Providing support **at a time of loss**

Understanding estate settlement

BMO Financial Group

We're here to help.™

The passing of someone close can change the world around you.

We're here to help.

Everyone has their own way of dealing with the loss of a family member or friend. We understand that, and realize at a time like this, financial matters can seem overwhelming.

Honouring someone's life and legacy is a privilege; however, this responsibility might leave you in situations that you find unfamiliar. We can assist you through this difficult time by providing guidance and information about what happens next – whether it's taking care of funeral expenses, settling the estate, or even managing family relationships. These matters require your time and attention to ensure that they are handled correctly.

There is a lot to think about and we're here to listen and to help. Please take some time to review this information, and then let us help you through the process.

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Introduction

This guide will help you understand the roles, responsibilities and key activities related to settling an estate. It cannot replace professional advice, but can serve as a helpful reference whether you are an executor*, beneficiary, family member or friend.

The information aims to provide clarity on what is expected of you and everyone involved. It highlights potential obstacles, while providing guidance to support you throughout the process.

This guide is provided for informational purposes only. It is not intended to provide legal, tax or investment advice. Information may vary from province to province and may not apply to all provinces. The information in the guide is current as of the time of printing and is subject to change at any time without notice. Please speak to a legal, tax and/or investment advisor for professional advice.

*Executor is the person or trust company appointed or named to administer a deceased person's estate. In Ontario, the executor is referred to as an estate trustee. In Quebec, an executor is referred to as a liquidator or an estate trustee.

Clarity when you need it - your role in settling estate matters

Understanding your roles and responsibilities will help you and those around you to be better prepared to deal with matters related to settling the estate.

If you are an executor

Being named executor, or co-executor of an estate is a significant responsibility. Your role is to administer the estate as expressed in the final Will of a family member or friend and according to provincial law. This will require administering the estate from beginning to end, from gathering and securing all estate assets, paying expenses, debts and completing tax returns, to the final distribution of the assets.

If you are an administrator

An administrator, or personal representative, is appointed by the court to manage the estate when a person dies without a Will. This is referred to as dying 'intestate'. The administrator takes on a role similar to the executor and is responsible for settling the estate.

In the province of Quebec, when a person dies without a Will (intestate), it is the responsibility of the heirs to take on the role of liquidator or an individual liquidator may be designated. This can be determined by majority vote or Court Order.

TIP

Provincial legislation sets out who can make an application to be an administrator. Generally, a close relative will apply to the court to be appointed, however, should they wish, they can defer to someone else such as a friend or a professional. The rules for distribution of assets also vary according to provincial laws. Additionally, to help administer the estate, this administrator, or the court, may appoint a corporate executor (such as BMO Trust Company).

If you are a beneficiary

As a beneficiary, you have an important role as well. You will need to communicate with the executor and respond to their requests for information in a timely manner. Keep in mind that even a relatively simple estate can take a year or more to settle. Ask your executor about how long they expect the process to take.

TIP

Sometimes a surviving family member or friend is not acting in one of the roles listed above. Even if you are not a beneficiary, you may have assets with right-of-survivorship that will be transferred to your name. You may also be entitled to government survivor's benefits. Also, if you are close to the executor or a beneficiary, you will no doubt have an important role to play in family discussions. There is no right-of-survivorship in Quebec. However, surviving spouses may have some rights, and should consult a professional to find out what they are.

How BMO can help

BMO Financial Group (BMOFG) can help you with immediate financial needs, as well as help you decide whether to obtain additional assistance from local professionals in the areas of estate settlement, taxes and investment management.

Your BMO branch can...

- Assist with immediate needs such as paying funeral expenses and utility bills, once proof of death and copies of the invoices are provided
- Close accounts and open new estate accounts
- Provide guidance on investing funds from an inheritance
- Help answer questions about financial matters throughout the estate settlement process

TIP

Once BMO is notified of the deceased person, the estate assets may be held by limiting access to funds (often referred to as freezing the account), until required documentation is received. For example, the executor may be awaiting court authentication of a Will or where there is no Will, the court may be in the process of authorizing an administrator (liquidator). In the meantime, you may need immediate access to funds for funeral costs, lawyer fees, and other unforeseen expenses. Even though the estate assets may be held, we can help with these immediate needs under certain conditions.

BMO Trust Company

If you have been appointed as an executor or co-executor and believe the responsibility will be too difficult or too time-consuming, BMO Trust Company may be able to help. Through our Agent for Executor service, we may act on your behalf to complete the administration, manage the investments, keep required records and also assume responsibility for administering any trusts that have been established in the Will.

BMO Trust Company employs estate professionals who are experienced in administering estates and dealing with tax, legal and financial issues that may arise. You have the convenience of dealing with an expert, dedicated to administering the estate prudently, efficiently, impartially and with the highest level of confidentiality.

Retaining an estate professional can be a practical, cost-effective solution. It can also be a beneficial and less stressful choice if you:

- **Live in a different city or have limited time.** You may need to physically meet with beneficiaries or representatives of various organizations to settle aspects of the estate.
- **Are unsure of how to handle complex estate holdings.** You may not have the interest or expertise to deal with complex issues such as international holdings or business interests.
- **Anticipate conflict among the beneficiaries.** An estate professional offers an independent, non-biased and professional approach when dealing with family and beneficiaries.

We're here to help...

Being an executor is a big responsibility. That's why we offer many options to help you throughout the process. Together we can help you find answers to your questions.

