



# Executor Assistance Guide



This guide provides information about estate administration and is not meant to give legal or tax advice. You may need to consult with a lawyer or accountant. We've done our best to make sure the content in this guide is current and accurate. However, estate administration changes often, and some changes may not be reflected.

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## Locate the will

1. Check the deceased's safety deposit box, home safe, lawyer, accountant, financial advisor or home files for the original copy of the will. If you're unable to use the original, make a copy.
2. Go through the will to determine the executor, funeral instructions, special instructions about the disposition of the body and any other directions that need immediate attention.
3. Find out if the will was drafted by a lawyer.
4. See if an affidavit of execution is attached to the will.
5. If the person died without having made a will (intestate), or if you can't locate it, advertise with the appropriate legal authorities in the province.
6. If there is any concern about the validity of the will, or a newer will arises, seek professional advice.

## An executor's story

Ten years ago, George called his sister Jenny to let her know that he was going to name her as the executor of his will. Jenny felt very special and was honoured that George had such faith in her ability and that he had chosen her over other family members and friends to fill this role.

She never thought to ask if the will was signed or where it was located. Out of respect for George's privacy, she didn't ask any details about his assets, the will or his beneficiaries. Jenny was confident that she could handle the job. After all, she ran her own very successful business in a neighbouring city. She was certain that when the time came, she'd be able to figure things out.





## Family conference

1. Go over the will and explain the general steps to be followed to administer it. Give each residual beneficiary a copy of the will as applicable.
2. Talk about the duties and liabilities of the executor and trust company or solicitor. Explain how their fees are calculated. And decide how and how often to report to the beneficiaries.
3. Complete the personal interview checklist, which is a part of the estate information record section found on page 20.
4. Gather details about the deceased's assets and liabilities as known by the family. The executor may get information from financial institutions or the deceased's last tax return.
5. The executor is responsible for protecting the deceased's estate from liability as well as the assets. If necessary, the executor should take hold of security certificates, deeds, insurance policies, title documents, important papers and other assets for safekeeping. Make sure all fixed assets (bonds, etc.) are secure and insured.
6. Determine if the spouse will have enough support or if there are any dependent children issues.
7. Identify any adult interdependent partners or common-law partners.
8. Divide the deceased's personal assets (e.g., jewellery, household furniture, etc.) as set out in the will or memorandum.
9. If the executor is out of province or the deceased had assets outside Alberta, talk about extra administrative expenses, bond requirements and tax issues.





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- Arrange to collect rents when due from any revenue property.
  - Notify any brokerages about the death and request that they cancel any open orders.
  - Reroute the deceased’s mail.
3. Make first contact with non-family members who may have information about assets.
  4. Make a list of any safety deposit box contents.
  5. Notify appropriate government departments (see Contact information on page 18).
  6. Notify anyone the deceased had contact with about the death.
  7. Cancel subscriptions and club memberships and ask for refunds where appropriate.
  8. Cancel or memorialize any social network accounts.
  9. Notify utility companies of the death and cancel the utilities when the residence is sold or vacated.

\* \* \*

At George’s funeral service, Jenny and several other family members noticed a woman with a young, wheelchair-bound child that no one seemed to recognize. The woman introduced herself as Ruby, an old friend of George’s from years ago. Jason, the boy with her, was her son.

Ruby had been saddened to see George’s obituary and had come to pay her last respects. She asked to speak with George’s wife and children, to express her condolences.

Jenny was pleased that George’s friend had come to the funeral and informed Ruby that George had never married and had no children. She confided that the only people George left behind were his siblings.

After the funeral, Jenny’s family began asking when they would receive the rest of their share of George’s estate. Jenny assured them that she would take care of things as quickly as she could, reminding them that she needed time to figure out what to do as George’s executor.

Jenny did some online research, learning that settling an estate could get complicated depending on a wide variety of factors. She also realized, in hindsight, that she probably shouldn’t have let family members take any items from George’s house, including what he had bequeathed to them.

But, she told herself, they were family, after all, and a few personal items wouldn’t cause any problems, would they?





