



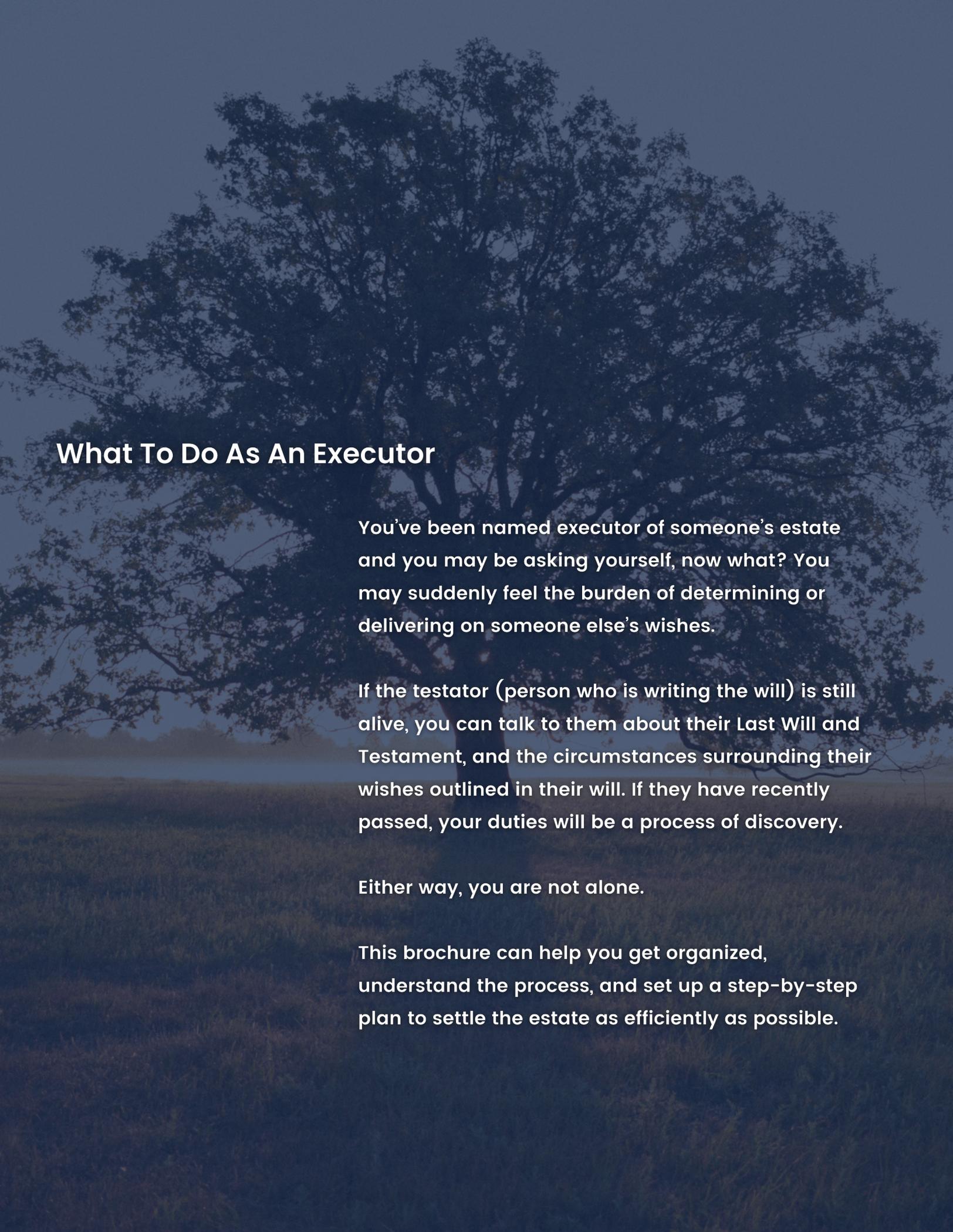
What To Do As An Executor – A Helpful Guide



Planable Wealth
Plan. Preserve. Provide.

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What To Do As An Executor

You've been named executor of someone's estate and you may be asking yourself, now what? You may suddenly feel the burden of determining or delivering on someone else's wishes.