For more information, speak to a representative at a BMO branch or call 1-877-225-5266. For BMO Trust Company call 1-855-648-0643 or visit bmo.com/estate

TIP

If you are a BMO customer and find yourself struggling with the emotional challenges that commonly surface following the death of someone close to you, BMO Financial Group has arranged for help. You can contact Morneau Shepell Ltd., an independent provider of professional support services, at 1-877-828-1820 for a confidential and complimentary conversation with a professional counselor at any time, around the clock.

What you need to know as an executor

As executor, you are responsible for meeting the legal and financial requirements of settling and managing the estate assets until they are distributed.

The exact process varies from province to province, but the core legal obligations of an executor are consistent across Canada:

- Protect the assets of the estate
- Deal fairly and even-handedly with all beneficiaries
- Maintain proper records of all estate financial transactions

Settling an estate can be difficult and time consuming. You will need to deal with a number of people and organizations, including beneficiaries, legal advisors and tax authorities such as the Canada Revenue Agency (CRA). You will also need to maintain complete and accurate records of all your decisions and actions, as you will be required to present a final report of the estate to the beneficiaries. Attention to detail is important, as you can be held personally liable for errors made in the estate settlement process.

Finding the right expertise and support

If this is the first time that you have been appointed as an executor, knowing where to start and what is required of you can seem overwhelming. You have several choices when it comes to professional help with your responsibilities as an executor:

Financial Institutions

For relatively simple estates, your financial institution, such as your BMO branch, can help you pay bills and immediate expenses, open an estate account, if necessary, and provide support in settling the estate.

Trust Companies

Trust companies, such as BMO Trust Company, are uniquely qualified to help with all aspects of estate settlement. This includes (but is not limited to):

- Collecting information
- Preparing an inventory of assets and liabilities
- Property management
- Arranging for authentication of the Will
- Completing tax returns
- Payment of debts
- Distributing assets

Trust companies may need to engage other professionals, such as accountants and lawyers for matters within their expertise. Fees for estate settlement services are pre-determined and are based on the size and complexity of the estate.

Accountants

Some people choose to work with their accountant to handle the estate financials and tax returns. However, accountants still need to delegate the legal work pertaining to the estate to a lawyer, and you, as executor, will still need to handle most of the information-gathering and administrative work, including protection, preservation and distribution and/or sale of assets. Accountants typically charge a fee for their services.

Lawyers and Notaries (notaries only in Quebec)

Estate lawyers can manage many aspects of settling an estate. Legal issues may arise in the course of administering an estate and only lawyers, and certain legal professionals, are licensed to provide legal advice. However, they too will need to use other professionals for accounting and tax work, and you will still need to handle much of the information-gathering and administrative work yourself. Lawyers typically charge a fee for their services.

Because of the risks and demands involved, many executors choose to work with an estate professional.

Executor responsibilities – detailed steps

There are five general steps you will need to address as executor of the estate (although not all activities within each step may apply to you):

STEP ONE - Make preliminary arrangements

STEP TWO - Secure assets

STEP THREE - Value the estate

STEP FOUR - Pay debts and file tax returns

STEP FIVE - Final distribution of the estate

Be sure to keep a written record of all activities and transactions that have been completed within each of these steps.

NOTE: For definitions of unfamiliar estate and legal terms, please see the glossary of terms on page 31.

STEP ONE – Make preliminary arrangements

1. Obtain the deceased person's identification and credit/debit cards. This is an important step to prevent fraud or identity theft.

2. Advise the deceased person's employer of the death, if applicable.

3. Advise the landlord in the event the deceased person was renting a property as a main residence.

In the province of Quebec, a notice must be given to the landlord within the required time under the Civil Code.

This "required time" varies depending on whether the decision is to cancel the lease or to maintain the occupancy of the dwelling.

4. Locate the most recent Will, including any codicils or memoranda. The original Will is typically kept in a safety deposit box at a bank or somewhere safe and protected in the home. A copy (or original) of the will is sometimes kept by the lawyer or notary who drafted the document.

5. Make or assist with funeral arrangements. One of your first duties is to assist in making funeral arrangements. Often, these have been pre-planned but if they have not, you will need to work with the family to determine the type of service that best suits their personal and religious beliefs. The funeral director can help with details, such as planning a service, burial options and newspaper obituaries.

In the province of Quebec, funeral arrangements are made by the heirs and the expense is charged to the successors. The responsibility does not lie with the liquidator unless it was stated as a request by the deceased person.

6. Obtain original or certified copies of the following documents as you may need to present them to many organizations:

- A death certificate, issued by the province or funeral director
- The Act of Death or Certificate of Death (in Quebec)
- A burial certificate, if applicable
- A copy of a coroner's report(s), if applicable
- Notarized copies of the Will, if available

In the province of Quebec, a search is required at the 'Registre des dispositions testamentaires de la Chambre des Notaires du Québec' and at the 'Registre des testaments du Barreau du Québec'. A certificate will be issued confirming whether or not a Will exists. If there is a Will, it will indicate the latest Will registered by a notary or lawyer. In addition, probate is required for a Will that is not notarized.

7. Provide the beneficiaries named in the Will with a copy of the Will or relevant sections. Beneficiaries are entitled to know which sections of the Will apply to them.

8. Meet or contact the beneficiaries to set expectations. You may wish to set expectations with the beneficiaries by discussing your role as executor as well as the settlement process. Keep lines of communication open by providing updates. It builds trust and gives beneficiaries an appreciation of all of the work you are doing. If it's not possible to meet with beneficiaries, be sure to provide them with written updates.