10. Write letters to credit unions, banks and trust companies about the estate assets. .....  
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11. Write to insurance companies to confirm insurance and annuities and inform the companies about any insurance clauses in the will. .....  
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12. Write to stock brokers, transfer agents and dividend or interest-disbursing agents to confirm holdings of bonds, debentures and shares. Ask them to send interest and/or dividend cheques to the executor. Also ask for the requirements for making transfers. Send this letter to government departments about government bonds. .....  
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13. Write letters asking for details about the following: .....  
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  - Securities held for the deceased by stock brokerages .....  
.....
  - Cash and other property held by the hospital, nursing home, funeral home and so on .....  
.....
  - Interests in other estates or trusts .....  
.....
  - Mortgages owed to the deceased, including the principal balance owing at the date of death. Give instructions to forward future payments to the executor. Review the insurance coverage and make sure the estate is shown as the first beneficiary. .....  
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\* \* \*

Jenny decided to take a closer look at George’s will to be sure she clearly understood how he wanted his estate to be distributed. While he had made bequests of specific personal items to family members, he had also asked that his assets be liquidated and the proceeds divided equally amongst his siblings “and their issue,” which Jenny believed meant their children.

This was confusing. Jenny wasn’t sure if George meant to provide equal shares to his siblings and each of his nieces and nephews, some of whom were just babies, or larger portions to the siblings with the most children.

Jenny called the lawyer, who clarified the legal interpretation of the clause. The lawyer’s bill promptly arrived the following week. Jenny called the family together to talk about what she had learned about the interpretation of George’s will. Her brother was thrilled to learn that his family was going to receive more than anyone else.

While everyone was together, Jenny went through the terms of the will, what everyone could expect to receive from George’s estate and the step she would be taking next.



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- Loans and mortgages from financial institutions. Confirm if the loan and/or mortgage is life insured.
  - Income and/or benefits owed by the employer to the deceased
14. Cancel credit cards, debit cards and other charge accounts and get details about balances at the date of death. Challenge any claim if appropriate.
  15. Advertise for creditors in newspapers. If you skip this step and a creditor has a valid claim on the estate after the assets have been distributed, the executor may be personally liable for paying the claim if they can't collect from the beneficiaries.
  16. Find out if the estate is bound by any lease or other agreement.
  17. Contact stock brokers about margin accounts.
  18. Make any other enquiries needed to find creditors.
  19. Make a working copy of the estate inventory. Record the cost value and market value of all assets. Include any promissory notes or loans from any of the beneficiaries as assets. Value the assets as follows:

\* \* \*

Jenny had always been known for being very organized, and she promised to keep everyone informed as she proceeded with the administration of George's estate. No one had any doubts that she would be thorough. She showed the family the total bill for George's funeral arrangements and obituary notice. Jenny didn't know that these types of expenses could be paid directly from the deceased's bank account, so she had paid the bill herself. Jenny wanted everyone to know that she wanted to be reimbursed for this as well as the quick consultation with the lawyer. She didn't even consider charging a fee for being executor. Together, Jenny and the siblings began to compile a detailed list of things that needed to be done to close out George's estate.



- Real estate by real estate appraiser
- Stocks from stock exchange listing or brokerage office (note any declared dividends)
- Bonds and debenture from financial page or brokerage office listings (include accrued interest)
- Household goods and furniture
- Insurance paid to the estate where the deceased paid all or part of the premium
- Commuted value of any pensions, annuities, etc.
- Miscellaneous assets such as vehicles, jewellery, coins, stamps and so on by an expert
- Real estate and chattel mortgages (diarize the registration of chattel mortgages)

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Jenny decided to stay at George’s house a week or so longer to take care of these tasks. If she rearranged a few meetings, she could take a short break from her own business. The next day, she visited George’s credit union branch. The member service representative was very helpful, posting a “deceased member” notice on George’s accounts. An estate account was set up so Jenny could handle financial transactions on behalf of the estate.

George had a safety deposit box and a number of investment accounts with the credit union. Jenny made an appointment to come back to the branch in a couple of days to gather all the details of his financial affairs.

Before she left the branch, Jenny was also given an *Executor Assistance Guide*.



