

ADMINISTRATION OF ESTATES

MEMORANDUM FOR CLIENT

The purpose of the administration of the estate, after the death of a party, is to transfer the estate of the deceased to the beneficiaries in accordance with the will. If there is no will, then the distribution will be in accordance with the Succession Law Reform Act which requires distribution of the assets based on the next of kin alive. The following are the relevant items to be completed at this time.

APPLICATION FOR PROBATE

This application is made in the Surrogate Court of the place where the deceased last lived. Based on the information given by you, I will prepare the application for probate.

There is a filing fee to be paid to the Surrogate Court to obtain the letters probate. I will require from you a retainer to pay the Surrogate Court. The filing fee is \$5.00 for each \$1,000.00 or part thereof up to the total value of the estate.

LIST OF ASSETS

The gathering of information regarding the location of the assets is one of the main tasks of the executor. Information from you will assist in the reduction of my time in this area, which will reflection the fees charged. You should provide me with a list of the assets owned by the deceased and addresses where they are located. Where there are bank accounts, you should let me have the address of the bank as well as the account number if known.

LAWYERS FUNCTION

In the administration of an estate the function of a lawyer is to:

- _ assist the executor in preparing an application for probate;
- _ Resolve any questions of law arising from distribution or collecting of assets;
- _ preparation of the accounts and the releases and other legal documents;
- _ writing to the various institutions to obtain information on the assets as well as obtaining a transfer of the assets and distributing and dividing the same to the beneficiaries.

EXECUTORS FUNCTION

The Executor should collect the information on the assets and provide that information to the solicitor. The beneficiaries should be located, and kept informed of the proceedings in the administration of the estate. The more an executor can do the less there will be for the solicitor to do and this will help minimize fees. The executor is entitled to compensation from the estate for his services.

ACCOUNTS

Based on the information provided to me, I will prepare the accounts, which are comprised of; the list of assets of the deceased; the various expenses incurred for the estate; the distribution made to the

beneficiaries.
ESTATE ACCOUNT

A bank account for the estate should be opened in the name of the executor or the solicitor, so that all the deposits of the funds received can be made into that account. From this account various expenses should be paid. It should then balance with the distribution and the receipts made for approval by the beneficiaries. If you are not going to be available to make the deposits you should authorize me to operate that account as a signing officer.

PASSING OF ACCOUNTS

The passing of account is a formality of the Surrogate Court whereby the accounts are presented to a judge for approval. This is not necessary where all the beneficiaries approve of the preparation of the accounts and the manner of distribution and provide a release for the same.

RELEASE

The beneficiaries should provide a release to the executor upon the completion of the administration of the estate. This release discharges the onus and obligation of the executor to complete his or her task.

PUBLICATION

A publication should be made in accordance with the requirements of the Surrogate Courts Act to ensure that all creditors have been notified. This notice is not necessary if the executor is very sure that all debts have been paid.

SUCCESSION TAXES

Since 1972 no Federal Estate Tax is payable and since 10th April, 1979 Ontario Succession Duty is no longer payable. The only tax now applicable is Capital Gains Tax for capital assets, such as real property or shares, inherited by a person other than the spouse.

SAFETY DEPOSIT BOX

If the deceased kept a safety deposit box, please have it opened and make a list of the contents of the enclosed memorandum.

LEGAL FEES

The legal fees charged by me will be based on the time spent, the responsibilities assumed and the size of the estate. The more assistance you can provide the lower the legal fees will be. I will require a retainer for the filing fee for the Surrogate Court, the advertisement in the newspaper and other costs. I will forward my account at the time of the distribution being made and the fees will be deducted from the estate expenses.

DEATH BENEFITS

Relatives are entitled to certain death benefits from the Government and you should inquire with the Income Securities Program Office at the following address for the death benefits available.

Income Securities Program
4900 Yonge Street
Willowdale, Ontario
M2N 4B1

INCOME TAX

The income tax return of the deceased for the year in which he or she died must be filed with the Income Tax Department. Your accountant should file the last return. If you like me assist you in the completion of this return please confirm your instructions. You can obtain the information on how to file the return from the Income Tax Department at the following address:

Income Tax Department (Federal)
36 Adelaide Street East
Toronto, Ontario
Tel. 416-869-1500

You should obtain a clearance certificate from the Revenue Canada after filing the return. Exemptions for the whole year should be claimed. If you have any problem in dealing with the tax department, please let me know.

PUBLICATION

A publication for any existing creditors should be made in the local newspaper where the testator lived. This ad should be placed three times consecutively. I will write to the news paper after I receive it's name and address from you. Please check the cost of such advertisement and forward that amount along with your retainer. The advertisement is not necessary if the executor is sure that all the debts have been paid.

FEES

Our fees for the administration will be based on the required to assist the Executor to complete the formalities.

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