



Choosing an Executor: Some Key Considerations

One of the key action items to address when creating an estate plan is to name an executor in your will to oversee your estate and to handle important duties when the time comes. Essentially, an executor manages your assets and liabilities for a limited amount of time after you die, and is obligated to do so with your interests in mind. Without a will and an executor, a court will likely decide who should take care of these tasks.

When choosing an executor, you want to select a highly responsible person or organization so that important components of the wealth transfer process are done well.

Before you make a decision about who your executor should be, it may be helpful to understand more fully what they're likely to be asked to do in that role.

The list of duties can vary, sometimes significantly, on a state-by-state basis. In general, however, a few of the most common are:

- 1. Find and file the will.** The probate judge will grant the person the authorization to act on behalf of the estate through certain documents.
- 2. Identify the assets and liabilities.** One of the executor's biggest roles is to identify and locate all the assets of the deceased person. This can literally be a hunt that requires digging through old papers, storage bins, safe deposit boxes and so on—sometimes in multiple locations. Some assets require probate, while other assets are non-probate. Probate assets are any assets that pass by the person's will. Non-probate assets are directly transferred to heirs, circumventing the need to go through the court process.
- 3. Deal with active accounts and benefits.** The executor contacts the deceased's cable company, credit card providers, subscription services and other providers to close/cancel the accounts. If the deceased was receiving Social Security benefits, the executor will want to alert the Social Security Administration.
- 4. Pay debts.** The executor pays the deceased's debts from the estate's funds. They also determine the validity of creditors' claims—paying the legitimate ones and declining those that appear to be illegitimate.
- 5. Handle the taxes.** The executor is also responsible for having the assets valued for tax purposes, to determine whether estate taxes are owed. They'll prepare (probably with help from an accountant) and file a federal and/or state estate tax return, and perhaps an estate income tax return, as well as a personal income tax return covering the final year of the deceased's life.

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6. Distribute bequests to the beneficiaries. After the bills and creditors have been paid, the executor will see that the beneficiaries get what they're supposed to according to the will.

FACTORS TO WEIGH

Ultimately, choosing an executor boils down to asking yourself whom you want to “step into your shoes” after you're gone to take care of a range of legal tasks that can have a potentially major impact on your family. As you think about the right person for the task, weigh factors such as:

1. Ability. An executor has to be legally eligible to take on the job. That means a person who is at least 18 years old and who is cognitively capable of understanding the role of executor and administering the estate. And because of the financial and legal obligations of an executor, courts may not approve non-U.S. citizens living outside of the country (for jurisdictional reasons) or those with felony convictions in the past.

2. Responsibility. The person you select should be someone you see as being proactive, fast to respond to questions, on time with deadlines (such as paying bills and filing forms), and willing to follow rules and execute on plans that have been set out for them. A person who has shown themselves to be fiscally responsible and to have many of their financial affairs in order may be a particularly good choice.

3. Desire. Ideally, any executor candidate on your list should want the job once they understand what's involved. That said, the choice is yours, and the person ultimately may need to recognize that you feel they're the best option and accept the responsibility.

4. Age and health. Consider a candidate's age and the likelihood that they will outlive you or remain healthy enough to serve as executor. Since it's impossible to know with certainty how people's lives will play out, consider naming a relatively young person either as your primary choice or as a backup in the event that your first choice passes on before you do.

If you do not have any friends or family members who seem like good candidates for being executor (or you can't find one who says yes), you can name a professional such as an attorney or accountant—or an entity such as a trust company or a bank's trust department—to fulfill the role.

Some other reasons to consider using a professional include:

- You don't have family living close by
- You have complex assets (illiquid assets, for example)
- You have a blended or nontraditional family and want to avoid infighting

Professionals are almost certain to charge fees for their executor services—and those fees will depend in part on the size of the estate as well as the state in which you live. While a friend or family member may be entitled to payment, they can choose to perform their duties for no cost. That alone doesn't make either option better than the other, of course—but it's one more consideration to weigh.

An executor can play a significant role in how your estate is settled after you're gone. Selecting one with the traits you find to be most important can potentially provide both you and your heirs with the peace of mind that your goals and wishes will be honored.

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