

## BASICS OF WILLS AND ESTATE PLANNING 2021

PAPER 5.1

# Lessons from the Future: The Basics of Probate and Estate Administration

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## LESSONS FROM THE FUTURE: THE BASICS OF PROBATE AND ESTATE ADMINISTRATION

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## I. Introduction

Practicing in the field of probate and estate administration, a lawyer learns many lessons which are useful in preparing Wills and advising clients about their estate plans. Managing the results of a poorly thought out Will demonstrate more effectively than any academic course the “dos and don'ts” of Will preparation.

Clients who are meeting with a lawyer to discuss estate planning often have questions about the probate process and practical matters relating to administration of the Will after death. Questions such as “when is probate required?” or “what will my executor have to do?” are common. It is important that the estate planning lawyer be familiar with the estate administration process generally, so that the lawyer can provide clients with complete information and practical advice.

Many aspects of the estate administration process following receipt of the representation grant (the “Grant”) are dictated by the nature of assets owned by the deceased and the particular circumstances surrounding the estate. A comprehensive review of the many issues that arise following the Grant are beyond the scope of this paper. The purpose of this paper is to provide a general overview of the main steps involved in the administration process and a standard Grant application. It is also prepared with an eye to identifying particular issues that arise during the administration process that tie back into drafting considerations when preparing Wills.

Finally, for practitioners starting an estate planning practice, it can be easy to focus primarily on the distributive clauses in the Will, simply relying on the “boilerplate” administrative provisions for the balance of the Will. Once the Will has taken effect on death as a testamentary instrument, those administrative provisions take on increased importance as they give the personal representative the power to carry out the will-maker's wishes as set out in the distributive clauses. As a planner, it is imperative to consider the administrative provisions in each Will as carefully as the distributive provisions and to draft the administrative provisions with an eye to the specific circumstances of each will-maker, such that any specific limits or powers are explicitly set out in the Will.

For convenience throughout this article the application for either administration of an intestate estate or probate of a Will, will be referred to simply as the "Grant", and whether there is an executor or administrator, that person will be referred to as the "personal representative".

### A. The Emergency Call

When someone dies (even if it is expected) it is a traumatic and difficult time for the survivors. The lawyer is often one of the first calls, and people are looking for immediate assistance and answers to many questions. You should consider developing an office protocol for handling this type of call. The client is seeking reassurance. You can give this to them by interrupting other work, and taking a few minutes to talk to them. Consider preparing a standard letter or handout containing generic information which can be printed out and made available right away. If you hold an original Will, consider any confidentiality issues and ensure you release it to the proper party such as the named executor.

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Generally, other than issues such as preservation of assets, and confirmation of insurance, most estate matters can be fully considered in due course, and need not be dealt with on an emergency basis. That said, it is important to determine who is the executor, as they have the first priority right to oversee the disposition of the body. (See Part 3, Section 5 of the *Cremation, Interment and Funeral Services Act* [SBC 2004] CHAPTER 35 to determine who has priority and entitlement with respect to funeral arrangements.)

Advise executors that during the first couple of weeks, they should be comforting family members, and making the funeral or memorial arrangements in accordance with the deceased's wishes, and consistent with the values of the family. The only important legal aspect in the first couple of weeks after death is to secure the assets of the deceased. This usually just requires changing the locks on their home, if the deceased lived alone. Advise them that the majority of legal matters can wait until a few weeks after death.

#### **B. A Note about Intermeddling**

The law provides that under a Will a personal representative who commences acting as personal representative, which includes holding oneself out to others as the personal representative, or taking control of the estate assets, loses the right to renounce executorship and thereafter may be liable if the estate is not properly administered. It is probably a good idea to make the client aware of the legal principle of "intermeddling" as early as possible in the process.

#### **C. Initial Interview with the Client**

Make an appointment to meet with the personal representative, usually a few days after any funeral. Clients can be excitable and anxious at these times and want to start working on the estate "right away". The lawyer should use this opportunity to manage the client's expectations by letting them know the scope and time required to handle the legal matters connected with the estate. Reinforce that the personal representative should communicate the timelines on to the beneficiaries, as this can be a source of friction if the expectations are not set early.

In all dealings with family members be conscious of your own mannerisms and demeanour. Even if there is no obvious outward display of emotions, you can presume the death of a family member has a deep psychological impact. The lawyer should cultivate a friendly approach but at all times treat the work in a serious, professional and calm manner.

Ask the client to bring as much information as they have to the initial meeting, including the original Will and death certificate, lists of any debts, funeral bills, income tax returns, any marriage agreement or other agreements the deceased was a party to, motor vehicle descriptions and legal description of real estate, details of business interests, pensions, RRSP's, RIF's, etc.

The client should also be asked to bring in any memoranda or notes that may appear to have a testamentary intent. Remember that section 58 of the *Wills, Estates and Succession Act*, [SBC 2009], c.13 ("WESA") gives the court the ability to recognize documents of this nature as a "record" and may be able to construct a testamentary document, even where it does not meet the formal requirements as set out in WESA.

As a first step you must consider if you can act. Consider whether there are any conflicts. Consider that acting for the executor of an estate while at the same time preparing a will or other legal

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document for one of the beneficiaries could lead to a conflict. Deal with the parties as you would on any other file paying attention to the Law Society rules for representing multiple parties. Consider dealing only with the personal representative(s) at the initial interview. This makes it clear who the lawyer represents and avoids problems later on if the personal representative has a falling out with other family members who may take a view that they too were represented by the lawyer.

If the lawyer prepared the Will and there is the possibility of litigation concerning the Will, consider whether or not it is prudent to act if the lawyer might be called as a witness.

Do not assume the client will take on the task of personal representative. (See the note above respecting intermeddling). Before the client decides to act they must be advised of the extent of their duties and liabilities. They must consider if they disagree with any terms of a Will or want to challenge the Will in some way. If so, they should not be acting as personal representative.

Consider whether it is the estate hiring you or the personal representative. It is customary for the personal representative to hire the lawyer.

### **1. Taking Instructions**

Use a checklist and client intake sheet (a sample is attached to these materials, and there is also one at FP1 in the *British Columbia Probate and Estate Administration Practice Manual*) to ensure you ask the personal representative all of the questions necessary to make the application for the Grant. At the end of the interview, there are often unanswered questions. Consider giving the client a note pad to write down those items that require follow up by them. You can follow up with a letter reminding them of the information they need to obtain for you.

A written retainer letter setting out the respective duties of the lawyer and personal representative and the basis on which legal fees will be charged should also be sent out following the initial interview.

