

#### Canada Pension Plan Survivor's Pension

The spouse or common law partner at the time of death of your loved one may also apply for Canada Pension Plan Survivor's Pension. The amount of the pension depends on: the age of the spouse or common law partner, the receipt of a CPP disability benefit or retirement pension, and the contributory period of your loved one. You should file an application at Service Canada as soon as possible after the death of your loved one.

#### Canada Pension Plan Children's Benefit

The children of your loved one may also qualify for Canada Pension Plan Children's benefit if a child was under your loved one's care and custody at the time of death, and the child is under the age of 18, or is between 18~25 years of age and attending a recognized school or university full time. Please contact Service Canada for further details.

#### Allowance for the Survivor

The Allowance for the Survivor is a benefit available to people who have low income and are residents of Canada and whose spouse or common law partner is deceased. To qualify for the allowance, the spouse or common law partner of the deceased must be between 60 and 64 years of age. Please contact Service Canada for further details on your eligibility.

## THINGS TO CANCEL WITH THE GOVERNMENT

**What sort of things should I cancel with the government now that my loved one has died?**

#### Old Age Security and Canada Pension Plan Benefits

Old Age Security and Canada Pension Plan benefits received by your loved one must be cancelled, and any benefits your loved one's estate received after the month in which your loved one died must be repaid. However, the estate does not have to repay the benefits received for the month in which your loved one died. To cancel these benefits, please contact Service Canada at 1-800-277-9914.

#### Employment Insurance Benefits

If your loved one was receiving Employment Insurance benefits, the benefits must be cancelled. However, the executor or administrator may apply and receive Employment Insurance benefits, on behalf of your loved one, up to the date of death, if your loved one had not applied for it. To receive the benefits, file an application along with a copy of the death certificate to Service Canada.

#### Personal Identification

Your loved one's passport should be returned, along with a copy of the death certificate, to Passport Canada for cancellation. Other personal identification may also need to be cancelled, such as driver's license, health cards, citizenship card, permanent resident card, etc.

Please give us a call should you require any further assistance. We would be honoured to be of service to you



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## WHAT TO DO WHEN A DEATH OCCURS IN YOUR FAMILY

A death in the family is an extremely difficult and emotional time for you. The last thing you want to deal with is the legal procedures involved with your loss. We at M. J. O'Nions Lawyer & Mediator have developed this guide to assist you by setting out some important legal information you need to know during this difficult time. By providing this guide we hope to reduce some of the stress involved with your loss.

Should you require further information please contact us for a free telephone consultation at

**604.697.0996**



## THE PRELIMINARY STEPS FOLLOWING A DEATH

### Obtain a death certificate

A death certificate is usually obtained through your funeral director who files a medical certificate signed by a physician, nurse or coroner, and a registration of death form with the BC Vital Statistics Agency. A death certificate usually costs \$27.

### Why is a death certificate required?

A death certificate is the proof you need to establish that your loved one is deceased. It is required in order to deal with your loved one's estate.

### Look for the last will

Your loved one may have left a will explaining his or her wishes as to how their estate is to be administered and the type of funeral arrangements they want. The will may be found at your loved one's home or in a safety deposit box. It is also important to conduct a wills notice search through the BC Vital Statistics Agency as this will be required in order to apply for probate or Letters of Administration. A wills notice contains the location of the will. Please note that it is not mandatory to complete a wills notice when drafting a will, so one may not exist in your case. You can contact the BC Vital Statistics Agency to get the wills notice search done at the following locations:

- 818 Fort St., Victoria BC V8W 1H8
- 605 Robson Street, Room 250, Vancouver BC V6B 5J3

You can also attend the offices of Service BC in your area. The application for search of wills notice form is available on the BC Vital Statistics website at: [www.vs.gov.bc.ca](http://www.vs.gov.bc.ca)

An application for search of wills notice form should include a copy of the death certificate. The cost of the application is \$20 plus an additional \$5 for each name searched.

## VALIDATING THE WILL ("PROBATE") OR APPLYING FOR LETTERS OF ADMINISTRATION.

### What is Probate?

Probate is the process of determining the validity of the will. Upon applying to the Supreme Court of British Columbia for a grant of Probate, the Court will examine the will and other filed documents and if all is in order grant Probate. This will confirm the appointment of the person(s) named as the executor of the will. In other words, Probate is the process of obtaining official recognition of the authority of the executor(s) to deal with your loved one's estate.

