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## 7 Tips for Choosing the Right Executor

What traits make for a good executor, and who by default is unable to serve?



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It's an important question: Who can be trusted to take care of your estate when you're gone?

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When you pass away and your will is accepted for probate, your executor “steps into your shoes,” meaning he or she can perform all the legal tasks you used to do. This includes selling your property, paying creditors, bringing lawsuits, reviewing medical records and distributing your assets to others. Clearly, acting as an executor is an important job, so

who should you choose to handle your final personal affairs? What traits make for a good executor, and who by default is unable to serve?

## 1. Pick Responsible Parties Only

The most important quality your executor must have is responsibility. You don't have to be an attorney, accountant or a financial planner to be an executor. You just have to be responsible enough to hire the right people to help you, address estate matters quickly, effectively communicate with beneficiaries and make hard decisions when necessary. Remember that an executor gets paid a commission for doing his work, so you should expect him to pursue his responsibilities as he would for any other job.

If you do not have any responsible friends or family members, you can name an attorney, accountant, bank or trust company as executor. However, these parties usually charge additional fees for their own services (such as an accountant charging separately to prepare tax returns for your estate) or demand higher payments than a friend or family member (banks and trust companies often refuse to serve unless they make near-usurious commissions).

## 2. Consider People in Good Financial Standing

Your choice of executor needs to have suitable personal finances of his own. People with many creditors and liens against them, individuals with no credit history and those who have declared bankruptcy are not good choices, since they often can't get bonded.

"Bonding" is a form of insurance many courts may require, which serves the purpose of paying beneficiaries if an executor absconds with estate funds. If the bonding company feels an executor is a bad financial risk and won't extend a bond, the court will likely not allow your choice of executor to be named.

## 3. Name at Least One Younger Successor

It is not unusual to only draft one will during your lifetime, and since wills do not expire your estate may be probated using a will that is more than 40 years old. Of course, many things can change during that time. While you only need to name one executor to make your will valid, you should try to name at least one additional younger, healthy successor executor who is likely to outlive you in case you only draft one will during your lifetime and your first choice of executor dies before you, or chooses not to serve.

This can either be done by explicitly naming the person ("If my husband is unable to serve, I appoint my friend Liza Cortez") or by creating a mechanism in your will ("Any children of mine who are at least 30 years old at the time of my death shall serve as Successor Co-Executors").

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## 4. Don't Worry: Location Usually Does Not Matter

An executor does not need to live close to you. Yes, he or she may prefer to make an in-person visit to your house to ensure your personal property is distributed and to meet with your estate's attorney, but many of an executor's tasks can even be done without ever coming to your town. If your estate requires a service, such as disposing of the furniture in your apartment, it is likely your executor can hire a company to do it for her, and pay a responsible party to be present while that service is provided.

## 5. No Drama, Please

Some people may have beloved friends or family members who are the estate's only beneficiaries, but they do not get along. This is often the case where two siblings don't like each other, or when one child took care of her parent the last several years of her life and is receiving the same bequest as her brother, who didn't even call his parent during that time. If only one of the parties is named as executor she may use the position to exact revenge on the other individual by causing delays, adding hardship or just being mean.

In this situation, you have two choices: Either name both parties to serve together to force them to work with each other (thereby avoiding an unequal playing field), or name neither of them (and minimizing court disputes). The latter approach is often better.

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## 6. Don't Name Disqualified Individuals

One of an executor's primary purposes is to sign checks. Courts tend to not approve executors they have trouble getting jurisdiction over, as well as people who have a criminal past. Therefore, non-U.S. citizens living outside of the U.S. usually cannot act as sole executors, and former felons are almost always disqualified from being appointed.

Remember that minors cannot serve as executors, and if you do name a person who is currently not a minor it is usually best to only allow him to serve if he has attained a certain age, since many 18-year-olds may not be ready to handle executor tasks.

## 7. Think About Someone Patient and Emotionally Grounded

Most important, you want an executor who can handle doing hard work without hesitation, maintain emotional balance and apply tough love to beneficiaries. At some level probate has not changed much in the last 600 years, meaning a system that was originally designed to transfer land and livestock now distributes stock portfolios, patents and corporate business interests. Mistakes can easily be made, clerks may disagree on their approach to authenticate documents or court procedures, and middlemen will get confused.

Do not be fooled: Probate work is hard for executors, bureaucrats and hired professionals. Even simple probates can be long and frustrating processes, from fulfilling seemingly arbitrary court requirements, to getting access to apartment keys and renting dumpsters. An executor must be ready to invest her time, not expect immediate perfection and remind beneficiaries to be patient.

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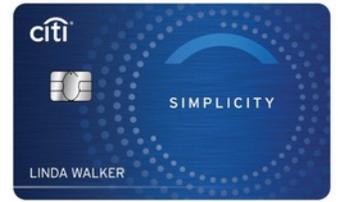
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