



**THINKING AHEAD**

# Naming your executor — know what's involved

Do you know what you are asking of the individual you have named as your executor? When selecting someone to serve as their executor or personal representative,<sup>1</sup> many people choose a family member or close friend thinking that the nomination is an honor. But as Colin Korzec, head of Estate Settlement Services at Bank of America<sup>2</sup> points out, “Unless you have served in that capacity yourself, it’s hard to know what the position entails or appreciate how helpful it can be to take certain steps to streamline the estate settlement process for everyone involved.”

## What exactly does an executor do?

Your executor is responsible for carrying out the provisions of your will. While that might sound simple enough, it involves a range of duties and responsibilities that can be time consuming, particularly if your estate is large, complex or contains assets located in more than one state. And, as Colin points out, “your executor can be held personally liable for errors, mismanagement or failure to take action that would have benefitted your estate.”

**Among the duties that your executor will be called upon to fulfill are:**

- Locating and having your final will validated or “proved” by the state in probate court.
- Identifying, safeguarding, valuing and managing all estate assets wherever they may be located.
- Notifying government agencies, financial institutions and service providers and cancelling services that are no longer required.
- Collecting any income or final payments the estate is entitled to receive, including tax refunds, medical insurance reimbursement, insurance policy proceeds and any balances in retirement or employer plans.
- Determining whether debts and bills presented for payment are legitimate.
- Creating a plan to generate the liquidity needed to pay outstanding bills and settle legitimate claims, which may require borrowing funds or selling estate assets.
- Engaging and overseeing multiple parties that may need to assist, including attorneys, accountants, appraisers, real estate brokers and auctioneers.
- Preparing and filing all required paperwork, including state filings that list the estate’s assets and liabilities and provide a current value for each.
- Obtaining a separate tax ID for the estate and preparing and filing any required income tax returns.
- Creating a tax plan that may require tax elections and filing of federal and state estate, gift and generation skipping transfer tax returns.
- Communicating with beneficiaries and family members, addressing their concerns and complying with any state requirements regarding statements and notification.
- Distributing the assets that remain in the estate after satisfying all the legitimate claims and seeing that the provisions in your will are carried out in a timely manner.

**Don’t overlook family dynamics.**

The duties your executor may need to perform have the potential to complicate relationships with beneficiaries who are likely to be family members or close personal friends. Having to defend decisions about investments or the sale of assets, or make decisions that may be unpopular with some or all of the beneficiaries, has the potential to place your executor in an uncomfortable position.

## Simplifying estate settlement

As Colin points out, “Even a quick overview of the process makes it easy to understand why you might want to consider steps that could simplify the process for everyone involved. Based on our experience, we have developed resources and services to help.”

### 1 Organizing legal and financial records

Organizing legal and financial records isn't just something your executor and family members will appreciate, it's a powerful way to demonstrate how much you care. If the task sounds daunting, it needn't be. Bank of America has resources to help you identify the documents you will want to collect as well as a place to record important information so it is easily accessible to your executor and anyone else who might need it.

### 2 Transferring assets to a revocable trust

Assets held in a revocable or living trust are not subject to probate. Transferring assets to a trust eliminates the need to publicly disclose your ownership and their value and can make it easier to distribute funds to beneficiaries. In states where the probate fees are based on the size of the estate, placing assets in a trust can also reduce or eliminate probate fees paid by the estate.

As Michael Pelzar, head of National Trust Services at Bank of America points out, “Almost any type of asset can be transferred to a revocable trust including cash currently held in a checking or savings account, securities held in a brokerage account, private equity or hedge fund holdings, a home or other real estate, as well as business interests. Placing assets in a revocable trust doesn't affect your ability to access the assets or control how they are invested. And for tax purposes, assets held in a revocable trust are treated in the same way they would be if you owned them directly.”

Your relationship manager can assist you and your estate planning attorney in the process of evaluating whether a revocable trust might be useful and identifying assets that you may want to consider placing in the trust.

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### 3 Appointing a knowledgeable and experienced executor

Given the complexity of the responsibilities, appointing a knowledgeable and experienced institution such as Bank of America to serve as executor or as co-executor alongside a family member, may make sense. As Colin notes, “Bank of America has a group of over 120 professionals dedicated solely to estate settlement. They coordinate all tax, investment management, legal, reporting and accounting needs, which may result in savings to the estate when compared with engaging individual service providers.” And, with a nationwide network of estate settlement offices, the team is able to provide localized service, remain current with changing tax laws and administrative rules and coordinate the efforts of the individuals involved including any attorneys, tax advisors or valuation experts.



**Named as an executor?** If you have been named as an executor, you can engage Bank of America to serve as your agent, helping you to anticipate and prepare for each step in the process. We can also play an important role in coordinating the efforts of valuation, tax and legal experts and helping beneficiaries understand the process.

## Probate: What is it and what does it mean for your executor?

Probate is the court-supervised process that your executor will be required to follow in order to have his or her appointment validated, your will approved as your official last will and testament, and the accounting for all of the estate’s assets, liabilities and expenses approved before any distributions can be made. As Colin notes, “The process often requires multiple probate court appearances and can take up to two years for a typical estate.” Probate also allows individuals to contest your will, present additional claims against your estate and bring charges against your executor if they believe any actions, or failure to act (such as a failure to safeguard assets or purchase adequate insurance) resulted in avoidable losses.

Each state has its own set of laws and regulations and although the process is similar, details regarding the standards for valuations, the need for the executor to post bond or the approvals that must be obtained before assets can be distributed, can differ. If you own a vacation home, real estate or other assets in other states, your executor may need to coordinate activities with the probate court in each of those states as well.

## Working with Bank of America

Bank of America Trust Services works closely with your relationship manager—who knows you, your needs and your goals for your wealth. Together, we focus on your unique situation, helping you identify trust and fiduciary solutions that align with your priorities. We help you integrate them into your overall estate and wealth management plans.

To find out more about the ways we can help, reach out to your relationship manager.

Bank of America Trust Services is dedicated to helping you simplify your life, give lasting meaning to your wealth, and prepare for whatever the future may hold.

*Thinking Ahead* is a series of articles designed to highlight important considerations that can help you create the type of legacy you envision and shape the future for the people and causes you care about most.

<sup>1</sup> In some states executors are referred to as personal representatives.

<sup>2</sup> Source: Spectrem, 2018 Comprehensive Bank Trust Update, November 2018.

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