

## How a Corporate Executor Adds Value

### What does it mean to be an Executor?

One of the most important financial planning decisions you will ever make is choosing an executor. If asked by a family member or friend to serve as their executor, most of us would consider it an honour. However, many of us however do not understand the full scope of an executor's obligations as most executors are doing this for their first and only time. In a word, it can be overwhelming.

The myriad of duties is diverse and complex. A Will is a legally binding expression of a person's wishes for the distribution of their property; the executor is responsible for carrying out those wishes. As executor, you control the estate's administration and are legally accountable to the beneficiaries. You must become familiar with the deceased's financial situation, working closely with family members, beneficiaries and business partners if applicable.

Even for small, relatively straightforward estates, there will be weeks spent gathering information, filling in forms, advertising for creditors, finding assets, arranging for appraisals, ensuring assets are protected and making decisions on the sale of investments, businesses, property and possessions.

Here are some specific examples:

- Make funeral arrangements; notify beneficiaries and financial institutions of the death.
- Identify all bank accounts and investments; obtain information regarding balances and debts owing; locate and access safety deposit boxes.
- Locate insurance policies; apply for amounts payable to the estate.
- Review the deceased's personal records to prepare a detailed statement of assets and liabilities valued at the date of death.

- Redirect mail, cancel subscriptions, credit cards and driver's licenses.
- Ensure all property such as real estate, investments, businesses etc., are managed, protected and insured if necessary during the estate administration.
- Apply to the court for Probate.
- Pay bequests and distribute gifts of property according to the Will.
- Retain sufficient cash to settle debts of the deceased and/or final expenses of the estate.

### Death and Taxes

One of the most daunting tasks for many executors is dealing with the tax issues. As many as four separate returns may need to be filed for the period of the year of death. If the prior year's tax returns have not been prepared, they would also have to be filed. Upon death, the Canada Revenue Agency (CRA) assumes that all the deceased's assets have been sold for fair market value. This "deemed disposition" can trigger capital gains, and the resulting taxes can be quite substantial. There may also be tax implications for any assets held in foreign jurisdictions.

The estate must file an annual tax return until all estate assets are distributed and also obtain a Clearance Certificate from the CRA before completing the distribution of assets.

### Choosing an Executor

Many people choose a family member or friend of their own age. When the time comes to act, the executor may not be up to the task due to age or for health reasons. Sometimes, the executor may have predeceased the individual.

Location should also be considered; it is not uncommon for children or relatives who live hundreds or thousands



of kilometres away to be named as executors. This can be an issue as estates must be settled in the jurisdiction where the individual died. In Canada, an executor who lives out of province may be required to post a foreign executor surety bond. This bond is a guarantee to the provincial courts that the executor will carry out all the duties required of them in good faith. Not only is there an initial cost, but also the bond must be renewed annually until the estate administration is complete; the costs may be as high as 6% of the value of the estate.

In addition, one should consider the impact on the individual who is named as executor. Family dynamics may be negatively impacted if only one child in the family is appointed as executor. If siblings are acting as co-executors, disagreements that arise during the estate administration process can change the relationship forever. Long-standing family issues may come to the forefront after the death of a parent. Additional relationships from blended or multiple families may add complexity to the estate administration.

There is another solution; the corporate executor. It is a choice increasingly being made by people who want to make settling their estates as worry-free as possible.

### Seeking Assistance

The amount of time required to settle an estate is significant. To give some perspective, an average, straightforward estate can take anywhere from 12 to 18 months to complete. It could also be spread out over a number of years, especially if a trust is required to care for a minor or a dependent adult.

Many executors try to manage the entire estate on their own but that is not necessary. It is perfectly acceptable to get professional help and in fact, it is often advisable. More and more people now obtain professional help by engaging the services of a corporate executor such as TD Waterhouse Private Trust, offered through The Canada Trust Company, to act as executor or co-executor for their estate.

It is also possible to get help without relinquishing control over the decision-making process. For those who prefer to appoint an individual as executor, TD Waterhouse Private Trust also offers the Executor Assistance service by acting as agent for the executor. In this case, the individual executor delegates the estate administration work to TD Waterhouse Private Trust while retaining control over the decision-making to ensure that the deceased's wishes are carried out. TD Waterhouse Private Trust assists the executor by taking care of

duties that the executor does not feel qualified to do or does not have time to do.

Our Corporate Executor Services provide many benefits:

- Removes an administrative burden when family may not be able to cope with decisions or administrative details.
- Provides objectivity, helping to avoid or mediate disputes within a family during a difficult time.
- Reduces the liability and potential for lawsuits that an executor may face due to a wrong decision or failure to take what the heirs consider to be proper action.
- Assists in settling the estate more efficiently.
- Provides access to tax expertise which may reduce the tax burden on the estate, maximizing value for beneficiaries.
- Leverage a team with expertise in investment management, taxation, and banking to provide an all-encompassing solution to help meet the needs of the beneficiaries.

Of particular importance is the relationship that a trust officer will establish with your family and beneficiaries—listening to their concerns and questions, keeping them informed and advising them on how to manage their inheritance.

### Why is TD Waterhouse Private Trust a Good Choice to act as an Executor?

Our goal is to provide clients with peace of mind; we can help save time and provide the assurance of knowing that the details have been taken care of. We have been providing that peace of mind to estate and trust clients for over 140 years. The knowledge and experience of our Trust Officers means that clients can depend on us to be efficient, reliable and current on all estate and tax legislation.

With all of the complexities and responsibilities involved, many people choose TD Waterhouse Private Trust to act as their Executor or under the Executor Assistance service, act as Agent for Executor. Our team of specialists work together to help settle the estate in a cost-effective and timely manner. Fee estimates are provided up-front and the fees will be based on a percentage of the value of the estate assets; often these fees are lower than the court approved rates. Trustee fees are partially tax-deductible, which along with time

savings, can help reduce the costs of estate administration.

Most importantly, your beneficiaries will deal with one experienced Estates and Trusts Specialist who coordinates all our services with a clear understanding of your goals and sensitivity to your family issues.

### In Conclusion

You may think that a trust company will act only where there is great wealth. This is not the case, and for most of us, the value of our property — home, investments, retirement plans, vacation properties — is often greater than we may think.

Please contact our TD Waterhouse Private Client Services Centres to find out more. You can also go online at <http://www.tdwaterhouse.ca/pcs/pt/index.jsp> to use our estate planning tools.

*Last revised: November 11, 2009*

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