### **2. Initial Advice**

The lawyer should start by advising the client generally about the process involved in obtaining the Grant.

Personal representatives themselves often have technically conflicting roles and duties. The personal representative is often a beneficiary with an interest in the estate. Usually this does not cause any problem, but the lawyer needs to be aware which hat is being worn at any given time and should tailor advice to the client accordingly.

One matter to assess is the solvency of the estate. If an estate is insolvent, a personal representative might not want to undertake the difficulty and responsibility of handling such an estate, just to pay out to creditors at the conclusion.

Make sure the client understands the realistic time frames involved in not only obtaining the Grant but administering the estate, down to ultimate distribution. Many people are surprised (and sometimes upset) to find out an estate can't be distributed within the first couple of weeks following the funeral.

## D. Time Factors

The lawyer should manage the client's expectations from the outset by giving a realistic appraisal of the time frames involved. Make sure everyone including the beneficiaries know up front that distribution may not take place for some considerable time after death. If the lawyer manages to get all the work done sooner no one ever objects and can be quite happy to receive their share. The problems arise where there has been no communication or an unrealistic assessment of the time involved and people sense they are being held out of their money. Moving the file along expeditiously, one should still expect at least the following:

- In most instances, instructions aren't usually taken until two to four weeks after death.
- The Wills Notice Search Results from Vital Statistics often takes up to four weeks, and preparing the estate inventory will likely take three to eight weeks, allowing for the time needed to conduct searches and for the various financial institutions to respond to queries.
- Under the Rules, personal representatives must wait 21 days to file the application for the Grant after delivering the required notice (discussed further below).
- If the Grant application is finalized and signed by the executors at the five to eight week mark and then promptly filed with the probate Registry, there can be a delay of anywhere from one week to six months, depending on how busy the Registry is, before the Grant issued. Most registries have a voice message that says their current wait times.
- Once registry staff preliminarily approve the application, it usually takes about one to two weeks for the probate fee to be paid and the Grant to arrive at the lawyer's office.
- Once the Grant is obtained, you should allow another couple of weeks to transmit the assets to the personal representative.
- Then, of course, all of the other time limits follow which will postpone distribution (discussed further below). For example, section 155 of WESA prohibits distribution for 210 days following the issuance of the Grant.
- Estate assets may need to be liquidated. Sale of real estate including listing, sale and completion could easily take six months. Some personal representatives choose to expedite some of this delay by listing the real estate for sale prior to the Grant, with a seller's side condition that the sale cannot complete until the Grant is received.
- Lastly, the personal representative needs to ascertain and pay all creditors, file all tax returns, obtain clearance certificates from Canada Revenue Agency, complete the personal representative's accounts and obtain approval from the beneficiaries or in some cases the court. All of this often takes several months from the time the Grant is obtained.

The following issues should also be canvassed with the client:

- Advise the personal representative to safeguard all assets, to search for cash, jewellery etc and arrange for safekeeping. Insurance should be reviewed for motor vehicles and real estate. Notify the insurance agent or insurance company of the death and watch

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out for occupancy requirements. Check with the agent for any special coverage needed on vacant properties and if so, obtain a vacancy policy

- Arrange for redirection of mail immediately as mail may be a good indicator of the assets within an estate and liabilities that may have to be paid (e.g. utilities). Access to the deceased's email also greatly helps personal representatives discover assets and liabilities.
- Be aware of whether utilities should be cancelled or if they need to be maintained to preserve the assets of the estate (e.g. if the property is vacant and there is an alarm system, phone and internet may want to be maintained so that the system can be used; if it is winter, may want to maintain heat and electricity so that pipes do not freeze);
- Review mortgages (especially reverse mortgages), as the creditors often have notice requirements and time frames for sale of real estate;
- When looking for assets, ensure personal representatives look for any information that may indicate the acquisition cost of any assets that may have a capital gain, which will be essential when the accountant files the tax returns;
- Review life insurance policies. This is one of those areas, together with the transmission of joint tenancy properties, where the lawyer is usually called on to assist in a matter which may strictly speaking be outside of the personal representatives or the lawyer's duties associated with obtaining the Grant. Likely there is no problem, but consider who you are acting for, whether or not there are any conflicts with the particular work, and who you are billing.
- Advise the personal representative early on of the importance of keeping an accurate record of all expenses they incur and assets received. The personal representative must ultimately account to the beneficiaries and months later they may have forgotten what different payments and amounts represent unless they keep proper records.
- The personal representative should be advised to meet with the bank officers and open any Safety Deposit Box. The bank officers will list the contents of the box and then seal it until the Grant is obtained. An original Will can be removed by the named executor.
- When listing the contents of the box, complete information should be provided with respect to any securities found. Where possible have these photocopied. This information is needed to complete the inventory. Often times, this list is inadequate to assign values to the items (especially jewelry); in this case, sometimes an additional Form P14 is required after the Grant to declare the appraised value.
- Explain to the client what the lawyer will do in applying for the Grant, and what matters the personal representative is expected to handle.
- Explain the obligation of the personal representative to pay debts and file all tax returns.
- Explain Probate Fees.
- Explain your legal fees.

## **E. CLE Probate Practice Manual**

The CLE publication *British Columbia Probate and Estate Administration Practice Manual* (the "Manual") is an indispensable tool for any BC lawyer practicing in this area. It is the ultimate "go to" reference for basic guidance, including step by step instructions and forms for the typical Grant application. It also includes detailed instruction for the esoteric, one of a kind and unusual problems that arise when handling estates.

This article can't hope to duplicate or improve on the advice in the Manual and won't attempt to do so. The points made here are general in nature and the reader is referred to the Manual for detailed information on probate practice and procedure.

## **II. Getting the Grant**

The term "probate" is derived from the Latin verb *probare*, meaning to try, test, prove, or examine. Although a Will speaks from the moment of death, in most cases the personal representative will not be able to deal with the deceased's assets until a Grant of Probate is obtained. The Grant confirms the validity of the Will as a testamentary document and confirms that administration of the deceased's estate passes to the applicant as personal representative.

A Grant of Probate is not required in every estate, but a Grant will be required in the following three circumstances (the first being the most common):

1. where there are assets registered in the name of the deceased, and a third party (such as the Land Title Office, a financial institution, or ICBC) requires a Grant of Probate in order to release the assets to the personal representative;
2. where there is potential for a wills variation claim to be advanced, and the personal representative wants to start the 180 day limitation period running (which commences on the date the Grant is issued); and
3. where there are issues surrounding the validity of the Will, such as questions of testamentary capacity or undue influence.

