éducaloi

Information Empowers

DEALING WITH A DEATH AND SETTLING AN ESTATE

Documents, funerals, wills, and settling someone's affairs

Éducaloi is a non-profit organization and a registered charity. Our mission is to explain the law to the population of Quebec in everyday language and enhance their legal competencies.

Important notice:

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Québec

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Summary of Five Key Steps

Dealing with the death, funeral, and the estate of someone who dies is emotional. On top of this, the paperwork can seem like a maze of legal requirements.

To help you navigate the process, we have summarized five key things that must be done when someone dies:

- ◯ **Step 1:** Notify the government of the death
- ◯ **Step 2:** Organize a funeral, if necessary
- ◯ **Step 3:** Check for a will
- ◯ **Step 4:** Identify the liquidator (executor)
- ◯ **Step 5:** The liquidator's role: settle the affairs of the deceased

Who does these things

Steps 1 to 4: These are usually done by a member of the person's family, someone entitled to inherit, or someone else close to them.

You can also ask a notary or lawyer to do them. They will let you know how much it will cost and how long it will take.

Step 5: This is the responsibility of the "liquidator." This is the official name in Quebec law for the person sometimes called the executor.

If no liquidator was named, this step is done by the heirs (people entitled to inherit).

How long they take

The five steps can take several months or even more than a year. It depends on how complicated the situation is and whether there are delays getting government documents.

Things can go faster if the person did not have much property and none or few debts. (Debts means money owed.) Things also can go faster if the person who died planned ahead, by making a will, for example.

Step 1: Notify the Government of the Death

The death must be registered in an official government list to be recognized by the government.

How to notify the government

A funeral services company can help you get these documents, fill them out, and send them to the *Directeur de l'état civil* (registrar of civil status):

1. An "attestation of death" form.
2. A "declaration of death" form.
3. The health insurance card of the person who died.
4. An "Application for the simplified forwarding of information relative to the death to departments and agencies" form from the *Directeur de l'état civil*.

When it gets these documents, the *Directeur de l'état civil* will prepare an official document regarding the death, called an "act of death."

Getting official proof of death

Ask the *Directeur de l'état civil* to send you one of these documents:

1. A copy of the act of death. This is an official copy of the official act of death.
2. A death certificate. This is still an official document, but it doesn't contain all the information in the act of death.

Numbers of copies to get

The number of copies that you will need of the proof of death depends on what you need to do with them. Since some organizations will keep the document, it's important to request several copies to avoid delays later.

You'll need proof of death to search for a will and to settle the affairs of the person who died. For example, you'll need it to close bank accounts and cancel services and benefits (pension, bank accounts, etc.).

How much it costs

Each document costs $38 or more. The exact cost depends on how you request them (online, by mail, or in person) and how quickly you want to receive them. Fast delivery costs more.

How long it takes

It takes about two to three weeks. You can pay extra for quicker delivery.

Step 2: Organize a Funeral if Necessary

Funeral arrangements must reflect the wishes of the deceased person, if any were expressed.

Find out what the person wanted

Check with the family and other people close to the person who died.

Check the person's will, if they had one. For more information on how to find a will, see p. 10 of this guide.

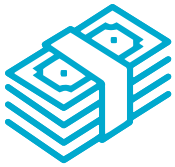
You can also check the person's personal papers for a pre-arranged funeral contract (see below) or for any instructions in documents such as a protection mandate or even a handwritten note. You can also check the government registry of pre-arranged funeral contracts. Ask a funeral services company about this.

Pre-arranged funeral contract

This is a legal agreement that lets you arrange and pay for a funeral before your death.

If you can't find out what the person wanted, the decision must be made by the people entitled to inherit.

How much it costs



It all depends on the person's wishes and the funeral services company chosen.

If the person contributed enough to the Québec Pension Plan, part of the cost might be reimbursed by the Plan. This is called the "death benefit." It can be up to $2,500. The person who paid for the funeral has the first right to get this money. The application must be made within 60 days of the death.

If the deceased did not contribute enough to the Québec Pension Plan, a special benefit can sometimes still be paid to their loved ones.

