

❧ ESTATES ❧
PRE-APPLICATION LETTERS

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SAVE TIME – Use the Digital Precedent Letters!

The letters set out in this Chapter are also available in **digital format** on the USB Flash Drive (formerly CD) that accompanied your full version of the **Guide**. The digital precedents are a real time-saver so be sure to use them!

Aside from these letters, the Flash Drive also has all of the other **Guide's** precedents in **digital format**, ready for your immediate use (over 175 documents, letters and checklists)! To obtain the latest Flash Drive, email: contact@evinross.ca

For general instructions about letter preparation, see pages 2 and 3, Chapter II-B.

Please note that the Flash Drive is not included with the student edition of the Guide. If you are a graduate and wish to obtain the Flash Drive, kindly email the above address.

LETTER OF INSTRUCTIONS TO PERSONAL REPRESENTATIVE

General Notes

After the file is opened, the supervising lawyer should send an initial letter of instructions to the client (i.e. the prospective applicant for the representation grant who, in due course, will become the personal representative – executor of the Will or administrator of the estate). This letter summarizes:

- the process leading to the application for a representation grant and the division of the duties between:
 - the client (as the Deceased’s personal representative); and
 - the lawyer acting for the personal representative;
- the terms of the law firm’s retainer (the services that the law firm will render to the client, as well as the fees and disbursements – and applicable taxes – to be billed to the client in due course);
- any outstanding issues (such as names, addresses of beneficiaries, assets to be located, etc.);
- the documentation and information to be provided by the personal representative to the law firm.

Consider each item very carefully, and ensure that every item is covered. In the course of working on the file, this letter may form a summary for both the client and the lawyer, enumerating the steps and duties to be taken by each, respectively.

Depending on the law firm’s policy, you may attach to this letter a retainer agreement between the law firm and the client, which sets out the lawyer’s remuneration.

Preparation

Consider each paragraph and adapt it to reflect the particular circumstances of the file in question.

If grant of administration with or without will annexed is being applied for:

- ❶ Select the type of grant you will be applying for.
- ❷ In the case of administration with or without will annexed replace the word “Executor” with the word “Administrator” throughout the letter. If there is no Will, delete any reference to the Will and Codicil.
- ❸ This paragraph is optional.

File No. _____

Date: _____

*{Name and address of the
personal representative}*

Dear _____:

Re: Estate of {Name of the Deceased}, Deceased

Thank you for retaining our firm to act for you in the above matter. The purpose of this letter is to summarize and confirm the terms of our engagement and advise on the process leading to the application for a grant of ❶ probate/administration with/out will annexed, ancillary grant of probate/administration with/out will annexed/resealing of a foreign grant of probate/administration with/out will annexed (the “Representation Grant”).

(Use the following paragraph if there is a Will:)

The Deceased left a Will dated *{date}*, which appears to be his/her last Will naming *{Name of the Executor}* as Executor of his/her estate. When someone dies with a Will, that person is said to die testate, and the appropriate Supreme Court of British Columbia appoints the person named in the Will to act as Executor/trix of the Will.

(Use the following paragraph if there is no Will:)

Indications to date are that the Deceased left no Will. When someone dies without a Will, that person is said to die intestate, and the Supreme Court appoints an Administrator of the estate pursuant to the *Wills, Estates and Succession Act* to act as Administrator/trix of the Estate.

Executor’s Role

As ❷ Executor (hereinafter referred to as the “personal representative”) you are primarily responsible for the administration of the estate, and as such, you are not permitted to delegate your responsibilities insofar as decisions are concerned.

In the event that you, as personal representative, do not find it convenient to personally carry out all of the duties that are your responsibility, at your request, our firm will be pleased to carry out those administrative and secretarial aspects of the personal representative’s duties for you.

