

What is the Role of the Executor?

Even in the most simple cases, executors can be required to provide the following services themselves or be required to arrange the relevant professionals. Serious consideration should be given before entrusting those tasks to a family member or friend who may not have either the time or expertise to perform them:

- **Notify the beneficiaries** - When a person dies, the executor locates the Will and immediately contacts the beneficiaries and any relevant business associates.
- **Look after the estate** - It is important for the executor to ensure that all assets including property and investments are safe and arrange insurance protection when needed. The immediate needs of the beneficiaries must also be assessed to ensure that they do not suffer any unnecessary financial hardship.
- **Value the estate** – The executor must identify and account for all assets and liabilities. Each item then requires written confirmation from banks, financial institutions, insurance companies, share registers, titles office and creditors etc. The value of assets must be ascertained, often by obtaining valuations from licenced valuers or estimates from recognised sources.
- **Obtain authority to administer the estate** - Before an estate can be administered, the executor must apply to the Supreme Court for the authority to deal with the deceased's estate. This is referred to as obtaining 'probate of the Will'.
- **Complete income tax returns** - Before an estate can be distributed, it is necessary to obtain a clearance from the Australian Taxation Office. This means that the executor will have to give details of all income earned during the current financial year and past years, if the deceased failed to lodge a return. In many cases, the calculation of capital gains tax is involved.
- **Pay all debts** - Creditors, funeral expenses, income tax, fees for administering the estate and out-of-pocket expenses must all be paid. This often required the executor to sell some assets. Beneficiaries may choose to provide funds to cover these expenses so as to keep that assets of the estate intact.
- **Divide the estate** - When all debts have been paid, the executor is then free to distribute the remaining assets according to the directions laid out in the Will.
- **Establish trusts** - Executors are responsible for setting up trusts for beneficiaries. Trusts are required if the beneficiary is under 18 years of age or mentally incapable, or if there are specific instructions in the Will. Such trusts need ongoing administration, often over many years.