If the testator (person who is writing the will) is still alive, you can talk to them about their Last Will and Testament, and the circumstances surrounding their wishes outlined in their will. If they have recently passed, your duties will be a process of discovery.

Either way, you are not alone.

This brochure can help you get organized, understand the process, and set up a step-by-step plan to settle the estate as efficiently as possible.

Get Organized

The first step in this process is to get organized. Depending on the size and complexity of the estate, it may or may not settle quickly. Whether the testator is alive or deceased, Our Estate Checklist can help you review or find the testator's most important documents and list their location and any contact information associated with the documents (e.g., bank or investment accounts and a bank or investment firm contact). Refer to the appendix at the end of this brochure for additional guidance.

Helpful Resources...

Additional Reading:

"The Executor's Guide"

by Mary Randolph

© 2004, Berkeley, CA: Nolo.

"The Executor's Handbook"

by Theodore E. Hughes and

David Klein, © 2013, Fourth Edition,

New York: Checkmark.

Internet:

[irs.gov](https://www.irs.gov) > IRS Publication

559 for Survivors, Executors,

and Administrators

[nolo.com](https://www.nolo.com) >

"Wills and Estate Planning" section

Understand the Process

Part of discovering your duties as an executor is getting to know the steps involved in settling an estate. Familiarize yourself with the state laws of the testator's state of permanent residence. Because the probate and tax rules are complicated and can be a liability to you if not handled properly, seek help from and retain competent advisors including local estate lawyers and tax professionals. Reading this brochure as well as books on the subject will give you a better idea of what is expected of you as executor. The more you understand, the more effective and efficient you'll be in settling the estate.

Be Prepared—Set Up Your Plan

In many cases, the Last Will and Testament will outline who gets what from the estate; however, even if the testator outlined his or her wishes exactly, you still need to outline your plan of action including paying bills associated with the estate, making creditor payments, filing all necessary taxes, contacting beneficiaries, and carrying out probate court administration, if needed, and more. Set up your plan with competent advisors to ensure that you are covering the essentials and proper timing in dispensing the estate.

Without the organization, the understanding, and the plan, you could expose yourself to potential liabilities associated with mismanagement, and even lawsuits, if you're not prepared.

What's Probate...

Probate is the legal process of transfer- ring property upon a person's death either by following the deceased's wishes as outlined in his or her will or pursuant to the applicable state laws.

For a will to be valid, look for three things:

1. it needs to be in writing,
2. it needs to be signed and dated by the person who created it, and
3. it must be signed by a witness or witnesses (depending on the state's law where the will is probated).

Getting Started

Although it's an honor to be named someone's executor, it's a lot of administrative work. If you are unable to fulfill the executor duties due to illness or time constraints, you can decline—there's no legal obligation to accept the job. If you need to decline, inform the court of your decision as soon as possible. The court will contact the alternate executor, if named, or appoint one.

Immediate Concerns

As executor, you'll most likely be responsible for paying funeral and burial costs from estate funds. If you know that you're the executor, it would serve the spouse and family well to manage the funeral and burial arrangements. After the funeral formalities, you'll want to start settling the estate. First, obtain a certified copy of the will, file it with the local probate court, and obtain your letters testamentary. This will give you the legal authority to go about executing the will and finalizing the estate.

Locate the Will

You'll need to find the most up-to-date, signed, original and certified version of the will and all codicils (i.e., any separate amendments to the will). Start with the person who informed you that you are the executor. They should have a copy of the will or know where the will is located. If not, ask the deceased person's attorney or, if applicable, the surviving spouse. Once you find it, make copies and put the original in a safe place until you're able to file it with the local probate court. Most probate courts require it to be filed within one month of finding it, even if you do not need probate proceedings. Not filing it may lead to civil or even criminal penalties.

Helpful Hint...

Our Estate Checklist can help you list and track important documents, their location, and other relevant contact information.

Don't forget to go through any home safes or safety deposit boxes at the deceased's local bank.

These may have key documents that are important for you to check and settle.

