DOWNLOAD PDF THE LAW OF WILLS, EXECUTORS, AND ADMINISTRATORS

Chapter 1 : Full text of "Law of wills, executors and administrators"

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The executor should be aware of the existence of the Will and his first task is to inform the family members of the deceased if they are not already aware that the Will exists. It is also prudent that persons named as beneficiaries in the Will are also informed by the executor of the existence of the Will. If there is no executor appointed, the family must choose an administrator Where there is no will or no executor, the family first needs to agree who will be the Administrator s. Usually the spouse is the Administrator if the children of the deceased are young. Where there are beneficiaries under 21 years of age the Court requires a co-administrator and sureties to safeguard their interest. Without the Grant of Probate or a Grant of Letter of Administration, the executor appointed under a Will or a family member would generally be unable to transfer, sell or deal with the assets. If the deceased had debts, the family should try to pay them. Otherwise, the Court may not allow Probate to be granted if the creditor objects. The purpose of the application is to get the executor or family member legally appointed by the Court to be the official personal representative of the deceased. The executor or administrator is expected to liaise with solicitors in providing information and documents about the deceased and next-of-kin including the original will, death registration certificate, birth certificates, marriage certificates, identification documents of all beneficiaries, as well documents relating to the assets of the deceased e. If solicitors are appointed, all Court documents will be prepared for the executor or administrator to sign in presence of a commissioner for oaths before submission to the Court. The duty of the executor or administrator as a trustee, generally, is to pay the debts of the estate,collect and distribute the assets according to the law and be accountable to the beneficiaries about the distribution of the assets. Grant of Probate where there is a will: The Grant of Probate usually takes less time to complete compared to the Grant Letters Of Administration because of additional steps required for the latter. In cases where all information required is available and the value of the assets are easily ascertainable, with no minor beneficiaries, the time taken to complete the process can be as short as months from the time the first Court papers are filed. Otherwise, on average it takes about 6 months and more as an Executor or Administrator often requires time to identify the assets of the deceased and discover their value, especially if these assets may be located in other countries. Regardless, it is not uncommon for the Executor or Administrator to be unfamiliar with all the assets of the deceased, especially if the deceased had many assets. Grant of Letter of Administration where there is no will: Time is also taken to arrange for the next-of-kin to sign the Renunciation. Where there are minor beneficiaries i. Additional time may be required to identify a suitable Co-Administrator. Sureties are required by the Court and we can advise you on how you may apply to Court for a dispensation of sureties. This application will also take additional time. Distribution of assets to minors It is common to have beneficiaries who are minors i. If that is so, as part of the application to the Court for the Grant of Letters of Administration, the Court requires additional steps to be taken to protect the minor beneficiaries. The additional steps are: If a surety cannot be obtained, a further application to Court for a dispensation of sureties is required. This article does not constitute legal advice or a legal opinion on any matter discussed and, accordingly, it should not be relied upon. It should not be regarded as a comprehensive statement of the law and practice in this area. If you require any advice or information, please speak to practicing lawyer in your jurisdiction. No individual who is a member, partner, shareholder or consultant of, in or to any constituent part of Interstellar Group Pte. Lim Fung Peen Fung Peen is a veteran of the legal industry and has been in practice since during which he specialised in Private Client matters. Fung Peen has accumulated substantial experience in conveyancing and conveyancing related matters such as tenancies and leases, actions for distress, recovery of rental in arrears and applications in the High Court for forced sales. Fung Peen is also known for pioneering the successful defence of clients charged with fraudulent trading at the Court of Appeal and his work in

corporate and commercial matters to debt recovery, disputes, building and construction matters, winding up, personal injuries claims, landlord and tenancy matters, employment disputes. Fung Peen has guided his clients who have had brushes with the law in criminal matters to achieve a fair outcome. The mediation process is something Fung Peen has been actively involved in since its inception in the Singapore Courts and he has successfully guided many clients to reach an amicable resolution to their law suit be it a commercial matter or a divorce. Sharing up to-date and tailored knowledge to benefit his clients is something he also enjoys, whether it is a talk in a small group or a seminar with a larger group.