9. Find out if any dependant family members have immediate financial needs. A family's financial needs continue during a time of loss. Therefore, you may need to access funds from life insurance policies or the deceased person's bank account to pay bills and manage daily expenses.

Financial needs may also include the obligation to provide ongoing child support or spousal support resulting from marriage or family law contracts.

10. Arrange for the adoption or care of any pets.

Executor responsibilities - detailed steps continued

STEP TWO - Secure the assets

11. Notify banks and other financial institutions where the deceased person had accounts. Meet with a bank representative to provide proof of death and confirm that you are the executor of the estate.

Upon notification of death, the immediate step taken by the bank may be to place a hold, depending on the type of account, on the deceased person's accounts. This means no money can be withdrawn or cheques drawn on the account, except for certain expenses. However, to assist with immediate expenses, some of these funds can be released if all bank requirements are met. Types of eligible expenses typically include property taxes, income taxes, utility bills, insurance payments, funeral expenses and probate fees. Speak with the financial institution to confirm how these payments, with supporting documentation, can be handled.

12. Determine if the deceased person was a sole proprietor or owner/manager of a business and arrange for the business to continue. Ensure all physical assets and documents are in a secure place.

13. Determine if the deceased person was the sole or co-executor of an existing estate, or the sole or co-trustee of an existing trust. Notify the co-executors or co-trustees of the deceased person's death and obtain advice from a lawyer on whether you have any responsibilities.

TIP

As an executor, some tasks can be quite complex. If the deceased person owned an operating business or was acting in the role of executor/trustee for an existing estate/trust, you may want to consider obtaining assistance with your duties by engaging BMO Trust Company as an Agent for Executor/Trustee.

14. Arrange for the safe storage of personal valuables and important documents.

15. Review insurance policies to protect the estate's assets from loss, theft or destruction, until these assets can be sold or distributed to beneficiaries:

- Notify insurance companies of the death and arrange to make any payments owed under a private insurance policy
- Be guided by the information provided by the insurance companies for keeping policies enforced. For example, if a property will be left vacant for a period of time or if a vehicle will be operated by someone other than the original person on the insurance policy
- Determine if there is appropriate insurance coverage on all estate assets for example, real estate holdings, vehicles or other valuable items
- Cancel health insurance coverage

16. Redirect the deceased person's mail to your address. Mail can be forwarded from the deceased person's local postal outlet to your address by purchasing a mail forwarding service from Canada Post. Inquire at Canada Post for full details.

17. Cancel leases, cable television services, telephone, club memberships, subscriptions, credit cards, and professional memberships. Cancel these items as quickly as possible to avoid unnecessary charges. Make arrangements to pay off any outstanding balances and request any refunds due. If there are co-applicants on any of these items, inform them that they will need to apply for a new account.

18. Return the deceased person's identification. Return the Social Insurance Number (SIN) card, passport, driver's license and health card to the appropriate authorities. Make a photocopy of these cards for future reference. You may need them to claim government benefits or to complete other documentation.

Each card, license or passport should have a contact number or website on it to help with this activity.

In the province of Quebec, the health card is automatically returned by the funeral home.

19. Contact Service Canada or the Régie des rentes du Québec to notify them of date of death as required for the Canada Pension Plan (CPP) or Quebec Pension Plan (QPP), Old Age Security Plan, Veteran's Pension and employer sponsored pension plans. If applicable, Canada Pension Plan (CPP) and Quebec Pension Plan (QPP) benefits, including the month of the death, will be paid. These payments can be deposited into the deceased person's bank account. Benefits received after that month will need to be repaid.

20. Advise an estranged or former spouse of the deceased person's death. There may be payments owing to the estate if the deceased person was receiving spousal or child support from a spouse or former spouse.

Executor responsibilities - detailed steps continued

STEP THREE – Value the estate

21. Prepare an inventory of assets and liabilities. Creating an inventory of the estate is one of the most critical activities of an executor. This step ensures that all assets and liabilities as at date of death are accurately recorded and considered when settling the estate. Carefully review all records, for example, financial statements, insurance policies, and tax returns, and physically examine household items to produce a comprehensive inventory of assets and liabilities.

You may need to obtain a market value for each estate asset at date of death. This may mean getting appraisals for property, artwork and vehicles, getting valuations for any business interests and researching prices for investment holdings.

If the deceased person held foreign assets such as real estate, U.S. securities or business assets overseas, you may require professional assistance to obtain the correct market value at date of death.

For your convenience, BMO Financial Group has an inventory workbook available at https://www.bmo.com/estate – to help you create the list.

In the province of Quebec, if there is no Will, a liquidator may be exempt from making an inventory in some cases, or, if there is a Will, the heirs can release the liquidator from this obligation. Heirs and successors who agree to this exemption face consequences. For example, the heirs and successors of the estate may automatically become liable for all debts of the estate. When an inventory is made the heirs and successors are liable only for debts up to the value of the property they inherit.

Also, heirs will usually wait for the estate inventory before making the decision to accept or refuse the estate depending on the successions value.

22. Determine whether authentication of the Will (probate) is required. If it is, you will need to arrange the necessary court application and payment of probate fees.

As an executor, obtaining probate makes it easier to administer the estate because you now have clear authority from the court to gather and distribute estate assets.

Probate is the procedure by which a Will is approved by the Court as the valid and last Will of the deceased testator. It also confirms the appointment of the person(s) named as an executor(s) in the Will. The Court provides the executor with documents often referred to as Letters Probate, as proof of his or her authority to deal with the estate. Probate can help protect the executor from potential liability if another Will is found at a later date.

