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A Step-by-Step Guide for Executors

Presented by *Stephen Geremia*

This guide intends to help you in your role as executor of an estate. It explains the process and offers advice for getting organized and putting a plan in place to settle the estate as effectively and efficiently as possible.

Accepting an executor appointment

The role of executor may involve a lot of time and administrative work. Know that you are not legally obligated to accept the job. If you cannot fulfill this responsibility, the court will contact an alternate executor, if named by the decedent, or appoint one.

Locating the will

The first step in the process is locating the decedent's will. Most likely, his or her family or attorney has the original. Once you find it, make a copy and store the original in a safe place until it can be filed with the probate court. Generally, a will is valid if it is in writing and has been signed and dated by the person who created it and by witnesses.

Reading the will

Prior to meeting with an attorney, review the will and look for language that identifies:

- How taxes and administration expenses will be paid
- Whether assets from a trust will "pour" into and become part of the estate
- The beneficiaries
- Specific bequests
- How to handle digital assets

Getting started with probate

What is probate? Probate is a court-supervised process of administering and distributing the property of a decedent according to the decedent's will or, if the decedent died without a will, according to the state's laws of intestacy. It is important to retain an estate attorney and a tax professional to help you navigate state inheritance laws, probate court rules, and federal and state tax codes.

How long does the probate process take? That depends largely on state law, the size of the estate, and potential actions brought by heirs. A more complex estate may take years while a simple estate may be settled in months.

What assets are subject to probate? Nonprobate assets pass directly to beneficiaries. Assets with designated beneficiaries (e.g., life insurance, retirement plans) and transfer-on-death (TOD) designations, as well as jointly held assets, bypass the probate process.

Probate assets cannot be owned legally by anyone else until they have passed through the probate process. To begin, you must petition the probate court to open the estate, file the will with the court, and seek appointment papers that will show you are the legally appointed executor who is authorized to administer the estate.

Applying for an identification number

The estate is a separate legal entity for federal and state tax purposes and requires its own tax identification number (i.e., employer identification number or EIN). You should apply for this number at www.irs.gov as soon as possible because you'll need it to open an estate bank account. You must also include the EIN on other documents and returns filed for the estate.

"If you owe the bank \$100 that's your problem. If you owe the bank \$100 million, that's the bank's problem." JP Getty

Hi Everyone,

Our economy continues to strengthen despite massive dysfunctional behavior in Washington. The markets have taken the recent Fed hikes in stride as corporate earnings continue to rise. Now is a good time to reassess risk and long term goals.

*Sincerely,
Steve Geremia*

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Ordering copies of the death certificate and executor appointment

You will need certified copies of the death certificate and your executor appointment for all financial transactions, including closing accounts, claiming life insurance and retirement benefits, and stopping social security payments and household bills. Many financial institutions and government agencies won't accept photocopies, so having extra certified copies on hand may help prevent delays.

Completing an inventory of tangible and financial assets

Begin by making a list of known assets. In addition, to help uncover any unknown assets, look for ownership documents, such as deeds, titles, account statements, maintenance records, and receipts. Home offices, home safes, and bank safety deposit boxes are good places to look. Also keep an eye on the decedent's mail, which could lead you to discover hidden assets or outstanding debts.

Completing an inventory of digital assets

Digital assets may be harder to find—they may be stored on a computer hard drive or a cloud service rather than in a filing cabinet, safe, or safety deposit box—but as the executor, you must be sure they go through the administration process.

First, check the decedent's will to see whether it specifies who can access his or her digital assets, such as content in Facebook and Twitter accounts, and whether it has any instructions for what to do with those accounts. Second, if the will does not include digital assets, find out whether the decedent used the access-authorization tool on each platform (the custodian of the digital assets) to designate who could handle the accounts upon death. For example, Facebook has a "legacy contact" tool, and Google has an "inactive account manager" feature.

A properly drafted will and the custodian's access-authorization tool should fulfill the same function: identify whether the executor can access the digital assets. Alternatively, you may discover these items gave another individual access to content.

