Never Think NEVER
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Estate settlement: the importance of following the rules

The Civil Code of Quebec sets out the rules for settling an estate. The person appointed to this task, called the liquidator, is well advised to follow these rules to avoid incurring liability for themselves and the heirs. It is in the liquidator's interest to seek the assistance of competent professionals when cases are more complex or if he or she does not have time to fully carry out the task. Following is a general summary of the steps involved:

1. FIND THE MOST RECENT WILL AND HAVE IT PROBATED

Only the most recent will has any legal value. The Register of Testamentary Dispositions and Mandates at Chambre des notaires du Québec is a good place to look.

2. PUBLISH A NOTICE OF APPOINTMENT OF ESTATE LIQUIDATOR

The purpose of this notice is to inform the heirs, creditors and debtors to the estate of the existence and identity of the liquidator. It is published in the Register of Personal and Movable Real Rights (RPMRR) as well as in the Land Register when the estate includes immovable property (land, buildings, etc.).

3. INFORM THE GOVERNMENTS, FINANCIAL INSTITUTIONS, AND SERVICE PROVIDERS OF THE PERSON'S DEATH

4. IDENTIFY THE SUCCESSORS

The successors are those who have not yet accepted the estate. Normally, their names are in the will. In the absence of a will, or if the will is incomplete, the successors are determined according to the provisions of the Civil Code of Quebec.

5. OBTAIN OFFICIAL DOCUMENTS CONCERNING THE DEATH

Only the death certificate and the copy of the act of death are legally recognized as proof of death by the courts, governments, and financial institutions. Make sure you request several copies.

6. OPEN AN ESTATE ACCOUNT

It is important to open an estate account. Once the property has been distributed, the liquidator must close the estate account.

7. MAKE AN INVENTORY OF THE DECEASED'S PROPERTY

This step helps you determine whether the deceased's total debts exceed the total assets. The liquidator must make the inventory unless the heirs agree otherwise.

8. PUBLISH A NOTICE OF CLOSURE OF INVENTORY

This notice identifies the deceased and indicates where interested parties (heirs, successors, legatees by particular title, and creditors) can look up the estate's inventory of property. The notice is published in the Register of Personal and Movable Real Rights (RPMRR) and in a newspaper distributed in the locality of the deceased's last known address.

9. FILE THE INCOME TAX RETURNS AND OBTAIN CLEARANCES

Here are the deadlines to be respected.

DATE OF DEATH	FILING DEADLINE
From January 1st to October 31th	April 30th of the following year
From November 1st to December 31th	Six months following the date of death

The clearance certificate and notice of distribution of property certify that the deceased has satisfied all their obligations toward the tax authorities.

Desjardins
Caisse populaire de Matane

300, rue Bon-Pasteur, C.P. 248
Matane (QC)
G4W 3N2
Phone: 418 562-2646
Toll free: 1 877 562-2646

10. PAY THE DEBTS AND LEGACY BY PARTICULAR TITLE

11. PARTITION THE NET VALUE OF THE FAMILY PATRIMONY AND SETTLE THE MATRIMONIAL OR CIVIL UNION REGIME

12. ESTABLISH A FINAL ACCOUNT, PUBLISH A NOTICE OF CLOSURE OF THE ESTATE ACCOUNT IN THE RPMRR, AND DISTRIBUTE THE DECEASED'S PROPERTY TO THE HEIRS

To avoid any nasty surprises, it is best to strictly follow the estate settlement rules set out in the Civil Code of Quebec.

Multiply the Value of Your Charitable Gifts upon Your Death

Life insurance can allow you to significantly increase the amount you plan to leave a charitable organization upon your death while entitling you to tax benefits. Taking out life insurance is one of the best ways to carry out what is called "planned giving." Indeed, you will reach that point while making a donation of a new insurance life or its product.

In the two cases presented here, you purchase a life insurance policy for which you are the **insured and the payer**, while the **chosen charity is the beneficiary**. You pay the premiums each year and upon your death the charity receives the coverage amount.

In one scenario, however, you designate the sponsored organization as the **"contract holder." Each annual premium you pay becomes a charitable gift.** In this way, each year you can include the premium amount when calculating your tax credit for charitable giving.

Upon your death, no receipt allowing a tax credit for charitable giving is issued, since you already obtained one each year.

In the other scenario, **you remain the contract holder**. The annual premium is therefore not eligible for the tax credit, since you will still be the contract owner. **The credit can be requested when the chosen charity receives the coverage amount, i.e., when you die.**

In this second situation, the credit can include the total amount of insurance paid, up to the limits provided for in tax law. In addition, the amount can only apply to the income stated on your last tax return. **Only you, and not your estate**, can take advantage of the tax credit granted for your charitable giving. However, if the credit cannot be deducted in full when calculating the tax to pay for the year of death, the unused portion of the gift can be carried over to the previous taxation year.

Create winning conditions

Before choosing one option or the other, it is of course essential that you ask yourself **when would be the best time to apply the tax credit—during your lifetime or upon your death?**

Moreover, the sponsored organization must be **registered with the tax authorities** and be authorized to issue **receipts for tax purposes**. To check whether the organization you have chosen meets this criteria, consult the Canada Revenue Agency website **(http://www.cra-arc.gc.ca/tx/chrts/menu-eng.html)**.

Lastly, **"paid-up" insurance** allows you to achieve your philanthropic objective while limiting the premium payment period. This type of contract is paid in a number of years, but the insurance remains in effect until the death of the insured.

Ask specialists for advice!

To find out more about planned giving, consult a financial planner at your caisse and their authorized financial security advisor*. These specialists will give you sound advice!

* Employee of Desjardins Financial Security, a financial services firm.

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Money working for people

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