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Chapter 2 : Wills: What is the role of an executor and administrator in your will? - Asia Law Network Blog

Executors and administrators can also be known as the representatives of the estate. Executor and administrator duties To distribute the estate, the representative will need to take care of various administrative and tax-related issues.

Administrator What is the Difference Between an Executor vs. In terms of their duties, there is no difference between an Executor vs. The difference is the way in which they have been appointed. An Executor is nominated within the Will of a deceased person. A New York City estate planning lawyer can help explain their different roles. The Court procedure for the appointment of an Executor involves the probate of a Will. The Court procedure for the appointment of an Administrator is different since there is no Will involved. However, whether an Administrator or Executor is appointed, they each have numerous powers and obligations regarding the handling of estate affairs. In the case of an Executor, the estate is distributed in accordance with the Will. An Administrator distributes an estate according to the laws of intestate succession-i. The appointment of an Administrator in an intestate estate in New York City can result in many complications, through which an attorney can guide you. It may be difficult to complete a Kinship Affidavit especially where the decedent does not have close family members such as a spouse or children. When the next of kin of a decedent are unknown or very distant in relation such as cousins, the intestate administration may be given to the Public Administrator. As a government official in each county, the Public Administrator will be appointed by the Court as the estate Administrator. The family members may then be required to prove their relationship to the decedent through a Kinship Hearing, in which the assistance of a lawyer may be useful. These hearings can be very complex and the relatives are required to show both the maternal and paternal ancestors by proof in the form of certified documents such as birth, marriage and death records. Such proof can be difficult to obtain particularly where family members have lost touch over the years and may have lived and died in different states or counties. Most Wills contain a provision waiving the requirement of a bond. As a New York City lawyer, I have represented numerous clients in Kinship matters and have many years of experience working with Executors and Administrators as they go through the estate settlement process. I enjoy being successful on behalf of a client. I work hard to help my clients resolve their legal issues successfully, especially if things looked bad at the outset.

Chapter 3 : The Role And Duties Of An Executor/Administrator - Family and Matrimonial - Jersey

An executor or administrator must comply with PA probate law and make serious decisions with regard to estate assets and debts. If the personal representative fails at complying with any of these obligations, he or she can be held personally liable.

My parents want to change the executor of their will from my brother to me. As a general rule, neither Virginia nor any other state requires that a nominated executor or executrix male and female Latin terms of a will reside in the same state as the maker of the will. All state courts routinely and regularly appoint and interact with out-of-state executors and executrixes and other court-appointed fiduciaries. Many testators and testatrixes male and female makers of wills nominate out of state executors or executrixes and other fiduciaries. A fiduciary is someone who owes a duty of loyalty to safeguard the interests of another person or entity, such as a trustee of a testamentary trust, a guardian of the estate of a minor, a guardian, committee or conservator of the estate of an incompetent person, an executor of a will, an administrator of the estate of a decedent or an advisor or consultant exercising control over a testamentary or express trust. A fiduciary may be an executor, administrator, guardian, conservator, curator, receiver, trustee in bankruptcy, assignee for the benefit of creditors, partner, agent, officer of a corporation, public or private, public officer or any other person acting in a fiduciary capacity for any person, trust or estate. A fiduciary has a duty not to benefit at the expense of the one they are responsible for. A fiduciary must avoid "self-dealing" or "conflicts of interests" in which the potential benefit to the fiduciary is in conflict with what is best for the person who trusts him or her. A bond is an obligation, expressed in writing, to pay a fixed and liquidated sum on the happening or nonoccurence of a specified condition or event. For example, state laws, which vary by state, may require an executor to post a bond in a certain amount to ensure that they carry out all the duties required of them in good faith. A bond may be an insurance policy required by a court for the benefit of a trust or an estate. The will maker may request in the will that no bond be required. Fiduciary deeds are governed by state laws, which vary by state, and may provide an exemption from transfer taxes for fiduciary deeds. The following is an example of a state statute dealing with fiduciary deeds: An executor is nominated by the testator for the purpose of executing the will. An administrator is the court-appointed representative of an intestate estate and is responsible for administering and settling the estate pursuant to the state statutory rules of descent and distribution. The term "estate" has different meanings in legal terminology. In one usage, estate may mean all the possessions of one who has died and are subject to probate administration supervised by the court and distribution to heirs and beneficiaries. The Uniform Probate Code has shaped state law in this field. It includes provisions dealing with affairs and estates of the deceased and laws dealing with specified nontestamentary transfers transfers not through a will , like trusts and their administration. Since its creation, over thirty percent of states have adopted the Code substantially in whole. Since many individuals neither set up trusts nor execute wills, state intestate succesion laws are an important complement to trust and estate law. Estate may also refer to all the possessions which a guardian manages for the ward whose protection and administration of affairs they are responsible for. Another usage of the term estate refers to a class of real property interest, such as "life estate," "estate for years," or "real estate. Probate the process of proving a will is valid and thereafter administering the estate of a dead person according to the terms of the will. It is a judicial act or determination of a court having competent jurisdiction establishing the validity of a will. First the will is filed with the clerk of the appropriate court in the county where the deceased person lived, along with a petition to have the court approve the will and appoint the executor named in the will or if none is available, an administrator with a declaration of a person who had signed the will as a witness. If the court determines the will is valid, the court then "admits" the will to probate. Probate is a general term for the entire process of administration of estates of dead persons, including those without wills, with court supervision. The initial step in the process is proving a will is valid and then administering the estate of a dead person according to the terms of the will. The will

