Being an Executor

This publication is for people who have been appointed as executor in a will. It covers the steps involved in dealing with an estate in British Columbia after a person dies, including how to probate a will.

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People's Law School
Work out life's legal problems

www.peopleslawschool.ca

About this Publication

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Contributors to this publication:

- Legal review: Stephen Hsia
- Writing and editing: Veronica Lorimer and Drew Jackson
- Layout: Elena Renderos

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About People's Law School

People's Law School is a non-profit society in British Columbia, dedicated to making the law accessible to everyone. We provide free education and information to help people effectively deal with the legal problems of daily life.

People's Law School

150 – 900 Howe Street
Vancouver, BC V6Z 2M4
604-331-5400
info@peopleslawschool.ca
www.peopleslawschool.ca

What's Inside

Introduction

This publication is for people who have been appointed as executor in a will. It covers the steps involved in dealing with an estate in British Columbia after a person dies, including how to probate a will. This edition reflects the *Wills, Estates and Succession Act*.

At People's Law School, we believe accurate, plain English information can help people take action to work out their legal problems. This publication explains in a general way the law that applies in British Columbia, Canada. **It is not intended as legal advice**. For help with a specific legal problem, contact a legal professional. Some sources of legal help are highlighted in the Where to Get Help section.

We've tried to use clear language throughout. See the Glossary section for definitions of key legal terms, which are also bolded in the text.

The information is current to March 2019.

Tip Visit the People's Law School website at www.peopleslawschool.ca for more coverage of dealing with an estate, including resources on how to settle an estate and probate a will.

Being Asked to Be an Executor

An executor carries out the instructions in a will

An **executor** is the person named in a **will** to carry out the instructions in the will. When the person who made the will (the **will-maker**) dies, their property and possessions form their **estate**. The executor administers the estate by locating all of the will-maker's property, paying any debts, the funeral costs and taxes, and then distributing the rest of the estate according to the instructions in the will.

Being an executor can be a demanding job

Acting as an executor can be relatively easy if the estate is simple; for example, if the estate consists of a car, a house, some personal belongings, and a bank account. But the job of executor can become challenging for many reasons.

Your job as an executor may be more difficult if:

- there are many people named in the will to receive gifts of money or property,
- the will-maker has a lot of **assets** or **debts**,
- the will-maker owns a business,
- the will includes a **trust**, or
- the will is challenged by someone who feels they have not received a fair share.

You don't have to act as executor

If someone asks you to be their executor and you don't want to do the job, you can say no.

And you still have the option to say no once a will-maker has died, even if you said yes to being executor while they were alive. If you haven't started dealing with any of the estate assets, you can decline — that is, **renounce** — your appointment as executor. You can do this by signing a form called a notice of renunciation. This form will need to be filed in court when someone applies for **probate** or administration.

"After my brother died, I found out that he had named me executor. I was honoured — but I'll admit, it came as a surprise. I love my brother, but I didn't want the job. I knew the whole process would be too difficult and stressful. For one thing, I'm 78 years old. And I live in a different province. So I signed a notice of renunciation form, and the alternate executor took over."

– Brandon, Edmonton

If two people are named as co-executors, one of the co-executors can turn down the job. The co-executor who has decided not to act will still need to file the notice of renunciation form. Or one executor can apply for probate and the **grant of probate** can reserve the right of the others to apply later.

If you renounce, and a co-executor is not named in the will:

- The alternate executor can take over. This is someone named in a will in case the executor is unable (or unwilling) to act.
- If there is no alternate named in the will, someone will have to apply to court to become **administrator**. The process is similar to the process to probate the will. The administrator will need to deal with the estate in accordance with the will.

If you've already started dealing with estate assets, you are legally bound to continue

However, if you've already started dealing with any estate assets, you're legally bound to continue until you are **discharged** of your duties by court order.

Examples of dealing with an asset include paying debts or changing the insurance on a house. Doing these things is considered **intermeddling** with the estate, and you must continue administering the estate until the court discharges you of your responsibility.

If you decide to act as executor, you can get help

It takes time, energy, and careful attention to detail to be an executor. Many executors do the work themselves. However, you can get help from friends and family members.

You can also choose to hire a lawyer or an accountant to help you, particularly if the estate is complex in any way. The fees they charge are paid out of the estate, as long as the fees are reasonable.

