to ensure you have the last valid will. Contact the *Chambre des notaires du Québec* and the *Barreau du Québec* ([www.rdtmq.org/fr/formulaires](http://www.rdtmq.org/fr/formulaires)) to help in your search.

If the last will was not a notarial will, a court or a notary must verify the will. If a will is believed to exist but cannot be found, obtain legal advice.

- If there is no will:
  - The heirs must appoint, in writing, a liquidator or liquidators for the estate. If there is only one heir, he or she is automatically the liquidator of the estate.
  - A declaration of heirs is needed. This is a written document signed by the heirs or by the liquidator, detailing information relevant to the estate. The declaration may be signed by a commissioner of oaths, or be completed before a notary or a lawyer.

- Appointment of the liquidator(s) must be published in the *Register of personal and movable real rights*, and where applicable, in the *Land register*.
- The deceased may have entered into a marriage or civil union contract that contains testamentary dispositions. Whether a will exists or not, any such contract must be considered.

## Arrange for living and other expenses

- Review the deceased's banking information to determine whether money is available for the family's immediate living expenses.
  - Determine whether any immediate family members have urgent financial needs. If so, and if they can't wait for the estate to distribute assets, look to the following sources of funds:
    - Life insurance benefits

Gather the information you'll need to claim life insurance benefits payable to the immediate family including: policy number(s), the deceased's full name and any other names he or she may have used, home address, social insurance number, birth certificate and, if applicable, veteran's file and service number. You'll need the names, addresses and birth dates of the beneficiaries named in the policies. You may also need the deceased's death certificate with the date and place of death from the attending physician, or a statement of death from the funeral director.
    - Company benefits

Contact the employer to have unpaid salary, pension, group insurance or union benefits made payable to the estate or the designated beneficiaries.
    - Tax-free savings accounts (TFSAs)

Where the surviving spouse is named as successor holder or where a family member has been named beneficiary, contact the deceased's financial institution to determine proper documentation required.
    - Registered retirement savings plans (RRSPs)

Where a family member has been named beneficiary, contact the deceased's financial institution to determine the proper documentation required.
    - Registered retirement income funds (RRIFs)

Where the surviving spouse is named as the successor annuitant or where a family member has been named the beneficiary for continuing payments, contact the deceased's financial institution to determine the proper documentation required.
    - Pension plans, life income funds (LIFs) or locked-in retirement accounts (LIRAs)

Where the death benefit or annuity payment can be paid immediately to a family member, contact the plan administrator to determine the proper documentation required.
    - Canada Pension Plan (CPP) / Quebec Pension Plan (QPP)

Contact the Canada or Quebec Pension Plan office nearest you to determine if any death, pension or survivor benefits are payable.
- ## Make household arrangements
- Arrange with the local post office to re-address mail.
  - Cancel magazine subscriptions and club memberships.
  - Arrange for care of pets.

## Prepare an inventory of all assets and debts

- Review the deceased's personal papers for all assets and debts.
- Take an inventory of assets and debts and, if necessary, have them valued. Include the following:
  - Bonds – type of bond, serial numbers, face value, interest rate, maturity date, market value, total value, any coupons that have been clipped, the name and location of registration for any corporate bonds
  - Stocks – company name, type of shares, whether transferable or non-transferable, adjusted cost base, market value at death and current market value
  - Non-registered mutual funds and segregated fund policies – fund name or contract number, adjusted cost basis, market value at death and current market value
  - TFSAs – type of investment, whether there is a successor holder, whether the beneficiary is a spouse who can transfer amounts received to their own TFSA, whether any income was earned after the date of death
  - Pension plans and locked-in annuity contracts – whether an annuity is payable to the spouse or designated beneficiary of the estate
  - Business or farm assets – inventory, equipment, machinery, accounts receivable, etc.
  - Safe deposit boxes – type of belongings stored
  - Personal belongings – household furniture and goods, clothing and jewelry, artwork, stamp and coin collections, electronic and sports equipment, motor vehicles (with details on registration and insurance) and recreational vehicles
- In Quebec, run a free search with the Registrar of Unclaimed Property at: [www.revenuquebec.ca/fr/bnr](http://www.revenuquebec.ca/fr/bnr).
- In British Columbia, a free search for unclaimed property can be done through the province's Unclaimed Property Society at: [www.unclaimedpropertybc.ca](http://www.unclaimedpropertybc.ca).
- If there's a potential for debts coming to light after you've settled the estate, or if the estate is large or unfamiliar to you, arrange for newspaper advertisements to try to locate creditors.
- Identify any debts owed to family members and locate evidence of the loan balances.
- Consider any claims or potential claims against the estate and obtain legal advice, if necessary.
- Assess the rights of the surviving spouse under provincial family law. Depending on the province, you could be required to advise him or her that they may have a claim and should seek independent legal advice.
- Assess the rights of anyone who was financially dependent on the deceased.

## Look after assets and debts

- Protect the assets of the deceased before probate by taking cash, jewelry and other valuables into your possession. This is to ensure there's enough money to settle all debts and pay all taxes, before you distribute the assets to the heirs. In Quebec, arrange for a notice of closure of the inventory of property to be published in a newspaper in the locality of the deceased's last known address and in the *Register of personal and moveable real rights*.
- Re-register assets in the estate's name, if applicable. In Quebec, investments made during liquidation must be made in the name of the liquidator, as follows: [*name of liquidator*], acting in capacity of the estate of [*name of deceased*].

