



CIBC PRIVATE WEALTH

Administration of estates



Fulfill the promise of your ambitions

What's your vision for success? We've learned that success often means achieving a sense of satisfaction and joy about the use of your wealth for yourself, your family and causes you hold dear.

It also means having peace of mind about your financial affairs, trusting that your wealth advisor is managing the complexities of wealth ownership. Additionally, for some, it means that plans are in place to realize your vision for broader community impact and a lasting family legacy.

CIBC Private Wealth can be your partner for all of your investment, wealth planning and private banking needs. Our professionals are dedicated to delivering exceptional performance and service with an unwavering focus on you and your best interests.

We hope the information on the following pages will inspire you to articulate your own vision for your wealth. It would be our privilege to help you bring your ambitions to life.

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Administration of estates

Introduction



An overview of the process

It goes without saying that the death of a family member is an emotionally difficult time. Adding to this stress is the fact that oftentimes a surviving spouse or other family member will be appointed as personal representative or executor to settle the estate.

Most people have little experience dealing with estate administration (also called estate settlement), so when they discover that they've been appointed to oversee it, the task can appear to be overwhelming. Simply stated, the process of estate administration involves gathering a decedent's assets together, paying debts that the decedent owed, including income and estate taxes, and then distributing the remaining assets in accordance with the decedent's estate plan. It is the executor's responsibility (or, when all of the decedent's assets are in a revocable trust, the trustee's responsibility) to carry out this process on the decedent's behalf. While the many activities may seem overwhelming at first, not everything has to be done right away. And although every estate is different, the following guidelines provide a general overview of the settlement process.

Gathering the decedent's documents and assets

As a first step in the estate administration process, the executor must locate all of the decedent's estate planning documents and other important papers. Estate planning documents may include a last will and testament (and any codicils), a revocable living trust, wishes or directions regarding disposition of personal property and burial instructions. If they are not already with the estate planning attorney, the original documents should be stored in a safe place until they can be given to him or her.

Beyond the legal documents, information about the decedent's assets should be collected during this time. This may include bank and brokerage statements, stock and bond certificates, an inventory of tangible property, life insurance policies, retirement benefits, corporate records, car and boat titles, and deeds, plus information about the decedent's debts, including credit card and other bills, mortgages, personal loans, medical bills and the funeral bill. (See "What documents are needed after someone dies" in the Resources section of this series.) If the decedent had any online accounts, information including passwords should be noted for these, as well. From these documents, the executor can make an inventory of what the decedent owned and owed, and how each asset is titled. Also during this stage, the executor should identify any benefits that the decedent's estate and beneficiaries may be entitled to and for which a claim will need to be made, such as life insurance or Social Security death benefits. In addition, the decedent's prior three years of income tax returns and most recent gift tax return, if any, should be set aside. Finally, multiple certified copies of death certificates will be needed to settle the decedent's affairs.

Initiating probate

If the decedent owned assets in the decedent's individual name, then probate may be required. If it is required, then the executor should meet with an estate attorney during the early stages of administration to officially open the probate estate with the probate court. Once the estate lawyer has received enough information to draft the court documents required to open the probate estate, the executor and the beneficiaries will be asked to review and sign the documents required to open the estate. While these documents may vary from state to state, or even from county to county within the same state, they'll generally include the following:

- Petition for probate administration
- Oath and acceptance of personal representative/executor
- Appointment of resident agent
- Joinders, waivers and consents

- Petition to waive bond
- Order admitting will to probate
- Order appointing personal representative/executor
- Order waiving bond
- Letters of administration/letters testamentary

What are letters of administration/letters testamentary?

An order received from the probate court that gives the administrator, executor/executrix or personal representative of an estate the legal authority to locate, manage, invest, spend and distribute the assets of an estate. These are usually required by financial institutions to transfer bank accounts or other financial assets, and closing companies will require them for the transfer or sale of real estate.