Many executors hire a lawyer to guide them through the **probate** process. Typically, executors hire a lawyer to handle any **business interests** left behind by the will-maker. Most executors hire an accountant to prepare the tax returns; some hire an accountant to prepare the estate accounts.

As executor, you're legally responsible for the estate

As the executor, it's your responsibility to make the decisions, watch over everything, and keep accurate records. Even if you get help from others, at the end of the day, **you are legally responsible for the estate**. If you don't do the job properly, you could be personally liable.

There are some expenses and fees you can claim

The executor can pay themselves back from the estate for any expenses they paid for while administering the estate. Examples of out-of-pocket expenses are search fees, photocopying, and postage.

An executor can claim a fee for their time and effort. Sometimes the will says what the executor's fee is. If the will doesn't set out a fee, the executor may take up to:

- 5% of the gross value of the estate,
- 5% of the income of the estate (money earned by estate property after the will-maker dies, such as rent), and
- 0.4% per year, based on the average value of the estate under management, for a care and management fee.

The amount that the court will allow an executor to claim depends on how much work was involved and whether the executor paid for professional help or did it on their own.

An executor who is named as a **beneficiary** in the will may claim a fee *in addition* to what the will gives them as a gift, unless the will says otherwise. Sometimes the will leaves the executor a special gift (such as jewelry, money, or real estate) for doing the job of executor. In such a case, the executor can claim a fee as well, but only if the will says so. The executor may prefer to take a gift rather than a fee because a fee is taxable but a gift under the will is not.

If there is more than one executor, the fee is split, but not always equally — it depends on who does the most work.

Often an executor doesn't accept a fee. This is common if the executor is a spouse, family member, or close friend of the will-maker.

"I was the executor of Mom's will. She'd distributed most of her things before she died, so it was quite a simple job. I didn't take a fee for being executor because it was for family and it didn't take up too much of my time. In the end, there actually wasn't enough money in Mom's estate to cover all of the gifts she'd made."

– Hayley, Comox Valley

There can be more than one executor

There may be more than one executor named in a will to act at the same time. If there is, the co-executors must act jointly. Neither is the "lead" executor. The co-executors have to agree on many things, from the selling price of the house to who will get the family photo albums.

If co-executors can't agree, they can't deal with the relevant asset. For example, if one executor wants to sell the house and the other disagrees, the house can't be sold. If co-executors have serious disagreements, they'll need to resolve the conflict by contacting a lawyer or going to court. If the administration of the estate stalls because the co-executors disagree, the beneficiaries may also go to court and seek removal of the executors for failing to act appropriately.

An executor's role ends when the court formally discharges them

In general, it can take about one year to complete the work of executor for a straightforward estate. This is commonly referred to as the "executor's year."

That said, there is no strict time when the responsibilities of the executor are finished. The executor remains responsible for looking after the estate, even after the estate property has been distributed to the beneficiaries under the will. If assets or debts turn up years later, the executor will still be legally responsible for dealing with them.

An executor needs to go to court to pass their accounts and to be discharged as executor. Their role is only finished once this happens.

If you agree to being someone's executor

If you agree to act as an executor, make sure you have a current copy of the will. Keep it in a safe place where you can find it easily. And make sure you know where the *original* will is kept. Ask the will-maker to give you a list of all of their assets and debts. Down the road, your job will be easier if this list is kept up to date.

After the Will-maker Dies: Ten Steps to Being an Executor

When the will-maker dies, the executor's responsibilities include:

- safeguarding the property left behind,
- paying for the funeral arrangements,
- locating the property, also known as **assets** of the estate,
- paying any **debts** and taxes, and
- distributing what remains of the estate to the people named in the will (the **beneficiaries**).

Tip The executor is bound to act for the good of the estate, even though they may also be a beneficiary. The executor must put the interests of the estate before their own personal interests. As a **trustee**, the executor is accountable to the beneficiaries. For example, as executor, you must keep records and give all beneficiaries a final statement of accounts.

Step 1. Find the will

The first step is to locate the will.

The original will may be in the will-maker's home, in a safety deposit box, or at the office of the lawyer or notary public who drafted the will.

If you need to look in a **safety deposit box** for the original will, make an appointment with the bank. You'll need a key to the box, your own identification, and a copy of the death certificate. If you can't find the key, the bank may permit the box to be drilled open for a charge.

If the will is in the safety deposit box and names you as executor, the bank will let you take the will. With a bank representative, you must make a list of the contents of the box and leave the list in the box before you remove any contents. You'll need a copy of this list if you probate the will.