Decide Whether Probate Proceedings are Needed

Although you still need to file the deceased's will (beginning the execution of the will) with the local probate court, you may avoid formal probate proceedings if the deceased's personal property is worth less than a certain amount. If there are substantial assets that were solely owned by the deceased with no beneficiary named, they may be considered probate assets and you may be required to begin formal probate proceedings. Check with your state laws for guidelines on their probate process and limits.

Obtain Letters Testamentary

You'll need to establish yourself legally to handle the executor responsibilities. If the estate includes probate assets, you must file a petition for commencement of proceedings, asking the local probate court to confirm your nomination and appoint you as executor, admit the will to probate, and determine who is entitled to inherit the probate estate. Once the court has confirmed your nomination and appointed you as executor, you'll be issued letters testamentary (sometimes called surrogate certificates) which are one- or two-page documents certifying you as having the authority to act on behalf of the estate. These letters will allow you to manage and dispose of the assets, open and close bank accounts, file tax returns and pay taxes, deal with creditors, beneficiaries, and other interested persons.*

Make or Obtain a List of Assets

Hopefully, the deceased has left you with a detailed list of assets and their location, the beneficiaries, and contingent beneficiaries (called a "Summary of the Will"). If not, look for ownership documents such as titles and deeds, account statements, maintenance records, and receipts. Make a list of the assets you come across, remembering to crosscheck each item with what's stated in the will. If there is no Summary of the Will available, it may help to put one together that outlines the inherited items, their locations, the beneficiaries, and contingent beneficiaries. You may also need to establish date-of-death fair market values for estate assets, including obtaining appraisals (consult your advisors), and filing an inventory with the probate court. See the following page for a sample list of items.

Common Asset Types to Look For:

✓ Transfer on Death Assets

Although the will is your primary guide for dispensing assets, many larger assets (such as bank accounts) or benefits such as retirement savings accounts (e.g., IRAs) have their own beneficiary designations that allow the asset to pass payable-on-death (POD) or transfer-on-death (TOD). Check any trusts (they should be mentioned in the will but you may have to read the details of the trust in the trust documents available from the attorney who set up the trust), joint ownership deeds, and retirement account statements that include beneficiary names and directives.

✓ Cash

Cash gifts are commonly bequeathed in a will. They cannot, however, be taken out of another's inherited assets. The money must come from the residuary estate, or the remaining property of the estate after debts, expenses, and specific bequests have been paid. Some states require the estate to pay interest on the cash gifts if they are not made within a certain amount of time. Check with your state and local laws regarding timing and interest payments on cash gifts.

✓ Conditional Gifts

Conditional gifts, or gifts based on something happening before the asset passes (such as bequeathing \$10,000 to a brother only if he quits smoking), should be handled prudently. Many times these conditional gifts do not carry any specific time frame and need to be agreed upon by you and the beneficiary.

✓ Trusts

Trusts can be directed to be set up from a will normally to safeguard assets for young children. Trusts created from a will are called testamentary trusts and are frequently created shortly after the testator's death. Testamentary trusts often specify how the assets can be used, and how the trustee should make decisions about spending money for each child, among other things.

Helpful Hint...

If the deceased owned a home and no one else is living there, put the lights on timers, have maintenance work continue or hire someone to maintain the property.

For rental properties, inform the tenants of the owner's death, give them your contact information and have them send rent checks directly to you, if convenient.

If any vehicles were solely owned, make sure they are safely stored. Collect all extra keys and put them in a safe place.

Helpful Hint...

Communicating clearly and often can help alleviate questions, insecurities, and even lawsuits between family members.

Set up a file for correspondence, including copies of everything you send out (e.g., e-mail, regular mail, etc.).

Include specific instructions from the will with your communications and always take an impersonal, business-like approach since you're carrying out the wishes of another, not your wishes.