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## Probate

1. Probate is a judicial process in which the court certifies the will as the legal document that deals with the deceased's assets. Executors shouldn't go ahead with their duties without the probate document in hand since it gives them their authority. Without the probate document, they'll have a hard time dealing with the estate assets. For example, probate is mandatory for transferring title and dealing with stocks and bonds. Most financial institutions also ask for the probate document before they'll give anyone access to the deceased's accounts.
2. To get probate, get in touch with Concentra Trust through your Servus Credit Union branch or meet with a lawyer. Discuss fees with Concentra Trust or the lawyer and get an engagement letter from them.
3. Ask for several notarial copies of the grant of probate so you can deal with assets.

\* \* \*

Back at George's house, Jenny took a closer look at the *Executor Assistance Guide*. She realized, with some surprise, that as executor she was personally liable to protect the estate's assets. She immediately began looking for George's insurance information. George had been a great guy, but he had never been well organized. She found an overdue renewal notice for his home insurance policy in a stack of unopened mail. She grabbed her car keys and went to the insurance office. With the home insurance situation resolved, including coverage if the house was vacant, Jenny wondered what else George may have forgotten to pay.

She placed an ad in the local paper to advertise for creditors and claimants. Jenny knew that, to prepare for probate, she would need to gather a lot more information and details on the value of George's whole estate. There were not only his personal belongings (and Jenny was sure he had never thrown anything away) but also his life insurance, investments, pension and who knew what else?





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- 9. Give out specific gifts listed in the will and get a release from the beneficiary.
- 10. Partially distribute the estate to beneficiaries who live in the residence and get a receipt. Withhold enough in reserve against all final liabilities and fees since the executor is liable for any shortfall.
- 11. Set up and manage trusts as per the terms of the will.
- 12. Keep accounting records of all transactions related to the estate.
- 13. End the deceased’s lease or sublet the premises.
- 14. Arrange for the care or adoption of the deceased’s pets.

\* \* \*

The next day, Jenny’s hopes for a quick and simple application process were dashed as she looked over the probate forms she’d gotten from the court. The forms were complicated and very detailed. To top it off, the clerk had made a pointed remark that if they were submitted incorrectly, they would be returned to the executor.

Jenny decided that the branch manager at the credit union was right: it was time to get professional help from Concentra Trust. After a brief phone discussion, Jenny hired the company to act as her agent and complete several administrative tasks, including the dreaded probate application. When she took the documents to the court, the court clerk advised her that she could expect to wait at least a month or more before a grant of probate would be issued.

\* \* \*

Leaving George’s house in her brother’s care, Jenny decided that she could finally go back home to take care of her business. Since her business was booming, she knew she wouldn’t be able to find the time to deal with George’s final T1 tax return. She was grateful that she had arranged for Concentra Trust to prepare all the necessary information for filing. Jenny reviewed the return and mailed it off.





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2. Generally, the executor must file a final return by April 30 after the year of death or six months after the date of death, whichever comes later. The final return includes income up to the date of death. The executor can also file different elective returns to report this income in the most helpful and tax-efficient way.
3. A trust return includes income after the date of death and is due 90 days after the end of the trust year.
4. Make sure to file income tax and death tax returns in jurisdictions outside Canada if the deceased was a resident outside Canada.
5. Get a clearance certificate from the Canada Revenue Agency (CRA) after completing the above. Having this certificate clears the executor to give out the estate assets without taking on personal tax liability.

\* \* \*

Even after receiving the court order, which awarded the majority of the estate to Jason, Jenny’s job was not done. The final T3 tax return needed to be filed to report income that was earned from the date George had died until the date of distribution. Once the return was assessed, then she was able to apply for a final clearance certificate for distribution from the CRA.

\* \* \*

Finally, over two years after George’s death, Jenny received the clearance certificate and was able to make a final distribution, wrap up the administration and close the estate.

Despite her ongoing efforts to smooth things over, Jenny’s relationship with her siblings was never the same. They never completely forgave her for having to give back items they’d wanted.

The last Jenny heard, Jason and Ruby were doing very well. They were on their way to Australia, where Jason was competing in wheelchair basketball games.