If the decedent did not express instructions for the digital assets, the custodian's terms-of-service agreement will dictate whether these assets can be accessed at all. Generally, these "boilerplate" agreements deny access to digital assets under these circumstances.

Staying organized

A good organizational plan will help you stay on top of deadlines, properly account for all assets, and avoid delays in administration of the estate. Set up a filing and record system to keep track of the deceased's assets, estate bills, court filings, and your notes. In addition, retain copies of all estate correspondence, including what you send out and what is sent to you.

Managing and protecting estate assets

As the executor, you have a fiduciary responsibility to the estate beneficiaries to protect and properly invest estate assets. This starts with being prudent, loyal, and impartial. Until the estate is fully distributed to the beneficiaries, you should open an estate account to receive estate assets and pay estate bills. Real property should be maintained until the asset is transferred to the beneficiaries or sold. Investment property requires special attention because it may carry fiduciary liability if the assets are not prudently managed. Digital assets will have to be curated or deleted.

Consider engaging a professional advisor to assist with the interim investment of estate assets. Additionally, don't commingle any personal assets (whether yours or that of a beneficiary) with estate assets.

Paying debts and administrative expenses

Before the probate estate is opened, burial and funeral costs will likely be incurred. The individual who pays these expenses will be reimbursed from the estate, or the estate will be billed for the costs. Other costs may arise—for instance, the custodians of digital assets may charge the estate an administrative fee for their disclosure.

In addition, estate assets are subject to any outstanding personal creditor claims, taxes, and administrative expenses. If there aren't enough assets to pay all creditor claims, state law and court procedure will prioritize how claims will be paid, and some creditors may remain unpaid.

If you are the executor of an insolvent estate or an estate from which assets must be sold to pay debts and expenses, it is prudent to seek legal guidance. An attorney can help you determine which assets would be best to sell from a financial and tax perspective. In addition, if a beneficiary's inheritance will be diminished as a result of the sale, it is vital to ensure that the correct asset is sold.

Filing tax returns and a final account

A final income tax return must be filed for the decedent, and income and estate tax returns may have to be filed on behalf of the estate. Work with a tax advisor to ensure that these filings are complete and made on time.

Once you have collected all assets and paid all debts, expenses, and taxes, you typically must file a final account and provide it to all interested parties to provide their review, consent, or objection. After the court has approved the final account, you may distribute the assets to the beneficiaries in accordance with the will or state law. After distribution, you may be required to file final discharge papers with the court so that it can formally close the estate and discharge you from your duties as executor.

Seeking help

This summary is intended as a general guideline; many federal and state issues exist that cannot be addressed here. Be sure to seek the help of a qualified attorney and tax advisor to work through the process and to protect estate beneficiaries and yourself in the fiduciary role.

“Money is only a tool. It will take you wherever you wish, but will not replace you as the driver.” Ayn Rand

Public Service Student Loan Forgiveness: What You Should Know

Presented by *Stephen Geremia*

The Public Service Loan Forgiveness Program (PSLFP) began in 2007 with a simple idea: forgive the student loans of borrowers employed in crucial but often low-paying government or nonprofit positions after they make timely payments for 10 years. Guidance from the U.S. Department of Education lists a broad range of jobs that are eligible for loan forgiveness: law enforcement, emergency management, military service, early childhood education, public librarians, health care providers for disabled or incapacitated individuals, and legal aid attorneys. The Department sent letters to borrowers to certify their eligibility for the PSLFP.

Now, the Department is notifying some borrowers who chose their career path based on the PSLFP, worked for 10 years in public service jobs, and made 120 loan payments that their debt does not qualify for forgiveness. The Department maintains that its certification letters are neither binding nor a final determination of a borrower's eligibility. Understandably, borrowers are reacting with anxiety, outrage, and litigation. And, because of a pending lawsuit brought by the American Bar Association, the Department hasn't clarified what types of loans, employment, and payments qualify for loan forgiveness.

