

Selecting and Serving as a Personal Representative in Michigan ©

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A personal representative is the person you appoint to deal with all your affairs after your death. A personal representative has a fiduciary duty to act in the best interests of the estate and its beneficiaries. Acting as a personal representative can be rewarding, but can also be time consuming and difficult. When choosing a personal representative, there are several important considerations to take into account, such as:

- whether the person is trustworthy and responsible
- whether the person is able to remain impartial
- whether the person has the temperament to deal with multiple heirs, some of whom may be hostile or difficult to work with
- whether the person has a basic understanding of the court process
- whether the person will be able to devote the time and energy necessary to performing the duties as personal representative
- whether the person is nearby and can perform the duties without undue delay
- whether the person is willing to serve as personal representative

In general, a personal representative is responsible for administering the estate and distributing the assets in accordance with the provisions of the will. In instances where the estate includes significant liquid assets (usually \$50,000 or more), the probate court may require the personal representative to obtain a bond to protect the estate in the event of mismanagement or misappropriation of estate funds. The personal representative's duties usually include:

- Locating and arranging for probate of the will
- Gathering and protecting estate assets
- Determining the estate heirs and/or beneficiaries
- Reviewing and obtaining the decedent's employee benefits
- Filing necessary federal and state income and estate tax returns.

(First, obtain an employer identification number (EIN) for the estate; this number should be included on all returns and documents relating to the estate.)

- Paying the debts. (Creditors' claims must be paid by the executor.

In some instances, the executor may need to dispute claims and seek a court determination of whether they should be paid.)

- Distributing the assets to beneficiaries

The personal representative's duties end once he or she has distributed all of the estate assets and formally closed the case by filing the appropriate papers in the probate court. A personal representative should act with caution while serving. Failure to act in reasonable management of the estate may subject a personal representative to personal liability, including liability to beneficiaries, creditors, taxing authorities, and/or third parties under contracts. This can be avoided by keeping clear and accurate accounts of all dealings with the estate's assets and liabilities.