### **A. Initial Steps**

The first task of the personal representative is to locate and secure any original Will, Codicil, or other testamentary document. Other documents may also need to be filed in the probate application, such as any documents that are referenced in the Will, including memoranda expressing wishes for the disposition of personal articles. Advise the personal representative to conduct a full and complete search amongst the deceased's records and belongings for any possible testamentary documents.

A Wills Notice search with Vital Statistics should be conducted relatively soon after death, but note that the application for the Grant must include all of the names and aliases in which the deceased held property (particularly real estate) and the Wills Notice search must contain all of those names. Sometimes all aliases of the deceased aren't available until other searches have been completed. A lawyer must balance the need for an early Wills Notice search with the risk of the delay and cost of a second Wills Notice search if it turns out there are other names in which

the deceased held property. Wills notice searches can be conducted on an expedited basis if need be.

If no one is expected to challenge the validity of the will, the personal representative may apply for probate “in common form”. (If someone does challenge the will, you may have to use a more complicated procedure, i.e. proof in solemn form which is beyond the scope of this paper).

## **B. Probate Forms**

The application for an estate grant is now governed by Supreme Court Rule 25-3. A standard application for a domiciled representation grant with Will annexed includes filing the following prescribed forms:

- P2 – Submission for Estate Grant;
- P3/P4 – Affidavit of Applicant for grant of probate (in short form or long form);
- P9 – Affidavit of Delivery, with P1 (Notice of proposed application in relation to estate) exhibited;
- P10 – Affidavit of Assets and Liabilities for Domiciled Estate Grant.

In addition, an application for estate grant should include the original Will or testamentary document(s), two photocopies of the Will or testamentary document(s), and results of the Wills Notice search issued by the Vital Statistics Agency, in duplicate.

Where there is no will, instead of the P3/P4, use Form P5 – Affidavit of Applicant for Grant of Administration without Will Annexed.

If there are persons named as executors in the Will who are entitled to apply as personal representative in priority higher than your client, obtain and file originally signed Notices of Renunciations (in form P17).

Where WESA sections 130 and 131 require consents and nominations, get the required documents signed by the relevant parties, but do not submit them with the application.

### **1. Notice of Proposed Application (Form P1)**

Section 121 of WESA requires the personal representative to deliver a notice of their intention to apply for the Grant to specified classes of persons. Rule 25-2 sets out the procedure for giving such notice.

Under Rule 25-2(1) an applicant is required to wait 21 days after giving notice before submitting the application for probate. It is therefore good practice to mail out the notices as soon as possible after being retained.

In the case of an application for a grant of probate of a will, Rule 25-2(2) requires that Notice, along with a copy of the Will (or other testamentary documents) be delivered to each person: (i) who is named in the will as a personal representative or alternate personal representative and who has prior or equal right to the applicant to apply for the grant; (ii) who is named as a beneficiary in the will; or (iii) who would have been entitled to share in the estate on an intestacy or partial intestacy. Where the deceased did not leave a will, the documents must be delivered

to: (i) each person who is an intestate successor of the deceased; and (ii) each creditor of the deceased whose claim exceeds \$10,000.

If a person entitled to notice is a minor child of the deceased, a minor whose gift is not to be held in trust, or is or may be a mentally disordered person, notice to the Public Guardian and Trustee is also generally required, and the applicant must receive and file the Comments of the Public Guardian and Trustee as part of the application.

After the Notice has been delivered, prepare the P9-Affidavit of Delivery specifying who has been given notice and how delivery occurred.

## **2. Submission for Estate Grant (Form P2)**

The Submission for Estate Grant is generally the originating document that opens the probate file. The Form P2 sets out information about the deceased and the applicant, and the type of Grant being sought.

The Submission for Estate Grant was designed using a “check the box” format to address the fact that a large number of applicants commencing probate proceedings are lay persons. Each numbered paragraph of the Submission for Estate Grant has multiple options and those that are not selected should be deleted. Words within the standard paragraph being selected, however, should not be deleted if at all possible. Although the language of some of the sentences leaves much to be desired, try to avoid the desire to “fix” the standard-form wording or to delete all the options in a paragraph.

If other documents are being filed with the application, such as a Notice of Renunciation in Form P17, these documents should be listed in the Submission.

If a beneficiary is named in the Will as something different than their full legal name, this should be noted in the schedule to the P2.

## **3. Affidavit of Applicant (Form P3 or P4)**

There are two options when completing the Affidavit of Applicant in a standard grant application. Form P3 (short-form) or Form P4 (long-form).

Form P3 is the “standard” short-form affidavit where all the conditions listed in Rule 25-3(6) are met. It should be used if there are no abnormalities in the application.

Form P4 is an expanded version of the P3 form and is intended to be used if there are any issues surrounding the will or its execution which require addressing. It should be used if any of the following apply:

- one or more testamentary documents dated later than the will have been found;
- there are issues regarding the will or its execution, for example:
  - there are issues regarding formalities of execution;
  - there are special circumstances surrounding the execution (i.e., where the will-maker is blind or illiterate);

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- there are interlineations, erasures, obliterations, or other alterations to the will;
- there are issues with the appearance of the will (e.g., missing pages, attempted revocation, etc.);
- it appears the will has been unstapled
- the will refers to one or more documents attached or not attached to the will;
- there is a foreign applicant applying under s. 139 of WESA;

#### **4. Affidavit of Assets and Liabilities for Domiciled Estate Grant (Form P10)**

The personal representative's affidavit in form P10 exhibits the statement of assets and liabilities, which lists all of the assets of the deceased which pass on death to the applicant. This was a change under WESA. Previously the Rules required an applicant to list all assets that passed on death, now they only list the assets which pass to them as applicant, which permits dual wills with separate personal representatives.

The P10 requires disclosure only of those liabilities that charge or encumber estate property, such as mortgages or registered personal property security interests. Other liabilities do not need to be disclosed.

The proposed distribution of the estate does not need to be disclosed. The inclusion of the word “distribution” in the title of the “Statement of Assets, Liabilities and Distribution” is merely to maintain consistency with the *Probate Fee Act* which refers to it as such and which was not amended during the WESA changes.

Except in extremely limited circumstances, the probate registry will not accept “to be determined” for the date of death value of an asset. If a third party will not provide the required financial information, the applicant must file the Grant application (minus the Affidavit of Assets and Liabilities) along with a Form P18—Authorization to Obtain Estate Information. Once the Grant application has been processed by the Registry in the normal course, the Registry will issue the Authorization to Obtain Estate Information to the applicant. The applicant then delivers the Authorization to the third party, who then has 30 days from the date the Authorization is delivered to provide the requisite information. If the third party fails to deliver the Information and a further application is required, the third party must provide an affidavit setting out their reasons for refusal to comply with the request and may be ordered to pay costs related to the application. Once the information requested is available, the Affidavit of Assets and Liabilities can be completed and filed without the necessity of going back into the main queue for application processing.

