

The executor of an estate usually has their hands full. The process can take months or years of filling out paperwork, interacting with government agencies and court registries as well as navigating the competing demands of the estate beneficiaries, who are themselves in a period of emotional turmoil. On top of this, the executor risks personal liability where mistakes are made in relation to the estate. Here is a look at some common mistakes that executors make:

Not following the terms of the Will

Executors can be tempted to 're-write' parts of the Will that they feel are unfair or impractical. For example, an executor might give personal belongings to a person not named in the Will, believing this is what the will-maker wanted. Other times, an executor might sell an asset and distribute cash to the beneficiary when the Will directs the asset to be given "in specie". The executor's job is to distribute the estate according to the Will, not to re-write it.

Not properly valuing assets

If selling an estate asset, executors must ensure they obtain qualified appraisals and opinions as to value. This becomes especially important where estate assets are sold to a family member or other non-arm's length purchasers.

Not knowing which expenses are estate expenses

Not all expenses related to the deceased's death are proper expenses of the estate. Even where an executor makes an honest mistake, he may be personally responsible to reimburse the estate for costs that were improperly refunded to himself or to a beneficiary who incurred the expense.

Failing to properly deal with estate debts and taxes

By law, debts of an estate, including tax liability, must be paid before beneficiaries receive their share of the estate. An executor who pays beneficiaries without taking all proper steps to clear debts and pay taxes may be personally responsible for paying those debts.

Trying to do everything cheaply

An executor must be mindful of administration costs. However, he or she should also recognize where to involve professionals, such as accountants, lawyers, realtors and financial advisors. Failure to do this can result in mistakes and end up costing the estate more money.

Wherever an executor makes a mistake involving estate assets, there is a risk of personal liability. When in doubt ask for professional help.

For assistance with estate planning or administering an estate, contact a member of our experienced estate team at Fulton & Company LLP.



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