How to search the Wills Registry

If you still can't find the will, you can do a search of the Wills Registry by submitting a completed application form and fee to the Vital Statistics Agency. If a lawyer isn't assisting you, you'll need to provide a copy of the death certificate. You'll be provided with a **certificate of wills search**. You'll need a copy of this certificate if the will needs to be probated.

See the Vital Statistics Agency website for the application form, the current fee, and instructions. Their contact information is:

Vital Statistics Agency
Victoria: 1-250-952-2681
Toll-free: 1-888-876-1633
Web: gov.bc.ca/vitalstatistics

Getting a copy of the death certificate

Some outside parties may need you to produce a copy of the death certificate before they will deal with you. You can get a copy of the death certificate from the funeral services provider or order one from the Vital Statistics Agency. See the Vital Statistics Agency website for the application form, the current fee, and instructions. If you want to deal with more than one institution at a time, you can order more than one death certificate.

After locating the will

Once the will is in your hands, you'll need to confirm:

- If there are instructions about the will-maker's wishes for organ donation, burial or cremation, and their funeral or memorial service.
- Whether you need to probate the will. If so, you'll need the **original** will.
- That the will you have is the most recent one. People can make multiple wills over their lifetime.
- If you're named as the executor.

Step 2. Confirm the validity of the will

Once you're confident you have the original and most recent version of the will, you'll have to make sure it's valid. A will might be invalid if:

- **It was not properly signed or witnessed**: For example, a will must be signed at the end by the will-maker in front of two witnesses present at the same time.
- **The will-maker didn't have the legal capacity to make a will**: To make a will in BC, a person must be age 16 or over and mentally capable of making a will.
- **The will-maker was under duress or subject to undue influence**: A will or a gift in a will may be invalid if the will-maker was dominated by or dependent upon another person who persuaded the will-maker to leave them something in the will.

Tip If you have concerns about the validity of the will, or a reasonable belief that a newer will exists, it's important to seek legal advice before taking any further steps with the estate. A court may be able to rectify — that is, correct or amend — certain flaws in a will.

Step 3. Protect the assets

As the executor, you're holding assets for the beneficiaries. So it's your responsibility to make sure the assets are safe and properly insured. For example:

- Search for cash, jewelry, securities, and other valuables. Arrange for their safekeeping.
- Lock up the deceased's residence, if no one's living in it. If it's vacant and not being supervised, tell the police.
- Check on the insurance of the home and any vehicles. Check the insurance expiry dates. If the deceased lived alone, check the vacancy provisions to ensure that the coverage continues — most home insurance is cancelled automatically if the home is vacant for more than 30 days.

There are other things you should do right away

Other steps you should take to protect the assets include:

- Notify financial institutions where the deceased held accounts on their death.
- Cancel any credit cards.
- Cancel any subscriptions and redirect mail to a safe location.
- Apply for Canada Pension Plan death benefits.
- If the deceased owned a business, arrange for its ongoing management.
- If the will includes a **trust**, take steps to ensure that the assets that form part of the trust are properly invested or kept in a safe place.

Tip A **trust** is a part of the estate that is set aside in the will for a beneficiary, often a minor child, on certain terms. Many wills name the executor as the trustee as well. The trustee is responsible for:

- making sure that all of the trust assets are properly invested or kept in a safe place,
- filing annual trust tax returns, and
- making payments to the beneficiary of the trust as instructed by the will.

Step 4. Arrange the funeral

The executor is responsible for making funeral arrangements and paying the funeral expenses. There are many decisions you'll need to make, usually in a very short time period. For example:

- Will the deceased be buried or cremated?
- Where and when will the funeral or memorial be?
- Will you publish an obituary and service announcement?

People often leave instructions about what they want, either in their will or a letter. Try to honour the will-maker's wishes, when possible. And consult their relatives.

You should follow what the will says

Where the will sets out the will-maker's wishes for burial or cremation, those wishes are binding on the executor, unless they're unreasonable, impractical, or cause hardship.

If you're not willing or able to give instructions on burial or cremation, the deceased's spouse may. If there's any question about what the will-maker wanted, the executor has the legal authority to decide.

Tip Take the invoices for the funeral to the bank where the deceased kept an account. If there's enough money in the account, the bank will typically give you funds from that account to pay these expenses.