Once the affidavits of the personal representative have been drafted, arrange to meet with the personal representative to sign the affidavits, then file them with the Probate Registry.

The Registry will review the documents and in due course advise of any defects, and advise the amount of the probate fees.

### **C. Probate Fees**

Probate fees in British Columbia are levied under the *Probate Fee Act*. The probate fee is made up of a \$200 charge to start the Court proceeding, plus \$6 for every \$1,000 or part of \$1,000 of the gross value of the estate assets in excess of \$25,000 up to \$50,000, plus \$14 for every \$1,000 or part of \$1,000 of the gross value of the estate assets in excess of \$50,000, that were located in British Columbia when the deceased died.

The deceased's financial institution will, on request, usually advance the probate fees payable to the Minister of Finance. Once probate fees are paid, the Registry will generally issue the Grant within three to five business days.

### **D. Special Grants**

Not all Grants fall neatly into the category of Probate or Administration. One of the more common grants is the situation where there is no personal representative under the Will. The application is then for "Grant of Administration with Will Annexed." Other grants include Administration in Special Circumstances (formerly, including Ad Colligenda Bona), Administration Pending Legal Proceedings (formerly, Administration Pendente Lite), Administration by Attorney, and Administration of Unadministered Estate (formerly, Administration de Bonis Non).

For a list of special grants and the associated precedents see the Manual.

### **E. Tips from the Probate Registry**

Search everything before completing the statement of assets and liabilities. Pay close attention to related land title issues. Obtain up to date searches of real estate and use the correct names and descriptions.

Read over the alternate personal representative appointment clause in a Will carefully. If the clause permits an alternate personal representative to act only where the first personal representative is deceased, but in fact the first personal representative is still alive and only refuses to Act, the alternate personal representative cannot apply for probate directly. There has been a failure of personal representative appointment, but the Will does not assist in this case. The alternate will have to apply for a grant of administration with Will Annexed.

## **III. After the Grant is Obtained**

### **A. Calling in and Converting the Assets of the Estate**

Once the Grant has been obtained, there are various things that personal representatives can or must do. They must settle the deceased's debts and any expenses that they have paid as they administered the estate. They can convert assets into cash if they think this is appropriate.

In most cases, once the Grant is obtained, the deceased's accounts are closed into an estate account, and property is liquidated (except property which under the terms of the Will might be the subject of a specific gift, as discussed later in the paper).

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In large estates or where there are ongoing trusts, the personal representative will need to decide whether to liquidate or whether to hold assets in their existing form. Although the personal representative is under a duty to distribute the assets to the beneficiaries as soon as practicable, he or she also has a duty to convert the assets of the estate into cash as advantageously as possible. For many assets, the timing of conversion matters. For example, the estate can lose interest if GICs are collapsed too soon; some assets (such as stocks) can be volatile and their value subject to wide market fluctuations. Other assets, such as penny stocks, may technically be unauthorized investments under the Will. A related issue in larger estates is maximizing income during the administration phase, while the estate is being held pending distribution.

There also may be advantageous reasons to distribute certain types of property *in specie* (for example, if there are charitable beneficiaries in the Will, a donation of publicly traded securities can offer tax benefits that are not available if the securities were sold and the cash proceeds donated).

Real estate may be transmitted from the deceased into the name of the personal representative. Once the property is registered in the name of the personal representative, he or she is then in a position to list and sell the property as the personal representative decides appropriate.

The deceased's bank accounts may be closed out by the personal representative attending personally at each institution and providing them with a certified copy of the Grant. Alternately, the lawyer may handle this by having the client sign letters of authorization and direction to each of the institutions, directing the institutions to close out the accounts and to forward the net proceeds to the lawyer's office. At the time the accounts are closed, the client or lawyer should also request that the institutions provide a statement showing all account activity from the date of death up to and including the date on which the account is ultimately closed, as this will be helpful in preparing the executor's accounting later on.

If the client elects to deal with the institutions directly and hold the estate funds without your help, you should advise that any money the client receives from the sale of estate assets should be held in the personal representative's name as "Personal Representative of the Estate of \_\_\_\_\_, deceased". Alternatively, the lawyer can receive funds and hold them in the lawyer's trust account. If the client is going to retain the lawyer to assist with preparation of the personal representative's accounts down the road (as discussed below in this paper), it is often advisable to consolidate all funds in the lawyer's trust account such that all disbursements and receipts can be easily tracked. If the lawyer is not going to be doing any further work after the grant of probate however, holding estate money in the lawyer's trust account for eventual distribution to the beneficiaries is likely against the Law Society's trust account rules.

The personal representative should be advised early on to maintain a detailed record of all receipts and expenditures, as well as a diary of steps he or she takes in and about the administration process. Regardless of whether the estate funds are being held by the lawyer or the client, the preparation of accounts will be simplified if all funds can be consolidated into a single estate account. Remember however, that the personal representative must ultimately account to the beneficiaries of the estate, so consideration should be given to whether funds should be invested while administration is being completed, to avoid allegations that funds were not properly managed in the interim. Each estate is different and the characteristics of the beneficiaries and the size of the estate will dictate whether investing the funds will be necessary.

In some cases, legislation relating to specific types of assets (such as motor vehicles or shares) will affect the personal representative's dealings with those assets. The Manual contains a detailed listing of the procedures and documents required to transmit various types of assets.

## **B. Ascertaining and Paying the Debts of the Deceased**

Before making any distribution of estate assets to the beneficiaries, a Personal Representative must ascertain the debts of the deceased, anticipate the liabilities of the estate (including income taxes) and ensure that sufficient assets are retained to pay those liabilities. Many debts and administration expenses are relatively easy to anticipate and determine. However, the deceased may have had unascertained, contingent or continuing liabilities, such as unknown debts, liability under a separation agreement to pay maintenance, or an outstanding personal guarantee made by the deceased. The personal representative should be cautioned to exercise great care in ascertaining all debts of the deceased and ensuring that all liabilities are dealt with prior to making any distribution. Some personal representatives do an interim distribution of some assets while holding back the rest of the estate to potentially pay remaining debts. They distribute this holdback amount at later date in a final distribution once tax clearance certificates have been obtained (see below).

