

## CHOOSING THE RIGHT EXECUTOR

Estates can comprise of various assets, from cash, real estate, shares, art, stocks and bonds to life insurance policies, managed funds and superannuation. The executor must be able to handle everything. So who you choose to administer your estate and act as executor is very important.

### What is an executor expected to do?

An executor needs to be able to understand and liaise closely with beneficiaries and co-trustees as well as with solicitors, funeral directors, valuers, the ATO, financial investment companies and government bureaucracy - all this - at a time which can be extremely emotional for beneficiaries and family contacts.

Duties of an executor are not limited to but include: -

- Assist the family arrange the funeral
- Collect, maintain and protect the assets of the estate
- Make a report listing all the estate's assets and liabilities
- Meet the debts of the estate
- Apply for probate of the will or engage a solicitor to confirm that it is legally valid
- Identify, locate and liaise with the beneficiaries of the estate
- Invest the estate assets pending distribution
- If applicable, ensure the smooth operation of the deceased's business until distribution or sale
- Pay the debts of the estate
- Insure the assets of the estate against risk and loss
- Lodge tax returns for the deceased and the estate
- Set up any trusts as per the terms of the will or set up trusts for minors
- Defend any challenges to or claims against the will
- Distribute the estate according to the terms of the will
- Provide detailed statements of the estate account on distribution.

### What would make a good executor?

Usually, the person you appoint must be over 18 or be a professional trustee company. You can also appoint two or more joint executors to act together and share the task.

For example, you could appoint a family member and a trustee company to be joint executors. You can also appoint an alternative executor(s) in case your chosen executor is unable or unwilling to act.

State based legislation imposes strict and onerous obligations on what an executor can and can't do. If things are not handled properly it can cost the estate and the executor could be personally liable. Whoever you choose needs to know exactly what they're doing.

## So who would make a good executor?

### Individuals

Whilst it may be considered a great honour to be appointed someone's executor, it can also become an onerous duty, as not only will they have to deal with the emotional turmoil and stress of losing a loved one, but they will also be faced with the unfamiliar legal and administrative decisions needed to administer your estate correctly.

### Solicitor

A solicitor can be engaged by the executor to administer the will.

### Trustee companies

A trustee company is authorised under state- based legislation to act as an executor or administrator of an estate. By using skilled professionals the trustee company ensures your estate is distributed safely and efficiently.

### Conclusion

Being the executor for someone's estate isn't something that should be asked or accepted lightly. You need to make sure your executor is someone you can trust, but also someone who has the time, capacity and level of knowledge needed to carry everything through efficiently.

Before choosing your executor, consider your family circumstances, the complexity of your estate and whether the person you are appointing is able to handle these complexities. And, of course, check with the person beforehand if they are willing and able to take on the role.

### Tips

- Keep a list of your investments, assets and liabilities.
- Have your will properly drawn up and stored in a safe place.
- State in your will any special items that you wish to leave to specific members.
- Pre-arrange your own funeral and consider leaving clear instructions about how you would like the funeral to be conducted.
- Ensure your superannuation affairs are in order.
- If you are considering appointing an individual as your executor, check with them if they're happy to fulfill the role. Provide them with a list of things they'll need to do so they understand fully.

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