❸ If we are requested to assist you in your work as personal representative (as separate from our work as solicitors for the estate), two bills will be submitted at the conclusion of our work; one directed to the estate for specific work required; and one directed to yourself for personal representative’s work done for you. This latter bill will have to be paid by you personally out of the personal representative’s compensation, which you have negotiated with the residuary beneficiaries, or have been allowed by the Court following a passing of the accounts.

Continued...

Solicitor's Role

We shall advise you from time to time on all legal concerns relating to the administration of the estate. In addition, you are entitled to seek expert assistance in the appropriate circumstances (i.e. chartered accountants, insurance brokers, appraisers, etc.).

(Use only if applying for a grant of probate or administration with will annexed:)

We shall ascertain the proper testamentary documents and, if required, advise you as to their interpretation.

General procedural steps

The following is a summary of the various steps in the process leading to the Representation Grant. In order to avoid a duplication of effort, we shall ascertain which tasks will be carried out by you, as personal representative, and which tasks will be carried out by our law firm, as your solicitors.

1. Funeral Arrangements

We understand that the Deceased was buried on *{date}*, and that the funeral arrangements were made by you. The costs of the funeral arrangements are recoverable from the estate.

2. Notice to Creditors and Other Claimants

In order to avoid incurring personal liability for claims of creditors and other claimants, the personal representative should only distribute the assets of the estate after the publication of a Notice to Creditors and Other Claimants (s. 154 of the *Wills, Estates and Succession Act* – “WESA”). The Notice to Creditors requires creditors and other claimants to present their claims against the estate of the Deceased to the personal representative within a period of time specified in the Notice to Creditors (at least 30 days from the date of such publication). The Notice to Creditors also states that, after the date stated in the Notice to Creditors, the personal representative will distribute the estate, and only the claims that he or she has notice of will be taken into account.

As instructed, we shall attend to such publication.

(or:)

We confirm your instructions not to publish a Notice to Creditors and Other Claimants.

3. Notice of Proposed Application in Relation to Estate (section 121 (or 138(2)(a) for resealing) of WESA and Rule 25-2 of the Supreme Court Civil Rules) (the “Notice”)

(Use the following paragraph if there is a Will:)

The Notice, together with a copy of the Will and any other testamentary instruments in existence (such as Codicils), must be mailed or delivered to the following – other than the personal representative:

- each person named in the Will as executor or alternate executor who is still alive and who has a prior or equal right to apply and does not join in the application;

- surviving spouse (if any);
- children of the deceased (if any);
- every beneficiary under the Will;
- all persons who would have been an intestate successor if the Deceased has not left a Will;
- Public Guardian and Trustee if there are minors or mentally incompetent persons;
- each citor (the person who serves a citation under *Supreme Court Civil Rule 25-11(1)*).

All beneficiaries named in the Will must receive a copy of the Notice, even if the assets bequeathed no longer exist. It will be the personal representative's duty to provide us with the names, addresses, and ages of all the persons to whom the Notice must be sent.

(Use the following paragraph if there is no Will:)

The Notice must be mailed or delivered to the following (other than the personal representative):

- surviving spouse;
- children of the deceased, if any;
- intestate successors;
- Public Guardian and Trustee if there are minors or mentally incompetent persons;
- a creditor of the Deceased whose claim exceeds \$10,000.00; and
- each citor (the person who serves a citation under *Supreme Court Civil Rule 25-11(1)*).

(In both cases – whether or not there is a Will:)

If a person entitled to Notice has predeceased the Deceased, Notice must be delivered to that person's personal representative, if known. If not, we shall have to seek the court's direction with regard to the delivery of the Notice.

For your convenience, we shall prepare the Notice and arrange for the delivery of same and the other documents on your behalf. However, it will be the personal representative's duty to provide the law firm with the names, addresses, and ages of all the persons to whom such Notice must be sent.

4. Assets

One of the primary duties of the personal representative is to ensure that the property of the Deceased is protected and insured. Verify that all existing insurance policies are adequate and sufficient (e.g. if the residence of the Deceased is vacant, the insurance may have to be changed); that all valuables (such as jewellery, personal property, personal documents, etc.) are properly stored; and that the proper management has been provided for any business which the Deceased owned.