For unknown or unascertained creditors, the personal representative can protect himself or herself by publishing a notice to creditors in the BC Gazette in accordance with the provisions of section 154 of WESA.

## **C. Income Tax Filings**

### **1. Filing Obligations**

The personal representative is responsible for filing certain income tax returns for the deceased and the estate. The basic filing obligations are as follows:

- (1) a T1 (General) return for any year before the year of death, if the deceased had not filed a return for that year and if tax is payable. Any delinquent returns must be filed as soon as possible. With respect to a prior year's return where the deceased died before the normal filing deadline, the return must be filed by the later of six months of the deceased's death and the normal filing deadline.
- (2) a T1 (General) return for the year of death (January 1 to the date of death), in most circumstances. The return must be filed either six months from the date of death or on April 30 of the year following the year of death, whichever date is later. It is recommended that personal representatives arrange for this return to be filed as early as possible so that they can get a clearance certificate from the Canada Revenue Agency (the "CRA"). The clearance certificate is discussed in more detail later in this paper.
- (3) a T3 return within 90 days of each fiscal period of the estate. The first fiscal period begins with the date of death. You may choose the date on which the first fiscal period ends, but that date must be no later than 365 days after the deceased's death.

Depending on the nature of the deceased's income, the estate may be allowed to file other income tax returns, and it may be desirable to do so. The personal representative should be advised to consult with an accountant early on in the estate administration process.

## **2. Clearance Certificate**

The *Income Tax Act (Canada)* requires that personal representatives obtain a clearance certificate from the CRA before distributing property to a beneficiary.

In normal circumstances, the CRA does not give a clearance certificate until you have paid any tax that is payable based on an assessment by the CRA of the date of death tax return. It is not uncommon for the CRA to take several months to process estate filings, and it can often take six months or more to receive a clearance certificate. It should be therefore recommended that the client file the date of death income tax return as soon as possible so that a clearance certificate can be requested at an early date.

If the personal representative does distribute the estate before receiving the clearance certificate, and if they have not kept enough property in their hands to pay any income tax that may be owing, the personal representative may be personally liable for paying that tax.

## **3. Funding the Tax Liability**

One of main issues facing the personal representative at this stage of the administration process is how any income tax liability will be funded. As an estate planner, it is important to be aware of the tax liabilities that arise as a consequence of death and to turn one's mind to how such liabilities will be funded.

For example, if a client owns several pieces of real estate that have appreciated in value, there may be a significant tax liability arising on death as a result of the deemed disposition of those properties (subject to the principal residence capital gains exemption) and the triggering of accrued gains. If there are insufficient liquid assets in the estate to cover the terminal tax bill, how will the tax liability be funded? Is there insurance in place? Will one of the properties have to be sold? If so, which one? Failure of the estate planning lawyer to address how the tax liability will be funded may result in frustration of the will-maker's wishes.

Using the example above, the estate planner could have considered including a power to borrow or mortgage in the Will. Although s. 142 of WESA gives personal representatives a rather broad power to deal with estate assets (i.e. the personal representative has the same authority over the estate as the deceased had when living in order to carry out the personal representative's duties) it is preferable to explicitly include in the Will any specific powers that may be necessary rather than rely on the general statutory authority. Keep in mind that death is usually a default event on mortgages, and without any income within the estate, the personal representative may have a very difficult time qualifying for a new conventional mortgage, no matter what the Will gives them the power to do.

## IV. Preparing to Distribute the Estate

### A. Factors Affecting Timing of Distribution

There are various factors and pieces of legislation affecting the timing of when an estate may ultimately be distributed amongst the beneficiaries. A few of these are listed below:

- (1) under s. 155(1.1) of WESA, the personal representative must not distribute an estate in the 210 days following the issuance of the grant unless all beneficiaries and all persons who may commence a proceeding under Division 6 of Part 4 of WESA (i.e. those who can bring a wills variation claim) consent.
- (2) as noted above, under s. 159(2) of the *Income Tax Act (Canada)*, the personal representative must not distribute the estate until a clearance certificate from CRA has been obtained; and
- (3) the personal representative should not distribute an estate unless he or she has obtained written approval of his or her accounts from all beneficiaries or has passed the accounts before the court.

### B. Specific Gifts in the Will

#### 1. Gifts of Real Estate

If a Will contains a specific gift of real estate, or if the personal representative is preparing to make a distribution of real estate in specie, the provisions of the *Property Transfer Tax Act*, [RSBC 1996], c.378, must be considered. The *Property Transfer Tax Act* imposes a tax on all land transfers unless the transfer falls within one of the specific exemptions listed in s. 14 of the Act. Some transfers of property under a Will attract property transfer tax, and, if the Will is silent on who is intended to bear the tax, disputes can arise.

Any tax payable under the Act is payable by the beneficiary receiving the property unless there is a contrary provision in the Will. The standard “payment of debts” clause is insufficient as property transfer tax is not technically a debt of the estate but rather a tax imposed on the recipient of the property. As planners, it is therefore important to canvass the issue of property transfer tax with any client wishing to make specific gifts of real estate.

Note: for a sample clause placing the burden of paying property transfer tax on the estate, see the CLE Wills Precedents: An Annotated Guide

(a) to pay out of my estate:

...

- (iv) any tax payable under the *Property Transfer Tax Act* of British Columbia as a result of any transfer from my estate to [name of recipient] of any real property at [address] pursuant to the provisions of clause [number] of this Will;

## **2. Gifts of Property Encumbered by Security Interests**

Under section 47 of WESA, if the Will contains a gift of property encumbered by a registered security interest (either under the *Land Title Act*, [RSBC 1996], c.250, or the *Personal Property Security Act*, [RSBC 1996], c.359) the beneficiary receiving the gift is primarily liable to pay the debt secured by the security interest, to the extent that the debt is attributable to the acquisition, improvement or preservation of the property. This obligation is subject to a contrary intention in the Will.

Section 47 also provides that a general direction in the Will for the payment of debts or a charge of debts on the will-maker's estate is not sufficient to constitute a contrary intention. Specific language referencing the secured debt is required.

Personal representatives distributing property encumbered by security interests have a challenging task. A beneficiary now may not be required to repay all of the debt secured by the purchase money security interest, only that portion of the debt attributable to the acquisition, improvement or preservation of the property. How does the personal representative ascertain what portion of the debt is attributable to the acquisition, improvement or preservation of the property? In the case of a standard vehicle loan where the full value of the loan was used to acquire the property it might be straightforward; however, consider a multi-purpose flexible mortgage product that contains one or more revolving line of credit components – how does a personal representative ascertain what portion of the debt is attributable to acquisition, improvement or preservation of the real property against which it is registered, versus what portion was applied toward other property or purposes? Applying s. 47 in practice is going to be an increasing issue for personal representatives. As estate planners, it is imperative to canvass these matters with your client and, wherever possible, add explicit provisions in the Will such that the will-maker's intentions are clear.