To learn more, visit the Retraite Québec website at www.retraitequebec.gouv.qc.ca/en/ under the heading "Death", then "Pensions and benefits for spouses, children and heirs".

When the funeral should take place

In the days following the death.

Step 3: Check for a Will

A will is a document that expresses the wishes of the person who died. It says who will inherit money and property. It can also include rules the liquidator must follow to settle the person's affairs.

How to check

1. Search the will registries

A registry is an official kind of list. There are two will registries in Quebec: the registry of the *Chambre des notaires* (notaries' association) and the registry of the *Barreau du Québec* (Quebec bar).

You can submit one request to both registries online, by mail or in person. See the Resources section at the end of this guide.

The fee is $30 for an online request and $40 for a request submitted by mail or in person. You'll get an answer in a few weeks.

If there's a will listed in one of the registries, you won't get the will itself. You'll get a certificate with the name and contact information for the notary or lawyer who made the will. You can then contact that person to get a copy.

2. Check for a will not in the registries

It's possible to write a will yourself, without a notary or lawyer. This kind of will usually isn't listed in the registries mentioned above. Check for this kind of will in the personal papers of the person who died, and with their circle of family and friends.

There is a will made by a notary

You need to get an official copy of the will.

How: ontact the notary mentioned in the will search certificate you got. You will find their contact information on the certificate. You'll need to send that notary proof of death and any other document they ask for.

Who can get a copy: The liquidator, people entitled to inherit under the will, people who would inherit by law if there was no will.

If the notary refuses to give you a copy of the will or doesn't respond, you can file an application in court to ask for one.

How much it costs: Depends on the notary's fees.

How long it takes: Roughly a few days.

WHAT IF THERE IS A MORE RECENT WILL THAT IS NOT NOTARIZED?

If you discover that the notarized will was modified or that there's a more recent will that isn't notarized, you must follow the same steps as you would if the original will wasn't notarized. See the next page.

There is a will, but not made by a notary

The will must go through a legal process called "probate." Probate confirms that the will was made by the person who died and that it respects the legal requirements. You need to do this even if the will was made with the help of a lawyer.

There are two ways to do this:

1. Ask a notary to prepare a probate document.
2. Ask the court to probate the will. You can do this on your own or with the help of a lawyer. You can file your court application online using the portal for non-contentious proceedings, called the "services judiciaires numériques" portal.

To learn more about applying to have a will probated, read the pages called Probating the will and Déposer une demande suivant la procédure non contentieuse (French only) on the Quebec government's website. You can also ask questions at the clerk's office of your local courthouse. To learn more about going to court yourself, read Éducaloi's website article on probate at educaloi.qc.ca/en/capsules/probate-making-a-non-notarial-will-official/.

How much it costs: It varies. These costs include professional fees, court fees, and the fees to notify people who are entitled to inherit.

How long it takes: Usually at least six weeks. How long it takes varies based on your region, how complicated the will is, and how many applications the court receives.

There is a will, but it was made outside Quebec

This will can be recognized in Quebec, but there might be extra steps involved. For example, you might have to get an official statement from a lawyer that the will is valid in the place it was made. Don't hesitate to consult a legal professional.

There is no will

Legal rules will decide which relatives inherit and how much. It's only if there are no relatives at all that everything goes to the government.

To learn more about who inherits when there is no will, see the chart and the interactive tool on Éducaloi's website: educaloi.qc.ca/en/capsules/dying-without-will

Some institutions, such as insurance companies, the government, and banks, will ask for a "declaration of heredity". This document says who will inherit. These institutions sometimes have a form you can fill out.

A notary or lawyer can also draft a "declaration of heredity."

How: To get a declaration, you must provide proof of death and information on the family of the deceased.

How much it costs: It depends on the fees of the notary or lawyer and the complexity of the situation.

How long it takes: From a few days to a few weeks.

Step 4: Identify the Liquidator

The liquidator is the official name in Quebec law for the person who settles the affairs of someone who has died. Some people know the liquidator as the "executor." The liquidator can be anyone 18 years old or over, a notary, a lawyer, or a trust or savings company authorized by law to do this job, like a financial institution. A person who inherits can be a liquidator.

