

A Guide for CMS Members:
Understanding Personal Representatives in Alberta

Introduction: What is a Personal Representative?

In Alberta, the term "Personal Representative" is used to describe the individual responsible for administering an estate according to a Will. This title replaced "Executor" and "Executrix" in 2012 when Alberta introduced the Wills and Succession Act and the Estate Administration Act, modernizing estate legislation.

A Personal Representative ensures that the deceased's final wishes are carried out, debts and taxes are settled, and assets are distributed appropriately. While this role carries significant authority, it also involves legal responsibilities and potential risks.

Choosing the Right Personal Representative

Selecting a Personal Representative is one of the most important decisions when drafting a Will. It is essential to choose someone trustworthy, capable, and willing to fulfill the role.

Key Questions to Consider:

✅ Are they willing and able to take on this responsibility?
✅ Are they in good health and likely to outlive you?
✅ Are they organized and detail-oriented?
✅ Do they have the financial and legal knowledge required?
✅ Are they capable of managing complex relationships among beneficiaries?
✅ Have you discussed compensation with them?
✅ Are they comfortable with potential legal liability?
✅ Are they in the same jurisdiction as the estate? (Out-of-province representatives may face additional challenges.)

Alternatives: Professional Personal Representatives

If a family member or friend is unable or unwilling to take on the role, you may consider appointing a professional Personal Representative, such as:

- Trust companies
- Accountants
- Lawyers

These professionals can manage complex estates, reduce family conflict, and ensure legal compliance.

Responsibilities of a Personal Representative

A Personal Representative's duties can be extensive, requiring financial, legal, and administrative oversight.

Key Responsibilities Include:

✔ Arranging the Funeral – Ensuring final arrangements align with the deceased's wishes.
✔ Obtaining Death Certificates – Required for legal and financial matters.
✔ Locating the Will – Verifying authenticity and following instructions.
✔ Managing Estate Finances – Handling accounts, assets, and debts.
✔ Settling Debts & Taxes – Paying outstanding obligations.
✔ Distributing Assets – Ensuring beneficiaries receive their share as outlined in the Will.
✔ Filing Legal & Tax Documents – Including probate applications and CRA tax returns.
✔ Keeping Accurate Records – Documenting transactions to avoid disputes.

Common Risks & Mistakes

A Personal Representative can be held personally liable for mismanagement. Mistakes to avoid include:
❌ Failing to keep accurate records – Can lead to legal disputes.
❌ Distributing assets incorrectly – Beneficiaries may have legal claims against the estate.
❌ Missing tax deadlines – Risking penalties from the CRA.
❌ Failing to notify creditors – Unpaid debts can become a legal issue.
❌ Co-mingling personal and estate funds – Can result in financial mismanagement.
❌ Failing to communicate with beneficiaries – May lead to legal challenges.

To minimize risks, consider hiring professionals for tax filings, asset management, or probate applications.

Step-by-Step Guide for Personal Representatives

Step 1: Before Accepting the Role

✔ Understand the time commitment and legal obligations.
✔ Consult a lawyer if necessary to understand the estate's complexity.
✔ Ensure you are comfortable managing finances, legal documents, and communication.

Step 2: Immediate Actions After Death

✔ Locate the Will – Ensure you have the original document and check funeral instructions.
✔ Arrange the Funeral – If the deceased was a CMS member, use a partnered funeral home for savings.
✔ Obtain Multiple Death Certificates – Required for financial and legal purposes.
✔ Secure Property & Assets – Change locks, protect valuables, and notify insurers.
✔ Redirect Mail – Prevent identity theft and fraud.
✔ Notify Family, Beneficiaries, and Government Agencies.
✔ Cancel Subscriptions and Utilities.

Step 3: Managing the Estate

✔ Open an Estate Bank Account – Keep finances separate from personal funds.
✔ Identify and Safeguard Assets – Gather records of real estate, investments, and valuables.
✔ Notify Financial Institutions – Freeze accounts and transfer ownership when required.
✔ Handle Government Benefits – Cancel CPP, OAS, Alberta Health Care, and seniors' benefits.
✔ Appraise Real Estate & Valuables – For tax and distribution purposes.
✔ Publish a Notice to Creditors – Protects against unknown claims.

Step 4: Probate (If Required)

✔ Determine if probate is needed – A lawyer can assist.
✔ Apply for a Grant of Probate – File court documents to validate the Will.
✔ Obtain Legal Authority – Allows you to manage and distribute assets.

Step 5: Distributing the Estate

✔ Sell or Transfer Real Estate – Follow the Will's instructions.
✔ Close Bank Accounts & Pay Final Bills – Ensure all debts are settled.
✔ Distribute Assets to Beneficiaries – Obtain signed releases for protection.
✔ Set Up Trusts for Minors (if applicable).

Step 6: Tax Filings & Final Closure

✔ File the Final Tax Return – Due by April 30 of the following year or within 6 months of death.
✔ Request a CRA Clearance Certificate – Confirms no further taxes are owed.
✔ Distribute Remaining Assets – Only after taxes and debts are cleared.
✔ Close the Estate & Provide Final Accounting – Ensure all legal requirements are met.

Compensation & Reimbursement

A Personal Representative is entitled to:
💰 Reasonable compensation for their time (subject to estate size and complexity).
💰 Reimbursement for out-of-pocket expenses (e.g., travel, professional fees).
💰 Compensation agreements should be clearly stated in the Will to avoid conflicts.

These fees are considered taxable income and should be reported accordingly.

Final Thoughts & Next Steps

Choosing a Personal Representative is a critical decision. Ensure your chosen individual has the skills, knowledge, and willingness to take on this responsibility. Alternatively, consider professional services to ease the burden and ensure legal compliance.

Next Steps for CMS Members:

✅ Review your Will & ensure your Personal Representative is informed.
✅ Keep your funeral preferences updated in the CMS Member Registry.
✅ Discuss compensation and expectations with your chosen representative.
✅ Consider professional support for complex estates.

For more information, visit www.coopmemorial.org or contact CMS for guidance.