### What is a grant of administration?

A grant of administration is similar to a grant of Probate as it confirms who will be appointed the administrator of your loved one's estate. The grant of administration process is used when there is no will or the will is not valid. An application is made to the Supreme Court of British Columbia for a grant of administration. The Court will appoint someone to act as administrator of the estate. This person(s) will usually be a family member. Please note, when there is no will, the BC Wills, Estates and Succession Act will dictate how your loved one's estate will be distributed.

### Why do I need to obtain a grant of Probate or administration?

A grant of Probate or administration may be required so that third parties such as financial institutions, government agencies, accountants, lawyers, etc. know who to deal with regarding your loved one's estate. This is important should it be necessary to collect monies owed or to transfer certain assets for example. Most financial institutions will require probate or administration before allowing the executor or administrator to deal with your loved one's assets.

### What fees do I need to pay when I file for grant of Probate or administration?

When filing for Probate or administration you are required to pay a filing fee of \$200 and a Probate fee, which is calculated as 0.6% of the portion of the estate valued between \$25,000 and \$50,000, and 1.4% of the portion of the estate valued in excess of \$50,000. There is no Probate fee for estates under \$25,000.

For ease of calculation we at M.J. O'Nions Lawyer & Mediator have developed a free Probate calculator on our website at: [www.mjonions.com/resources/probate-fees-bc/](http://www.mjonions.com/resources/probate-fees-bc/)

### What are the duties of the executor or administrator of an estate?

Some of the duties of an executor or administrator of an estate are as follows:

- Making an inventory of the contents of the deceased's house and any safety deposit box of the deceased.
- Securing and storing all valuable items of the estate.
- Completing an inventory and valuation of all assets and debts of the estate.
- Gathering names and contact information of all beneficiaries and close living relatives.
- Winding up all personal matters, such as cancelling subscriptions or charge cards, and redirecting mail.
- Taking control of all assets, including collecting all debts owed to the estate.
- Paying all the debts of the estate.
- Filing all necessary tax returns for the deceased and the estate.
- Selling assets as required and distributing the estate to the beneficiaries.
- Preparing an account of all assets, debts, transfers, disbursements and distributions made on behalf of the estate, including supporting documentation.

### Advertising for Creditors

An executor/administrator who advertises in accordance with the Wills, Estates and Succession Act, i.e. publishing a notice in the Gazette (BC Government Publication), avoids becoming personally liable for any of a deceased's debts that come to the executor's/administrator's attention after the estate has been distributed to the beneficiaries. Advertising in the prescribed form does not mean that the beneficiaries can avoid valid claims by creditors, but it does help the executor/administrator to distribute the estate once he or she has settled all the claims against the estate of which he or she is aware.

If you feel confident that there are no creditors that you do not know about, then you may wish to save the expense of advertising.

## DEALING WITH TAXES

### Should I notify the Canada Revenue Agency ("CRA") of the death of my loved one?

The executor or administrator of your loved one should notify CRA with the date your loved one died. This can be done by telephone at 1-800-959-8281, or by letter, or by filing the Request for the Canada Revenue Agency to Update Records form. A copy of the death certificate and a copy of the document showing your authority to act on behalf of the deceased should also be forwarded to the CRA.

### Am I required to file a tax return for my loved one?

Once the executor or administrator has notified the CRA, the executor or administrator should file a final return for the deceased. This final return will include income from January 1 of the year your loved one died to the date of death. Also, returns should be filed for previous years that your loved one did not make a return.

Please note that under Canadian tax law, your loved one is deemed to have disposed of all their capital property and deemed to have received the proceeds of the disposition prior to their death.

### Am I required to file a tax return for my loved one's estate?

From the date your loved one dies there may still be income generated. This income is held in the estate and as such the estate must file a tax return with CRA and pay any tax owed. If, however, the estate is distributed immediately after your loved one dies or if the estate did not earn any income before the estate was distributed then no tax return may be necessary.

### Should I obtain a clearance certificate from the CRA?

It is advisable for the executor or administrator of an estate to obtain a clearance certificate from the Canada Revenue Agency to confirm that all the taxes of the estate have been paid. This should be done prior to distributing any estate property, as the executor or administrator may be held liable for any taxes owed.

## GOVERNMENT BENEFITS THAT CAN BE CLAIMED

### What types of government benefits can I claim when my loved one dies?

#### Canada Pension Plan Death Benefit

You can claim the Canada Pension Plan Death benefit: a one-time payment made to your loved one's estate. If there is no estate or if the executor of your loved one's estate does not claim the benefit, it can be paid to the person who paid for your loved one's funeral expense, the surviving spouse or common law partner, or the next-of-kin.

The maximum amount available for the death benefit is \$2,500. Contact Service Canada at 1-800-277-9914 for details.