How to know who the liquidator is

First, check the will. A will normally names the liquidator or liquidators. (A will can name more than one.)

If the will doesn't name anyone, or there is no will, the people who inherit name the liquidator by a majority decision. If they don't name one, or disagree on who to name, a court can name one.

If the liquidator doesn't complete their tasks or doesn't follow the will or the law, anyone who's involved in the estate can ask a court to replace them. For example, someone who's entitled to inherit can do this.

You can file an application to name a liquidator or to replace the liquidator online using the portal for non-contentious proceedings, called the "services judiciaires numériques" portal.

To learn more about filing these applications, read the page called Déposer une demande suivant la procédure non contentieuse (French only) on the Quebec government's website. You can also ask questions at the clerk's office of your local courthouse.

Once a liquidator has been named, their name must be registered in the Registre des droits personnels et réels mobiliers (RDPRM), a Quebec government registry. If the person owned property, the liquidator's name must also be registered in the Registre foncier (land registry). A notary can assist you with this.

Can the liquidator be outside Quebec?

Yes, but if the liquidator is outside Canada – not just in another province or territory – there can be serious tax consequences. Get professional advice on this.

Step 5: The Liquidator's Tasks

The liquidator must settle the succession. Succession is the official name in Quebec law for an estate.

The liquidator can get help from a notary, lawyer, or other professionals. The liquidator can also delegate some tasks, such as asking an accountant to do taxes or a notary to manage legal matters.

The liquidator can be paid for the work of settling the estate. However, if the liquidator is also entitled to inherit, special rules apply.

The liquidator has eight main tasks. These tasks are explained in the pages that follow.

REFUSING TO BE LIQUIDATOR

The person named as liquidator doesn't have to accept, unless that person is the only one who will inherit. Then, that person must accept.

Task 1: Notify people entitled to inherit

The liquidator must notify all the people entitled to inherit.

The law gives people the right to refuse an inheritance. To be able to do this, the person must not have accepted the inheritance or done anything with it. A court judgement can't have recognized them as someone entitled to inherit.

You usually have six months from the death to refuse. This refusal must be in a document made by a notary or confirmed in a court decision.

DEBTS? BE CAREFUL!

People can refuse an inheritance if the debts of the deceased exceed the assets. For example, your mother left you her entire estate. She had $50,000 in assets but owed debts of $100,000. You're entitled to refuse the estate. You won't be responsible for the debts of $100,000, but you won't receive the $50,000 in assets either.

The people who inherit are generally not responsible for the portion of the debts that exceeds the value of the assets they inherit.

But a person can be held responsible for the full amount of the debts in these situations:

- They don't follow the legal rules for settling an estate.
- They refuse or neglect to settle the estate.
- They don't do a property inventory.
- They take things belonging to the person who died before the inventory has been completed (see Task 5).

Task 2: End employment, services, and benefits of the deceased

The liquidator must inform companies the deceased dealt with about the death.

This includes *Retraite Québec*, social assistance programs, phone and cable companies, hydro, insurance companies, banks, and credit card companies.

You need to contact each company or government agency to see exactly what you have to do and to get a final bill or collect any benefits owed to the deceased.

Task 3: Open a bank account for the estate

The liquidator must open a bank account in the name of the estate of the deceased.

This account is for holding money belonging to the deceased, such as money in bank accounts, insurance payments, death benefits, and any salary owed.

This account is also for making payments on behalf of the estate (bills, etc.).

Task 4: Identify the rights of any spouse and children

Death puts an end to marriage, a civil union or a parental union. In these situations, the surviving spouse or common-law partner who was in a parental union has the right to claim certain money based on the family law rules for dividing property when a partner dies. These rules don't apply to common-law partners who weren't in a parental union.

Also, in some cases, the surviving spouse and any children can claim support payments from the estate.

The rules on the rights of surviving spouses and children are complex. It's a good idea to get legal advice on this.

Wondering if you're named in a will?

You can ask the liquidator for a copy of the will. You can also ask for a copy from a notary who made a notarial will, as explained earlier in this guide.

