

## Duties of the Personal Representative

The Personal Representative must:

- Perform their role:
  - Honestly and in good faith
  - In accordance with the testator's intentions and the will, if a valid will exists
  - With the care, diligence and skill that a reasonable and prudent person would exercise in comparable circumstances where a fiduciary relationship exists
- Distribute the estate as soon as practicable

The four core tasks of the Personal Representative are:

1. Identifying the estate assets and liabilities which may include:
  - Arranging for a full list of contents of a safety deposit box
  - Determining the full nature and value of property and debts including the value of land, buildings, outstanding mortgages, leases encumbrances and online accounts and preparing an inventory;
  - Securing these assets to ensure that their safety and value is protected. For instance, if the deceased lived in a house which is now vacant the home insurer will need to be contacted and advised of this as soon as possible. Vacancy for periods of time can invalidate insurance contracts.
  - Applying for pensions, annuities, death benefits, life insurance or other benefits payable to the estate
2. Administering and managing the estate
  - obtain the names and addresses of all persons who are beneficially entitled to an interest in the estate
3. Satisfying the debts and obligations of the estate which may include:
  - Determining income tax or other tax liability - You need to determine any income tax liabilities of the deceased and with the help of an accountant you will be responsible for filling out and signing the necessary forms on behalf of the estate
  - Arranging for the payment of debts and expenses of the deceased and the estate
  - Determining whether to advertise for creditors, check claims and make payments; and

- Taking steps to finalize and pay a legitimate debt if a debt is in issue
- 4. Distributing and accounting for the administration of the estate which may include:
  - Determining who the beneficiaries are and notifying them of their interests;
  - Informing joint tenancy beneficiaries of death;
  - Informing designated beneficiaries of their interest under life insurance or other property passing outside the estate;
  - Administering continuing trusts or trusts of minors
  - Preparing Personal Representative financial statements, a proposed compensation schedule and proposed final distribution schedule; and
  - Distributing the estate in accordance with the will or intestate succession provisions

The Personal Representative is responsible for:

- Creating and maintaining records
- Regularly communicating with beneficiaries;
- Examining insurance policies and placing additional insurance, if needed;
- Protecting or securing estate property;
- Protecting and supervising vacant land;
- Arranging for management of estate property such as continuing business operations or controlling or selling property;
- Retaining a lawyer for advice;
- Applying for a grant or bringing a question before the court as needed;
- Commencing or defending claims on behalf of the estate;
- Preparing and providing financial statements - you will need to account for receipts and disbursements on behalf of the estate, so make sure that you keep good records of all transactions; and
- Performing any other duties required by law.
- Making proper funeral and burial arrangements. Sometimes the deceased has expressed his or her wishes in the will.
- As the personal representative of the estate you will make the decisions on behalf of the estate. I will give you my best advice on what to do when and

if problems arise, but the actual decisions of the estate must be made by the personal representative.

- Open, frank communication with the beneficiaries from onset and continually throughout the administration.
- Transparent accounting.
- Lack of conflict or the appearance of conflict.
- Advising beneficiaries of time lines, including tax filings.
- Identifying problems and issues early on and seeking appropriate professional advice.
- Identifying all beneficiaries and possible beneficiaries; if in doubt, seek professional advice.
- Identifying all estate assets, even if in other jurisdictions. Determining what will happen with assets in other jurisdictions.
- Understanding your responsibilities, duties and liabilities at the onset.
- Collecting all documents of the deceased, even informal documents, and determining which are necessary for the administration of the estate.
- If there are corporate assets, determining if necessary to continue to operate a business and whether it is necessary to hire someone to continue the operation.
- Referring to the Will and other testamentary documents as well as the Trustee Act of Alberta to determine how to deal with investments.
- Ensuring funeral and burial expenses as well as currently due taxes are paid (generally can be paid from accounts of deceased).
- Ensuring all applications made for death benefits, pension payments, insurance proceeds, etc. where the estate is beneficiary. Informing other beneficiaries, if known, of their status.
- If a grant of probate is necessary, meeting with a lawyer who deals with estate matters to determine what materials and information they need.
- Determining all debts payable by deceased, meeting with creditors if necessary and determining if advertising for creditors is necessary.
- Gaining control of all estate assets and ensure they are secure and insured where necessary.
- Meeting with an accountant who has experience with estate filings and determine what needs to be done and in what time frame.

- Understanding how to deal with each of the beneficiaries without giving preferential treatment.
- When you are ready to distribute, determining if a holdback is necessary (in conjunction with the accountant and the lawyer) and sending accounting information to the beneficiaries, including any fees you are seeking (unless set by the Will), along with a proposed distribution amount for each beneficiary. Seeking a release of your administration of the period up to the date of the accounting.
- If working with a co-executor/administrator, decisions must be made together.
- Doing an inventory of personal property and distribute those items, if any, which are specifically bequeathed. Then making a determination based on the Will, as to how the remainder of the property is to be distributed. Be mindful, if a spouse is surviving, some personal property may be jointly owned or part of a life estate for the spouse. If possible, get the beneficiaries to agree to any division of personal property or use a system of distribution which is fair and unbiased.
- Good luck with this!