With your assistance, we shall search and verify the title to the assets, ascertain their location and market value at the time of death, identify any encumbrances registered against such assets, and further ascertain whether or not such assets properly form part of the assets of the estate. For example, the following assets are not included in the estate:

- real property, bank accounts, Canada Savings Bonds or other securities which are held in joint tenancy (the death of one joint owner automatically transfers the interest to the survivor);
- insurance policies on the life of the Deceased, with designated beneficiaries who will be entitled to the proceeds upon death of the Deceased;
- refunds of premiums from Registered Retirement Savings Plans with a designated beneficiary that are automatically payable to such beneficiary upon death of the Deceased.

(include the following paragraphs if real estate is involved)

Note regarding value of real estate and personal residence:

The Exhibit to the appropriate Affidavit of Assets filed with the application for the estate grant must show the value of real estate owned by the deceased as at the date of death and the valuation must include the method in which it was determined, for example:

- year of death Assessment Notice from B. C. Assessment Authority; or
- appraiser; or
- Contract of Purchase or Sale (if the property is being sold); or
- real estate agent.

It has been customary to rely on the values published by the BC Assessment Authority, and in fact the Probate Registry will accept same.

However, often these assessments do not reflect the true value of the real estate. This becomes significant when dealing with personal residences and the capital gains exemption applicable thereto. Therefore, it may worthwhile for you to obtain an appraisal from a licensed real estate appraiser and use such appraised (instead of the assessed) value.

In this regard, it is recommended that the applicant consult with an accountant to obtain advice as to the tax implications of potential capital gains that would result upon sale of the real estate if the assessed as opposed to the appraised value were used.

Unless we hear from you to the contrary, we shall assume that you wish us to use the assessed value of the real estate.

5. Safety deposit box

The listing of the contents of any safety deposit boxes must be arranged with the financial institution holding same.

(choose one:)

We understand that you are attending to this and would ask that you provide us with a copy of the listing.

(or:)

We shall arrange to have the contents of the safety deposit box at *{Name and address of financial institution}* listed and shall provide you with a copy of the listing upon receipt.

6. Canada Pension

We understand that you will deal directly with the Canada Pension Office regarding any Survivor Benefits or Canada Pension. If you require any information, contact them at 1-800-277-9914. If you are planning to attend at their office, telephone them to make an appointment. If you are mailing any documents to Canada Pension, the address is Employment and Social Development Canada, P. O. Box 1177, Federal Building, Victoria, BC V8W 2V2.

7. Debts

You will have to determine any debts owing by the Deceased and advise us of the balance owing on such debts. We shall contact you regarding arrangement to be made for payment of same.

If you are not satisfied that such debts are legitimate debts of the Deceased, it will be your responsibility to contest and/or settle creditors' claims.

8. Income Tax Returns

You should determine whether or not all appropriate Income Tax Returns have been filed, and in this regard, we suggest that you consult an accountant familiar with estate matters.

Before distributing the assets of the estate, the personal representative should obtain a certificate from the Minister of National Revenue certifying that all taxes, interest, or penalties assessed under the *Income Tax Act* and chargeable against the assets of the estate have been paid. This certificate is commonly called a Clearance Certificate for distribution purposes.

If you fail to: file the necessary Tax Returns; pay any tax that is found to be owing; and obtain a Clearance Certificate from Canada Revenue Agency, you may be personally responsible for payment of any tax owing by the Deceased or by the estate.

9. Executor's/Administrator's Fees

Pursuant to section 88 of the *Trustee Act*, depending on the size of the estate and the amount of work required, the Executor may be allowed:

- a fee not exceeding 5 per cent of the gross aggregate value of the estate (capital and income); and
- an annual care and management fee not exceeding .4 per cent of the average market value of the assets (e.g. the management of a trust).