must be filed with the clerk of the appropriate court in the county where the deceased person lived, along with a petition to have the court approve the will and appoint the executor named in the will. If an executor is not named in the will, an administrator is appointed. A declaration of a person who had signed the will as a witness is also filed. Even if there is a will, probate may not be necessary if the estate is worth no more than a stated dollar value or is small with no real estate title to be transferred or all of the estate is either jointly owned or community property. Trusts in which all possessions are managed by a trustee, making lifetime gifts, or putting all substantial property in joint tenancy with an automatic right of survivorship in the joint owner are methods of avoiding probate of assets. Even if there is a will, probate may not be necessary if the estate is under a defined statutory value with no real estate title to be transferred or all of the estate is either jointly owned or community property.

Chapter 4 : Estate Administrator Duties | LegalZoom Legal Info

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Executors and Administrators Executors and Administrators An executor or administrator will carry out the final wishes specified in your Will or if you die intestate, distribute your estate according to the rules of intestacy. An executor is an individual who was named in the Will to perform these duties â€" but if there were no executors named, someone else must take on the role of administrator. The processes involved in being an executor or an administrator are largely the same â€" however, there are some differences in the terminology used. The difference between executors and administrators If you have been named as an executor in the Will, it is almost guaranteed that you will need to obtain the Grant of Probate before you can carry out the main duties. Banks will be reluctant to give you access to any accounts without the Grant of Probate unless there are limited funds in the account. An administrator will take care of the estate if there is no Will, or no named executor. The administrator will need to get the Letters of Administration, which will give them the same powers as the Grant of Probate. Executors and administrators can also be known as the representatives of the estate. Executor and administrator duties To distribute the estate, the representative will need to take care of various administrative and tax-related issues. Here is a break-down of some of the main duties you could face. Depending on the circumstances of the deceased and the size and complexity of their estate, acting as an executor or administrator can be a very complex process to manage. It can take months, and often years, before everything is taken care of and the estate can be properly distributed. This is one of the reasons why it can be more beneficial in the long-term to hire a solicitor to take care of probate or the administration of the estate, sparing you the stress of dealing with the more complicated aspects of the process, and reducing the risk of any mistakes being made. Appointing an Executor You have a number of options as to who should execute your Will â€" it could be a family member, a friend, or a professional such as a solicitor or accountant. You cannot choose one of the witnesses to your Will to act as an executor, but you can choose them as a beneficiary instead. When deciding who should be the executor s of your Will, you should consider who would be the most capable in terms of dealing with probate and its many complicated matters. For example, if a member of your family is known for not being very good with paperwork or dealing with money matters, they might not be the best person to execute your Will. You should also consider what effect your appointment will have on your family members once you are gone. Appointing a close family member might seem like a good idea, however they might find it difficult to deal with probate while they are grieving over your death. Choosing someone who does not benefit from the Will can be a more preferable option, as they are more likely to handle the estate neutrally. Alternatively, you could name a solicitor, accountant or bank as an executor. Having a professional execute the estate will ease the burden of probate on your other executors, or remove it entirely. It will also guarantee a more efficient and professional service, and the safety net of insurance if something should go wrong. Of course, enlisting a solicitor, accountant or bank to execute your estate will come with added expense. You may be able to reach an agreement and stipulate how much this will be in your Will for example paying a solicitor a percentage of your estate for executing your Will. You can name multiple executors in your Will, allowing them to divide the tasks between themselves. If you do this, you should bear in mind that your executors will have to work together, which could cause problems if you pick two members of your family who do not get on very well. Forcing them to work together during a difficult time could inflame tensions further between them. Whoever you decide to name as your executor or executors, you should let them know in advance and discuss it with them before you formally establish this in your Will. Naming an individual to execute your Will would prove pointless if it turns out they do not want to do it. You can read more advice about putting together a Will in our Making a

