

Estate Administration Takes Time

Every once in a while, I receive a call from an agitated person demanding to know why it's taking so long to receive their inheritance. "He died three months ago . . . and so far I've heard nothing! What's going on?"

Proper estate administration takes time. Beneficiaries and creditors (people to whom the deceased owed money) need to be patient. The executor has a lot to do before he or she can start writing cheques.

The executor's first responsibility is to tend to the deceased's funeral arrangements. This alone can be an emotionally taxing event, particularly if the executor was a close family member. Next up for the executor is the task of securing any property owned by the deceased. Vacant homes attract mischief. Appropriate security measures need to be taken and home insurance policies need to be checked to confirm insurance coverage remains in place. Mail must be rerouted and newspaper subscriptions must be cancelled.

Once immediate security measures are taken, the executor needs to determine what the deceased owned, and what he owed at the time of death. This can be quite an exercise. Information must be sought from each bank and financial institution with whom the deceased dealt. The information obtained must be accurate and complete. This takes time. The same applies to creditors. A complete list of debts has to be assembled to determine if there is enough money to pay everyone. Doubtful claims against the deceased have to be investigated and if necessary, contested. This also takes time.

Non-cash assets may need to be sold. While real estate and used vehicles are easily sold, the same is not true of all assets. How do you go about valuing and selling the deceased's extensive stamp collection? Or the partially disassembled airplane they keep in the garage? Or their collection of rare and antique books? These items could all have substantial value, but only to the right person or collector. Finding that right person or collector takes time.

What takes the most time of all, however, is getting clearance from the Canada Revenue Agency. For their own protection, executors should not distribute estate assets until all tax forms have been filed, all outstanding taxes have been paid, and written confirmation of this has been received from the Canada Revenue Agency in the form of a Clearance Certificate. An executor risks personal liability if they distribute estate assets before obtaining a Clearance Certificate. These can take over a year to obtain. Some take even longer.

An executor who appreciates the scope of his or her responsibilities will be aware that estate administration takes time and will work to manage the expectations of the beneficiaries. At the earliest possible opportunity, the executor should notify the beneficiaries that it will take some time before assets can be distributed. The

executor should also try to keep beneficiaries informed about the status of their work. Most people have never been an executor and so have no appreciation of how much work it can be. Keeping the beneficiaries informed will reduce suspicions that might otherwise develop.

A lawyer with experience in estate administration can be of great assistance to an executor. In addition to providing legal advice on any legal issues that arise, lawyer with experience in administering estates can offer practical advice on how and when to communicate with asset holders, creditors, beneficiaries and others who have an interest in the deceased's estate.