In the province of Quebec, as a liquidator, you must have the Will verified if it was not drawn up before a notary. In some circumstances, for example, if the deceased had foreign holdings, it could be necessary to get letters of verification.

In order to to ensure that assets are not released to the wrong parties, BMO Financial (and most financial institutions), or the executor, require most Wills to be probated.

To apply for Letters Probate (in Ontario referred to as a "Certificate of Appointment of Estate Trustee with a Will"), you will typically need:

- The original Will (and any codicils or memoranda)
- Affidavit of Witness to the Will or codicils (in most provinces)
- A valuation of the estate assets (except in Quebec)
- Probate fees may depend on the value of the estate

The forms, process and fees for probate applications all vary depending on the province in which the deceased person lived. Therefore, you may want to discuss probate application with a lawyer.

TIP

Depending on the province, the court may issue what is commonly referred to as 'Letters of Administration', instead of Letters Probate in the following situations:

- A person dies intestate
- The deceased person had a Will but did not appoint an executor
- All the executors named in the Will are deceased or otherwise unable to act or decline to act

Letters of Administration are known as a Certificate of Appointment of Estate Trustee without a Will in Ontario.

In the province of Quebec, probate is not required for notarial Wills. For non-notarial Wills, probate is obtained by depositing a motion for probate before the superior court where the deceased person resided or before a notary.

23. Close the deceased person's bank accounts and transfer balances into an estate account. An estate account enables you to deposit income and pay any necessary expenses that may be incurred during the administration of the estate. Use this account to deposit proceeds from the sale of the deceased person's property, pay taxes, and pay any outstanding balances. To help protect the assets, typically banks will not allow funds to be withdrawn from the accounts until they have received all required estate documentation. Withdrawal of funds from the estate account must be authorized by the executor or usually all executors jointly if more than one is named in the Will or estate documentation.

Documentation to open an estate account varies depending on whether there is a valid Will. Typically, you will need to provide a certificate of death and the Will, with Letters Probate as required.

In the province of Quebec, estate documentation may include an authenticated copy of a notarial Will, or probate/other court order for a Will that is not notarial, or marriage contract with a testamentary clause.

TIP

Bank accounts may have been set up as Joint with right-of-survivorship. For an account set up as Joint with right-of-survivorship, the deceased person's interest automatically transfers to the survivor(s).

In the province of Quebec there is no right-of-survivorship.

24. Determine the estate's entitlements and liabilities if the deceased person was in a business partnership. Contact Canada Revenue Agency/Revenue Quebec (Businesses) for more information.

25. Determine the estate's rights and responsibilities if the deceased person owned shares in a private company. Contact the company for more information.

26. Collect life insurance benefits. Locate life insurance policies and contact the insurance companies. You may need to provide proof of death and other estate documentation to initiate any payments.

If the estate itself is the named beneficiary, the life insurance proceeds will form part of the estate assets.

Executor responsibilities - detailed steps continued

If the estate itself is named as beneficiary, this can delay the disbursement of funds until you provide insurance companies with the proper estate documentation.

If the beneficiary is a minor, or a person with a disability, you may need to make special arrangements such as the appointment of a guardian or trustee, as applicable, or the establishment of a trust to manage the funds on their behalf.

If there are designated beneficiaries on the life insurance policy, benefits will be paid directly to these designated beneficiaries.

Keep beneficiaries informed of the process and any delays you are expecting.

Also, consider additional insurance that the deceased person may have had such as group insurance policies from a professional association, university alumni organization, employer or other organization. Credit cards and other clubs may offer supplemental insurance coverage in the event of a death caused by accidents.

If you, or the beneficiaries believe there are insurance policies in force, but cannot locate the policy documents, you may contact the Ombudsman Service for Life & Health Insurance (OLHI) to search for these documents.

27. Determine the original purchase price for each capital property, for tax purposes. The cost of an investment or physical asset is often its purchase price. You will need to determine the original purchase price of all assets at the date of death. This is necessary in order for you to calculate capital gains or losses for the deceased person's final tax return.

For assets such as real estate, you may also need to include the cost of capital improvements or renovations.

28. Contact employer(s) to arrange payment of wages or pension benefits due. Contact the human resources department of the organization where the deceased person worked to inquire about any final salary, bonuses, vacation pay, pension or death benefits that are entitled to be paid out to the estate.

Inquire if the deceased person's spouse, beneficiaries or estate is eligible for pension benefits such as a lump sum payment based on contributions made to the plan, interest, actuarial calculation, or deferred pension benefit.

29. Check for benefits that may be available from the government:

- **CPP/QPP pension or death benefit** - A one-time payment to the estate of a deceased person who made CPP/QPP contributions.
- **Survivor's Pension** - May be available to the spouse or common -law partner of a deceased person who made CPP contributions. It is often paid on a monthly basis.
- **CPP or QPP for survivors** – This may be available even if the deceased person was not receiving these benefits at the time of death, provided that they were making payments into these programs during his or her lifetime.
- **GST\HST Credits** - GST or HST credits for the deceased person may be able to be retained by the estate if the payment was issued before, and up to the date of death.

For more information about the requirements to qualify and how to apply for these benefits, visit the Service Canada website at www.servicecanada.gc.ca or the Régie des rentes du Québec at www.rrq.gouv.qc.ca.

30. Clear and close the deceased person's safety deposit box. Locate the key to the safety deposit box and contact the financial institution where the box is held.