Will section. Other legal topics that may interest you.

Chapter 5 : Law of Wills, Executors and Administrators

Get an estimate of fees before instructing your solicitor. Normally a close relative or an executor will take responsibility for organising these. See our guidance on what to do when someone dies. As an executor, you should check the will and any other documents to see whether the deceased left any funeral instructions - though these are not binding. You should also check whether the deceased had made any arrangements for dealing with funeral expenses perhaps they had a pre-paid funeral plan. In practice, you may want to get in touch with close relatives and other major beneficiaries. Keep them informed to minimise tensions or potential disputes. To start with, you need to identify all the financial affairs to be dealt with. They can freeze any bank accounts and will be able to provide you with a list of Direct Debits or standing orders related to the account. You can also check through past bank statements. Make sure you have several copies of the death certificate. Almost everyone you deal with will want to see one. In most cases, this will need to be an official copy provided by the Registrar of Births, Marriages and Deaths. Check through paperwork to help identify organisations you need to contact. You may want to advertise the death locally and in the London Gazette , giving creditors and beneficiaries two months to make themselves known. This helps protect you against future claims. Start a file to keep track of what needs to be done about each different organisation. Some banks and building societies may be willing to release funds for specific purposes. For example, it may be possible to have payments made towards funeral expenses, probate registry fees and inheritance tax liabilities. Banks and building societies may also release relatively small amounts eg: You may need to produce a statutory declaration, or to sign an indemnity guaranteeing to repay the money if it turns out that it should not have been paid out. Normally, any money in a joint account automatically passes to the other account holder, who can access it immediately. Control of other joint property eg: Payments from pension schemes and life insurance policies will depend on the individual circumstances. Creditors will want payment, but may be prepared to wait. If funds are available, the simplest course may be to pay them immediately, provided that the executors are sure that the estate will have sufficient funds to pay all the creditors. Either the executors or someone else will need to take responsibility for paying continuing bills: Make arrangements to ensure that property and other assets are properly looked after until they can be sold or distributed. Practical points include ensuring that: This helps you keep the estate finances separate from your own and makes it easier to keep track of everything. Monitor the post and keep following it up. You may need to return any payments received eg: You may identify new assets or debts that need to be dealt with. Dealing with inheritance tax as an executor Once you have got to grips with the finances, you should be in a position to deal with inheritance tax IHT. The first step is to value the estate. Different assets may need to be valued in different ways: Valuing bank accounts etc is straightforward - just check the balance on the account. Most financial assets - such as shares - are easy to value. If investments were held with an investment manager eg in an ISA , the manager can normally provide a valuation, though some may charge a fee. The valuation should be based on the sale value of the assets which may be substantially lower than their insurance value. You would normally get a professional valuation of any substantial asset eg a house. If you choose to estimate the value yourself, you must take reasonable steps to get an accurate valuation. Again, the valuation should be an open market sale value. You can deduct the value of any legally-enforceable debts eg mortgage, outstanding bills owed by the estate, and the funeral expenses, from the total value of the assets. All valuations should be the values at the date of death. If assets are subsequently sold for less than the value on which IHT was calculated, you may be able to claim a reduction in the IHT payable. You should normally do this within twelve months from the end of the month in which the death occurred - otherwise a penalty may be payable. From April , main properties that are passed to direct decendants children, stepchildren and grandchildren will also qualify for an additional nil-rate band. If