### Pensions

#### Human Resources Development Canada Income Security Programs

Main Floor, Canada Place Building  
#155A, 9700 Jasper Avenue  
Edmonton, Alberta T5J 4K3  
1.800.277.9914

(Old Age Security, Guaranteed Income Supplement, Spouses Allowance, Widowed Spouse Allowance and Canada Pension Plan)

**Alberta Widow's Pension Program**  
**(AB Seniors Info Line) 1.800.642.3853**

#### Company/union pension plan information

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### Health

#### Alberta Health Care Insurance Plan

10025 Jasper Avenue  
Box 1360  
Edmonton, Alberta T5J 2N3  
780.427.1432

#### Alberta Blue Cross Plan

10009 – 108 Street  
Edmonton, Alberta T5J 3C5  
780.498.8550  
1.800.661.6995

#### Company/union pension plan information

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### Probate forms

#### Alberta Queen's Printer

Main Floor, Park Plaza  
10611 – 98 Avenue  
Edmonton, Alberta T5K 2P7  
780.427.4952

### Income tax

#### Canada Revenue Agency

Canada Place  
9700 Jasper Avenue  
Edmonton, Alberta T5J 4C8  
1.800.959.8281

### GST refund cheques cancellation

#### Revenue Canada

66 Stapon Road  
Winnipeg, Manitoba R3C 3N3

### Other government offices

#### Vital Statistics

3rd Floor Brownlee Building  
10365 – 97 Street  
Edmonton, Alberta T5J 3W7  
780.427.7013

#### Health & Welfare Canada

Room 155, Canada Place  
9700 Jasper Avenue  
Edmonton, Alberta T5J 4C2  
1.800.277.9914

Government-issued death certificates are available from any Alberta registry agent.

Phone 310.0000, then dial 780.427.7013 for the agent nearest you.

**Public Trustee Office**

3rd Floor Bowker Building  
9833 – 109 Street  
Edmonton, Alberta T5K 2E8  
780.427.2745

**Alberta Senior’s and Community Support**

Box 3100  
Edmonton, Alberta T5J 4W3  
780.644.9992  
1.877.644.9992

**Veteran’s Affairs Canada**

940 Canada Place  
9700 Jasper Avenue  
Edmonton, Alberta T5J 4C3  
780.495.3762

**Last Post**

1130 Canada Place  
9700 Jasper Avenue  
Edmonton, Alberta T5J 4C3  
780.495.3766  
1.888.495.3766

For toll free calls in Alberta, dial 310.0000 followed by the area code and phone number of the office you’re calling.

**Alberta Government (Information)**

310.0000

**Canada Firearms Centre**

1.800.731.4000

**Canadian Passport Office**

1.800.567.6868

**Canada Post**

1.800.267.1177

**Workers’ Compensation Board**

1.866.922.9221

**Canadian Citizenship and Immigration**

1.888.242.2100

**Land Titles Registry**

780.427.7013  
1.877.427.4088

**Motor Vehicle Registry**

780.427.7013

**Social Insurance Registration**

P.O. Box 7000  
Bathurst, New Brunswick E2A 4T1  
1.800.206.7218

**Executor contacts**

Credit union/bank .....

Vehicle insurance .....

Home insurance .....

Lawyer .....

Accountant .....

Insurance agent .....

Financial advisor .....

Funeral home .....

Other contacts .....

# Estate information record

Date: .....

## Deceased

Deceased's name .....

Any alias name .....

Last residence address .....

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Date of birth ..... Place of birth .....

Date of birth ..... Place of birth .....

Habitual province of residence .....

The deceased died  Testate  Intestate

## Immediate family

Spouse's name ..... Spouse's birth date .....

Spouse's address .....

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### Child (1)

Name ..... Birth date .....

Address .....

.....

### Child (2)

Name ..... Birth date .....

Address .....

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### Child (3)

Name ..... Birth date .....

Address .....

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**Child (4)**

Name ..... Birth date .....

Address .....

**Child (5)**

Name ..... Birth date .....

Address .....

**Child (6)**

Name ..... Birth date .....

Address .....

If there are more children, attach another sheet if necessary.

Former spouse?  Yes  No

Name .....

Date of death/divorce .....

Matrimonial property notice required?  Yes  NoDeceased children  Yes  No

Name ..... Date of death .....

Died leaving child(ren)  Yes  No

**Will**

Date of will .....

Deceased's age at date of will .....

Marriage of deceased subsequent to date of will  Yes  No

Name of first witness .....

Name of second witness .....

**Codicil**

Date of codicil .....

Name of first witness .....

Name of second witness .....

**Executors**

Name .....

Address .....

Telephone ..... Cell ..... Fax .....