To ensure the contents are being released to the right individual, the financial institution will ask you to present documentation indicating you are the executor. If the safety deposit box was held jointly, then the survivor must notify the financial institution in order to release its contents. The bank may help you list the contents of the safety deposit box before any items are released.

31. Transfer to the estate, or to <executor's name> as executor of the estate, the title to all real estate the deceased person owned, and notify all holders of mortgages or other encumbrances. If property is held as tenants in common, their interest in the property may become part of the estate of the deceased person.

In the province of Quebec, subject to the provisions on the family residence and the rules of the applicable matrimonial regime if the deceased was married, the title of real estate held by the deceased person will be transferred to the heirs/legatees by means of declaration of transmission duly registered to the Land Registrar. Only the deceased's share of undivided property is included in the estate.

32. If the deceased person held a mortgage on another person's property, advise the mortgagor to make all future payments payable to the estate or to <executor's name> as executor of the estate.

33. Determine whether there are any registered investment plans (e.g. RRIFs and/or RRSPs) If there is a named beneficiary on a registered plan, if the law allows, the proceeds can be distributed directly to the beneficiary, and the value of the distribution will not form part of the estate. If there is no named beneficiary, the value of the plan will be included in the estate valuation.

Where no beneficiary has been designated and there is a surviving spouse, dependent child/grandchild, or dependent infirm child/grandchild, there are provisions in the income tax act which allow the executor to elect for a tax-free transfer.

34. Contact financial institutions and brokers; arrange to have transferred into the estate or to <executor's name> as executor of the estate all Guaranteed Investment Certificates, investment accounts, bonds, stocks, and other investments.

35. If the deceased person was a party to any legal proceedings, or if the cause of death gives rise to any legal claim or liability, discuss the situation with a lawyer.

Executor responsibilities - detailed steps continued

36. Collect debts owing to the deceased person.

37. If the deceased person was a beneficiary of an estate or trust not yet distributed, advise the executor(s) and/or trustee(s) of the deceased person's death and determine and collect outstanding entitlements.

38. Decide which assets should be sold or retained. You will need to determine and assess the types of investments held in the estate in the short term, and which assets need to be transferred directly to beneficiaries or sold and the proceeds paid to the estate.

The Will of the deceased person may provide some guidance as to the types of investments the estate is allowed to purchase and hold.

When there are no specific investment instructions, the Trustee Act or comparable legislation in your province (Civil Code in Quebec) must be followed.

Buying or holding an investment in the estate that is not permitted can leave the executor personally liable to the beneficiaries of the estate.

You may wish to work with a qualified investment professional to manage the risk level of the investment portfolio, to preserve capital and help you ensure that investments are managed in the best interests of the beneficiaries.

STEP FOUR – Pay debts and file tax returns

39. Place a public notice in newspapers to alert potential creditors (not applicable in Quebec). This is an essential step to identify any potential claims against the estate and to protect it against future claims. If you do not notify potential creditors through public notice, you could be personally liable for any claims that arise after the assets of the estate have been distributed.

In the province of Quebec, a notice of the closure of the inventory is published in the register of personal and movable real rights and in a newspaper circulated in the locality where the deceased person had their last known address.

Once you have run a public notice and a reasonable period of time has elapsed, you can settle any legitimate claims against the estate. Make sure to keep a written record and receipts for all payments made on behalf of the estate. Note that the deceased's assets and liabilities may have to be paid in a specific order depending on type.

40. In the order provided by law, if applicable, pay balances on all credit cards, personal loans, lines of credit, utility accounts, and money owing to other creditors. You will need to ask the deceased person's bank and other financial institutions for a list of outstanding liabilities and amounts, and whether any loans were life-insured. If loans were not insured, they can be paid from the proceeds of the estate.

In the province of Quebec, the liquidator pays the known creditors and known legatees.

41. If the deceased person was a sole proprietor of his or her own business, ensure that all debts are paid. If the deceased person was in a partnership, there may be other contracts that need to be reviewed and addressed.

42. Prepare and file all tax returns due. In addition to the final return, ensure that any outstanding tax returns from previous years are also completed and filed. Failure to file previous returns may result in interest charges and penalties on the estate.

Determine the deceased person's income for the year until the date of death, and arrange for the preparation and filing of all tax returns up to the final or terminal tax return.

Due dates for filing the terminal tax return is determined by date of death. If date of death is between:

- January 1 and October 31 – file the terminal tax return by April 30th of the following year;
- November 1 and December 31 – file the terminal tax return within six months after the date of death.

It is necessary to report all income earned by the deceased person's estate from January 1st of the year of death to the date of death, when filing the final tax return. Earned income includes wages and other remuneration, pension income and income from other assets, such as capital gains.

At the time of filing the final tax return, all taxes owed must be paid, otherwise interest and/or penalties may be charged.

Contact Canada Revenue Agency or Revenue Quebec for more information.

In order to discuss information about the final tax return, you will need to provide documentation proving that you are the executor, the deceased person's social insurance number and a copy of the death certificate or other official document confirming death.

In the province of Quebec, you must also complete and file a final Quebec provincial tax return.

If the deceased person owned foreign property, received foreign-sourced income, or lived part-time in the United States or another country, you may also have to file a separate U.S. or foreign tax return.

Because of the complexity of filing tax returns, many executors choose to work with a tax professional. This professional, who would typically charge a fee, can advise you on the return, such as reporting income owed but unpaid at the date of death, dealing with capital gains and losses on investment and real estate, and the proper way to deal with registered accounts such as RRIFs or RRSPs in the estate.