Determining values and paying bills

Once the probate estate has been opened, the next task is to establish date of death values for all of the decedent's assets. This step is important because most states require that an inventory of the decedent's probate assets, along with their date of death values, be filed with the probate court within 30 to 90 days of the date the probate estate was opened with the probate court.

Financial accounts may be valued by contacting the institutions where the decedent's assets are located and asking them to supply the value of assets as of the decedent's date of death. Assets that are not readily marketable, such as real estate, personal effects including jewelry, artwork and collectibles, and closely held businesses, should be appraised by a professional appraiser.

The probate court will only require date of death values for the decedent's probate assets to be listed on the estate inventory. However, if the decedent's estate is taxable for federal and/or state estate tax purposes, then date of death values will also need to be established for the decedent's non-probate assets, including life insurance and retirement accounts such as IRAs, 401(k)s and annuities. (See "What is probate and what are the probate assets?" in the Resources section of this series.) The value of each asset is also important to establish the new income tax cost basis of each asset.

Some assets will be transferred into the name of the estate for the period of administration, particularly if the executor has to take any action with regard to the asset, such as its sale. Other assets will not need to be titled in the estate's name, such as jointly owned accounts, which may be titled directly in the name of the surviving joint owner, or assets passing pursuant to a beneficiary designation, which may be titled directly in the name of the beneficiary. Since the decedent's assets can continue to generate income during estate administration, an account in the name of the estate should be opened to receive interest, dividends and other income, and to pay debts and bills.

Another critical step in the estate administration process is to pay the decedent's final bills and ongoing expenses of administering the estate. It is the executor's job to gather the bills the decedent owed at the time of death, determine if the bills are legitimate and pay them. During this time, the executor must notify potential creditors by publishing a notice of the decedent's death in local newspapers. The executor will also pay—from estate assets—the ongoing expenses of administering the estate, including legal fees, accounting fees and fees for managing estate assets. All of these expenses must be carefully tracked, as they will appear in the estate tax return, if one is required.

The executor also has the responsibility of preparing and filing the decedent's final federal and/or state income tax returns and, in a timely manner, paying any taxes that may be due. The final federal income tax return will be due on tax day the year after the decedent's year of death.

Additionally, because the decedent's estate becomes a separate taxable entity upon the decedent's death, the estate will have its own taxpayer identification number (also called an EIN). Also, if the estate earns income during the course of administration, then the executor will need to prepare and file all required federal income tax returns (IRS Form 1041) as well as any required state estate income tax returns for the estate. Typically, the decedent's accountant will prepare these returns.

Finally, if the decedent's estate is taxable for federal and/or state estate tax purposes, then the executor will be responsible for preparing and filing the federal estate tax return (IRS Form 706) and/or a state estate tax or inheritance tax return, and paying the tax bills. The decedent's accountant or the attorney for the estate often prepares this return. (See sidebar "Who must file a federal estate tax return?")

Distributing assets and closing the estate

Among the executor's final duties is the distribution of the decedent's assets to the heirs and beneficiaries. Early in the estate administration process, the executor must identify and notify the beneficiaries of their interest in the estate. Often, a first question that the estate beneficiaries will ask is "When can I expect to receive my inheritance?" The answer is that this is the last step in the estate administration process.

Prior to making any distributions to the estate beneficiaries, the executor must be certain that all expenses of administering the estate and all taxes have been paid or that enough assets have been set aside to pay the final bills and taxes. If the executor chooses to make distributions to the estate beneficiaries prior to the end of the administration process and expenses arise later, the executor may have personal responsibility to pay those expenses.

Once all assets have been accounted for, debts have been satisfied, assets have been distributed to the decedent's beneficiaries and all required documents have been filed properly with the court, the estate may be closed. A discharge from the probate court terminates the responsibilities of the executor.

Each estate is different and each phase of the settlement process carries particular obligations for required actions, forms and filings. It is important to be well advised by experts throughout the process. Your CIBC Private Wealth advisor will work closely together with your legal, accounting and other advisors during this transitional period.

