



# Gordon & McLeod Law Office

FOR OUR VALUED CLIENTS

## *ESTATE ADMINISTRATION - Duties of the Personal Representative*

The following is not a complete list of the duties and responsibilities of a Personal Representative (commonly referred to as an Executor), but it does provide an overview of your primary responsibilities:

[Check \_\_\_ when completed]

1. \_\_\_ Making arrangements for the funeral, memorial and burial or cremation or other similar services.
2. \_\_\_ Determining the names and addresses of those beneficially entitled to the estate. Where probate or letters of administration is required, the beneficiaries receive notification in the probate process of their interests in the estate.
3. \_\_\_ Arranging with the bank, trust company or other financial institution for a list of contents of a safety deposit box. Most financial institutions will only allow the Personal Representative to remove the original will from the safety deposit box. In some circumstances it may be necessary to obtain other documents such as insurance policies with a named beneficiary.
4. \_\_\_ Determining the full nature and value of property and debts of the deceased as at the date of death and compiling a list, including the value of all land and buildings and a summary of outstanding mortgages, leases and other encumbrances.
5. \_\_\_ Examining existing insurance policies, advising insurance companies of the death and placing additional insurance, if necessary. NOTE: Vacant real estate requires immediate securing. The insurance company must be notified of the fact that the residence is now vacant. Failure to do so may result in the insurance company disputing a claim for loss should one occur.
6. \_\_\_ Protecting or securing the safety of any estate property. NOTE: This may include taking valuable papers, cash, securities and jewelry into your custody, and perhaps placing them in a safety deposit box. You should check the amount of insurance to determine if it fully covers the value of assets and place insurance, if necessary, on assets not already insured.
7. \_\_\_ Providing for the protection and supervision of vacant land and buildings. NOTE: You should review the insurance policies in detail. For example, some policies provide that damage due to frozen pipes is covered only if someone checks the property at least every four days.
8. \_\_\_ Arranging for the proper management of the estate property, including continuing business operations, taking control of property and selling property. This is of course subject to the will. NOTE: The Personal Representative cannot sell property specifically gifted to a beneficiary unless it must be sold for payment of debts or with the consent of the beneficiaries.
9. \_\_\_ Retaining a lawyer to advise on the administration of the estate, and to apply for a grant from the court or to bring any matter before the court.
10. \_\_\_ Applying for any pensions, annuities, death benefits, life insurance or other benefits payable to the estate. NOTE: The estate may be eligible for a Death Benefit from The Canada Pension

Plan and if so, there are also survivor's benefits for a surviving spouse and dependent children. All information can be obtained through the Canada Pension Plan Office. The Deceased may have been receiving other pensions or annuities which carry survivor's benefits with them and the issuing institution can advise you about this.

11. \_\_\_ Advising any joint tenancy beneficiaries of the death of the deceased. NOTE: Although this property does not form part of the estate, you have a duty to advise these persons that they are entitled to such property. The surviving joint tenant can then make the arrangements for the transmitting the property into their names. Our office can be of assistance by preparing the documents of transmission. Keep in mind that just because property is registered in joint tenancy, does not always mean that it is not part of the estate. Further, there may be tax consequences to the estate of owning property in joint tenancy with someone else.

12. \_\_\_ Advising any designated beneficiaries of their interests under life insurance or other property passing outside the will. Again, although this property may not form part of the estate, you have a duty to advise the beneficiary that they are entitled so that they may claim on their own behalf. In some circumstances you may have to assist them with the claim and we can draft the appropriate documents.

13. \_\_\_ Arranging for the payment of debts and expenses owed by the deceased and the estate.

14. \_\_\_ Determining whether to advertise for claimants, checking all claims and making payments as funds become available. NOTE: You do not have to advertise for creditors. However, if you do not comply with the Rules of Court concerning the advertisement for creditors, you may be held personally liable for any debts of the deceased if you distribute the estate to the beneficiaries without paying the claimants. Note that advertising does

not extinguish a claim if a creditor does not respond; it merely removes your personal liability for those claims of which you have no knowledge.

15. \_\_\_ Taking the steps necessary to finalize the amount payable if the legitimacy or amount of a debt is in issue. For example, a debt is unenforceable if it has not been acknowledged or a partial payment has not been made within six years. There are other limitation periods which may apply. There is also a special estate procedure for contesting a claim of a creditor in court. If the claimant does not prove the claim in court within the time specified, it may be forever barred.

16. \_\_\_ Determining the income tax or other tax liability of the deceased and of the estate, filing the necessary returns, paying any tax owing and obtaining an income tax or other tax clearance certificates before distributing the estate property. As noted below, if you distribute the estate without paying the taxes, and obtaining a tax clearance certificate, you may be personally liable for payment of the tax, interest and penalties.

17. \_\_\_ Instructing a lawyer in any litigation.

18. \_\_\_ Administering any continuing testamentary trusts or trusts for minors.

19. \_\_\_ Preparing Personal Representative's accounts, a proposed compensation schedule and a proposed final distribution schedule. NOTE: You have a duty to make a full accounting to all beneficiaries of the estate. You should therefore start a book of account as soon as possible recording at least the date, from whom received or paid, and the amount. You must also keep all receipts in case the court requires an audit of your accounts.

20. \_\_\_ Distributing the estate property in accordance with the will. As Personal Representative of the estate, it is your responsibility to make decisions. The responsibility to make decisions is yours and you cannot delegate this responsibility to others. If there is more

than one Personal Representative, decisions must be unanimous unless the will provides otherwise.



## How We Can Help

We welcome the opportunity to be of assistance with the administration of the estate of your deceased loved one.

Core legal services we provide including preparing the application for probate/administration and notice to beneficiaries, as well as preparing documents for transmission and transfer of estate assets. In addition, we can assist with related matters such as the sale of real property belonging to the estate, preparing a final accounting and proposed distribution of assets, and obtaining releases from the beneficiaries.

Contact us today to set up an appointment at 403-646-6111.

\*The contents of this article are intended to provide a general guide to the subject matter. Legal and financial advice should be sought about your specific circumstances.

## FOR MORE INFORMATION

Gordon & McLeod Law Office  
PO Box 586  
2213 – 20 Street  
Nanton, AB  
ToL 1Ro

Ph: 403-646-6111  
Email: [toni.mcleod@gordon-mcleodllp.ca](mailto:toni.mcleod@gordon-mcleodllp.ca)  
Website: [www.gordon-mcleodllp.ca](http://www.gordon-mcleodllp.ca)