Status name in will/first to apply .....

Relationship to deceased .....

Any person with an equal right to apply .....

Renunciations required from .....

Name .....

Address .....

Telephone ..... Cell ..... Fax .....

Status name in will/first to apply .....

Relationship to deceased .....

Any person with an equal right to apply .....

Renunciations required from .....

**Beneficiaries**

Name .....

Relationship .....

Complete address .....

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Nature of gift .....

Paragraph of will.....

Name .....

Relationship .....

Complete address .....

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Nature of gift .....

Paragraph of will.....

Name .....

Relationship .....

Complete address .....

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Nature of gift .....

Paragraph of will.....

Name .....

Relationship .....

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Paragraph of will .....

Name .....

Relationship .....

Complete address .....

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Nature of gift .....

Paragraph of will .....

Name .....

Relationship .....

Complete address .....

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Nature of gift .....

Paragraph of will .....

**Any void gifts**

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**Inventory**

Land and buildings

Value

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Mines and mineral interest

Value

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Bank accounts and GICs

Value

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Shares

Value

---

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Life insurance payable to estate

Value

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Pensions

Value

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Has Canada Pension Plan been applied for?

 Yes No

Who will apply

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## Estate information record

Household goods, collections, jewellery, personal effects,  
vehicles, furniture, recreational vehicles

Value

Business interests

Value

Farming interests

Value

Receivables

Value

Other property

Value

Liabilities

Value

### Other information

Last tax return filed .....

Name of accountant .....

Employer during the last year .....

Should we advertise for creditors and claimants?

Yes

No

Other information .....

# Personal trust services

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## Responsibility of trustees

Unlike the executor, whose responsibilities always come from a will, the role of trustee can result from being named in either a trust agreement or a will.

It's difficult to provide a complete list of all trustee responsibilities since they are linked to the governing document; however, trustees are generally expected to:

- Review the governing document (i.e., the trust agreement or will)
- Develop and keep a collaborative relationship with co-trustees, if applicable
- Manage the trust and use discretionary power according to the terms of the governing document
- Collect income and make investments
- Evaluate the assets and determine when encroachment on capital and/or income are necessary
- Remain impartial and balance the interests of the different beneficiaries (i.e., income beneficiaries versus capital beneficiaries)
- Protect assets (e.g., insure property, safeguard valuables, look after business interests, if applicable)
- Manage accounts
  - Prepare an initial asset/liability statement
  - Keep complete and accurate accounting records
  - Send asset/liability statements to beneficiaries and, if necessary, to the public guardian and trustee
  - Send final reports to the beneficiaries
- Settle any disputes that may arise amongst beneficiaries
- Initiate or continue legal actions

- File all income tax returns
- Obtain a CRA Final Clearance Certificate
- Distribute final trust assets according to the governing document

Clearly, the trustee's responsibilities are many and varied. The more complex the holdings, the more important it is to have an experienced trustee who can avoid potentially costly and short-sighted mistakes.

Certain trusts may exist for a long time, for example, trusts for very young beneficiaries where the funds are kept until the beneficiaries reach adulthood. The long-term, ongoing management and administration of such trusts may mean a significant time commitment, difficult decision-making and a heavy workload.

A trustee may be personally liable for any errors or omissions that happen through the sale, investment or encroachment of trust property; failure to file income tax returns; or failure to properly distribute the trust's assets. Even when an agent is hired to manage the trust on the trustee's behalf, the trustee is still responsible.

Trustees need to be aware of the investment authority granted in the governing document and be familiar with the *Trustee Act* for the trust's jurisdiction before developing an investment policy for the trust. Equally important is documenting the reasons for the strategy and recording investment decisions, particularly if the trustee is acting under the "prudent investor rule." Trustees may be held accountable to the beneficiaries for years in the future if the investment strategy they use is not successful.

Trustees should seek the advice of a lawyer or trust professional when dealing with trustee issues.

## Administration

The care and management of an estate by an executor and administrator, trustee or guardian. The work performed by a personal representative regarding the collection of assets of a deceased person, settlement of all debts and liabilities, and distribution of the remainder, to those persons beneficially entitled. Similarly, the work performed by trustees, guardians and committees.

## Administration bond

A bond filed with the court by an administrator or a non-resident executor.