Step 5. Communicate with the beneficiaries

Once the funeral is over, family members and beneficiaries are often anxious to know about what happens next and when they will receive their inheritance.

Once you understand the terms of the will, it's important to communicate with the beneficiaries. Although you're not strictly required to hold a meeting with them, doing so allows you to:

- review the terms of the will and explain next steps,
- set expectations around timelines for administering the estate and distributing the assets,
- discuss your duties and liabilities as executor,
- request approval if you want to charge a fee,
- gather personal information from the beneficiaries (for example, their full name, address, and Social Insurance Number), and
- discuss how the personal assets (such as photo albums or household goods) will be divided.

Step 6. List the assets and liabilities

Making an inventory of the estate is one of your most significant tasks as executor. The inventory lists the estate assets and liabilities, valued **as at the date of death**.

Assets you may need to find include:

- **Bank accounts**: Contact the will-maker's bank or credit union to get a picture of the account balances, outstanding loans, and investments held by the deceased when they died. You may want to pool all of the money into one account to make it easier to deal with.
- **Life insurance**: Check if the deceased had any life insurance policies, including group insurance or other plans. If so, you're responsible for making any life insurance claims.

- **Wages and benefits**: Contact the will-maker's employer. You'll need to check if they still owe the deceased any income. Also, figure out if the spouse or family are entitled to any benefits arising out of the deceased's employment.
- **Government benefits**: Contact Canada Pension Plan and Old Age Security to cancel pension benefits. Determine whether the surviving spouse or children are eligible for survivor or continuing benefits.
- **Investments**: Locate all original investment certificates, stocks, or bonds, and obtain the market value as of the date of death.
- **Real estate**: List all real estate that the will-maker owned alone or with others. List any mortgages. Have appraisals done, as of the date of death, on any properties that were not jointly owned.
- **Personal possessions**: List any other assets, including cars, boats, household goods, jewelry, electronic equipment, collections such as coins or art, and other personal effects. Estimate values. Where you're not sure, get an appraisal.

Any letters you write to request this information will need to include proof of death and a copy of the will to prove your authority to act for the estate. If a third party refuses to give you information about estate assets, you might need to consult with a lawyer.

Tip As executor, you're responsible to account for the estate assets. Keep **records and receipts** of any estate expenses paid and income received. Keep copies of all letters and forms you send.

Step 7. If necessary, apply for probate

As the executor, you may need to apply to court to **probate** the will. Probate is a legal process that confirms that the will is legally valid and can be acted on. Not all wills need to be probated.

If everything's in order, the court issues a **grant of probate**. This document allows other parties such as banks and the Land Title Office to be sure that you're someone who's authorized to deal with estate assets. See the section below on "Probating the Will."

Probate might not be required for small estates

If the estate involves less than $25,000, probate is not typically required. It's up to the organizations who hold the deceased's assets whether they'll transfer them to you without probate. Contact them to find out what they require.

Probate isn't required for assets passing outside of the will

Probate is only required for **estate** assets. Not all things owned by the will-maker form part of the estate. Certain types of assets "pass outside the will." This means you can transfer these assets to someone without a grant of probate (though you'll still need a copy of the death certificate).

Usually, **property owned jointly** by the will-maker and a joint owner automatically becomes the exclusive property of the joint owner. Common examples include a joint bank account or a house owned in **joint tenancy**. Joint tenancy is a way that property can be owned where each owner has the same interest in and an equal right to use the property — not to be confused with holding a property as tenants in common.

Certain assets where the will-maker **designated a beneficiary** will also pass outside the will. The beneficiary is entitled to receive the proceeds when the owner dies. Examples include a life insurance policy or a retirement benefit plan where the will-maker named a beneficiary.

Many couples will hold all their assets through joint ownership or with beneficiary designations to avoid probate.

If the will-maker owned land

If the will-maker owned land other than in joint tenancy, then probate is required. The Land Title Office will require you to provide a grant

of probate to transfer the land. This is so even if the will-maker's interest in land is less than the $25,000 threshold.

Step 8. Deal with debts and taxes

Once you have the grant of probate (if probate is required) you'll be able to transfer the estate assets into your name as executor. Once you have access to the deceased's money, you can settle the deceased's debts and any expenses that you incur in the course of administering the estate. These include:

- the funeral expenses,
- any lawyer or accountant fees,
- any amounts owing relating to their home, including utilities or strata fees,
- the probate fees,
- municipal and income taxes owing, and
- all other claims as of the date of death.