Other assets types to look for can include:

- ✓ Antiques
- ✓ Books
- ✓ Business interests such as a sole proprietorship, corporation, limited liability company, or partnership
- ✓ Business property
- ✓ Collections (stamps, cameras, art, china, silver, coins, etc.)
- ✓ Cash accounts (CDs, checking, money market, savings, etc.)
- ✓ Copyrights, patents, trademarks
- ✓ Furniture
- ✓ Jewelry
- ✓ Life insurance and annuities
- ✓ Limited partnerships
- ✓ Loans to family members
- ✓ Offshore bank accounts
- ✓ Precious metals
- ✓ Real estate
- ✓ Retirement accounts (401(k)s, IRAs, Roth IRAs, or Keoghs)
- ✓ Royalties
- ✓ Securities (stocks, bonds, mutual funds, etc.)
- ✓ Vehicles

Set Up a Filing System

Keeping a well-organized filing system is crucial to your success as an executor. You'll need a filing system to keep track of the deceased's files as well for your own notes and discoveries along the way. Staying organized will help when the inevitable calls from creditors, beneficiaries, banks, and insurance companies come in. Always make copies of what you send as official notification. For a sample list of records to look for, see the appendix.

Order Multiple Copies of the Death Certificate

Death certificates are the official evidence of death. You'll need death certificates to close out accounts, claim benefits (life insurance or retirement) or property for a beneficiary, and to continue or cease Social Security payments. Ask for at least 10 certificates (or more, if the deceased has many types of property). Since your local county office will receive the documents sooner, contact them first. Expect to pay up to \$25 for the first certified copy and less for each successive copy. Any costs incurred on your part should be reimbursed to you from the estate.

Did You Know...

Unless you are a co-owner of inherited property or assets, you are not responsible for paying any estate taxes out of your own pocket.

Send Notifications of Death

You'll need to notify various institutions of the deceased's death in order to change ownership of assets or accounts either to the estate or a beneficiary, notify creditors so they can present claims, notify beneficiaries and heirs of the death, and inform them that an executor has been appointed. The deceased person's mail is a good place to start to determine who or what institutions should be notified. If the deceased was a veteran and eligible for, or receiving, Social Security benefits, inform both Veterans Administration and Social Security Administration of their death. The family may also be eligible for death benefits from both administrations. Use the sample letter in the appendix to help you draft a notification letter.

Protecting Property Until Passed to Heirs

As executor, you'll be looked upon to be honest, prudent, loyal, and impartial. Until the estate is fully distributed to all beneficiaries, you are responsible for opening accounts in the name of the estate so that you can:

- ✓ Pay bills including mortgages on primary residences or rental properties
- ✓ Maintain the most prudent action for cash or investments
- ✓ Care for property until it's turned over to its new owner

Protecting Investment Assets

If, in good faith, you take action to preserve the estate, but it suffers a loss in value, the court may not find you liable for the loss. However, if the court finds that you acted imprudently or in violation of your duties, you could be sued by beneficiaries and creditors and be removed from your duty as executor by the court. Part of being prudent is to keep all estate assets separate from your own to avoid conflicts of interest and malfeasance. Any interest derived from estate assets should be deposited into an estate checking or savings account, never your own. As always, follow the instructions in the will carefully and don't take any unnecessary risks with estate money.

Helpful Hint...

Be sure to keep control of the process of handing out assets so that beneficiaries aren't helping themselves to the deceased's property randomly.