## Affidavit of execution

A statement by a witness to the execution of a legal document. The statement is sworn under oath and states that the witness was present at the time and saw the document executed.

## Ancillary letters probate

The form of court grant to authorize an executor to deal with an estate located in a jurisdiction other than the jurisdiction in which the letters probate was granted to the executor. For example, if an executor received the grant of letters probate in New York State to deal with real estate located in Ontario, Ontario law would require the executor to obtain an Ontario grant of ancillary letters probate.

## Beneficiary

1. The person for whose benefit a trust is created.
2. The person to whom the amount of an insurance policy or annuity is payable.
3. Generally used to mean one who receives any benefit under a will (see Trust).

## Capital

In a trust or estate context, the fund, or corpus, that is used to yield income.

## Charitable trusts

Trusts which have as their primary object one or more of the following purposes: the relief of poverty; the advancement of education; the advancement of religion; or for other purposes beneficial to the community, not falling under any of the preceding heads. Charitable trusts are not subject to the rule against perpetuities, do not fail for uncertainty and are exempt from income tax if certain requirements are met.

## Codicil

An instrument in writing executed by a testator for adding to, altering, explaining or confirming a will previously made by him; executed with the same formalities as a will; and having the effect of bringing the date of the will forward to the date of the codicil.

## Contingent interest

A future interest in real or personal property that is dependent upon the occurrence of some future event which is itself not assured. The interest may never come into existence at some future time (distinguish from vested interest).

## Corporate trustee

A trust company serving as trustee.

## Court passing

The submission by the executor, trustee, committee, etc. to the court having jurisdiction, of an estate's accounts for examination and formal approval by the court of the financial transactions involving estate assets, as well as compensation.

## Devise

The gift of real estate through a will.

## Encroachment

The term has two meanings. It may refer to the discretionary payment of capital funds to a beneficiary or an unauthorized intrusion of a fixture over another's land.

## Estate

The right, title or interest which a person has in any property; to be distinguished from the property itself, which is the subject matter of the interest. In a more limited sense meaning the property of the deceased.

## Executor

An individual or trust company nominated in a will to administer and distribute or dispose of the property according to the testamentary provisions.

## Fiduciary

The relationship which exists between two persons where one is legally obliged to exercise rights and obligations for the benefit of the other, e.g., a trustee.

An individual or a trust company under a lawful duty to act for the benefit of another party as to matters coming within the scope of the relationship between them. A guardian and ward, an agent and principal, an attorney and client, one partner and another partner, a trustee and a beneficiary, are all examples of fiduciary relationships.

## Guardian

An individual appointed by a court to care for a minor person or an incompetent.

## Holograph will

A will entirely in the handwriting of the testator, signed by him or her with no attesting witness.

## Income beneficiary

The beneficiary of a trust, who is entitled to receive income or revenue, e.g., a life tenant.

## Incompetent

One who is legally incapable of managing their affairs because of mental (not physical) deficiency.

## In specie

In kind, such as "distribute in specie," being to distribute the actual articles or securities.

**Insurance trust**

An agreement between an insured and a trustee, whereby insurance policy proceeds are paid directly to the trustee for investment and distribution to designated beneficiaries as directed in the trust agreement. Insurance proceeds paid to a properly established insurance trust are not subject to creditors' claims.

**Inter vivos**

The passing of property between living persons, used in such terms as "trust inter vivos" or "inter vivos trust" or "gift inter vivos."

**Intestacy**

The state or condition of dying without leaving a valid will or having a valid will that does not effectively dispose of the whole of the estate (the latter being referred to as a "partial intestacy").

**Intestate**

Not having made and left a valid will. The term is also used to refer to a person who dies without leaving a valid will.

**Irrevocable trust**

A trust that cannot be revoked by the settlor.

**Joint Tenancy**

The holding of property by two or more persons, each having an equal interest, in such a way that upon the death of one joint owner, the survivor or survivors take the entire property. By operation of law in a joint tenancy, four unities must exist: unity of interest, unity of title, unity of time and unity of possession.

**Legacy**

A disposition of money or personal property by will, the same as a bequest. A person receiving such a gift is called a legatee. Contrast with "devise." There are three types of legacy: specific, demonstrative and general.