## **3. Property Disposed of Prior to Death**

Personal representatives must also now consider whether property that is subject to a specific gift in the Will and which is not owned by the deceased at death was disposed of during the will-maker's lifetime by the will-maker or by a nominee (e.g. a committee of estate, attorney, or representative under a section 7 Representation Agreement) without the will-maker's consent. Under s. 48 of WESA, if a nominee of the will-maker disposes of property that is the subject of a gift in the will, the beneficiary of the gift is entitled to receive from the will-maker's estate an amount equivalent to the proceeds of the gift as if the Will had contained a specific gift to the beneficiary of that amount. As with the other provisions of WESA referenced above, this section is subject to a contrary intention in the Will.

### **C. Interim Distributions and the "Holdback"**

As noted above, the *Income Tax Act (Canada)* explicitly provides that a personal representative must obtain a clearance certificate before distributing any of the property of a deceased to the beneficiaries. If a clearance certificate is not obtained, the personal representative will be held personally liable for any unpaid tax, interest, or penalties payable by the deceased and by the estate.

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In practice, due to the lengthy processing time of CRA, many personal representatives will make an interim distribution of a portion of the deceased's assets prior to receipt of the final clearance certificate, and will simply "hold back" a portion of the estate to cover any additional taxes that may be assessed as owing. If an interim distribution is going to be made, ensure that you advise your client to obtain a written recommendation from the estate accountant as to how much money should be held back, and recommend holding back significantly more than the estimate requires. Also, before attending to the interim distribution, a summary accounting of the estate assets should be presented to the residual beneficiaries along with a form of release. The release should include an indemnity under which the beneficiaries specifically agree to indemnify the personal representative for any reassessment from CRA in consideration that the present distribution is being made prior to the personal representative's receipt of the clearance certificate.

If an estate's solvency is unclear or if there are complex tax issues or unpaid tax returns from previous years and the tax liability is unclear, the personal representative takes on significant personal risk if he or she makes a large interim distribution before having the clearance certificate in hand. Ensure that you advise your client in writing of the risk of making any such distribution.

Once the personal representative has obtained the final clearance certificate from CRA, he or she will be in a position to prepare a final set of accounts (discussed below) and releases and to attend to a final distribution of estate assets.

#### **D. Passing of Accounts**

Before distributing the estate among the residual beneficiaries, the personal representative has the obligation to prepare a set of accounts to show expenses, disbursements, payments in and payments out. An accounting should include details of the assets and liabilities of the estate as at the date of death, details of each receipt and disbursement during the administration of the estate, a list of assets remaining on hand, the amount of compensation being claimed by the personal representative (if any), and a statement of the proposed distribution.

The *Trustee Act*, [RSBC 1996], c.464, provides that personal representatives must formally pass their accounts before the Supreme Court within two years of the date of the issuance of the grant, unless they have received approval in writing from all the residual beneficiaries. The usual practice is therefore not to undertake the time, trouble and expense of having the accounts formally approved by the Court, but to have each residual beneficiary approve the accounts and to execute a release, releasing the personal representative from any liabilities or claims with respect to the administration of the estate.

If the personal representative seeks to claim compensation for his or her time in administering the estate and compensation has not been expressly provided for in the Will or other contract, the personal representative may seek compensation in accordance with s. 88 of the *Trustee Act* by obtaining the written consent of all residual beneficiaries or by court order. Any compensation being sought is therefore generally included as part of the (interim or final) accounts, and presented to the residual beneficiaries for their approval.

Where there are minor beneficiaries, however, estate accounts must be formally approved by the court as a minor is unable to provide legal consent and a guardian of a minor cannot approve accounts on the minor's behalf. Wherever there are minors or other beneficiaries who are not

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*sui juris*, the estate planning lawyer should review with the client that unless matters such as compensation are authorized directly in the Will, the personal representative will be required to make a court application in order to be compensated.

Rule 25-13 of the Supreme Court Rules sets out the passing of accounts procedure under WESA. Under the new rules, the court has the ability to pass the Personal Representative's accounts and determine the Personal Representative's remuneration summarily and without referring the matter to the registrar. This summary passing of accounts is useful where all *sui juris* beneficiaries have approved the accounts and the only reason why the accounts are being formally passed is because one of the beneficiaries of the estate is a minor or otherwise unable to provide consent.

**V. Appendix A. Checklist - Information to Be Obtained at Initial Interview**

Person interviewed:	_____
Address:	_____
Business address & phone number:	_____
Home phone number:	_____
Email address:	_____
Interview conducted by:	_____
Date	_____

**BACKGROUND INFORMATION**

Full name of deceased (include aliases):

\_\_\_\_\_

Date of birth

\_\_\_\_\_

Place of birth:

\_\_\_\_\_

Date of death:

\_\_\_\_\_

Occupation:

\_\_\_\_\_

Address at date of death:

\_\_\_\_\_

Normally resident at:

\_\_\_\_\_

Citizenship:

\_\_\_\_\_

Domicile: \_\_\_\_\_

Cause of death: \_\_\_\_\_

Social Insurance  
Number \_\_\_\_\_

**MARITAL INFORMATION**

Marital Status: Single / Widow(er) / Divorced / Separated / Married / Living in a marriage like relationship

If spouse has predeceased, date of death: \_\_\_\_\_

(1) If married: \_\_\_\_\_

Name of Spouse \_\_\_\_\_

Spouse's date and place of birth: \_\_\_\_\_

Social Insurance Number of surviving spouse: \_\_\_\_\_

Date of marriage \_\_\_\_\_

Place of marriage: \_\_\_\_\_

Is place of marriage a community property jurisdiction? \_\_\_\_\_

Any marriage agreement? \_\_\_\_\_

(2) If separated: \_\_\_\_\_

Date of separation: \_\_\_\_\_

Any separation agreement?: \_\_\_\_\_

(3) If divorced: \_\_\_\_\_

Date of divorce: \_\_\_\_\_

Any settlement agreement: \_\_\_\_\_

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**BENEFICIARIES / HEIRS-AT-LAW**

Children of Deceased (legitimate, illegitimate and adopted – living or deceased)

<u>NAME</u>	<u>ADDRESS</u>	<u>DATE OF BIRTH</u> (if deceased, give date of death as well)
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____