If there are several personal representatives, this fee is usually shared among them.

Please note that you are entitled to be reimbursed from the assets of the estate for out-of-pocket expenses incurred as the personal representative of the Deceased. It is therefore essential that you keep all receipts for such expenses.

You should contact an accountant with respect to any executor's fees you are planning on charging the estate, as such fees have to be reported in your Income Tax Return.

Even if, as personal representative, you do not intend to claim remuneration from the estate, you should keep detailed records of all the work performed as personal representative, including an accounting of the time spent and all out-of-pocket expenses incurred.

10. Preparing and passing accounts

As you are accountable to the beneficiaries for all assets of the Deceased, in due course, you, as the personal representative, must prepare accounts for approval, in writing, by the beneficiaries. In order to facilitate the preparation of the accounts, you must set up and keep proper records of all funds received and disbursed on behalf of the estate.

If the residuary beneficiaries or intestate successors are not satisfied with your accounts, or refuse to approve the accounts or the Executor's fees, you may have to pass your accounts before the Registrar. If the Registrar is satisfied with the accounts, s/he will approve them and will recommend to the Court the amount of the executor's fee. If the Registrar is not satisfied with your accounts, you may be required to appear in Supreme Court for a ruling by a Judge.

(select one:)

We shall assist you in the preparation of your accounts for passing by the Registrar if you decide or are required to do so.

(or:)

As we shall handle the assets and attend to their realization, transmission, and distribution, in due course we shall prepare the required accounts.

11. Documents

We shall prepare all necessary documentation to apply to the appropriate registry of the Supreme Court of British Columbia for the Representation Grant to confirm your appointment as personal representative of the estate. We shall arrange for the execution of all necessary documents from time to time.

12. Realization of assets and transmission of same to personal representative

In due course – if and when required – we shall assist you in realizing the assets of the estate, including:

- communications with persons or firms (such as banks, financial institutions, Land Title Office, etc.);
- preparation of all necessary documentation required to transmit, and/or sell the said assets to enable the various other parties to pay out or transfer assets of the estate;
- receipt of funds and liaison with you regarding the various assets.

Distribution of assets

To determine how long it will take to administrate the estate before it is finalized, and the assets distributed, you should be aware that, before distributing the assets of the estate, the following must be ascertained:

1. Clearance Certificate(s) have been received from Canada Revenue Agency (see above).

1. Clearance Certificate(s) have been received from Canada Revenue Agency (see above).

In certain cases, you may be able to proceed with a partial distribution of assets after all the Income Tax Returns have been prepared by the accountants, the amount of taxes owing has been determined and paid, and before receiving the Clearance Certificate. In most cases, the accountants will be able to determine the portion of the assets, if any, to be held back until the Clearance Certificate is received.

2. The limitation dates have been complied with

The personal representative may only distribute the estate assets after the expiration of the period of 210 days from the issue of the Representation Grant if no proceeding has been commenced under Division 6 [Variation of Wills] of WESA (S. 155) except:

- by order of the court; or
- with the consent of all beneficiaries and/or intestate successors entitled to the estate;

subject to the conditions and rules described below and set out in section 155 of WESA.

The conditions and rules for early distribution of the estate assets set out in section 155 of WESA are as follows:

Insert this paragraph in the case of probate or administration with will annexed

(1.1) *The personal representative of a deceased person who died **with a will** may distribute the estate of the deceased person within the 210 days following the date of the issue of a representation grant with the consent of all of the following:*

- (a) *all beneficiaries who have an interest in the estate;*
- (b) *all persons who may commence a proceeding under Division 6 [Variation of Wills] of Part 4 [Wills] in relation to the estate.*

Insert this paragraph in the case of administration without will annexed

(1.2) *The personal representative of a deceased person who died **without a will** may distribute the estate of the deceased person within the 210 days following the date of the issue of a representation grant with the consent of all intestate successors entitled to a share of the estate.*

Insert the paragraphs below if there is a possibility that a beneficiary may not be located and available to sign a consent.