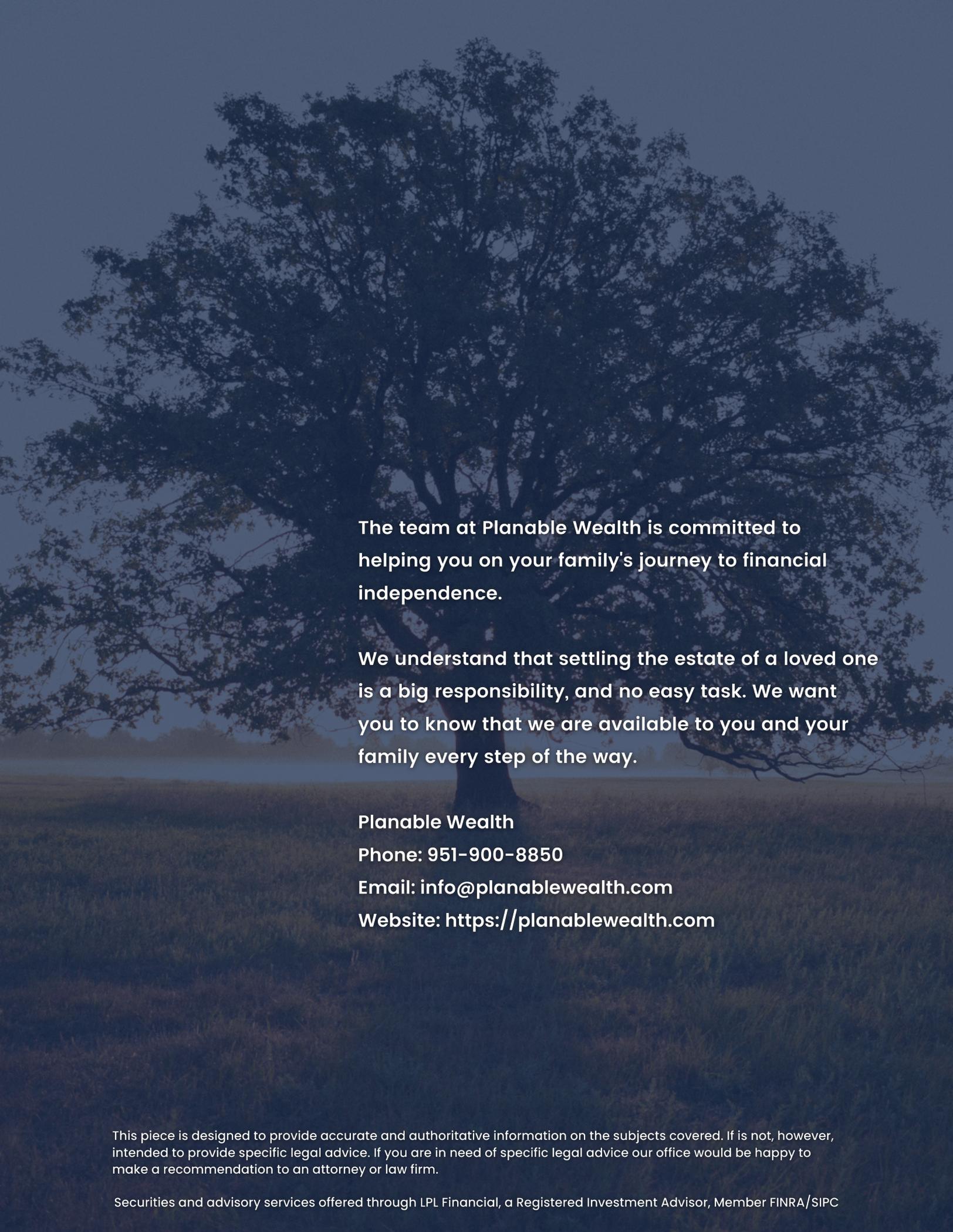
You have a responsibility to manage the property distribution in an orderly way when you are legally permitted to distribute property.

Payment of Estate Debts and Taxes

Normally, the estate is responsible for funeral and burial costs, any health care costs associated with illness before death, executor administration costs, and taxes. If there's not enough in the estate to pay for these expenses, the state will prioritize bill payment, which may mean that creditors or service providers will not be paid. If there is enough money in the estate and the will does not direct from where the bills and taxes are to be paid, then you should use your own judgment as to which assets should be used. Normally, it's prudent to use non-investment money such as cash in bank accounts or money market funds to pay bills and taxes. If absolutely necessary, you may have to sell assets to cover expenses but, again, they cannot come out of another inheritor's assets unless directed by the will (as in the case of a directive to take money out of the residuary estate, which will diminish the assets of the person inheriting the residuary estate). Consult a qualified attorney and accountant for more detailed information.

Get Help

Seek the help of a qualified estate attorney (preferably the attorney who helped draft the will) and forensic accountant who can assist you in answering questions about provisions in the will and financial issues and laws. There are also a number of good books and internet resources to help you get a more detailed view of being a wise and prudent executor.



The team at Planable Wealth is committed to helping you on your family's journey to financial independence.

We understand that settling the estate of a loved one is a big responsibility, and no easy task. We want you to know that we are available to you and your family every step of the way.

Planable Wealth

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