(NB: If any minor children, the name and address of guardian should be inserted in "address" column.)  
Are any of the above legally disabled persons? If so, name of committee or person having care of such person:

<u>NAME</u>	<u>ADDRESS</u>	<u>NAME OF LEGALLY DISABLED PERSON</u>
1.	_____	_____
2.	_____	_____

Did any deceased children leave issue or spouse who have survived a Yes  No   
deceased:

If yes, names, addresses and birth dates of issue and/or spouse:

<u>NAME</u>	<u>ADDRESS</u>	<u>BIRTH DATE</u>	<u>RELATIONSHIP TO DECEASED</u>
1.	_____	_____	_____
2.	_____	_____	_____
3.	_____	_____	_____

**BENEFICIARIES NAMED IN WILL (living or deceased)**

<u>NAME</u>	<u>ADDRESS</u>	<u>BIRTH DATE</u> (if deceased, give date of death as well)	<u>RELATIONSHIP TO DECEASED</u>
1.	_____		
2.	_____		
3.	_____		
4.	_____		
5.	_____		
6.	_____		
7.	_____		
8.	_____		
9.	_____		
10.	_____		

(NB: If any minor children, the name and address of guardian should be inserted in "address" column. If any beneficiary is deceased but has a vested interest in the estate, the name and address of his/her Personal representative/Administrator should be inserted in the "Address" column.)

Are any of the above legally disabled persons? If so, insert name of committee or person having care of such person:

<u>NAME</u>	<u>ADDRESS</u>	<u>NAME OF LEGALLY DISABLED PERSON</u>
1.	_____	
2.	_____	

**Heirs-at-law** (if no surviving spouse or issue, list parents of deceased, if any. If none, list of siblings of deceased and the children of any deceased sibling (see Part 3 WESA):

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<u>NAME</u>	<u>ADDRESS</u>	<u>BIRTH DATE</u> (if deceased, give date of death as well)	<u>RELATIONSHIP TO DECEASED</u>
1.	_____		
2.	_____		
3.	_____		

(NB. If any minor children, the name and address of guardian should be inserted in "address" column. If any of the beneficiaries are deceased but have a vested interest in the estate, the name and address of his/her Executor/Administrator should be inserted in the "Address" column.)

<u>NAME</u>	<u>ADDRESS</u>	<u>NAME OF LEGALLY DISABLED PERSON</u>
1.	_____	
2.	_____	

**TESTAMENTARY INSTRUMENTS**

Is there a will:                      Yes                          No   

Date of will: \_\_\_\_\_

Date of codicil(s) (if any): \_\_\_\_\_

Are all personal representatives named in the will applying for the Grant:    Yes                          No   

If no, who is applying? \_\_\_\_\_

Are any of the personal representatives deceased? \_\_\_\_\_

Are any of the personal representatives renouncing his/her right to apply? \_\_\_\_\_

Are any of the personal representatives reserving his/her right to apply? \_\_\_\_\_

Are there any interpretation issues? \_\_\_\_\_

**PERSONAL REPRESENTATIVES:**

1. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Occupation \_\_\_\_\_  
Phone No. \_\_\_\_\_
2. Name: \_\_\_\_\_  
Address \_\_\_\_\_  
Occupation: \_\_\_\_\_  
Phone No: \_\_\_\_\_

**WITNESS TO THE WILL:**

1. Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Occupation \_\_\_\_\_  
Phone No. \_\_\_\_\_
2. Name: \_\_\_\_\_  
Address \_\_\_\_\_  
Occupation: \_\_\_\_\_  
Phone No: \_\_\_\_\_

Are either of the witnesses beneficiaries or spouses of the beneficiaries Yes  No

**ASSET INFORMATION**

**Residential Property:**

1. Civic address: \_\_\_\_\_
2. Legal description \_\_\_\_\_
3. Registered owner(s): \_\_\_\_\_
4. Fair market value: \_\_\_\_\_
5. Municipal assessed value \_\_\_\_\_
6. Appraised value, if any \_\_\_\_\_