IHT is payable, it becomes due six months from the end of the month in which the death occurred. Interest is generally charged on any outstanding balance from that date. The IHT due on houses, land and some other assets can be paid in instalments over 10 years plus interest. The full amount of IHT becomes immediately payable if the asset is sold. Until HMRC is satisfied that the IHT excluding any instalments that have been agreed has been paid, the executors cannot obtain probate. This means that the executors will not be able to sell off assets such as a house and distribute the estate to the beneficiaries. In some cases, this may mean the executors need to arrange a loan in order to meet the immediate IHT liability before being able to access the remaining assets. This gives you the legal authority to deal with the estate, and will be accepted by organisations such as banks as proof that you have the authority to collect money and other assets. Normally, one or more of the executors named in the will applies for the grant of probate. Otherwise if the person died without a will or the will did not appoint executors a beneficiary or relative can be the administrator and can apply for letters of administration. Where the executors are applying for probate, they can decide whether they all wish to do so jointly: If several executors apply together, all of them will need to sign documents to deal with assets. They will all need to swear an oath and attend any interview required see below. The executors can agree that one or more of them will apply - and deal with the estate - while the others reserve the right to apply later if necessary. Normally, a single individual can apply for the grant of representation. However, in some circumstances, at least two are needed eg when there is no will and children under the age of 18 will inherit part of the estate. The maximum number is four. You can apply yourself or through your solicitor. You then need to swear an oath confirming the information you have given, either at a commissioner for oaths eg a solicitor or a probate registry. You may be asked to attend an interview at the probate registry if they have any queries. Distributing the estate Once probate has been granted, the executors or administrators have the authority to deal with the estate. A negligent executor could become personally liable for unpaid debts and taxes. The executors must distribute the estate in accordance with the will. If there is no will, the estate is distributed according to the rules of intestacy. The shares depend on the amount of the estate, whether the deceased was married or in a civil partnership and whether there were any children. If all the beneficiaries agree, the terms of a will or intestacy can be varied for up to two years following the death. This may have advantages eg reducing likely tax liabilities but legal advice should be taken. The executors should keep clear records of what they have done, so that they can answer any future questions or challenges over their administration of the estate. This guidance applies to England and Wales only. Different rules and procedures apply in Scotland and Northern Ireland.

Chapter 6 : The Duties Of Executors And Administrators | Law on the Web

The duty of the executor or administrator as a trustee, generally, is to pay the debts of the estate,collect and distribute the assets according to the law and be accountable to the beneficiaries about the distribution of the assets.

Chapter 7 : Law of wills, executors and administrators - James Schouler - Google Books

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Chapter 8 : Administration (probate law) - Wikipedia

Executors and administrators are, as a rule, allowed a reasonable compensation for the services they perform in the administration of a decedent's estate. This right arises from and is controlled by statute, unless the will specifically provides the amount of an executor's compensation.

Chapter 9 : Being an executor or administrator | Personal Law Donut

DOWNLOAD PDF THE LAW OF WILLS, EXECUTORS, AND ADMINISTRATORS

Executors and administrators have much of the same job. Each must guide a decedent's estate through the probate process, making sure his creditors receive notification of his death and payment of his debts, and ensure the estate's remaining assets pass to the decedent's heirs or racedaydvl.com