Executor responsibilities - detailed steps continued

43. Obtain Tax Clearance Certificates from the CRA (and Revenue Quebec, if applicable). Once these government agencies process the final tax returns, they will send you an assessment, which shows income taxes owed for the final tax year (if any). If you or your accountant does not agree with this assessment, you may file an objection, however, this can delay the final settlement of the estate.

If no further taxes are owed, you can then apply to the CRA (and/or Revenue Quebec) for a Tax Clearance Certificate. This is the written confirmation that all tax liabilities for the estate have been paid. Note that if you distribute estate assets prior to receiving this certificate, you could be held personally liable, as executor, for any future taxes. Once you receive all required Tax Clearance Certificates, you may begin to distribute the estate.

Every situation is unique and your situation may differ from that outlined above. The information is not intended to be tax advice. Please speak to a tax professional for tax advice.

STEP FIVE – Distribute the estate

Once you have completed the above actions, and have determined there are enough funds available to cover any outstanding debts and taxes, then you are ready to distribute the remainder of the estate.

In the province of Quebec, note that under some conditions a surviving spouse or the deceased dependents may submit claims. The liquidator must consider them before distributing the assets.

Also, ensure that beneficiaries provide you with written acknowledgement that they have received disbursements from the estate.

44. Pay legacies and distribute bequests listed in the Will. Legacies are cash gifts and bequests are gifts of personal or household belongings. Bequests may have been listed in the Will or if applicable, on a separate document attached to the Will, specifying how the deceased person wished these items to be distributed.

45. Oversee the establishment of trusts provided for in the Will. Trusts can be an effective and efficient way to pass along assets to family members, or arrange for the needs of minors or individuals with disabilities. If a trust is established in the Will, ensure the appropriate assets are delivered to fund the trust. The named trustee will be responsible for managing the trust.

46. Distribute real estate. The principal residence can be distributed depending on the type of ownership:

- Joint Tenancy with the right-of-survivorship (except in Quebec) – The property passes to the surviving joint owner. The property does not form part of the estate. As executor, it's important to register the title to the property in the survivor's name.

In the province of Quebec, there is no right-of-survivorship. Property will be registered by means of a declaration of transmission in the name of the legatee(s)/heir(s) and the name of the surviving joint owner, if the deceased person owned a home with another person.

47. Distribute vehicles. You may also need to transfer ownership or sell motor vehicles owned by the deceased person. Contact your provincial motor vehicle ministry for details.
You will be required to provide:

- A copy of the Will
- Proof of death
- Vehicle ownership documents

48. Distribute the remaining assets of the estate. After all debts, expenses, taxes, bequests and legacies have been paid out; the remainder is called the residue. You will need to notify in writing the financial institution(s) holding these assets of your request to sell or transfer the assets. You can then distribute this remainder to beneficiaries as set out in the terms of the Will.

49. Present final accounting and obtain approval from the beneficiaries. Prepare a final accounting of all assets, liabilities, expenses and details of the distribution of assets from the estate.

Ask each beneficiary entitled to residual payments to review the final report, to indicate their approval and to release you from any further responsibility for administering the estate.

If a beneficiary does not approve the estate reports, you, as executor, can apply to the court to have the accounts reviewed and approved. Once approved by the court, you can then arrange to have the remainder of the estate distributed. Note that applying to the court may result in delays and additional legal costs. Therefore it is worthwhile to try to resolve these issues with the beneficiary.

TIP

A word about compensation.

Compensation for performing the duties of an executor vary depending on the province. You are entitled to compensation for your time and effort which is considered an expense from the estate, and you are also entitled to reimbursement for expenses you paid to carry out your duties as executor. In order to avoid any disagreements or conflicts with beneficiaries, be sure to keep detailed records of all transactions and the time spent on each activity required to manage and close the estate.

In the province of Quebec, if the liquidator is not an heir, they are entitled to compensation (renumeration). If the liquidator is an heir, they may be entitled to compensation only if stated in the Will or if other heirs agree. In case of disagreement, compensation may be fixed by the court.

Executor responsibilities progress tracker

This checklist will help you keep track of the activities that often need to be completed (also available online at https://www.bmo.com/estate).

Steps to complete	Notes
Step 1 – Make preliminary arrangements	
1. Obtain the deceased person's identification and credit/debit cards.	
2. Advise the deceased's person's employer of the death, if applicable.	
3. Advise the deceased person's landlord if applicable.	
4. Locate the most recent Will, including any codicils or memoranda.	
5. Make or assist with funeral arrangements.	
6. Obtain original or certified copies of required documents (for example, death certificates).	
7. Provide the beneficiaries named in the Will with a copy of the Will or relevant sections.	
8. Meet or contact the beneficiaries to set expectations.	
9. Find out if any dependent family members have immediate financial needs.	
10. Arrange for the adoption or care of any pets.	

Executor responsibilities progress tracker

Step 2 – Secure the assets	
11. Notify banks and other financial institutions where the deceased person had accounts.	
12. Determine if the deceased person was a sole proprietor or owner/manager of a business.	
13. Determine if the deceased person was the sole or co-executor of an existing estate, or the sole or co-trustee of an existing trust.	
14. Arrange for the safe storage of personal valuables and important documents.	
15. Review insurance policies.	
16. Redirect the deceased person's mail to your address.	
17. Cancel leases, cable television services, telephone, club memberships, subscriptions, credit cards, and professional memberships.	
18. Return to the relevant authorities the deceased person's identification - Social Insurance Number (SIN) card, passport, driver's license and health card.	
19. Contact Service Canada or the Régie des rentes du Québec to notify them of date of death - CPP/QPP/OAS.	
20. Advise an estranged or former spouse of the deceased person's death.	