Task 5: Make a list of money, property, and debts

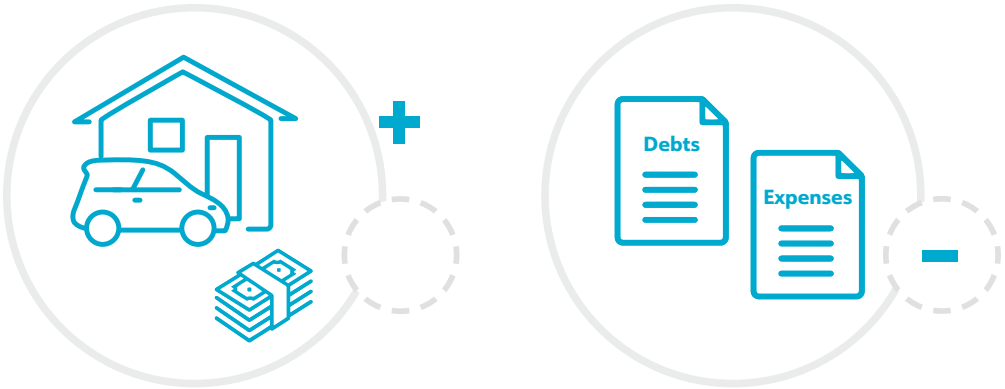
This list is called an inventory. It's important because it lets people entitled to inherit evaluate the deceased's debts and assets before deciding to accept or refuse the estate.

If all the people entitled to inherit agree, the liquidator does not have to make an inventory. But this decision has consequences. If the people entitled to inherit choose to do this, they become responsible for any of the deceased's debts, even if the debts exceed the assets. It's therefore highly recommended to seek the advice of a notary or lawyer before making such a decision.

What's in an inventory?

The inventory contains, among other things:

- A description of items belonging to the deceased and their value. Examples include money, bank accounts, buildings, cars, investments, and more.
- A description of any debts and payments to be made. Examples include taxes, bills, money owed to a surviving spouse and children, funeral costs, fees for the liquidator, a notary, lawyer or accountant, fees for death certificates.



The inventory must be signed before a notary, or in front of two witnesses, and mention the date and place of signature.

A "notice of closure of inventory" must be published in a government registry called the Registre des droits personnels et réels mobiliers (RDPRM). This notice confirms that the inventory has been done and says where people can look at it. The notice must also be published in a newspaper distributed in the area of the deceased's last known address.

There's property outside Quebec?

There might be extra steps involved if the deceased had property outside Quebec that must be transferred to someone else. It's a good idea to get legal advice in these situations.

Task 6: Pay taxes and get tax certificates

The liquidator must file provincial and federal tax returns and pay these taxes.

To learn more, see the resources from Revenu Québec and the Canada Revenue Agency at p. 26 at the end of this guide.

The liquidator must also get certificates confirming the taxes have been paid. Revenu Québec's is called "Certificate Authorizing the Distribution of Property." The Canada Revenue Agency's is called a "Clearance Certificate."

Task 7: Pay debts and give specific gifts

If there is enough money and property in the estate, the liquidator pays any debts. They then give out specific gifts mentioned in the will.

A specific gift means the will left a specific thing to a specific person (or a specific thing to several people). For example, the deceased can decide to give their car to their neighbour.

If there isn't enough money to pay the debts and give the specific gifts, the liquidator must follow a specific legal procedure. It's a very good idea to get legal advice about this procedure.

Task 8: Give a report to the people entitled to inherit

The liquidator must prepare a report for the people entitled to inherit. This report tells them what was left after all debts were paid and specific gifts given out. It must have enough details to let people check that it's accurate.

The people entitled to inherit must accept this report before the liquidator can give them their inheritances and the role of liquidator comes to an end.

Finally, the liquidator must publish a notice in the Quebec-government registry called the Registre des droits personnels et réels mobiliers (RDPRM). The notice mentions the name of the deceased and where the report can be accessed.

This is the end of settling the estate.

GIVING MONEY AND PROPERTY IN ADVANCE

The people entitled to inherit can divide among themselves property that is not very valuable before the liquidator gives their final report. This includes clothing, diplomas, and souvenirs. All the people entitled to inherit must agree to do this.