Who must file a federal estate tax return?

Form 706 must be filed for the estate of every U.S. citizen or resident whose gross estate, plus adjusted taxable gifts and specific exemptions, is more than the federal estate tax exemption amount. The return and payment are generally due nine months after the date of death; however, the executor may request a six-month extension to file the return. A form establishing income tax cost basis of assets may also be required.

Some estates that aren't required to file a Form 706 should still consider filing one to establish the date of death fair market values of the assets for purposes of determining the stepped-up basis of inherited assets that are later sold. In addition, if the decedent did not use all of his or her estate tax exemption amount, any unused amount may be transferred to the surviving spouse under the portability rules. To take advantage of this benefit, the executor must elect to transfer the unused exemption on the estate tax return.

Resources



Resources: An estate settlement checklist

The first few days and weeks after the loss of a beloved family member or friend can be overwhelming. In addition to dealing with personal grief, the first steps to initiate the estate administration process must be set in motion. It is important to realize that everything does not have to be done at once, but it is helpful to begin as soon as you are ready.

Estate administration refers to the gathering of all assets, settling accounts, receiving life insurance and other benefits, paying bills and expenses, filing income and estate tax returns and distributing the possessions of the person who has died. Estate administration may also involve probate, which refers to the court process of appointing the personal representative or executor and administering the assets in the decedent's individual name. You should engage an experienced estate attorney for the estate administration process.

This checklist provides guidance on some of the steps that you will need to take to begin the estate administration process—whether as executor, successor trustee or both—and includes guidance and basic information to get you started. Estate administration and the transition process can take one to two years or more. Once you have set the process in motion, your advisors will keep you apprised of progress, next steps and expectations for final closing.

An estate administration checklist

- Locate all of the decedent's estate planning documents (e.g., Will and Revocable Trust) and other important papers
- Order several copies of the death certificate
- Hire an estate attorney
- File Will with relevant court
- Compile financial information
 - Gather recent statements for bank accounts, investment accounts, retirement accounts, and credit card accounts
 - Locate deeds, property titles, insurance policies, retirement benefits and corporate records
 - Review prior income tax returns, any prior gift tax returns and the estate tax return of any predeceased spouse, if applicable
 - Collect information about the decedent's liabilities, such as credit card or other bills, mortgage, personal loans, medical bills and funeral bills
 - Determine whether any claims will need to be made such as with the Social Security Administration or a life insurance company
- Initiate probate, if required
 - Work with the estate attorney to determine if probate is required and, if so, engage attorney to prepare the relevant court documents
 - Send any required documents to heirs and beneficiaries
- Obtain a new EIN for the decedent's estate and/or revocable trust
- Change decedent's address of record
- Freeze decedent's credit
- Open an account in the name of the estate and/or trust to receive any interest, dividends and other income earned by the estate during administration and to pay any bills
- Value all of the decedent's assets, including probate and non-probate assets

- Prepare and file any relevant tax returns and pay any related taxes
 - Decedent's final federal and state income tax returns
 - Federal and state income tax returns for the decedent's estate and revocable trust during the period of administration
 - Federal gift tax return, where required
- Arrange for sale of any assets not being transferred to beneficiaries
- Request closing letter from IRS if a federal estate tax return was filed
- Distribute assets to the beneficiaries — whether outright or in trust — in accordance with the governing documents

The checklist above may not be an exclusive list of all of the items that may be required during an estate administration, but should provide guidance on the many important steps. It is important to work closely with your estate attorney to make sure that all of the necessary steps are accomplished throughout the estate administration. We are also here to help you. Please do not hesitate to contact your CIBC Private Wealth advisor with any questions or concerns.

Resources: What is probate and what are probate assets?

