



Regions Wealth Podcast

Episode 39: Estate Planning: When to Hire a Professional Executor

When naming an executor, the majority of people look toward the most trustworthy person in their life: their spouse, their most responsible child, or a close sibling or friend. However, for high net worth individuals — especially those with particularly complex estates — this may be a mistake. This episode will discuss what factors individuals should consider when choosing an executor, and the benefits of hiring a professional executor.

Episode Transcript

Sarah Fister Gale:

Welcome to Regions Wealth Podcast, the podcast that tackles life's challenges with financial experience. I'm your host, Sarah Fister Gale.

When naming an executor, the majority of people look toward the most trustworthy person in their life: their spouse, their most responsible child, or a close sibling or friend. However, for high net worth individuals — especially those with particularly complex estates — this can be a mistake. So what factors should you consider when appointing an executor? Joining me remotely is Dan Bryan. He's senior vice president and Private Wealth Leader for Regions Bank. Dan, thanks for joining us today.

Dan Bryan:

Thank you, Sarah. I'm glad to be here.

Sarah Fister Gale:

In this episode of Regions Wealth Podcast, we're discussing the benefits of a corporate executor. We've taken some frequently asked questions from a bunch of people and developed a character who needs your help. So let's listen.

Gloria:

"Hello there. My name is Gloria, and I've several questions about choosing an executor for my estate. I'm 53, and I suppose one might say that I've had a very full life thus far. Pascal and I — that's my current husband — have been married for eight years, and we adopted a baby girl shortly after our marriage. I've got four other children as well: three from my first marriage — my first husband passed away unexpectedly — and one from my second marriage. Pascal, my current husband, has three children of his own. In case you haven't been keeping count, that's eight children in total. Needless to say, this presents some unique challenges for us, particularly when it comes to estate planning. Our current net worth is approximately \$5 million, but a



portion of that comes from my late husband. To complicate matters further, Pascal and I own two businesses.

So needless to say, I'm having a difficult time determining the appropriate individual to appoint as executor. It seems there are so many factors to consider, particularly due to the complex family dynamics at play. And as a result, I don't think it's a good idea for Pascal or I to appoint any of our children as executor. I've considered appointing my eldest niece, however, she lives in France. And am I correct in assuming that her location might complicate matters?"

Sarah Fister Gale:

So Dan, let's start with the basics. What is the role of an executor?

Dan Bryan:

Yes, Sarah, great question, and, let's see, how much time do we have? I'll try to sum it up as best I can. Executor, in the simplest terms, is an individual or an entity who administers a person's estate after their death. So sometimes that's called a personal representative of their estate. So the executor carries out the terms of the individual's will and also helps to coordinate other assets that may be non probate assets. So, as an example, the role of an executor would be to make sure the will is located and then probated before the court.

Once the will is probated and the executor has the authority to do all those things that they need to settle someone's estate, they assemble all the assets, safeguard assets, make sure appraisals are gotten, all the bills are paid, manage various assets, including real estate, business interests, handle all the tax matters that are outstanding for someone, and then finally making distributions to the beneficiaries, establishing any trusts that may have been created under the will, and finally closing the estate and getting discharged from that responsibility. So it's a lot to it.

Sarah Fister Gale:

And how much power does the executor have over the distribution of a person's estate?

Dan Bryan:

The executor has the legal authority to handle all matters as it relates to handling and settling someone's estate. So, they really have all the powers that the person while they were in life had to do things. So they have a tremendous amount of power, and a tremendous amount of authority under the law, and with that of course comes some responsibility and liability as well.

Sarah Fister Gale:

So that's a lot of control. So whoever Gloria appoints as her executor will have total control over her assets once she and her husband are gone?



Dan Bryan:

That's right. And that's the point that many people don't understand, is that it's a lot of control, a lot of power, but along with that goes some liability in making sure that the estate is handled properly. And so when you go to make that decision about who to choose, it's always a good idea to make sure you do your homework to understand that you have someone that's not only willing to do it, but also capable of handling your estate.

Sarah Fister Gale:

So, what factors should individuals consider when choosing an executor?

Dan Bryan:

Yeah, so I get that question a lot, and what I often answer with is you know, certainly it's an honor to be asked to be an executor for someone's estate. And generally, people might consider having their family members or friends serve, but with that goes a lot of responsibilities, as we talked about earlier. Some of the factors to consider is can someone maintain objectivity, meaning that they would have a duty, a loyalty to the beneficiaries of the estate. Do they have accountability or somebody watching over what they're doing? And do they feel like they would be capable of handling all the aspects and adhering to state and federal laws? Do they have some sort of knowledge about aspects of tax planning, trusts that are created under someone's estate or will? And then just what it means to be a fiduciary. Another thing that we often think about is the coordination of a lot of the aspects in handling someone's estate. So, not only should you be able to interpret the terms of the will, but are you able to keep proper recordkeeping, the reporting that needs to go out to the beneficiaries, the legal and tax aspects of handling someone's estate?