(1.3) *Despite subsections (1.1) and (1.2), the personal representative of a deceased person may distribute the estate of the deceased person without the consent of one or more persons whose consent would otherwise be required if the personal representative sets aside all of the following:*

- (a) *all the specific gifts to beneficiaries who have not been located;*
- (b) *a sum equal to the share of the residue of all beneficiaries who*
 - (i) *have an interest in the residue, and*
 - (ii) *have not been located;*
- (c) *a sum equal to the share of the estate of all intestate successors who*
 - (i) *have an interest in the estate, and*
 - (ii) *have not been located;*

- (d) *a sum equal to an amount sufficient to satisfy any claim under **Division 6 [Variation of Wills] of Part 4 [Wills]** in relation to the estate.*
- (1.4) *A personal representative is liable for loss or damage to any person arising from a distribution of the estate of the deceased person under subsection (1.3) unless the personal representative demonstrates that the personal representative has done all of the following:*
- (a) *set aside all the specific gifts referred to in subsection (1.3) (a);*
 - (b) *set aside the sums equal to the shares referred to in subsection (1.3) (b) and (c);*
 - (c) *determined and set aside a sum equal to the total amount sufficient to satisfy all claims referred to in subsection (1.3) (d), if those claims are successful.*

Insert the paragraphs below for all situations:

- (2) *The personal representative of a deceased person must not distribute the estate of the deceased person after the period referred to in subsection (1) without consent of the court if*
- (a) *a proceeding has been commenced to determine whether a person is or is not a beneficiary or intestate successor in respect of the deceased person's estate,*
 - (b) *relief is sought under Division 6 [Variation of Wills] of Part 4 [Wills], or*
 - (c) *other proceedings have been commenced which may affect the distribution of the estate.*
- (3) *Nothing in this section*
- (a) *affects any right or remedy against a person to whom an estate has been distributed in whole or in part,*
 - (b) *extends any applicable limitation period, or*
 - (c) *affects the ability to make a payment to a creditor.*

Division 6 [Variation of Wills] of WESA states that:

“Despite any law or enactment to the contrary, if a will-maker dies leaving a will that does not, in the court's opinion, make adequate provision for the proper maintenance and support of the will-maker's spouse or children, the court may, in an action by or on behalf of the spouse or children, order that the provision that it thinks adequate, just and equitable in the circumstances be made out of the will-maker's estate for the spouse or children.”

A proceeding by a person claiming the benefit under this Division of WESA must be commenced within 180 days of the date the representation grant is issued in British Columbia. In other words, a Will-Maker's spouse and children have 180 days within which to contest the Will.

3. Notice to Creditors and Other Claimants has been published

The specified period of time in the Notice to Creditors and Other Claimants published in the BC Gazette has elapsed.

4. All Releases have been obtained

Before distributing the assets to any beneficiaries or intestate successors, we recommend that you obtain the appropriate Releases signed by them. Please note that the executed Releases from **all** beneficiaries must be received before you proceed to the distribution of the assets.

Solicitor's compensation

Our fees in this matter will be computed at the writer's present hourly rate of \$_____, plus disbursements and applicable taxes. Our accounts are payable by the estate and, if and when appropriate, they will be paid out of trust funds held on behalf of the estate.

Other Matters

(include the following paragraph if there are two applicants or more:)

We confirm that we are to act on behalf of both *{Name of first personal representative}* and *{Name of second personal representative}* in this matter and that we are to receive instructions from *{Name of contact person}* and direct all correspondence to *{Name of contact person}*. In such circumstances, no information received from one party can be treated as confidential insofar as the other party is concerned. Further, each party shall be jointly and severally liable for payment of our accounts when rendered.

If at any time you have concerns or queries, please feel free to contact us.

Yours truly,

LETTER TO BC GAZETTE
(Re: Publication of Notice to Creditors and other Claimants)

General Notes

Section 154 of WESA states that a personal representative may give notice to creditors and other claimants by publishing such a notice in the BC Gazette.