You'll need to do this before you distribute any assets.

> **Tip** If the estate doesn't have enough money to pay its debts, it's important to get advice from a lawyer as soon as possible. You don't want to become **personally liable** for the debts.

Protect yourself from liability

If you don't pay the deceased's debts, including any taxes owed, before you distribute the estate, you could be on the hook for the deceased's debts.

To find out who the deceased owed money to, look in the deceased's records for evidence of mortgages, loans, and accounts with outstanding charges.

Depending on the circumstances, you may want to advertise for possible creditors. Advertising for creditors involves placing a notice in the *BC Gazette*, a government publication. A creditor will have 30 days after publication of the notice to come forward with a claim against the estate. After 30 days, you may distribute the estate and you won't be liable for any creditor claims that weren't raised.

> **Tip** As executor, you must notify a surviving spouse that he or she may have a right to the spousal home. If you transfer the home without providing proper notice, you may be liable.

Prepare and file income tax returns

As executor, you're responsible for filing income tax returns for the deceased and possibly for the estate:

- You must file a tax return for the deceased for the year of death.
- If the deceased didn't file a return for any year before the year of death and tax is payable, you'll need to file a tax return for the person for those prior years as well.
- If the estate earns any income before distribution to the beneficiaries, you'll need to file a tax return for the estate for each year after the date of death.
- If the will establishes a **trust**, you must file a tax return for the trust.

If the deceased had assets or income in another country, you may need to file a foreign income tax return as well.

After the income tax is reported, assessed and paid, apply for a **clearance certificate**. For your own protection, you should have this certificate before you begin to distribute the estate. For more information, see the Canada Revenue Agency publication *Preparing Returns for Deceased Persons*, available at canada.ca/tax or by calling 1-800-959-8281.

Step 9. Account to the beneficiaries

Before you distribute the estate, you must give the beneficiaries an accounting of your administration of the estate and they must agree with it.

Prepare a final statement of assets, debts, income, expenses, and distribution for the beneficiaries to approve. If they refuse to approve it, you will need to have the accounts reviewed by the court so that your administration is approved. This process is called the "**passing of accounts**."

In the accounting, set out any executor's fee you're charging and any expenses you're claiming. If the beneficiaries don't agree with your proposed fee, you'll need to get your accounts reviewed by a registrar of the court, who will set the fee.

Tip You should **ask the beneficiaries to sign a release** when they approve your statement of accounts. In the release, the beneficiary agrees, in consideration for receiving their gift from the estate, not to make any claims against you related to your work as executor.

Step 10. Distribute the estate

Once you ensure that all debts, expenses, and taxes have been paid, that all claims against the estate have been satisfied, and that your accounts have been approved by the beneficiaries or the court, you can distribute the remainder of the estate.

If probate is required, the law says that you can't distribute the estate until 210 days after probate is granted and no claim is made against the estate. If every person who has a potential claim on the estate signs a form saying they won't challenge the will, you can go ahead and distribute sooner. There are certain people who can't provide consent to early distribution, such as a minor child.

The will can be challenged by the deceased's spouse or children

In general, the will-maker is free to leave their estate to whomever they want. However, the law requires that the will-maker adequately provide for their spouse and children through the will. A spouse or child can apply to court for a share of the estate that is fair in the circumstances.

A spouse includes a common-law spouse. This is a person the will-maker lived with in a marriage-like relationship for at least the two years prior to their death.

The process of distribution

Estate assets are transferred first to the executor, and then to the beneficiary. These steps are often done at the same time. The Land Title Office has the forms for transferring **real estate**. Autoplan handles transfers of **motor vehicles**.

First, distribute any **specific gifts** of money or property. Sometimes the will-maker attaches a separate list with the will that says who should receive particular items. That list may or may not be binding on the executor, depending on what the will says and the form of the separate list.

If any cash and belongings remain after you distribute the specific gifts, divide what remains — known as the **residue** — as the will says. For example, the will may say to distribute the residue equally amongst the will-maker's children. If the will doesn't have a residue clause, you must distribute the residue as if there was no will. This is called "intestacy." If this situation occurs, it's best to seek legal advice.

A witness may be able to receive a gift

Check if anyone receiving a gift under the will is a witness. They *may* be able to inherit under a will. The witness has to apply to court and show that the will-maker intended to make the gift *even though* the beneficiary was a witness. If the court isn't satisfied, the gift to the witness is void. Either way, the remainder of the will won't be affected.

