



Levitt Lightman Dewar & Graham LLP  
Barristers and Solicitors



# THE EXECUTOR'S HANDBOOK

A Practical Guide to Administering an Estate in  
Ontario

## Introduction: Your Role as an Executor

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Being named an executor - also called an *Estate Trustee* under Ontario law - is both an honour and a significant legal responsibility. You are the personal representative responsible for carrying out the deceased's wishes, settling their financial affairs, and distributing the estate according to the will.

This handbook provides a clear, step-by-step overview of the estate administration process in Ontario.

It is designed to help executors:

- Understand their legal duties
- Avoid common mistakes
- Stay organized
- Know when to get professional assistance

This guide is not legal advice and is not exhaustive, but it does provide a practical roadmap. Because every estate is nuanced and unique, executors should always seek legal guidance if unsure about any step.

At LLDG, we are happy to assist executors with the administration process. Please contact us for further information.

# The First Steps After a Death

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The early phase focuses on locating key documents, making urgent arrangements, and protecting assets.

## A. Locate the Will

You will need to find:

- The original will (not a photocopy) and any codicils (amendments)
- Funeral instructions, if included

The will is often stored:

- In the deceased's home
- With their lawyer
- In a safety deposit box
- In a fireproof safe
- Where the deceased stores other important documents

## B. Funeral and Burial/Cremation Arrangements

Legally, the executor - not the family - has final authority over funeral decisions. However, you should follow the deceased's expressed preferences whenever possible.

You will arrange:

- Funeral home, burial or cremation and service details
- Death certificates (usually provided via the funeral home)

## C. Secure the Home and Assets

To protect the estate:

- Secure and lock the property
- Forward mail
- Ensure insurance on the home and vehicles continues
- Remove perishables and safeguard pets

## D. Notify Key Parties

In the first few days, among others, you may need to notify:

- Immediate family
- The deceased's lawyer
- Employers or pension providers
- Life insurance companies (initial notice only)

## Probate Basics

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In Ontario, most executors must apply for probate, formally called the Certificate of Appointment of Estate Trustee.

### A. What Is Probate?

Probate is the court process confirming:

1. The will is valid (assuming there is a will)
2. You are the authorized executor

It grants you the authority to deal with banks, sell property, transfer assets, and obtain financial information.

### B. When Probate Is Required

Probate is usually required if:

- The deceased owned real estate or other assets in their name alone
- Bank accounts or investments exceed institutional thresholds

You may not need probate if:

- Assets were jointly owned
- Assets have named beneficiaries (e.g., life insurance, RRSPs)
- The estate is very small

### C. Estate Administration Tax (Probate Fees)

Ontario's probate fees are:

- **\$0** on the first \$50,000 of estate value
- **\$15 per \$1,000** on amounts over \$50,000

This typically must be paid when filing the application.

### D. Why Most Executors Use a Lawyer

The probate application, and the administration that follows, is technical and may require affidavits, valuations, and supporting documents. Errors can cause delays or rejections.

A lawyer's assistance:

- Speeds up the process
- Reduces the risk of errors
- Protects the executor from liability

# Opening and Organizing the Estate

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## A. Open an Estate Bank Account

After you have proof of authority (usually the Certificate of Appointment of Estate Trustee or other preliminary documentation):

- Open a dedicated estate account at a financial institution
- Deposit all funds payable to the estate
- Pay all expenses from this account

Do **not** use your personal accounts.

## B. Gather Documents

- Death certificates
- The will and probate documents
- Financial statements
- Tax returns
- Life insurance policies
- Mortgage and loan documents
- Property deeds
- Investment or pension information

## C. Create an Initial Estate Inventory

- Real estate
- Bank accounts
- Investments
- Vehicles
- Personal assets
- Business interests
- Digital assets
- Debts and liabilities

You may include *estimated values* at this stage; but formal valuations will be required later.

## D. Record-Keeping Requirements

Executors must maintain detailed records (which can include receipts/invoices, bank statements, professional fees, and accounting spreadsheets). Beneficiaries have the right to review the full accounting.

# Identifying and Valuing Assets

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This step forms the foundation for taxes, probate, and final estate distribution.

