



Last Will and Testament

ESTATE PLANNING THE ROLE OF EXECUTOR

YOUR EXECUTOR – AN IMPORTANT APPOINTMENT

The Executor of your Will is responsible for the administration of your entire estate following your death – from identifying and collecting all your assets, to paying your debts, to the ongoing protection and management of your assets – until the administration of your estate is complete.

You must nominate an Executor in your Will. The choice of Executor is completely up to you and you can nominate either:

- one or more individuals (either family or friends); or
- a professional trustee company.

If you have an existing family trust or a self-managed super fund, then your choice of Executor is even more important because control of these entities, and the assets owned by them, usually (in the case of an SMSF) and often (in the case of a family trust) pass to your Executor(s). While many people appoint their partner as Executor, an independent Executor, such as a professional trustee company may be more appropriate.

THE ROLE OF AN EXECUTOR

The role of an Executor is to carry out your wishes in accordance with your Will without being influenced by other parties – the Executor must be completely trustworthy. Your Executor deals with all necessary third parties (eg. government, banks, insurance companies, lawyers) to ensure that your affairs are managed in the way you intended.

Being an executor means taking on fiduciary obligations, so it's a role that carries personal liability if administration errors are made. An Executor's duties include:

- locating your Will;
- obtaining grant of probate from the court;
- confirming the beneficiaries of your estate;

- advising the beneficiaries of their entitlements once determined;
- verifying your assets and liabilities (including Capital Gains Tax reconstructions if required);
- collecting and managing your assets throughout the administration;
- preparing a statement of your assets and liabilities, which includes obtaining any necessary valuations;
- lodging all necessary tax returns (including your final tax return and estate tax returns);
- protecting your assets pending distribution (including insurance, safekeeping of valuables and reinvestment of surplus funds);
- arranging the sale of assets (if any)
- establishing testamentary trusts (if any);
- making interim and final distributions to beneficiaries;
- paying all lawful debts;
- keeping proper accounts; and
- preparing a full statement of all receipts and disbursements.

As you can see, the role of Executor is a complex task; often more complicated and time-consuming than most people realise. The table on the reverse outlines the tasks that are required for an Executor to fulfil their fiduciary obligations.

If you want to know more about setting up an Estate Plan – without any up-front commitment or cost – talk to Brad Roberts, one of our Directors at **The Peak Partnership** on 07 3360 9888.

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07 **3360 9888**

17 Mt Gravatt-Capalaba Road, Upper Mt Gravatt Qld 4122

Learn more at www.peakpartnership.com.au



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CHARTERED ACCOUNTANTS



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ESTATE PLANNING & EXECUTORS THE ESTATE ADMINISTRATION PROCESS

Initial administration	<ul style="list-style-type: none"> Locate your Will Determine assets and liabilities Compile schedule of assets and liabilities Finalise property services Advertise statutory notices Arrange application for Probate or Letters of Administration (if no Will exists)
Communicate with beneficiaries	<ul style="list-style-type: none"> Determine beneficiaries and advise them of their entitlements Provide schedule of assets and liabilities Seek instructions on disposal of assets Provide regular progress reports as milestones are reached Supply financial accounting and tax reports
Collect cash assets and pay outstanding debts	<ul style="list-style-type: none"> Establish estate trust account Pay funeral expenses Close bank accounts, collect life insurance proceeds and redeem other cash assets Pay debts, fees and recover outlays
Sell or transfer remaining assets	<ul style="list-style-type: none"> Real estate Shares and other investments Other assets
Determine superannuation entitlements	<ul style="list-style-type: none"> Complete fund trustees' requirements for release of super proceeds to dependants or estate
Make distributions	<ul style="list-style-type: none"> Hand over or transfer gifted items Pay legacies Distribute estate funds Store estate records
Register death on joint tenancy assets	<ul style="list-style-type: none"> Formally register death on all jointly owned assets
Taxation matters	<ul style="list-style-type: none"> Arrange for lodgement of outstanding tax returns for the deceased and finalise dealings with ATO Obtain a tax file number for the estate, prepare and lodge trust returns Provide beneficiaries with details of income to be disclosed in personal returns Determine cost bases and acquisition dates for assets subject to CGT Provide cost base schedules to beneficiaries for future reference

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