If the estate obviously has more money and property than debts, the liquidator can also give out money or property before preparing a final report.

RESOURCES

Information on Death, Estates, and the Law Generally

Éducaloi

- educaloi.qc.ca
- educaloi.qc.ca/seniors

Services Québec

- Quebec City: 418-644-4545
- Montreal: 514-644-4545
- Elsewhere: 1-877-644-4545 (toll free)
- TYY : 1 800 361-9596 (toll free)

Gouvernement du Québec

- quebec.ca/en/family-and-support-for-individuals/death
- quebec.ca/en/justice-and-civil-status/wills-estate
- quebec.ca/justice-et-etat-civil/systeme-judiciaire/processus-judiciaire/procedure-non-contentieuse (French only)

Retraite Québec (pension plan)

- retraitequebec.gouv.qc.ca/en

Chambre des notaires (notaries' association)

- cnq.org/en/your-notarial-services/wills-and-successions/

Find a notary

Chambre des notaires (notaries' association)

trouverunnotaire.cnq.org/en/find-a-notary.html

You can search by language, region, accessibility of the location, and whether legal aid mandates are accepted.

Find a lawyer

Barreau du Québec (Quebec bar)

www.barreau.qc.ca/en/general-public/access-justice/need-lawyer/

For a free or low-cost consultation:

- Montreal: 514-866-2490
  (First 60 minutes for $60)
- Longueuil: 450-468-2609
  (First 30 minutes for $50)
- Quebec City, Beauce and Montmagny: 418-529-0301
  (First 60 minutes for $60)

JurisRéférence

www.jurisreference.ca/en/

Reference service to find a lawyer based on your needs and region.

RESOURCES

Free and Low-Cost Legal Services

La boussole juridique

www.boussolejuridique.ca/en/

List of legal services in Quebec. Search by region and area of law.

Community Justice Centres (Centres de justice de proximité)

www.justicedeproximite.qc.ca/en

Legal information in person and sometimes by phone.

List of Access to Justice Organizations Compiled by the Quebec Bar

www.barreau.qc.ca/en/general-public/access-justice/access-justice-resources/

Check for a Will

Online portal to check both registries at once

recherche-testament-mandat.org/en

Wills made by a notary: Chambre des notaires registry

cnq.org/en/the-chambre-and-your-protection/the-chambres-services/search-the-registers/

514-879-1793

1-800-263-1793 (toll free)

Wills made by a lawyer: Barreau du Québec registry

barreau.qc.ca/en/wills-mandates/search/

514-954-3411

1-844-954-3411 (toll free)

Get Death Certificates and Related Documents

Directeur de l'état civil

etatcivil.gouv.qc.ca/en/forms-publications.html

Montreal : 514-644-4545

Quebec City: 418-644-4545

Elsewhere: 1-877-644-4545 (toll free)

Registrer the Name of the Liquidator

Registre des droits personnels et réels mobiliers (RDPRM)

www.rdprm.gouv.qc.ca (french only)

Go to « Vous êtes liquidateur d'une succession? ».

Or call:

Greater Montreal: 514-864-4949

Quebec City and region: 418-646-4949

Elsewhere: 1-800-465-4949 (toll free)

Registre foncier (land register)

1-866-226-0977

RESOURCES

Get Information About Taxes and Request Tax Certificates

Government of Canada

Apply for a clearance certificate:

canada.ca/en/revenue-agency/services/tax/individuals/life-events/doing-taxes-someone-died/clearance-certificate.html

Doing taxes for someone who died:

canada.ca/en/revenue-agency/services/tax/individuals/life-events/doing-taxes-someone-died.html

Revenu Québec

revenuquebec.ca/en/citizens/your-situation/liquidators-of-a-succession/

Notes

OUR LIVES AS CITIZENS

The law is at the heart of life in society. So knowing your rights and responsibilities is key.

THE LAW IS EVERYWHERE

It's part of everyday situations, not just conflicts.

HANDLE WHAT COMES YOUR WAY

By explaining the law, Éducaloi helps Quebecers make informed decisions.

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