- Where appropriate, lock up the residence and notify the police the home is vacant. During winter, ensure the house remains heated or pipes are drained to prevent freezing.
- Examine insurance coverage and insure the estate's assets, such as house, furniture, jewelry and art, against fire and other perils.
- For motor vehicles, check the insurance policy for adequate coverage and permitted uses. If someone uses a vehicle and the coverage is inadequate, the estate may be liable or you, as the executor, may be personally liable.
- Organize interim management of the deceased's business or farm, where applicable. If you, as the executor, decide to run the business, you must consider matters of personal liability.
- Collect income generated by the estate's assets or payable to the deceased. Have any uncashed cheques made payable to the estate.
- Check the accuracy of, and pay all debts, including credit card bills, medical and dental bills, personal loans, guarantees, utility charges, land taxes, repair bills, etc.
- Search the titles of any residential property, rental housing, vacation property, and agricultural or commercial lands owned by the deceased. Determine the details of ownership and obtain legal descriptions.
- Determine if money is owing on mortgages or other encumbrances.
- Check on property insurance and arrange for transfer, if necessary. Ensure premium payments continue until the property is sold or transferred to heirs.
- Check leases and tenancy agreements, arrange for payment or collection of rent and give notice, if appropriate.
- Cancel charge accounts and destroy credit cards.

## Settle the estate

- Consult an accountant or other tax professional to help you file the appropriate tax returns for the deceased and the estate. You may have to file a T3 Trust income tax and information return for the estate. Quebec resident trusts may also have to file a TP-646-V Trust income tax return. A tax professional can also help you determine whether previous years' returns need to be re-filed.
- Before paying any claim on the estate or distributing assets to heirs, ensure all outstanding taxes are paid. Obtain tax clearance certificate from the Canada Revenue Agency using Form TX19 – Asking for a clearance certificate, and if applicable, in Quebec, obtain authorization from Revenu Quebec, using form MR-14.A-V Notice before distribution of the property of an estate.
- Supply the lawyer (or notary in Quebec) with a detailed statement of assets and liabilities.
- Have the lawyer or notary apply to the court for letters of probate or letters of administration, if required.
- In cases where no valid will exists, apply to the court for authority to settle the deceased's estate and distribute assets according to the rules for intestate succession. These are the provincial laws that govern distribution of estate property where there is no valid will.
- Identify trust agreements or outside estate interests to determine whether any assets are held in trust, separately from the estate.
- Depending on the circumstances, you may need to convert investments and other assets into cash and deposit the funds into the estate account. The sale of investments may create taxable gains or losses for the estate.

- Pending final distribution of assets to beneficiaries, you may have to invest any cash in the estate account into interest-earning investments. Interest earned will be taxable to the estate
- Before making any payments or promise of payments, ensure the estate is solvent. To do this, prepare statement of assets and liabilities. If the estate is not solvent, or if the estate is not able to pay all its bequests, seek further legal advice before carrying out actions to settle the estate.
- Once you've determined the estate is solvent, ensure all legitimate claims against the estate are settled and paid.
- Have the lawyer or notary prepare the legal transfer or deed for the conveyance of real property, if required by the will.
- Arrange for the rollover of RRSPs, RRIFs and/or TFSAs to the surviving spouse, common-law partner or dependent child, if required.
- Apply for any benefits payable on death. These may include Canada/Quebec Pension Plan death benefit, life insurance proceeds, and death benefits from pension plans or annuities. Distribute the proceeds to the beneficiaries or if no beneficiary is named, deposit the benefits received into the estate account.
- Prepare and maintain records of the estate accounts for approval by beneficiaries or examination by the court, where appropriate.
- Have your lawyer or notary send final releases for beneficiaries to sign, stating they will make no further claims on the estate.
- Dispose of or distribute personal property according to instructions in the will.
- Prepare cheques, pay legacies and transfer bequests, as instructed in the will.
- If a minor or legally incompetent person is entitled to be paid from the estate, determine who is legally able to accept payment on their behalf. As well, provincial law might also require notification to public officials in certain instances.
- Invest assets to establish trusts, if directed by the will.
- Prepare cheques and pay balances to residuary beneficiaries, i.e., beneficiaries who receive the part of the estate remaining after all specific gifts by will are made and all debts, taxes, fees and other costs are paid.
- Advise beneficiaries about including income from the estate in their income tax returns, if appropriate.
- Pay funeral expenses.
- Close the estate's bank account. In Quebec, arrange for a notice of closure of the liquidator's account to be published in the *Register of personal and moveable real rights*.

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## Notes

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Information is provided by London Life Insurance Company and is current as of November 2013.

The information provided is based on current Canadian and provincial legislation, and its interpretation, as applicable to Canadian residents. Future changes to legislation and its interpretation (including with regard to tax) may affect this information. This information is general in nature and is not intended to be tax, legal or accounting advice. For specific situations, consult the appropriate legal, accounting or tax advisor.

This brochure is intended to give you a better understanding of the many responsibilities your executor will have to carry out. It is not to be construed as an exhaustive list of an executor's obligations.