Probate is the court-supervised process of authenticating a decedent's will, locating and determining the value of the assets owned in the individual name of a decedent, paying the decedent's final bills and estate taxes/inheritance taxes (if any) and distributing the remaining assets to the decedent's heirs and beneficiaries. This process only involves those assets that were owned by the decedent in his or her own name and that pass to heirs and beneficiaries (including a revocable living trust) under the decedent's last will. Most decedents also have interests in non-probate assets that are not a part of the court-supervised process, or "pass outside of probate."

Examples of non-probate assets:

- Assets owned jointly with a spouse or others with rights of survivorship
- Assets owned jointly with a spouse as tenants-by-the-entirety
- Assets owned in a revocable living trust
- Assets owned by the decedent and payable to a designated beneficiary, including:
 - — Payable on death (POD) accounts, transfer on death (TOD) accounts
 - — Life insurance policies
 - — Retirement accounts, including IRAs, 401(k)s and annuities

Note that if all of the designated beneficiaries of any of the assets listed above predecease the account owner, the account will need to be probated.

Will non-probate assets be taxable in your estate?

Generally, non-probate assets will be included in the decedent's estate for tax purposes to the extent of his or her interest in them.

- If the asset is titled jointly with rights of survivorship with a spouse, then only 50% of the value will be included in the taxable estate.
- If the asset is titled as joint with right of survivorship with someone other than a spouse, then 100% of the value will be included in the taxable estate, unless it can be proved that the other owner(s) actually made contributions to the account or toward the purchase of the property.
- If the asset is titled in the sole name of a revocable living trust, then 100% of the value will be included in the taxable estate.
- The entire death benefit of life insurance policies owned by the decedent on his or her own life at the time of death will be included in the taxable estate, but only the cash value of life insurance policies owned on someone else's life will be included.
- 100% of the value of retirement accounts, including IRAs, 401(k)s and annuities will be included in the taxable estate.
- 100% of the value of payable on death (POD) and transfer on death (TOD) accounts will be included in the taxable estate if the decedent was the sole owner during his or her life.
- Some or all of an irrevocable trust may be included in the taxable estate depending on the decedent's interest in, and powers over, the trust (e.g., marital trust from predeceased spouse).

Resources: What documents are needed after someone dies?

The following list provides guidance on what types of documents to look for, as applicable, when compiling information for the estate administration process.

If the decedent had an estate plan:

- Decedent's death certificate (multiple copies)
- Original last will and testament and any codicils—if the originals are not among the decedent's important papers, the estate planning attorney may be able to help locate them
- Revocable living trust and any amendments

Copies or originals of the following documents describing asset information:

- Account statements—including bank, brokerage and retirement accounts
- Life insurance policies—note that some insurance companies require the return of the original insurance policy
- Beneficiary designations—for life insurance, retirement accounts, payable on death (POD) accounts, and transfer on death (TOD) accounts
- Deeds for real estate
- Automobile titles—the originals will be needed to transfer legal title
- Stock and bond certificates—for stocks or bonds held in certificate form, the original certificates will be needed to transfer legal title
- Insurance policies for automobiles, real estate and tangible personal property

If the decedent owned a business, copies or originals of the following documents:

- Corporate, LLC or partnership documents—this includes copies of the corporate charter or articles of organization and minutes; a copy of the shareholder's agreement, operating agreement, or partnership agreement; and original stock certificates to transfer legal title
- Account statements—including bank, brokerage and retirement accounts
- Automobile titles—the originals will be needed if legal title will be transferred
- Contracts—including leases, loans and employment agreements
- Business licenses—both local and state
- Income tax returns for the past three years

Copies or originals of the following contracts:

- Pre- and post-nuptial agreements, including any amendments
- Loans—including personal loans, lines of credit and mortgages, along with the original promissory notes
- Leases—including real estate and automobile leases

Copies of the following bills:

- Credit cards
- Mortgages and personal loans, including lines of credit
- Real estate tax
- Utilities
- Cell phone
- Medical
- Funeral

Copies of the last three years of the following tax returns:

- Federal income tax
- State income tax
- Gift tax
- Predeceased spouse's estate tax return (federal and/or state)

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