

Paul Funeral Home  
Summary of information about new requirements  
Under the tax laws of Ontario

Ontario has set out new requirements for an Executor or an Estate Administrator as appointed by the court. It is an estate representative's duty to file for an Estate Certificate and to provide the province with certain information, including a complete list of the deceased person's assets used to determine the value of the deceased's estate. This new Ontario estate tax regime came into force on January 1, 2015.

The first step after determining that a valid will does exist is for the named executor(s) to apply for a Certificate of Appointment of Estate Trustee (Estate Certificate). This action must be done promptly following the death and would be most easily accomplished through a lawyer.

**The estate Administration Tax is calculated as:**

- \$5 for each \$1,000, or part thereof, of the first \$50,000 of the value of the estate, and
- \$15 for each \$1,000, or part thereof, of the value of the estate exceeding \$50,000.

There is no estate administration tax payable if the value of the estate is \$1,000 or less.

**Who is required to file the new estate return**

The guide to the Estate Information Return states that anyone (i.e., estate representative) who receives a certificate of appointment of estate trustee (Estate Certificate) must file a return with Ontario's Ministry of Finance.

An Estate Certificate is a document the Ontario Superior Court of Justice issues that proves the authority of the estate trustee to administer the provisions of the deceased's will, if there is a will and the estate trustee is named in the will, or appoints someone and gives them the authority as estate trustee to manage and distribute the estate of a person who either died intestate (without a will) or where the executor named in the will is unable or unwilling to act.

An estate representative must file an information return even if the value of the estate is \$1,000 or less and no estate administration tax is payable. Anyone who applied for an Estate Certificate before January 1, 2015 is not required to file a return.

The Ministry of Finance must receive the return within 90 calendar days after an Estate Certificate is issued.

**Estate Assets**

The return must contain a complete list of the deceased person's assets that is used to determine the value of the estate and the assets' value, subject to certain exceptions. If the actual value of an asset is unavailable, an estimate value at the time of death must be provided.

If the asset is real property then the full address of the real property, actual value of any encumbrances, assessment roll number, and property identifier must be provided.

If the asset is cash (including cash on deposit with a Canadian or foreign financial institution), guaranteed investment certificate, loan receivable, security (including shares, bonds, treasury bills and mutual funds), insurance without a named beneficiary, derivative (including options, future contracts, rights or warrants), interest in a partnership, or any other investments then a full description of the asset must be provided.

Similar requirements are required for vehicles or vessels, wherever situated as well as all other property not listed above, including but not limited to copyrights, patents, art, and jewelry.

The guide clarifies that assets that pass outside of the estate, are not to be included in the calculation of the value of an estate (e.g., assets which were jointly owned with a right of survivorship are not included).

### **Assets not included**

Ontario issued a Frequently Asked Questions (FAQ) document that states that examples of assets that are excluded from the value of the estate for tax purposes are:

- Real estate outside Ontario
- Assets that are owned jointly with another person and passing by survivorship
- Assets that pass outside the estate, for example, RRSPs, RRIFs, TFSAs and life insurance policies where there is a living named beneficiary
- Canada Pension Plan (CPP) death benefit.

The guide states that if a court issues a "Certificate of Appointment of Estate Trustee with a Will Limited to the Assets Referred to in the Will", only those assets referred to in such will are to be included.

### Time limit for assessment/reassessment

Ontario's Ministry of Finance may assess or reassess an estate for its tax payable within four years after the day the estate administration tax became payable (i.e., on the day the estate certificate was issued). However, an assessment or reassessment can be made any time if the return is not filed by its due date or if a person has made a misrepresentation through neglect, carelessness or willful default, or committed fraud in supplying or omitting information about the estate.

### Filing an amended return

The guide states that if within four years of the issuance of an Estate Certificate, an estate representative becomes aware that information on the Estate Information Return was incorrect or incomplete, then an amended return must be filed by the estate representative within 30 calendar days of his or her becoming aware that the information is incomplete or inaccurate.

The guide clarifies that a deceased's assets are to be valued as at the date of death. Thus, any subsequent change in the value of an asset (e.g., as a result of a fluctuation in the real estate market) will not affect the value of the estate and will not require an amended return.

### Failure to file a return

An estate representative who fails to file a return when required, or who makes false or misleading statements on the return, is liable to a fine of at least \$1,000 and up to twice the tax payable by the estate, or imprisonment of not more than two years, or both.

An initial or amended Ontario Estate Information Return that is filed after the deadline has lapsed can be assessed or reassessed at any time.

### Notice of objection

If an estate representative disagrees with the Ministry of Finance's Notice of Assessment of Estate Administration Tax then he or she may file a Notice of Objection. A Notice of Objection must be filed

within 180 days from the day the Notice of Assessment was mailed.

An estate representative may contact the Advisory and Compliance Branch of the Ministry of Finance to discuss any concerns to determine whether they can be resolved at that level. More information can be obtained by going to the Ministry of Attorney General Frequently Asked Questions site or speaking to a lawyer.

This information has been compiled to assist clients of Paul Funeral Home by researching the subject on the internet and Paul Funeral Home makes no claim as to the accuracy or comprehensiveness of this information. We welcome any information that will improve the benefit of this document for our clients at [contact@paulfuneralhome.ca](mailto:contact@paulfuneralhome.ca).