

Regular readers of the classified ads have undoubtedly seen the legal notices relating to claims against an estate. You know the ones: *Estate of Joe Bloggs. If you have a claim against the estate, you must file your claim with so and so by such and such a date.* The purpose of these notices is to require people who have claims against the estate to step up and make their claims known so the executor can get on with the administration of the estate. Because no distribution can occur until provision has been made for all of the deceased's debts, it is essential for the executor to get a handle on what the deceased owed and to whom.

Advertising for creditors is a Court-sanctioned process that puts the world on notice that claims must be brought within a specified period of time. If no claims are brought, the executor can go ahead and distribute the estate. If claims are brought within the specified time period, the executor can either pay them or, if any of the claims brought appear to be bogus or inflated, dispute them before the Court.

Advertising for creditors is not mandatory and is therefore not done in all instances. An executor may choose not to advertise if they are quite certain the deceased owed no debts. Why pay the cost of advertising (often several hundreds of dollars) if the likelihood of anyone making a claim against the estate is essentially nil? Similarly, an executor may choose not to advertise if they are the sole beneficiary of the estate, since a person who has a legitimate claim against the estate is entitled to follow the property into the hands of the person who has received it.

The significance of this last point—that a person having a claim against the estate is entitled to follow the property into the hands of the person who has received it— is often overlooked. People mistakenly believe that once they receive their inheritance from the executor, it is theirs to keep for all purposes. That's not entirely accurate. Although claims are rarely made against the people who have received a distribution, it is possible. So if you receive an inheritance from someone you knew to be indebted, you may not want to go spending your entire inheritance right away. You may eventually have creditors knocking at your door, looking for payment. As a beneficiary receiving an inheritance, you want to be sure that any debts owed have been properly paid.

Advertising for creditors does not act as a bar to those who have a legitimate claim against the deceased. It would be nice if it did, but that is not its purpose. The purpose of advertising is to protect the executor from personal liability. Without the protection that advertising offers, an executor who is risk-averse might never distribute the estate for fear that a claimant could one day come forward. Advertising for creditors absolves the executor of this potential liability. It does not extinguish the underlying claim.

Advertising is intended only to protect the executor