

Estate Planning Part 3:

Selecting Your Team

Nichole Huff, Family and Consumer Sciences

Professionals will be involved in helping you complete your estate plans. Estate-planning professionals may include accountants, attorneys, financial planners, insurance agents, and investment advisers.

In addition, one or more other people will be responsible for seeing that your wishes are carried out after your death as the *executor(s)* of your estate. An executor may be a professional person such as an accountant, attorney, or a bank officer. More often, the executor is a relative or close family friend whom you trust to carry out your wishes.

You need to give careful consideration when selecting those who are on your estate-planning team.



Selecting an Attorney

Attorneys who specialize in estate planning are the most likely legal professionals to be up-to-date on state and federal laws related to wills, trusts, and taxes. Choose one with estate-planning experience to help assure that your plans are carried out correctly. If you are considering establishing a trust, choose an attorney who also has experience in writing trusts.

You can obtain the names of attorneys in your area who specialize in estate planning by calling the local bar association, which is the professional association for attorneys. The association may direct you to its lawyer referral service. In larger cities, the local bar association may be listed by the name of the city — the Louisville Bar Association, for example. In smaller cities, the phone number for the bar association should be listed by county.

The Kentucky Bar Association has a lawyer referral service. You can reach the association by calling (502) 564-3795. The KBA has a lawyer locator service available on its website, www.kybar.org.

Sometimes parents do not want to offend their adult children and will name more than one child to be co-executors. Be careful about how many children you name as executors. The legal process can be cumbersome with too many executors managing an estate.

You can also ask relatives or friends whom you trust about their experience with specific attorneys who prepare estate documents in your area.

Be prepared to interview potential attorneys. You may want to prepare a specific list of questions to make certain you have found a lawyer who fits your needs. You may want to ask about the following topics.

- Their experience in estate planning
- How the attorney's fees for preparing the documents are determined
- Whether the services of any other people, such as paralegals, will be included in the fees

If you select an attorney who is knowledgeable about wills and/or trusts, you can feel confident in the advice you receive. Your documents will be legal, and your estate-planning efforts will be worthwhile.

Selecting Your Executor

The executor of your estate will be responsible for handling the legal matters of your estate. The executor usually hires both an attorney and an accountant to advise and help with the tasks involved in settling an estate. In some situations, the accounting work is done through the attorney's office.

Under Kentucky law, an executor must be at least 18 years old, of sound mind, and a Kentucky resident. A nonresident of Kentucky may also be appointed as executor if he or she is related to the deceased person by blood, marriage, or adoption and is 18 or older.

Usually, a surviving spouse is named as the executor. Often the oldest child is named as the executor when a spouse is not living. Many times, an adult child who lives near the parents is named as the executor. It is a good idea to name an alternate executor in the event that something happens to your initial selection before you die.

Sometimes parents do not want to offend their adult children and will name more than one child to be co-executors. Be careful about how many children you name as executors. The legal process can be cumbersome with too many executors managing an estate. If you are concerned about offending one or more of your children, have an open conversation about the potential complications of too many executors. Your children may be able to help you make this decision. Open communication between family members about the estate planning process can help prevent surprises after death.

It can be difficult for adult children who live far from home to fulfill the responsibilities of executor. When your children all live far from home, you might select one or more of them to be co-executor with your accountant or attorney. The local accountant or attorney can take care of the day-to-day paperwork. An adult child who is co-executor is still involved in seeing that your wishes are carried out as you specified.

When the children are under 18 or there are no children, an alternative executor might be a brother, sister, uncle, nephew, cousin, or trusted close friend. Accountants, attorneys, and banks are frequently named as executors or co-executors when no close relatives or friends are available to be the executor.

Be sure to ask the person you name as executor if he or she is willing to carry out this task. Being responsible for your estate is a big responsibility, and the person of your choice may not want the job. You need an executor who is willing to do it and has no conflict of interest.

What Are the Responsibilities of an Executor?

The duties listed below are an overview of the responsibilities of an executor. There may also be other, or more detailed duties. In Kentucky, an executor's responsibilities include the following duties:

- Make all reasonable efforts to obtain the latest original will.
- Help with funeral arrangements, if requested.
- Hire an attorney to handle the legal matters.
- Arrange for probate of the will and court appointment as executor.
- Notify creditors.
- Arrange to be bonded.
- Contact the property valuation administrator of the courts and financial institutions to inventory all safe deposit boxes.
- Prepare and file the estate inventory with the court.
- Locate the deceased person's real and personal property.
- Send notification of death to appropriate insurance companies.
- Determine if any payments are due the estate from employers or others with payment plans. If the deceased person was employed at the time of death, any pay due at the time of death is considered part of the estate.
- Have mail for the deceased and the estate forwarded to the executor.

- Transfer assets to the estate.
- Keep records of all income, expenses, and other transactions.
- Pay approved bills for which the estate is responsible.
- Obtain waivers and releases as needed for transfer of securities and bank accounts.
- Keep beneficiaries informed of the progress of estate settlement.
- Notify appropriate banks and others of appointment as executor.
- File claim for Social Security and/or veteran's benefits that are due the estate of the deceased.
- Distribute household and personal property according to the details of the will.
- Arrange for transfer of real estate title(s) or sell the real estate if required to do so by terms of the will.
- Prepare and file an income tax return for the deceased.
- File state and federal tax returns as required for the estate during the estate administration.
- Obtain a federal estate tax release.
- Consider tax consequences for the beneficiaries in selecting the date to distribute the assets from the estate.
- Prepare final accounting for the transactions in the estate.
- Sell assets.
- Distribute assets to beneficiaries.

Does an Executor Receive Pay?

The executor is entitled to reasonable compensation for his or her services. In Kentucky, the fee is approved by the court and cannot exceed 5% of the value of the deceased person's property plus 5% of the income collected on the property during the administration of the estate.

If you want to specify the fee for the executor, you may state it in your will. If you set the fee in your will, the executor, in accepting the appointment, is entitled to no more than you specify. The specified amount should be made a reasonable amount in terms of the potential estate.

The Estate Planning Series

This publication is part of a ten-part series on estate planning. The publications in this series are:

- Part 1: *Getting Started* (FCS5-420)
- Part 2: *Your Records and Personal Information* (FCS5-422)
- Part 3: *Selecting Your Team* (FCS5-423)
- Part 4: *Financial Planners* (FCS5-424)
- Part 5: *Wills and Probate in Kentucky* (FCS5-425)
- Part 6: *Trusts* (FCS5-426)
- Part 7: *Federal and State Estate Taxes* (FCS5-427)
- Part 8: *Planning Your Digital Estate* (FCS5-465)
- Part 9: *How to Settle an Estate* (FCS5-436)
- Part 10: *A Glossary of Terms* (FCS5-428)

Selecting Other Members of Your Estate-planning Team

The same careful consideration should be given to selecting trustees for a trust. Co-trustees are a good idea if one of your trustees is a bank or other financial institution. Remember to ask questions of these institutions about their fees for administering a trust, requirements for handling the trust, and requirements for releasing the trust to another institution. Be aware that some banks charge a fee for releasing a trust.

If you are nominating a guardian for minor children (children under 18), consider the potential guardian's values, ethics, and views of childrearing in relation to your own views. Ask the person if he or she will agree to be the guardian if needed. Some people choose to appoint a separate conservator to handle their children's finances. Your choices about these matters should be discussed with your attorney and specified in your will or trust agreement. Remember that the court will appoint a guardian if you do not.