

Avoid problems by relying on good advices and expert knowledge in settling a succession.

Consult your **notary!**



# THE LIQUIDATOR OF A SUCCESSION

What is his role? What are his obligations?

## BEING THE LIQUIDATOR: AN IMPORTANT RESPONSIBILITY!



# WHAT IS A LIQUIDATOR?

A liquidator (previously called an “executor”) is the person **responsible for settling a succession.**

Normally, a liquidator is appointed by the deceased in his will. If there is no will, or if the deceased didn't appoint someone, the liquidator is named by the heirs. If there are several liquidators, they must act and make all decisions together.

*A notary may be appointed liquidator in a will or by the heirs.*

If you are the liquidator, the notary will instruct you on the scope of your responsibilities and will advise you on how to settle the succession.

## WHAT ARE THE RESPONSIBILITIES OF THE LIQUIDATOR?

The liquidator **administers the property, the money and the debts** of the deceased. He must take the following steps:

- + Identify and inform the heirs.
- + Respect the deceased's will.
- + Perform the formalities required by law (registration of notices, respect timeframes, administer matters soundly, etc.).
- + Close the deceased's bank accounts and open an account on behalf of the succession.
- + Cancel service for utilities such as telephone, Internet and electricity.
- + Protect the deceased's money and property.
- + Prepare an inventory of the deceased's property and debts.
- + Recover money owing to the deceased or to the succession.

- + Pay the deceased's debts (such as income tax and legacies by particular title) and other expenses related to his death (funeral costs and fees for obtaining the death certificate, for example).
- + Transfer what is owed to the heirs.

The time required to settle a succession varies from a few weeks to several months. Everything depends on its complexity. Your notary will advise you on the legal requirements of your function. He may also undertake certain tasks if you so request.

## THE INVENTORY

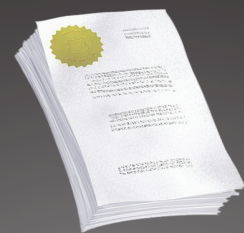
Normally, a liquidator has **six months** to perform the inventory of the deceased's property, money and debts. This inventory is mandatory. It allows the heirs to know the value of the succession and to accept or refuse it—depending on whether it had a deficit, for instance.

The liquidator must then publish a notice of inventory:

- + at the Register of Personal and Moveable Real Rights; and
- + in a newspaper where the deceased's domicile is located

This notice allows anyone affected by the succession (such as a bank or lender) to be informed of the death, to consult the inventory and, if need be, to contest it.

The deceased's debts and the succession costs are paid from the deceased's assets. If the succession is insolvent, the liquidator must prepare a proposal to pay off the debts. This document must be approved by the courts. Your notary will advise you on how the heirs can avoid having to pay the deceased's debts and on how you may avoid any personal liability in this regard.



## A NOTARY MAY BE APPOINTED LIQUIDATOR IN THE WILL OR BY THE HEIRS

### THE RIGHTS OF THE SPOUSE, CIVIL UNION PARTNER AND CHILDREN

The liquidator must consider the claims that may be made by the children, the spouse or the civil union partner of the deceased. For example:

- + Support payments for the children, the spouse or the civil union partner
- + A partition of the value of the property accumulated during the marriage or the civil union
- + A payment to compensate for work performed during the marriage or the civil union by the spouse or civil union partner for the benefit of the deceased

Your notary will shed light on these persons' rights, the timeframe for making any claim, the criteria to establish the amount that may be claimed and the terms of payment.

### TAXES

The liquidator must:

- + prepare the deceased's tax statements and pay his taxes within the period prescribed by law; and
- + obtain certificates from Revenu Québec and the Canada Revenue Agency stating that the deceased has paid all sums owed to the tax authorities.

*Heirs wanting to renounce a succession must do so in a notarized document.*

*Heirs may be liable to pay the debts of the succession if they exempt the liquidator from performing an inventory of the succession, if they neglect to do so themselves or if they appropriate any property from the deceased.*

*When a person inherits a building, he does not automatically become the owner. The notary must legally transfer the property.*

### PAYING DEBTS AND COSTS

After paying the taxes and receiving the certificates from the tax authorities, the liquidator must use the succession assets to pay:

- + The deceased's debts (such as car loans, rent, or credit cards)
- + Expenses resulting from the death (such as funeral costs, death certificates, professional fees and liquidation expenses)
- + The legacies provided for in the will (a sum of money or a specific item given to a specific person, for example)

The liquidator must conserve proofs of every payment made.

### TRANSFERRING THE ASSETS TO THE HEIRS

Once all debts have been paid, the liquidator must prepare a **final account** for the heirs. This document indicates the net assets or liabilities of the succession and details the payments that have been made.

There is generally a **plan to divide the property** among the heirs attached to the final account. This plan may be prepared with the help of a professional who can assess the tax consequences of transferring certain assets.

Acceptance of the final account by the heirs puts an end to the liquidator's responsibility toward them.

Once the liquidation has been completed, the liquidator must publish a notice indicating the end of the liquidation in the Register of Personal and Moveable Real Rights. This constitutes a notice to any interested party that the succession has been liquidated.



### DID YOU KNOW?

## HOW TO PREPARE?

### INFORMATION TO COLLECT

- The full name, contact information, date of birth and social insurance number of the deceased
- Documents relating to his civil status (*marriage certificate, marriage contract, judgment of divorce, etc.*)
- His will and changes made to it
- The official copy of the death act or the death certificate issued by the Directeur de l'état civil
- Any other information requested by your notary

### FOOD FOR THOUGHT

- Have you obtained the search certificates from the Register of Testamentary Dispositions of the Chambre des notaires and the Barreau du Québec?
- Have you identified and informed the deceased's heirs?
- Have you taken the necessary steps to protect the deceased's property and to make an inventory in the manner prescribed by law?
- Do the spouse, the civil union partner or the children have any claims?
- Have you filled out the revenue statements, paid all taxes and obtained the certificates from the tax authorities?
- Have you prepared a final account of your administration for the heirs? Have they accepted it?
- Have you published the notice of inventory and the notice of the end of liquidation?
- Any other question raised by your notary.