7. Encumbrances: \_\_\_\_\_

**Recreational Property:**

1. Civic address: \_\_\_\_\_

2. Legal description \_\_\_\_\_

3. Registered owner(s): \_\_\_\_\_

4. Fair market value: \_\_\_\_\_

5. Municipal assessed value \_\_\_\_\_

6. Appraised value, if any \_\_\_\_\_

7. Encumbrances: \_\_\_\_\_

**Investment Property:**

1. Civic address: \_\_\_\_\_

2. Legal description \_\_\_\_\_

3. Registered owner(s): \_\_\_\_\_

4. Fair market value: \_\_\_\_\_

5. Municipal assessed value \_\_\_\_\_

6. Appraised value, if any \_\_\_\_\_

7. Encumbrances: \_\_\_\_\_

**Mortgages and Agreement for sale:**

1. Civic address: \_\_\_\_\_

2. Legal description \_\_\_\_\_

3. Registered owner(s): \_\_\_\_\_

4. Fair market value: \_\_\_\_\_

5. Municipal assessed value \_\_\_\_\_

6. Appraised value, if any \_\_\_\_\_

7. Encumbrances: \_\_\_\_\_

**Cash and Cheques:**

1. Cash on hand: \_\_\_\_\_

2. Old age security cheque (month and amount): \_\_\_\_\_

3. Canada pension cheque (month and amount): \_\_\_\_\_

4. Other uncashed cheques: \_\_\_\_\_  
\_\_\_\_\_

**Bank Accounts**

1. Name of bank: \_\_\_\_\_

Branch \_\_\_\_\_

Street address: \_\_\_\_\_

Account number(s): \_\_\_\_\_

Type of Account: \_\_\_\_\_

Balance at date of death: \_\_\_\_\_

Accrued interest: \_\_\_\_\_

Any safety deposit box? \_\_\_\_\_

2. Name of bank: \_\_\_\_\_

Branch \_\_\_\_\_

Street address: \_\_\_\_\_

Account number(s): \_\_\_\_\_

Type of Account: \_\_\_\_\_

Balance at date of death: \_\_\_\_\_

Accrued interest: \_\_\_\_\_

Any safety deposit box? \_\_\_\_\_

3. Name of bank: \_\_\_\_\_

Branch \_\_\_\_\_

Street address: \_\_\_\_\_

Account number(s): \_\_\_\_\_

Type of Account: \_\_\_\_\_

Balance at date of death: \_\_\_\_\_

Accrued interest: \_\_\_\_\_

Any safety deposit box? \_\_\_\_\_

**Term Deposits/Guaranteed Investment Certificates:**

1. Name of bank: \_\_\_\_\_

Branch \_\_\_\_\_

Street address: \_\_\_\_\_

2. Name on certificate: \_\_\_\_\_

3. Principal amount: \_\_\_\_\_

4. Interest rate: \_\_\_\_\_

5. Maturity date: \_\_\_\_\_

6. Accrued interest: \_\_\_\_\_

**Life Insurance**

1. Company: \_\_\_\_\_

2. Address: \_\_\_\_\_

3. Policy Number: \_\_\_\_\_

4. Named beneficiary \_\_\_\_\_

5. Value \_\_\_\_\_

**Canada Savings Bond**

1. Certificate Number \_\_\_\_\_

2. Name on certificate: \_\_\_\_\_

3. Principal amount: \_\_\_\_\_

4. Maturity date: \_\_\_\_\_

5. Coupons \_\_\_\_\_

6. Accrued Interest \_\_\_\_\_

**Bond/Debentures:**

1. Type: \_\_\_\_\_

2. Name on certificate:  
held in segregated bulk form \_\_\_\_\_

3. Issuer: \_\_\_\_\_

4. Estimated value: \_\_\_\_\_

5. Location: \_\_\_\_\_

6. Brokerage account held at: \_\_\_\_\_

7. Name of broker: \_\_\_\_\_

**RSP/RRIFs:**

1. Type: \_\_\_\_\_

2. Plan manager, if any: \_\_\_\_\_

3. Estimated value: \_\_\_\_\_

4. Location: \_\_\_\_\_

5. Designated beneficiary: \_\_\_\_\_

**Pension Plans:**

1. Type: \_\_\_\_\_

2. Plan manager, if any: \_\_\_\_\_

3. Estimated value: \_\_\_\_\_

4. Location: \_\_\_\_\_

5. Designated beneficiary: \_\_\_\_\_

**Membership in Unions/Fraternal Organizations/Veterans:**

1. Name: \_\_\_\_\_

2. Address: \_\_\_\_\_

3. Death benefit: \_\_\_\_\_

**Securities on Hand:**

1. No. and type: \_\_\_\_\_

2. Issuer: \_\_\_\_\_

3. Estimated value: \_\_\_\_\_

4. Registration \_\_\_\_\_

**Annuities:**

1. No. and type: \_\_\_\_\_

2. Issuer: \_\_\_\_\_

3. Term: \_\_\_\_\_

4. Name and address of issuer: \_\_\_\_\_

5. Designated beneficiary: \_\_\_\_\_

**Old Age Pension and Other Pensions::**

1. Name of payee: \_\_\_\_\_

2. Address: \_\_\_\_\_

3. Death benefits available: \_\_\_\_\_

4. Designated beneficiary: \_\_\_\_\_

**Interests in private Companies or Businesses:**

1. Name of company: \_\_\_\_\_

2. Nature of interest: \_\_\_\_\_

3. Estimated value \_\_\_\_\_

4. Location: \_\_\_\_\_

5. Registered owner: \_\_\_\_\_

6. Any buy/ell arrangements? (shareholder's agreements) \_\_\_\_\_

**Antiques/Collections:**

1. Kind of antiques/collection: \_\_\_\_\_

2. Fair market value: \_\_\_\_\_

3. Appraised value: \_\_\_\_\_

4. Location \_\_\_\_\_

5. Any particular person, organization to consult on its disposition? \_\_\_\_\_

\_\_\_\_\_

**Canada Pension Plan:**

1. Death benefit available: \_\_\_\_\_
2. Survivor's pension available: \_\_\_\_\_
3. Orphan's benefit available: \_\_\_\_\_

**Wage/Salary:**

1. Any outstanding wages/salary: \_\_\_\_\_
2. Vacation pay owing: \_\_\_\_\_
3. Name of employer: \_\_\_\_\_

**Personal Effects:**

1. Anything of particular value:      Yes                          No
2. Details: \_\_\_\_\_  
\_\_\_\_\_

**Furniture:**

1. Anything of particular value:      Yes                          No
2. Details: \_\_\_\_\_  
\_\_\_\_\_

(NB: The value of any specific items mentioned in the will should be obtained.)

**Automobiles/Boats/Etc:**

1. Make and year: \_\_\_\_\_
2. Serial number: \_\_\_\_\_
3. Licensed number: \_\_\_\_\_

4. Registered owner: \_\_\_\_\_

5. Fair market value: \_\_\_\_\_

**Safety Deposit Box/Securities held in Safekeeping:**

1. Bank: \_\_\_\_\_

Branch: \_\_\_\_\_

Address: \_\_\_\_\_

2. Registered owner: \_\_\_\_\_

**Other Assets (Airmiles, Patents, Royalties, Digital assets like Bitcoin etc.):**

1. Name: \_\_\_\_\_

2. Name: \_\_\_\_\_

3. Name: \_\_\_\_\_

**LIABILITY INFORMATION:**

	<u>CREDITOR</u>	<u>ADDRESS</u>	<u>AMOUNT OWING AS AT DATE OF DEATH</u>	<u>INTEREST ACCRUING</u>	<u>NOTIFIED OF DEATH</u>
1.	_____	_____			
2.	_____	_____			
3.	_____	_____			
4.	_____	_____			
5.	_____	_____			
6.	_____	_____			

7.

8.

9.

10.

**INCOME TAX INFORMATION:**

1. Date last return filed:

\_\_\_\_\_

2. Is filing all up-to-date:

Yes

No

3. Name of employer, if any:

\_\_\_\_\_

4. Instalment payments made, if any

\_\_\_\_\_

## VI. Appendix B. Checklist - Documents to Be Obtained at Initial Interview

	N/A	REQUIRED	DOCUMENT OBTAINED
1. Original testamentary instruments (will and codicil(s), if any			
2. court certified copy of grant of probate of any foreign probates to be submitted for resealing or ancillary grant			
3. Birth certificate			
4. Death certificate			
5. Marriage certificate			
6. Social insurance card			
7. Copy of marriage agreement			
8. Copy of separation agreement			
9. Copy of divorce decrees, maintenance orders and the like			
10. Bank passbooks and any other financial documentation			
11. Bonds, stocks, and securities owned by a deceased			
12. Registration documents with respect to automobiles and boats			
13. Copy of any buy-sell agreements, partnership agreements, leases, employment contracts, and the like			
14. Copy of financial statements and particulars of any businesses or private companies in which deceased held an interest			
15. Previous years' tax returns			

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16. All T-slips currently at hand and other information required for tax returns			
17. Life insurance policies			