And then of course, what comes up often is the investments or the assets within the estate. Is someone capable of doing that and coordinating all those, all those things? So those are all factors I think that go into handling someone's estate, and it's a pretty big responsibility. But as I said, doing your homework upfront makes a lot of sense.

Sarah Fister Gale:

And it strikes me that a lot of people choose someone who's close to them, someone maybe they trust and respect, without taking into consideration what financial skills they might need to be successful in this role. Is that a mistake?

Dan Bryan:

Oh, absolutely, and so when people say, you know, rather than choosing a corporate executor, I think I'd rather use a friend or an individual, I think that's fine, depending on the nature of the estate and assuming it's not too complex. Again, it's a lot of responsibility, and not understanding all the liability that goes along with that can cause some problems down the road. We've run into that occasionally with people that are serving as an individual executors,



as they forget to do certain things that are pretty important, and that's tax filing, appraising property, paying bills, all those sorts of things.

Sarah Fister Gale:

You briefly mentioned the option of hiring a corporate executor as opposed to a friend or family member. Can you explain exactly what a corporate executor is?

Dan Bryan:

Yeah. A corporate executor is an institution, generally a bank or trust company, and those institutions, like Regions Bank, is regulated, so, generally, our ability to handle and experience with handling these types of matters for clients is something we've done for a long time versus someone who does it in their individual capacity from time to time. And so it's a big difference. And we have trust powers, and therefore, we have those powers to do all those things as an entity versus an individual in settling someone's estate.

Sarah Fister Gale:

That makes sense. And of course, as a corporate executor, you're less emotionally invested in the process.

Dan Bryan:

Yeah, very much so. And in a case where you may have a family member who's being asked to serve as executor, but you have various interests, a surviving spouse, children by different marriages, not being emotionally involved and being more objective as it relates to handling someone's estate is often a good case for a corporate executor to be involved.

Sarah Fister Gale:

Okay. So let's listen to the second part of Gloria's story

Gloria:

"My husband is thinking of hiring a professional executor. To be frank, I didn't even know that was an option. I do work with a wealth advisor through my financial institution — could he be an option? Or perhaps my attorney? Pascal's friend referred us to a gentleman with an office in town. While the recommendation is helpful, I'm unsure how we can truly evaluate this individual's trustworthiness. What if he closes up shop? There's obviously a great deal at stake here, and that makes me nervous. I think the idea of hiring a third party makes a great deal of sense, but I really don't know how to find or evaluate this sort of professional. What questions should I be asking? Is there some type of certification I should be looking for? And also, what should I expect in terms of fees? I apologize for all of these questions, but this is a significant decision. The individual who takes on this role will have a big job, so I want to make sure that I'm choosing carefully."



Sarah Fister Gale:

So Gloria's asking a lot of really good questions here. Can you tell us a bit more about what it takes to hire a professional executor and the benefits, particularly for those with complex estates?

Dan Bryan:

Yeah. And you're right, a lot of good questions by Gloria here. We talked about the fact there was a blended family and children by different marriages, which in and of itself can cause some complexity. So, the things to be on the lookout for, as I said maybe earlier, were the experience of handling these types of cases where you have issues between family members that could arise. You have future generations and children by different marriages, maybe grandchildren down the line that you have to be thoughtful about. So thinking about the experience of having done that before, and again, being objective as it relates to handling the affairs of the estate for those beneficiaries.

We touched on earlier the emotional part of these types of cases. It's a very emotional time. But being able to step in and handle the aspects of settling someone's estate objectively goes a long way. We touched on the accountability of serving as executor and recordkeeping, abiding by the laws, making sure that the will is probated, as an example, simple things like that.

Coordination of all the various aspects of someone's estate. Let's say that the assets of someone's estate included real estate or maybe they had an interest in a small business. And so, if you are thinking about hiring someone to handle your estate, a corporate executor, generally those institutions have some experience as it relates to these complicated assets.

So that might be another thing to look for when hiring a professional executor. There may be times when there's that coordination between their CPA and their attorney, because even though a professional or a corporate executor will be serving in the capacity of the executor, there still will need to be some coordination around other professionals as it relates to probating the will. And of course, a lot of the tax work. So, all those aspects are things to think about in hiring a corporate fiduciary.

Sarah Fister Gale:

So, Gloria mentioned maybe asking her wealth advisor or her attorney to serve as executor. Are there certain types of professionals that are best equipped to fulfill this duty?