**Letters of administration**

A court grant of authority to administer the estate of a person who did not have a valid will (distinguish from letters probate).

**Letters probate**

A court grant confirming that the will is the last one made and recognized as valid (distinguish from letters of administration).

**Life estate**

An estate whose duration is limited to the life of the tenant alone or the life or lives of some person or persons other than the tenant. If the estate is for the life of a person other than the tenant, it is known as an estate pur autre vie.

**Life tenant**

One who has a life estate in real property limited in duration to their own life or for another person's life or for an indefinite period bounded by a lifetime.

**Original investment**

The initial amount deposited into the trust.

**Passing of accounts**

Submission by an executor of accounts to the appropriate court for approval.

**Personal effects**

Goods of a personal nature, such as clothes and jewellery, which have a more or less intimate relation to the owner.

**Personal property**

All property other than real property.

**Personal representative**

A general term applicable to the person having the right to represent a deceased person, including an executor or administrator.

**Power of attorney**

A document, witnessed and acknowledged, authorizing the person named therein to act as an agent for the person signing the document. If the agent (also called the attorney) is authorized to act for the principal in all matters, that have a general power of attorney; if the agent only has authority over certain specified things, they have a special (or limited) power of attorney. In financial transactions, the power of attorney is usually special. If worded properly, the power of attorney may survive any subsequent mental incapacity of the donor of the power of attorney.

**Public trustee**

A government official appointed to supervise the administration of assets due to an unborn, an infant or, in some cases, an incompetent.

**Residue**

The estate property that remains after the testator has made provision out of his estate for debts and for specific, demonstrative and general gifts.

**Reversion**

The residue interest in an estate left to the grantor or their heirs after the termination of a particular estate. The term may also refer to the estate left to the grantor during the continuance of a particular estate. The reversion remains with the grantor as opposed to the remainder, which goes to another.

**Revocable trust**

A trust that, by its terms, may be terminated by the settlor or by another person and the property in trust is recalled to the settlor or someone else (contrast with irrevocable trust).

**Right of survivorship**

The feature of joint tenancies whereby upon the death of one joint tenant interest will pass to the surviving joint tenant(s).

**Settlor**

A person who creates a trust inter vivos. Also called the donor or grantor (compare to Testator).

### Spendthrift trust provision

A trust instrument (or provision in a trust instrument) creating a trust fund for the benefit of one who spends money improvidently, secure against both the beneficiary and their creditors by providing only periodic income to the beneficiary and being capable of voluntary alienation by the beneficiary or their creditors (also known as a protective trust).

### Specie

Distribution of assets “in kind” as opposed to converting to cash. See In specie.

### Tenancy in common

The holding of property by two or more persons in such a manner that each has an undivided interest which, upon their death, passes to their heirs or devisees and not to the surviving tenant(s). Also referred to as an estate in common (distinguish between Joint tenancy).

### Testamentary capacity

That degree of mental capacity recognized in law as sufficient to make a valid will.

### Testamentary trust

A trust established by the terms of a will.

### Testator

A man who makes or has made and left a valid will at his death (compare to Settlor).

### Testatrix

A woman who makes or has made and left a valid will at her death.

### Trust

A fiduciary relationship created by someone (called the “Settlor”) transferring property to another person (called the “Trustee”) as the holder of the legal title to the property (the trust property) subject to an equitable obligation to keep or use the property for the benefit of another (the beneficiary who is called the “cestui que trust”).

### Trustee

An individual or trust company that holds the legal title to property to administer the asset for the benefit of someone else, who is the beneficial owner.

### Trustee investments

The property in which trust funds are invested by the trustee; a broad term that includes all kinds of property, not securities alone (contrast between Original investment). The term is also used to refer to the restricted type of investments authorized by statute for trustees.

### Undue influence

An improper urgency of persuasion that one person exerts over another person to the point where that other person is prevented from exercising their own free will and is induced to do or forbear from doing an act they would not do or would do if left to act freely.

### Vested interest

A right or title to present or future possession of property that is in existence.

### Will

A legally enforceable declaration of a person’s wishes regarding matters to be attended to after their death and inoperative until their death. A will usually, but not always, relates to the person’s property, is revocable (or amendable by means of a codicil) up to the time of death and is applicable to the situation that exists at the time of death.





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