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Choosing an executor is no trivial matter

MONEY 401

Botching choice can lead to sibling rivalry, bitter fights, even lawsuits, says **Ellen Roseman**

Writing your will means deciding what you own and who should get it. Perhaps more important, you have to appoint someone you trust to settle your estate.

Parents often get into a quandary about naming an executor. Do you name all of your adult kids? Some of them? Or none of them?

The decision you make can make a huge difference to the family members you leave behind.

Botching the choice of executor can

lead to sibling rivalry, bitter fights and even lawsuits that freeze the estate distribution and eat away at its assets.

Until you work as an executor, you don't realize how time-consuming it is — and how stressful because of the constant shuffling of papers and feelings of responsibility.

"You can't do something as trivial as cancelling a credit card without a copy of the death certificate and the will," says a reader who acted as the executor of his remaining parent's will. (He never got around to cancelling the credit card, not wanting to hand over such personal information to a department store.)

The work made him realize the value of having a will in the first place. It also taught him a lesson about naming your financial representatives.

"Don't make all of your children executors," he says. "It will not draw them closer, but will make any sibling rivalry

many times worse.

"If you have the slightest suspicion that your executors may not work together or contribute equally to the process, change the will."

Barbara Benoliel is a mediator of estate disputes and teaches a course in family business succession at the Schulich School of Business.

"Here's a mistake I see over and over again," she says, "designating one of your children to be the trustee or executor and letting them decide what, if anything, their siblings receive and when. Who wants a sibling making decisions about your money?"

"Making one of the children responsible, even if he or she is the most qualified and talented, will build up resentment and stress in their future relationship."

Another mistake: Doing all the planning yourself, without informing any-

one else of the plan and trying to control from the grave.

"You can't plan for your adult children's future without their input," Benoliel says. "What if your oldest doesn't want to lead the business or your daughter has no interest in grandmother's silver?"

It's important to talk to those you choose to safeguard your finances after your death. Tell them about your decision. Ask if they will accept.

RBC Financial Group did a survey last year, asking Canadians who they would choose as executor. A spouse or partner was the favourite (39 per cent), followed by one of their children (25 per cent), sibling (22 per cent), other family member (19 per cent) and family friend (10 per cent).

A professional executor (such as a lawyer, accountant or trust company) was the least popular, chosen by only 8 per cent of respondents.

It's an honour to be chosen as executor, most people said. But they didn't know what the job entailed.

More than half (54 per cent) thought they could fulfil their duties in less than a year and 37 per cent thought it would take less than six months.

It actually takes a minimum of 18 months to settle the average estate, says John Hamilton, president of RBC Estate and Trust Services.

"It can take as long as four years if a family member is acting as the executor," he adds. "I've seen two siblings go

to court and spend \$15,000 in legal fees over a \$500 painting."

Trust companies want to get more of the action. But they have a reputation as stodgy and slow to act, while charging high percentage fees for everything they do.

That's changing, says Hamilton. A trust company's new role is to act as partners with family executors.

RBC has a list of 70 jobs that may go along with being an executor. You pick the services for which you need the trust company's help — such as valuing assets, applying for death benefits, collecting insurance proceeds or preparing final income tax returns.

The minimum fee is \$5,000, Hamilton says, but even that's negotiable.

"Five years ago, a trust company said 'we want to do the whole thing or nothing,' but we're much more flexible now," says Todd Herzog, Scotiabank's managing director, financial and estate planning group.

"We'll take whatever piece of the work you want done, such as probating a will or dealing with siblings in the United States. If you want to deal with the personal piece, you can."

He warns executors, however, to look for professional help in the early weeks after a death. Don't wait until you dig yourself into a financial hole and need someone to pull you out.

■ Next week, we'll talk about how to make gifts to family members or become joint owners of property while you're still around.

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