The notice must state that the creditors and other claimants are required to present their claims against the estate of the Deceased to the personal representative within a specified period of time, which must be at least 30 days from the date of publication.

The Gazette is printed every Thursday. For insertion rates, deadlines and publishing schedules, go the **BC Gazette Website** ⇒ **Contact us** or “**BC Gazette Contact**” in **Addresses and Links – Helpful Information**.

Preparation

- ❶ If there is some urgency in publishing the notice, send it by courier or through your filing agent (who may pay the fee on your behalf). The Gazette’s address for courier deliveries is:

BC Gazette, 2-563 Superior Street
 Victoria, BC V8V 1T7
- ❷ Omit this paragraph if you are emailing the letter and see the processing note below with respect to the payment..
- ❸ To determine the amount, go to the BC Gazette’s website or click on the link to BC Gazette Notice of Creditors link in **Addresses and Links, Helpful Information** and copy the price of publishing the Notice from the form.

Processing

Prepare *Notice to Creditors and Other Claimants* (see **Pre-Application Documents**) and attach it to this letter.

You may:

- **mail** the letter, Notice and the cheque payable to the **Minister of Finance** to the address opposite; or
- **fax** the letter and the Notice to **1-250-387-1120** and include the credit card information in the fax (Visa or Master Card); or
- **email** the letter and the online PDF fillable Notice to Creditors form to OPGazette@gov.bc.ca. For security reasons, do not include the credit card number in the email. They will respond and provide a secure link to pay by credit card or you can telephone them at **1-800-663-6105** with the credit card information. .

If it is the law firm’s policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

BC Gazette

❶ P. O. Box 9451 Stn Prov Govt

Victoria, B. C.

V8W 9V7

Dear Sirs:

Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: 20

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and enclose Notice to Creditors and Other Claimants, pursuant to section 154 of *Wills, Estates and Succession Act*, which we would ask you to publish once in the next issue of the BC Gazette.

❷ We enclose our cheque payable to the Minister of Finance in the amount of \$❸, being the fee for the above publication.

We look forward to receiving the appropriate tear sheet and thank you for your assistance.

Yours truly,

cc: client

LETTER OF INQUIRY TO BANK OR FINANCIAL INSTITUTION

General Notes

After locating all of the Deceased's banking records, such as:

- bank books;
- cheque books;
- bank statements; etc.,

prepare a letter to all banks and financial institutions requesting confirmation as to the nature and value of all assets held by the bank or liabilities owing to it. This must be done to avoid the surprise of finding additional assets after a representation grant has been applied for.

It is important to include all paragraphs listed in the example set out opposite, as the information will be needed to prepare the *Statement of Assets, Liabilities and Distribution* and, in due course, to prepare Income Tax Returns. The reason why it is important to segregate the interest earned before and after death is that interest accrued to the date of death will be included in the *Statement of Assets, Liabilities and Distribution*, as well as in the Deceased's Income Tax Return, and any interest accrued after the date of death will be included in the estate Income Tax Return.

Because of the *Freedom of Information and Protection of Privacy Act* and *Personal Information Protection Act*, banks and financial institutions no longer release information to law firms without an authorization signed by the personal representative. They also require a copy of Death Certificate and a copy of the Will showing the executor's appointment. On an intestacy, some banks will accept an authority signed by the prospective Administrator, but most will not release the information until they receive a notarially-certified copy of the grant of administration. If you are unable to obtain the information at this time, see *Letter with Authorization to Obtain Estate/Resealing Information* (page 32).

Preparation

- ① Insert the date of death, as the balances must be shown from that date onwards.
- ② Insert this paragraph if there is a Will.
- ③ It is not necessary to list bank accounts. If a list is provided, sometimes a bank's employee will not search for additional accounts and will only check the accounts listed in the letter.