## Common Estate Assets

- Real estate (home, cottage, rental property)
- Bank accounts and GICs
- RRSPs, RRIFs, TFSAs (if no named beneficiary)
- Investments and securities
- Vehicles
- Life insurance policies payable to the estate
- Personal belongings (jewelry, art, collectibles)
- Business shares or interests
- Digital assets (cryptocurrency, online accounts)

## How to Value Assets

- **Real estate:** professional appraisal as of date of death
- **Investments:** date-of-death statements
- **Personal property:** fair market value estimates or appraisals
- **Private business interests:** business valuation specialist

## Why Proper Valuation Matters

- Required for the probate application
- Determines taxes owed
- Helps avoid disputes with beneficiaries
- Can protect the executor

# Paying Debts, Expenses, Taxes

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Before any distributions, the executor must settle all estate obligations.

## A. Debts and Expenses

Executors must pay:

- Funeral expenses
- Professional fees (legal, accounting, appraisal)
- Mortgage and loan balances
- Credit card debts
- Utility arrears
- Income tax preparation costs

Note: Executors are *not personally liable* for the deceased's debts unless they distribute the estate too early.

## B. Tax Filing Requirements

The executor may need to file:

1. **Final T1 Income Tax Return**
2. **Estate T3 Trust Return** (if the estate earns income after death)

Late or incorrect filings can delay closing the estate.

## C. Clearance Certificate

A CRA Clearance Certificate confirms:

- All taxes of the deceased and the estate are paid

Executors should **not** fully distribute the residue of the estate until they have received this certificate. Before making any partial distributions a sufficient amount should be held back to account for taxes. The amount of the holdback should be obtained from the estate's accountant.

# Distributing the Estate

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Once debts and taxes are paid, assets can be distributed according to the will.

## A. Pre-Distribution Steps

Before distributing:

- Prepare a full accounting
- Provide it to beneficiaries for approval
- Resolve any disputes
- Obtain signed releases

## B. Types of Distributions

- Specific bequests (cash gifts, personal items)
- Real property (transfer or sale)
- Residual estate (what remains after specific gifts and expenses)

## C. Handling Real Estate

Options include:

- Transferring title to a beneficiary
- Selling the property and distributing proceeds

## D. Final Steps

Once distributions are made:

- Close the estate bank account
- Prepare a final report
- Retain records for at least 6 years

# Executor Compensation and Liability

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## A. Compensation

Ontario guidelines allow for up to:

- 2.5% of capital receipts
- 2.5% of capital disbursements
- Optional 0.4% annual care and management fee

Compensation must be:

- Allowed under the will *or*
- Approved by beneficiaries *or*
- Approved by the court

## B. Executor Liability

Executors can be held personally liable for:

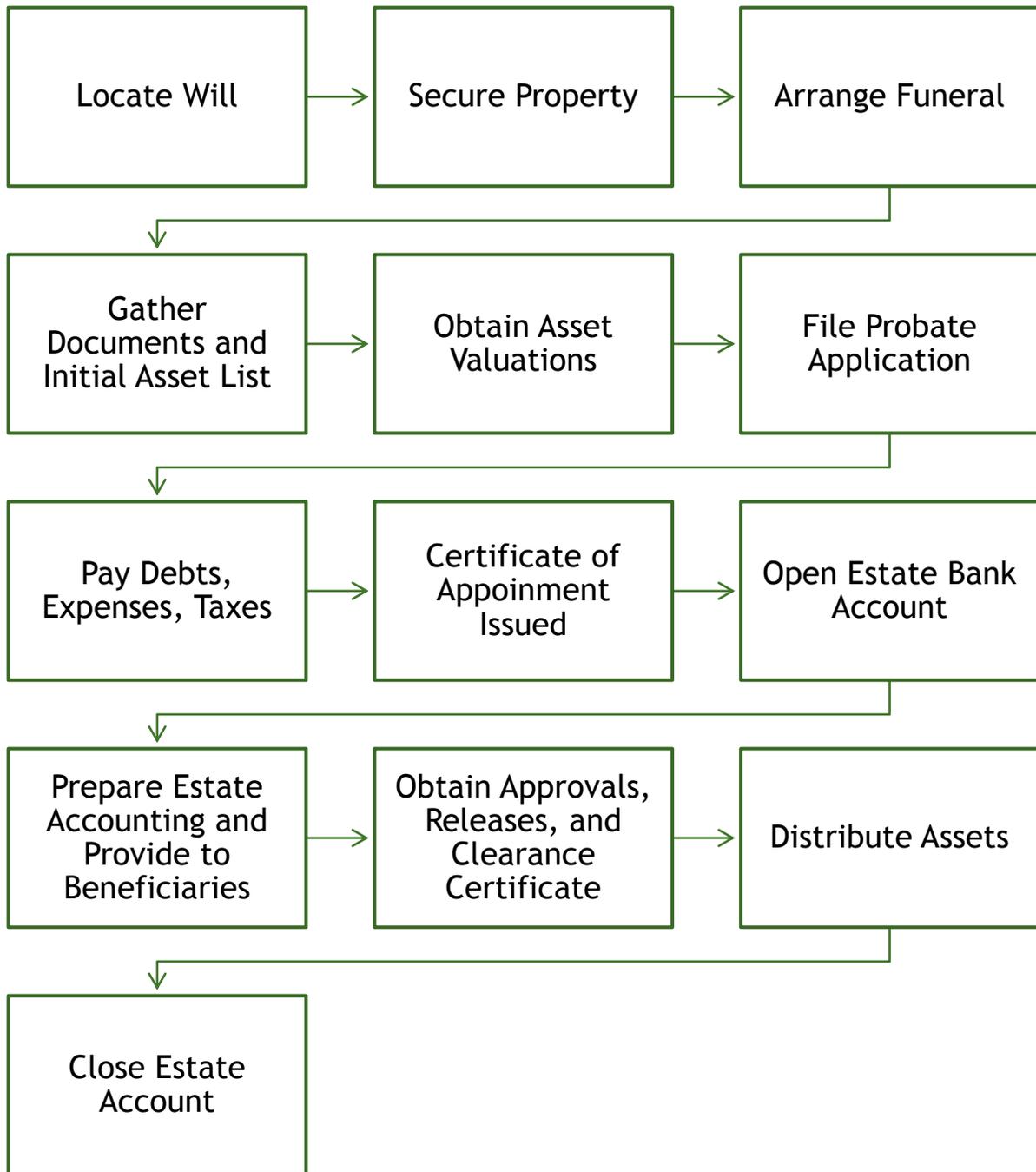
- Distributing assets before taxes are paid
- Losing or mismanaging assets
- Failing to maintain insurance
- Poor record-keeping
- Conflict-of-interest transactions
- Improper valuations