Probating the Will

As the executor, you may need to apply to the court to **probate** the will in order to distribute the estate. If everything is in order, the court issues a **grant of probate**. The executor can then show a notarized copy of the grant of probate to banks and other asset holders, confirming that the executor has the authority to act for the estate.

The probate procedure involves several steps and considerable attention to detail. Many documents must be filed with the probate registry of the Supreme Court of BC.

The timeframe for the probate registry to approve probate applications varies, but generally the review process takes two to three months.

If your application is rejected, the registry staff will tell you the reason. You can correct the problem and re-apply.

Once you're granted probate, you can proceed with the remaining steps to administer the estate.

You must notify certain people that you intend to apply for probate

To provide notice, complete a copy of the court form P1, notice of proposed application in relation to estate. Together with a copy of the will, mail or deliver the court form to:

- Each person named in the will as executor or alternate executor.
- Each beneficiary named in the will.
- The will-maker's spouse and children (because they are entitled to challenge the will under the *Wills, Estates and Succession Act)*.
- Each person who would be entitled to a share in the estate if there had been no will. The *Wills, Estates and Succession Act* lists the people who are entitled to a share in an estate if someone dies without a will.
- If *any* of the people you're required to send notice to above is a minor or mentally incapable adult, you need to send notice to the **Public Guardian and Trustee**.

You must deliver this notice at least 21 days before submitting the probate application to court.

"My wife Eileen named me as executor in her will. She left her estate to me and our children. The only other gift was a ring to her sister Zara. I was confused about whether I had to send her brother Francis notice of the probate application. My lawyer explained that if Eileen had died without a will, under the law, only the kids and I would have been entitled to the estate. So I didn't have to send Francis notice, even though he was still alive when Eileen died."
– John, Port Moody

You need to file probate documents with the registry

A typical probate application will include these documents, which you must file with the probate registry:

- **A submission for estate grant (Form P2)**: This form gives details about your application for probate.
- **An affidavit of the applicant (Form P3 or P4)**: This form identifies you and your relationship to the will-maker.

- **Affidavits of delivery (Form P9)**: These affidavits confirm that notice of the application was delivered to everyone who you had to give notice to.
- **An affidavit of assets and liabilities (Form P10 or P11)**: This form sets out all the will-maker's estate assets and liabilities.
- **The originally signed version of the will**. If the original doesn't exist, you can file a copy of the will. You'll also need to file evidence that supports that it's a copy of the valid will. The court may or may not accept the copy as the last valid will of the deceased.
- **Two copies of a certificate of wills search**, and any accompanying wills notices, obtained by doing a search of the Wills Registry.
- **Payment of the court filing fee**: Currently $200, unless the estate has a value of less than $25,000, in which case there is no fee payable.

Tip You can download the court forms required for probating a will from the Ministry of Justice website at gov.bc.ca/court-forms.

Additional documents will be required to deal with: issues relating to the will, dispensing with notice, the executor renouncing their executorship, and various other unusual applications.

To find the probate registry closest to you, contact Enquiry BC:

Lower Mainland: 604-660-2421

Toll-free: 1-800-663-7867

Tip If there's nothing to list under one of the headings on a form, write nil or none. Blank spaces may suggest that information is missing. This is one of the main reasons forms are rejected.

Signing the probate forms

When you sign a probate form, it means you're swearing or affirming that the information you're providing in the document is true. You'll need to sign *some* of the probate forms in front of a lawyer, notary public, or a commissioner for taking affidavits. All court registries have a commissioner for taking affidavits, and some community groups do as well.

Listing assets and liabilities

The affidavit of assets and liabilities includes a statement that has three parts:

- **Real property (Part I)**: List the will-maker's home and any other land or investment properties.
- **Personal property (Part II)**: List the will-maker's personal property, such as cash, jewelry, furniture, vehicle, and the Canada Pension Plan death benefit.
- **Liabilities (Part III)**: List any debts or amounts owing. Don't list any expenses incurred *after* the deceased died, such as funeral expenses or lawyer's fees.

Don't list assets that are owned jointly (such as a house owned in joint tenancy) or that name a specific beneficiary, such as a life insurance policy.

Parts I and II ask the **value of the assets at death**. Provide a value, or if the asset has no value, put "nil."