Processing

Prepare and attach to the letter:

- notarially-certified copies of the *Death Certificate* and the Will (if there is one). For instructions as to the preparation of a notarially-certified copy of a document, see *Notarially-Certified Copy – Post-Application Documents*; and
- *Authorization to Release Information to Law Firm* (see next page).

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

*{Name and address
of financial institution}*

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: ❶ 20**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose:

1. notarially-certified copy of the Death Certificate;
2. ❷ notarially-certified copy of the Deceased's Will dated ❷; and
3. authorization to release information to our firm signed by the personal representative.

Please confirm the following:

1. the type and number of all accounts, deposits, investment certificates, Registered Retirement Savings Plans, Registered Retirement Income Funds and Tax Free Savings Accounts or any other plans that the Deceased maintained at your branch; ❸
2. the balance outstanding with respect to the above as at the date of death, including any interest. For Income Tax purposes, please set out the interest income earned on any account from January 1st to the date of death;
3. the manner in which such accounts are registered (i.e. whether in the sole name of the Deceased or in joint names with another party with the right of survivorship);
4. whether or not the Deceased had a safety deposit box at your branch, and if so, confirm to us the box number and, if a list of contents has been prepared, provide us with a copy;
5. if applicable, whether or not there are any designated beneficiaries with respect to any plans;
6. any indebtedness of the Deceased to you, including any mortgages, and whether such indebtedness is life-insured; and
7. any guarantees given to you by the Deceased.

Please advise us as to the documentation required to transmit the account[s] and any other assets to the Executor/Administrator or beneficiary.

Thank you very much for your co-operation.

Yours truly,

cc: client

AUTHORIZATION TO RELEASE INFORMATION TO LAW FIRM

General Notes

This *Authorization* is required by banks, financial institutions, brokers, and other parties to release to the law firm information regarding the assets of the Deceased (see General Notes in *Letter of enquiry to Bank or Financial Institution*).



While the client is in the office during the initial interview, prepare this *Authorization* and have it signed by the client. It enables the law firm to obtain the information in a timely manner and avoids having to write to the client with a request to sign the *Authorization*.

Preparation

Depending on your law firm's policy, prepare either: one *Authorization* "to whom it may concern" or one authorization for each branch of the bank and/or financial institution in which the Deceased had an account.

- ❶ If you are preparing separate *Authorizations* for each branch of the bank (or other financial institution or asset holders) where the Deceased had accounts or assets, insert the address of each such party). If you are preparing one *Authorization* for all the asset holders, insert "TO WHOM IT MAY CONCERN" instead of the individual addresses.
- ❷ Complete the correct type of application.

Processing

Arrange to have each authorization originally signed by all prospective personal representatives.

Make a copy of the signed *Authorization* and attach it to the appropriate letter.

AUTHORIZATION

Date: _____

① *{Name and address
of financial institution}*

Dear Sirs:

**Re: Estate of {Name of the Deceased}, Deceased
Date of Death: 20**

I am/We are the applicant[s] for a **②** Grant of Probate **②** Grant of Administration with respect to the estate of the Deceased and hereby authorize you to release all information with respect to the Deceased to:

{Name of law firm}
{address of law firm}

Attention: *{Name of lawyer}*

Thank you for your co-operation.

Yours truly,

{NAME OF PERSONAL REPRESENTATIVE}

{NAME OF PERSONAL REPRESENTATIVE}

LETTER OF INQUIRY TO CREDIT CARD ISSUER

General Notes

All credit cards in the Deceased's name must be cancelled, and any balances must be paid to the credit card company when funds are available.

Prepare and mail this letter unless the personal representative provides the law firm with the latest statements and confirms that he or she has personally attended to the cancellation of the credit cards.

The balances (whether paid or unpaid) will not be listed in Part III – Debts and Liabilities – of the *Statement of Assets, Liabilities and Distribution* attached to any Affidavits of Assets.