## C. How to Protect Yourself

- Keep records
- Maintain communication
- Seek legal advice
- Obtain written approvals
- Avoid early distributions

## The Process

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# Estate Assets, Debts, & Expenses Checklist

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## Dealing with Real Property Upon Death of Deceased

### Upon Death of Deceased

- Secure the real property
  - Did the Deceased own or rent property?
  - Is the property occupied or vacant?
  - Will the occupant cooperate when asked to leave the property?
  - What is the state of the property?
- Obtain letters of opinion
- Ensure the property is insured
- Ensure maintenance and utility bills are up-to-date
- Alert service providers of death/update address for service
- Prepare inventory of contents within the property and obtain appraisals if necessary
- Did the Deceased own any items of value within the property that need to be secured?  
i.e. Vehicles, jewellery, artwork.
- Set up mail forwarding with Canada Post

### Upon Receipt of Probate Certificate

- Prepare property for sale, if required/recommended by listing agent. i.e. Repairs, cleaning
- List property for sale
- Once sold, organize for trust funds to be paid out to the Estate
- Update Estate Information Return should value exceed the estimate provided upon probate

## Dealing with Bank Accounts, Shares, and Investments Upon Death of Deceased

### Upon Death of Deceased

- Secure all bank cards
- Alert Deceased's banking institutions of Deceased's death
- Request confirmation of date of death values
- Set up Estate Account/Estate Trust Account

### **Upon Receipt of Probate Certificate**

- Provide notarial copy to the Deceased's banking institutions
- Complete steps to realize bank accounts, redeem shares and investments

## **Digital Assets**

### **Upon Death of Deceased**

- Determine if there is anything in the Will or in a Memorandum directing its treatment
- Look for a listing of passwords
- Compile a List the Deceased's electronic devices: computers, tablets, smartphones etc.
- Compile a List the Deceased's Social Media Accounts
- Determine if there is Value in Digital Assets

### **Upon Receipt of Probate Certificate**

- Transfer digital assets pursuant to the Will
- Close all Accounts

## **Secured and Unsecured Debts Upon Death of Deceased**

### **Upon Death of Deceased**

- Alert credit card companies and creditors of the Deceased's death
- Determine whether pre-authorized payments were set up prior to Deceased's death and whether there are sufficient funds in account to maintain payment

### **Upon Receipt of Probate Certificate**

- Arrange payment of debt upon receipt of Estate funds or on closing of real estate transaction
- Ensure appropriate discharges take place upon payment of debt