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A GUIDE FOR ESTATE TRUSTEES

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A - Your Responsibilities as Estate Trustee

You have been appointed as an Executor (or Estate Trustee) of an estate. Once a Certificate of Appointment of Estate Trustee has been issued by the Ontario Court (General Division), you are granted the authority to take all steps as are necessary to administer the estate of the deceased. You are obligated to administer the estate in accordance with the provisions of the deceased's Will. You are also obligated to administer the estate in accordance with the laws of Ontario and are required to account for the administration of the estate to all beneficiaries.

It is your responsibility to make all decisions with respect to the administration of the estate. As your solicitors we will assist you but all final decisions must be your own. This responsibility cannot be delegated to any other person.

We are available to answer any questions which may arise in the course of administering the estate. If at any time you require assistance you may contact myself or my assistant Joan, who is responsible for handling all estate files here in our offices.

What follows, is a list of some of the matters which must, or may be, dealt with by you. I wish to stress that this is not a complete list and is provided to you only for the purposes of providing some guidance.

B - Check List:

Preliminary Steps:

1. If not already obtained, locate the Will.
2. Make proper funeral and burial arrangements in accordance with the wishes of the deceased, or pursuant to the Last Will and Testament.
3. Locate beneficiaries and provide a complete list of names, addresses and telephone numbers.
4. Attend to obtain the deceased's mail and deal with any bills, documents, and cheques or other papers. When appropriate apply to Canada Post to close the post office box and redirect mail.
5. Provide supervision of vacant real estate and begin steps to lease or sell where appropriate.
6. Ensure that liability and property insurance remains valid and in place for vehicles and real property. (Insurance Brokers must be advised if property is vacant.)
7. Review and cancel subscriptions; credit cards; professional and club memberships; driver's licence; cable; telephone and other services; and request refunds if applicable.

Assembly, Inventory & Valuation of Assets

1. Determine the full nature and value of the assets of the deceased and compile a list of them for us. Advise us if any debts owing to the deceased must be collected.
2. Locate any life insurance policies and provide copies to us.
3. Arrange with the bank or trust company, etc. for the listing of the contents of any safety deposit box or boxes.
4. Open estate account. (Usually the easiest method is to convert an existing account of the deceased.)
5. Determine whether it is necessary to advertise for creditors. We will assist in placing the ad.
6. Determine what debts the deceased owed at the date of death and arrange for payment of same. If you require our assistance in regards to any such debts contact us.
7. Contest and/or settle any debts if you are not satisfied as to their validity. You may discuss this with us.
8. If the deceased paid into the Canada Pension Plan, an application must be made and we can assist in this regard. The estate may retain any cheques deposited or received for the month of death. Any subsequent cheques must be returned.
9. Arrange for balance of household and personal goods to be sold if not specifically bequeathed.
10. Invest surplus cash until monies are needed.
11. Calculate executor compensation and reimbursement for out-of-pocket expenses. (See below.)

Assessment of Tax Situation and Implications:

1. Determine the income tax liability of the deceased and of the estate, file the necessary returns, pay any tax owing and obtain an income tax clearance certificate. This last step is very important and a request for a clearance certificate must be made at the time of filing the final return.

Finalizing Estate:

1. Receive Clearance Certificate from Revenue Canada.
2. Prepare and submit full accounting of estate administration to beneficiaries and request approval/releases.
3. Effect final distribution of estate assets by distributing funds and/or delivering assets.
4. Confirm all cheques have cleared estate bank account and arrange to close account.
5. Ensure grave marker has been placed at gravesite and/or inscription added.
6. Provide beneficiaries with final report on administration.

C - Working with Your Solicitor:**General Matters Handled by Your Solicitor:**

Our work may include the following:

1. Advising you on all matters in connection with the administration of the estate and various matters referred to above.
2. Preparing the application to the Court to confirm your appointment as Estate Trustee.
3. Preparing the advertisement for creditors if you wish to advertise for debts.
4. We will assist in transferring any real property to the beneficiaries or survivors and assist in the sale of any real property.
5. Assisting in the preparation of an application to the Canada Pension Plan.
6. Assist in making application for payment of any life insurance proceeds or the transfer of any Canada Savings Bonds, private stocks, investments, mutual funds, or other assets.
7. Preparing Final Releases for completion by the beneficiaries of the estate, as required, when assets are paid or transferred to them.

Passing of Accounts – Ontario Superior Court of Justice:

In some cases, the administration of an estate must be finalized by way of a passing of accounts before a local judge. This is only done in limited cases but if necessary, the passing of accounts for a judge involves a rather complex proceeding. We can discuss such details further if that is the case. Usually the passing of accounts is only required in the event the administration of the estate is contested or challenged by any beneficiary or interested party.

Solicitor's Fees and Disbursements:

1. **Fees:** The amount which we will be charging for our services is directly related to the complexity of the estate and the amount of time involved in assisting you. The more complicated an estate, and the more time spent, the more involved our account will be. The majority of assets dealt with by us are usually relatively straightforward and we have general set fees for attending to certain items. Once we have determined the assets involved and the extent of work required in assisting in an estate, we can sometimes provide an estimate as to fees.
2. **Disbursements:** In addition to the fees which we will be charging, there will also be a number of disbursements. These are charges or fees paid to the Court Office, to the Land Titles Office, and to various agencies with respect to the administration of the estate. These are fees, which we will pay to third parties on your behalf, and we will require payment to our offices.
3. **Probate Application Fee:** One single expense related to the administration of the estate is the fee which must be paid to the local Court Office in accordance with the regulations of Ontario. This is an amount which is based on the total value of the estate being administered. Once we have completed an inventory of the estate it will be necessary for us to calculate the fee. We will often request payment of this amount from the estate in advance, as this amount must be paid to the Court Office upon the filing of documents.

D - Executor's Compensation:

The solicitor's fees will not cover the services rendered to you which involve executor's work more properly done by yourself. Payment for such services would ordinarily come out of the fees which will be allowed to you for your work as Estate Trustee.