Dan Bryan:

When we talk about hiring individuals, people do consider hiring in their family attorney to serve, which they can do, however, sometimes there's a perceived conflict of interest. Many times, they also understand the liability that goes along with serving as an executor. So they would prefer someone else serve, like a corporate executor. Now that doesn't mean that a corporate executor will in any way replace the family's attorney or in some way practice law. That's not the role of a corporate executor. It's to just handle all those things we've talked



about, but the legal process of probating a will and handling all the petitions that go before the probate court are things that are still required.

I think that the wealth advisors many times have rules precluding them from being able to serve as an executor or a trustee for their clients. So there's some conflict of interest issues as well as liability issues, on the part of the firms that employ these wealth advisors. And that's why I think many times it really does make a lot of sense to have a corporate executor named within certain cases.

Sarah Fister Gale:

So Gloria seems nervous about the possibility that the executor she chooses could go out of business. Is that a valid concern, and if so, are there steps she should take to mitigate that risk?

Dan Bryan:

Good question. Yeah, it should be a common consideration in all of someone's will and estate planning, is to have a successor named. And any estate planning attorney should know that, and so when an individual goes out to get their will drawn, along with their other estate planning documents, they'll be asking who do you want to serve and handle your estate in the event that person cannot do it or is unwilling to do it, then who would that backup be?

And so, in many cases, even where we don't have a very complex estate, we find that a corporate executor is used as a backup in case all else fails with those friends or family members, other individuals that are named.

Sarah Fister Gale:

Okay. So, what questions should Gloria ask when evaluating a corporate executor?

Dan Bryan:

If Gloria had an estate, for instance, where, there was a lot of real estate involved. A good question might be to ask, "What is your experience in handling timberland? What is your experience in handling farmland? In the event of my death, you know, who will be handling that?" Another evaluation point might be, "Tell me how much it's going to cost to handle a very complicated estate, or if I have a certain asset, a big art collection or a big jewelry collection that's very valuable, you know, what would be the cost for doing that?" What is the cost for handling someone's estate? That's a reasonable and valid question, and it depends, in many cases.

So as an example, let's say someone has a taxable estate, there's some complications there. You know, what would be the reasonable charge for that? As many people know, estates can be open for longer than a year. Two to three years if there's some complicated assets like real estate. And so that fee would be charged over the period of two to three years. If it's a very modest or simple type of estate administration, let's say the costs come down, and it may be closed out within a few months or less than a year.



Sarah Fister Gale:

So it sounds like you're saying that the questions that anyone should ask when choosing a corporate executor depend on their own personal estate, their financial goals, and how complicated it is. If someone like Gloria is not comfortable asking those questions or vetting the answers, is there anyone she can turn to for help?

Dan Bryan:

I think that's a good question. If she doesn't feel comfortable doing that, if there is a financial advisor or a tax or legal professional, I think that's probably a good place to start. If they were a Regions Private Wealth client, we would also be a place to come to talk, to ask those questions and we do it all the time, and sit down with a client, walk through their estate, their goals and objectives. You know, what they want to accomplish, and then what they want to leave in the way of either a legacy, or some sort of well thought out settlement of their estate after they're gone. And so all those questions that we talked about earlier are certainly ones in which we talk about with our clients every day.

Sarah Fister Gale:

So, Dan, at the end of each episode, we like to ask for some key takeaways that we can share with our listeners. So what key takeaways would you share with them about choosing an executor?

Dan Bryan:

Good question. So here's some of the takeaways and thoughts that I like to leave with people when they ask me questions about who should they choose to handle their estate. First and foremost, I think it goes back to what we said at the very beginning, which is what is the role of an executor? Understanding what an executor is supposed to do and how are they supposed to handle your estate after you're gone? And how are they going to interact with the beneficiaries of your estate? What are all the duties? It's one thing to know the role, but another thing to know exactly what are those duties? And generally speaking, there's a lot of fiduciary duties that are owed to handling someone's estate and the beneficiaries of that estate. So you have to look to the best interests of the estate's beneficiaries and have a duty of loyalty to those beneficiaries.

We talked and touched on it earlier, but the complexity of the estate, so if you have an estate that has a lot of real estate, commercial, residential, farmland, timberland, then you generally would want someone handling your estate that had experience in those types of assets. And then kind of lastly, given the amount of liability, work, and time that goes into it, give real good thought as to whether or not a close friend or family member should have that kind of burden and responsibility, and it may be that a corporate executor would be a better option in the end versus having that responsibility be placed on a close friend or family member. So those are some good takeaways.



Sarah Fister Gale:

That is great advice. Thank you so much. That was Dan Bryan, senior vice president and Private Wealth Leader for Regions Bank.

Dan Bryan:

Thank you. Appreciate it, Sarah.

Sarah Fister Gale:

And thank *you* for listening. In our next episode, Chief Investment Officer Alan McKnight will be giving us a crash course in investing, so be sure to check back. For more on the topic of estate planning, visit [regions.com/wealthpodcast](https://www.regions.com/wealthpodcast) to explore past episodes.

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