Step 3 – Value the estate	
21. Prepare an inventory of assets and liabilities.	
22. Determine whether authentication of the Will (probate) is required. If it is, arrange the necessary court application and payment of probate fees.	
23. Close the deceased person's bank accounts and transfer balances into the estate account.	
24. Determine the estate's entitlements and liabilities if the deceased person was in a business partnership. Contact Canada Revenue Agency/Revenue Quebec if applicable (Businesses) for more information.	
25. Determine the estate's rights and responsibilities if the deceased person owned shares in a private company. Contact the company for more information.	
26. Collect life insurance benefits.	
27. Determine the original purchase price for each capital property, for tax purposes.	
28. Contact employer(s) to arrange payment of wages or pension benefits due.	
29. Check for benefits that may be available from the government.	
30. Clear and close the deceased person's safety deposit box.	
31. Transfer to the estate, or to <executor's name> as executor of the estate, the title to all real estate the deceased person owned, and notify all holders of mortgages or other encumbrances.	
32. If the deceased person held a mortgage on another person's property, advise the mortgagor to make all future payments to the estate, or to <executor's name> as executor of the estate.	

Executor responsibilities progress tracker

Step 3 – Value the estate (continued)	
33. Determine whether there are any registered investment plans (e.g. RRIFs and/or RRSPs).	
34. Contact financial institutions and brokers; arrange to have transferred into the estate, or to <executor's name> as executor of the estate all Guaranteed Investment Certificates, investment accounts, bonds, stocks, and other investments.	
35. If the deceased person was a party to any legal proceedings, or if the cause of death gives rise to any legal claim or liability, discuss the situation with your lawyer.	
36. Collect debts owing to the deceased person.	
37. If the deceased person was a beneficiary of an estate or trust not yet distributed, advise the executor(s) and/or trustee(s) of the deceased person's death and determine and collect outstanding entitlements.	
38. Decide which assets should be sold or retained.	

Step 4 – Pay debts and file tax returns	
39. Place a public notice in newspapers to alert potential creditors (not applicable in Quebec).	
40. In the order provided by law, if applicable, pay balances on all credit cards, personal loans, lines of credit, utility accounts and money owing to other creditors.	
41. If the deceased person was a sole proprietor of his or her own business, or owner of a corporation, ensure that all debts are paid.	
42. Prepare and file all tax returns.	
43. Obtain Tax Clearance Certificates from the CRA (and Revenu Quebec, if applicable).	

Step 5 – Distribute the estate	
44. Pay legacies and distribute bequests listed in the Will.	
45. Oversee the establishment of trusts provided for in the Will.	
46. Distribute real estate.	
47. Distribute vehicles.	
48. Distribute the remaining assets of the estate.	
49. Present final accounting and obtain approval from the beneficiaries.	

Be sure to keep a written record of all activities and transactions that have been completed within each of the steps.

What happens after the estate is settled?

After the estate is settled, the beneficiaries may look to you for advice and counsel. In fact, you may be a beneficiary of the estate in addition to being appointed as the executor.

You may have questions, such as:

- How can I use my inheritance to create a legacy in the name of the deceased person?
- How should I invest my inheritance?
- How should I set up my own personal estate plan?

Once the estate is settled, consider setting up a meeting with your BMO Financial Group representative to discuss your options and update your own financial plan.

We're here to help.

Turn to us for help with estate and financial planning.

For more information, speak to a representative at a BMO branch or call 1-877-225-5266. For BMO Trust Company call 1-855-648-0643.

Taking the stress out of a big responsibility

Irene's Story

Irene* was appointed as the executor of her father's estate. She and her brother, who lived in another province, were the beneficiaries. Irene had a very stressful job as an executive for a large company and she also had a young family that required much of her time outside of work.

The estate consisted of a residence, a recreational property, several bank accounts and term deposits, some registered investments, an automobile and personal effects. Irene's mother died in the same year as Irene's father, so a date of death income tax return needed to be filed for her estate as well.

When speaking with a financial planner at her local BMO branch, Irene expressed concern about all of her responsibilities as an executor, and whether she would have the time to complete everything. She felt obligated to act as executor, but it was adding a significant amount of stress to her life.

After listening to Irene's story, the financial planner told her about BMO Trust Company, and explained how its Agent for Executor service could help her with the administration of the estate.

Irene met with representatives from BMO Trust Company. She learned that they could arrange for the required appraisals, contact realtors, work with various financial institutions, arrange for income tax filings and complete all administrative aspects of the estate settlement. Irene was very happy to have assistance for these matters and appointed BMO Trust Company as her Agent.

Meanwhile, Irene and her brother had a falling-out regarding their father's choice of Irene as executor. To help with this matter, BMO Trust Company facilitated all contact with her brother and arranged for him to be kept informed of the estate settlement by providing him with quarterly statements.

The estate administration progressed in a timely manner and Irene was very satisfied with the services she received from BMO Trust Company.

*The person in this story and the story are fictional. Any resemblance to the person or the story is purely coincidental.