What should you do if you thought your student loans would be forgiven under the PSLFP? Or, what if your child or grandchild is pondering an altruistic career choice that might qualify for the PSLFP? A good starting point is to review the Department's [current guidance](#), which outlines four criteria: loan, payment, payment program, and employment.

What type of loan qualifies for the PSLFP?

It's imperative for borrowers to understand the terms of the loan and verify that it will qualify for loan forgiveness. Only *direct* federal student loans qualify for the PSLFP. The name of the loan will identify whether it is a direct loan. Look for these specific titles: “direct subsidized loans,” “direct unsubsidized loans,” “direct PLUS loans,” and “direct consolidation loans.”

If you have other types of federal student loans, such as a Perkins, Stafford, or Federal Family Education Loan, ask whether it will be possible to consolidate that debt into a direct consolidation loan. If you consolidate direct and indirect loans, only loan payments made after the consolidation is complete will qualify for the 120-payment threshold. Note that consolidation effectively resets the count, and prior payments made on direct loans will not count.

What type of payment qualifies for the PSLFP?

All 120 loan payments must be made in full and on time while the borrower is working full time in a qualifying public service position. The payments do not have to be consecutive. If, however, a borrower pays more than required, the additional amount will not be applied either to the next payment or the 120-payment goal. Also, payments made while the borrower is still in school or in a grace, deferment, or forbearance period are not qualifying payments.

What type of loan repayment program qualifies for the PSLFP?

Because the loan repayment term for student loans is 10 years, borrowers who are not in an income-driven program will repay their loans in 120 payments. Consequently, only income-driven programs that base repayment on the borrower's monthly income will qualify for loan forgiveness under the PSLFP. Graduated and extended repayment plans, which extend the repayment term, are not based on monthly income and do not qualify as income-driven repayment programs. The primary income-based repayment programs are:

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- Revised Pay As You Earn Repayment Plan (REPAYE Plan)
- Pay As You Earn Repayment Plan (PAYE Plan)
- Income-Based Repayment Plan (IBR Plan)
- Income-Contingent Repayment Plan (ICR Plan)

What type of employer and employment qualify for the PSLFP?

The employment criteria include quantitative and qualitative components. The borrower must work at least 30 hours per week or meet the employer's definition of full-time work. Borrowers who work in more than one public service job may combine their employment to reach the weekly requirement. In its publications, the Department states that government employment at the local, state, or federal level qualifies for the PSLFP. Full-time service in AmeriCorps or Peace Corps is also qualifying employment.

The Department's general terms for nonprofit employment have caused uncertainty, however. It broadly states that employment with organizations exempt from taxes under Section 501(c)(3) of the Internal Revenue Code and "other types of not-for-profit organizations that provide certain types of qualifying public service" are eligible for the PSLFP. Aside from explicitly excluding employment with a labor union or partisan political organization, the Department has not clarified what other types of not-for-profit organizations are qualifying employers. For example, although the Department previously certified employment with the American Bar Association and the Vietnam Veterans of America, it recently revoked some borrowers' eligibility for the PSLFP, prompting the pending lawsuit. In its legal filings, the Department maintains that annual approval of the employer certification form is not conclusive and that it does not make a final decision on qualifying employment until after the borrower makes 120 loan payments.

What to do now?

The Department's existing guidance aside, the requirements for loan forgiveness under the PSLFP remain in question. As the first groups of borrowers approach the 120-payment goal, policymakers are beginning to grasp the true cost of loan forgiveness, and the Department appears to be refining its position on qualifying employment.

This uncertainty doesn't mean that borrowers should dismiss the PSLFP entirely. At a minimum, students should understand the kind of loan they accept as they enter school; after graduation, they need to confirm that their payments and repayment program qualify for the PSLFP. Also, each year they must submit the Department's [employer certification form](#). As more borrowers seek repayment under the PSLFP and the Department refines its requirements, the result may well adhere to the program's original intent: easing the student loan burden for those who pursue public service careers.