If you can't get information about all of the deceased's assets you can still apply for probate. However, you should disclose as much information on the the affidavit of assets and liabilities as possible. There's a form (Form P18) you can file with the court to compel third parties to give you information about estate assets (for example, the balance of a bank account). Consider speaking to a lawyer who can help you obtain estate information. As you find new assets, you'll need to prepare a new affidavit and pay further probate fees based on their value.

Tip To help determine the market value of the person's home, refer to BC Assessment's property assessment information at bcassessment.ca.

Probate fees are based on the gross value of the estate

Once the application is reviewed, the probate registry will assess the **probate fees** payable. Probate fees are based on the gross value of the estate assets that were located in British Columbia when the will-maker died. This is the value of estate assets before subtracting debts.

Estate value	Probate fee
$0 to $25,000	0
For the first $25,000 to $50,000	$6 for every $1,000 (or part of $1,000)
For any part of the value $50,000 or more	$14 for every $1,000 (or part of $1,000)

For example, if the gross value of an estate is $125,000, the probate fees will be $1,200. This fee is in addition to the court filing fee of $200.

Where to Get Help

Access Pro Bono
Volunteer lawyers provide free legal advice to qualifying people who cannot obtain legal aid or afford a lawyer.
Lower Mainland: 604-878-7400
Toll-free: 1-877-762-6664
Web: accessprobono.ca

Canada Revenue Agency
The publication *Preparing Returns for Deceased Persons* provides information and forms for those filing tax returns for a deceased person.
Toll-free: 1-800-959-8281
Web: canada.ca/tax

Clicklaw
Online resource offers one-stop access to legal information, education, and help for British Columbians from trusted organizations. Select the topic "Wills & Estates."
Web: clicklaw.bc.ca

Lawyer Referral Service
Service offering referrals to lawyers who can provide a half-hour consultation for $25.
Lower Mainland: 604-687-3221
Toll-free: 1-800-663-1919

Public Guardian and Trustee of BC
This public body may manage estates, for a fee, when the executor isn't able or willing to do so, or when someone dies without a will.
700 - 808 West Hastings Street
Vancouver, BC V6C 3L3
Lower Mainland: 604-660-4444
Web: trustee.bc.ca

Self Counsel Press
Publisher of do-it-yourself guides on legal topics, including the *British Columbia Probate Kit*, which includes the forms required for probate and a step-by-step explanation of the process.
Web: self-counsel.com

Glossary

Administrator: A person appointed by the court to deal with an estate where the executor is unable or unwilling to act, or there is no valid will.

Assets: Anything a person owns that has value. Assets can include things such as money, land, investments, and personal belongings such as jewelry, furniture, and investments.

Beneficiary: A person who is to receive money or property in a will, benefit plan, or insurance policy.

Debts: Money that a person owes. For example, a credit card balance, a car loan, or a mortgage.

Estate: All of the property and belongings a person owns upon their death, with some exceptions. The estate does not include property owned with someone else jointly (such as a joint bank account) or property that has a designated beneficiary (such as an insurance policy).

Executor: The person named in a will to carry out the instructions in the will and settle the will-maker's affairs after they die.

Grant of probate: A document issued by the court in a probate application certifying that the will submitted by the executor is legally valid and can be acted on.

Intermeddle: To interfere in the affairs of others. In the context of an estate, to deal with the assets or liabilities of the deceased.

Joint tenancy: A way that property can be owned where each owner has the same interest in and an equal right to use the property. Usually, when one joint tenant dies, their share automatically passes to the other joint tenants.

Probate: A legal procedure to confirm that a will is valid and can be acted on. It allows financial institutions and others to rely on the will as being the last will made by the deceased.

Public Guardian and Trustee: A public body established by law to protect the interests of British Columbians who lack legal capacity to protect their own interests.

Renounce: To decline an appointment as executor.

Residue: Whatever is left over in an estate after the executor pays all the debts and expenses and distributes any specific gifts.

Trust: A form of possession of property in which a person (the trustee) holds property for the benefit of another person (the beneficiary).

Will: A legal document that gives instructions about who should receive the property of the will-maker after they die, and on what conditions.

Will-maker: A person who prepares and signs a will.

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Which publication did you read? _____

	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
The information presented increased my understanding of the legal topic	○	○	○	○	○
I am confident that the information provided is reliable	○	○	○	○	○
The information helped me identify the next steps to take with my legal issue	○	○	○	○	○
I would recommend this publication to others	○	○	○	○	○

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