Making estate settlement convenient

Stephen's Story

Stephen* was appointed as the executor and sole beneficiary of his mother's estate. Upon his mother's death, Stephen had to travel from his home in London, England, to British Columbia to arrange for her funeral and manage her financial affairs. While Stephen was in B.C., he visited the BMO branch where his mother was a customer. After listening to Stephen's situation, the Financial Services Manger (FSM) realised that he may require some assistance to settle the estate as he had to return to London shortly. Stephen also had some immediate utility bills to pay as well as the invoice from the funeral home, however he did not have the Will available. The FSM explained to Stephen that she would help him pay the bills. She then explained that the funds in his mother's account would need to be held until she received all the estate documents. That way, someone without authority could not withdraw funds from the account. Stephen was relieved that the bills could be paid as this was his immediate concern.

The FSM then explained that BMO Trust Company offered an Agent for Executor service that could help him with administering his mother's estate. The FSM introduced Stephen to a BMO Trust Company estate specialist. After learning that BMO Trust Company could assist him with the sale of his mother's house, obtaining probate, filing income tax returns and the overall estate administration process, Stephen agreed to appoint BMO Trust Company as his Agent.

Stephen returned to his job in London 10 days later. BMO Trust Company proceeded with the probate application and gathered the assets of the estate. An appraisal of his mother's property was obtained with letters of opinion from two realtors. BMO Trust Company arranged to have the house cleaned and listed the property for sale. Stephen had expected he would need to return to Canada many times to deal with his mother's estate. Because he selected BMO Trust Company as his Agent, this was not necessary. They arranged for the distribution of personal effects, final income tax filings, and distributed the remainder of the estate to Stephen upon completion of the estate administration. The following summer, when Stephen returned to Canada, he visited the office to personally thank them.

*The person in this story and the story are fictional. Any resemblance to the person or the story is purely coincidental

Glossary of terms

Actuarial: Of or relating to calculations for items such as insurance and annuity premiums.

Administrator: A person who has been granted legal rights by the court to manage an estate.

Agent for Executor: A person or institution that is appointed by an executor to assist with any or all aspects of settling an estate. This agent can help administer the estate while the executor maintains decision-making authority.

Asset: Anything of value owned by an individual, such as stocks, bonds, real estate, art work and vehicles.

Beneficiary: The recipient of funds, property, or other benefits from a Will, trust or registered plan.

Bequest: A specific gift of personal property to a person or organization, listed in the Will.

Capital Property: Any depreciable property of the taxpayer, and if the property were disposed of, any gain or loss that would be a capital gain or capital loss, as the case may be, of the taxpayer.

Codicil: A legal document that modifies or amends the Will.

Dependent: An individual to whom the deceased person was providing support or was legally obligated to support at the time of death.

Encumbrances: A claim or lien on property.

Estate: All of the assets and liabilities of an individual at the time of death.

Executor: A person or trust company named to administer a deceased person's estate. In Ontario, the executor is known as the estate trustee with a Will. In Quebec, the executor is known as the liquidator.

Heir: One who is entitled to receive or has received an inheritance from a parent or predecessor when there is no Will.

Intestate: Dying without a valid Will.

Joint Tenancy with Right-of-Survivorship: Ownership of property by two or more people in which the survivors automatically gain ownership of the deceased person's assets on death.
Note: Not applicable in Quebec.

Legacy: A gift of money to a person or organization, listed in the Will.

Letters of Administration: Issued by the court when a person dies intestate (without a Will), appointing the administrator(s) of an estate. In Ontario, Letters of Administration are called a Certificate of Appointment of Estate Trustee without a Will.
Note: Not applicable in Quebec.

Glossary continued

Letters Probate: A document from the court confirming that the Will is recognized as valid and is the Last Will and Testament of the deceased person. In Ontario, this document is referred to as a "Certificate of Appointment of Estate Trustee with a Will."
Note: Not applicable in Quebec.

Liability: Any debt or obligation owed to creditors of the deceased person.

Memoranda: A separate document from the Will that specifies how the deceased person wished to distribute personal items.

Non-registered Investment: Investments held outside registered plan and therefore subject to taxes.

Probate of a Will: Probate is the procedure by which a non-notarial Will is approved by the Court as the valid and last Will of a deceased testator.

Proof of Death: An original, notarized or certified true copy of a death or burial certificate, funeral home certificate, Act of Death, or Certificate of Death. In Quebec, an Act of Death is issued.

Residue: What remains of the estate after all debts, taxes and expenses have been paid, and all gifts and bequests or personal property or real estate have been distributed.

Successor: A person who under the Civil Code of Quebec, is called to the succession and has the qualities required to inherit.

Tax Clearance Certificate: A confirmation in writing from the CRA (or Revenu Quebec) that a deceased person's tax status is in order and no further taxes are due. This should be obtained by the executor, otherwise the executor can be held personally responsible for unpaid taxes as well as interest and penalties.

Tenancy in Common: A situation in which property is owned by two or more people and the deceased owner's share is transferred to his or her estate, instead of going directly to the surviving joint owner(s).

Terminal Income Tax Return: The final income tax return for the deceased person. It must be filed by the executor for the year of death, and must include all income from January 1 to the date of death plus any realized taxable capital gains or allowable capital losses.

Testamentary Trust: A trust established by the Will of a deceased person.

Testator/Testatrix: A man/woman who has made a Will before death.

Trustee: The individual or trust company that holds legal title to property for the benefit of someone else. In the province of Quebec, the trustee, by his acceptance, holds and administrates the trust patrimony. Neither the settlor, trustee nor beneficiary has any real right in the trust patrimony.

Will: A document containing directions for the disposition of a person's property after his or her death.

Speak with a BMO representative today.

For more information, speak to a representative at a BMO branch or call 1-877-225-5266.
For BMO Trust Company call 1-855-648-0643 or visit bmo.com/estate

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We're here to help.™

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