



You've Been Named Executor... Now What?

By Ashley B. Han, Esq.

One of the first things we tell estate planning clients when they are thinking about who to name as Executor in their Will is: "The role of Executor is a JOB and not an HONOR." The reason we tell them this is because we represent Executors when settling an estate and, like most jobs, it includes deadlines and responsibilities. Choosing the right person to do this job is a particularly important decision.

The first rule of thumb that an Executor must consider is that they have a fiduciary duty to the beneficiaries in the Will. This means that they must act in the best interests of the beneficiaries. It does not mean that they must be perfect, but it does mean that they must be financially responsible when dealing with the assets in the estate. They must consider the tax implications of decisions they make, and they must make prudent investment decisions with probate assets.

One of the first roles of an Executor is to determine what assets are in the estate. An Executor should "take inventory" of the *what* and the *how*. An Executor should determine *what* assets are in the estate, including real estate, bank accounts, and personal property. The Executor should find out *how* the assets are owned. For example, assets can be owned individually, jointly, or in a trust.

There's much more: the value of assets depends on the date of the decedent's death. Some assets may already be designated for someone. After the *what* and the *how* comes *how much* and *to whom*. It is critical to know the value of the assets (the *how much*) on the date of death and to *whom* (if anyone) the assets are designated.

Also, what about debts of the decedent, including funeral expenses and last medical bills? These are paid before any distributions can be made to any beneficiaries. Additionally, the estate must be advertised so that any future creditors are aware that the estate is being settled.

How does an Executor get authority to act? An Executor can start doing this job after being sworn in by the Register of Wills of the appropriate county following a properly submitted Petition for Probate containing a self-authenticating original Will and original death certificate.

Of course, then there are taxes. An important role of the Executor is to be sure Pennsylvania Inheritance Tax is paid in full in a timely manner. Pennsylvania Inheritance Tax is determined by the relationship of the beneficiary, so one inheritance tax return may contain several different tax rates. Fortunately, there are deductions and discounts that can reduce the amount of tax owed.

You can now see why we describe the role of Executor as a job. This is a job that we, at HighPoint Law Offices, have been assisting clients with for decades and take great pride in doing well. Have you been named Executor and are wondering what you should do next? The answer is: give us a call so that we can help you get the job done and get it done well!

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