However, in the case of an application for a grant of administration without will annexed, if the amount of the unpaid debt exceeds \$10,000, Notice must be delivered to such creditor (unless the creditor is the applicant) (see the **Notice** chapter).

Preparation

- ❶ Insert the date of death, since the balance must be shown as of that date.
- ❷ Obtain the account number from the personal representative and insert it.

Processing

Prepare and attach to the letter:

- notarially-certified copies of the *Death Certificate* and the Will (if there is one). For instructions as to the preparation of a notarially-certified copy of a document, see *Notarially-Certified Copy – Post-Application Documents*); and
- *Authorization to Release Information to Law Firm*.

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

*{Name and address
of credit card issuer}*

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: ❶ 20__
Account No. ❷**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose:

1. notarially-certified copy of the Death Certificate;
2. notarially-certified copy of the Deceased's Will dated *{date}*; and
3. authorization to release information to our firm signed by the personal representative.

Please confirm to us:

1. the amount owing by the Deceased with respect to the above account, if any, as at the date of death; and
2. the current balance outstanding.

Please cancel the credit card and confirm to us that it has been done.

Your prompt attention to this request would be appreciated.

Yours truly,

cc: client

LETTER TO MORTGAGEE **(Financial Institution or Private Mortgage Holder)**

General Notes

If the Land Title Office search of a real property owned by the Deceased discloses that a mortgage is registered against the property, the balance owing under such mortgage must be ascertained. As with other information obtained for the estate, it must be in writing.

The institution (or person) in whose name the mortgage is registered (i.e. to whom the money is owed) is called the “mortgagee”. The address is usually shown on the mortgage document, which can be obtained from the Land Title Office at the time the search is conducted. However, if the mortgage has been outstanding for some time, it is a good idea to confirm the mortgagee’s address before preparing the letter. If the personal representative cannot help you, the telephone book and internet are good sources of such information. If you have the mortgage reference number (on the Land Title Office document), you may contact the financial institution’s mortgage centre.

Only liabilities encumbering an asset (e.g. mortgages that are **registered** against the property) are listed in the *Statements of Assets, Liabilities and Distribution*, and the balance owing under such indebtedness is deducted from the market value of the property that the liability encumbers.

There may be other monies owing by the Deceased which are “loosely” called mortgages, as they were originally borrowed to purchase real estate. If a loan or other indebtedness is **not** registered against the property at the time of death, even if such loan was originally taken specifically to purchase the property in question, the amount of such indebtedness is **not** deducted from the market value of such property.

However, in the case of an application for a grant of administration without will annexed, if the amount of the unpaid debt exceeds \$10,000.00, Notice must be delivered to such creditor (unless the creditor is the applicant) (see the **Notice** chapter). The letter shown opposite may also be used to obtain information for other such indebtedness (such as collateral loans).

Preparation

- ① You can find this number on the Land Title Office search.
- ② You may omit this paragraph if the mortgage holder (the mortgagee) is an individual.

Processing

Prepare and attach to the letter:

- notarially-certified copies of the *Death Certificate* and the Will (if there is one). For instructions as to the preparation of a notarially-certified copy of a document, see *Notarially-Certified Copy – Post-Application Documents*; and
- *Authorization to Release Information to Law Firm*.

If it is the law firm’s policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

*{Name and address of
mortgagee – financial institution or
private mortgage holder}*

Attention:

Dear Sirs:

Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: 20

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose:

1. notarially-certified copy of the Death Certificate;
2. notarially-certified copy of the Deceased's Will dated *{date}*; and
3. authorization to release information to our firm, signed by the personal representative.

We understand that you are the mortgagee with respect to a mortgage registered against the property at *{civic address of the property}* under No. **1**.

We would appreciate your confirming the following:

1. whether or not the mortgage is in good standing;
2. amount of principal and accrued interest as at the date of death;
3. per diem interest rate from the date of death;
- 2**4. amount in tax credit account, if any (including any interest to the date of death);
5. any charges or penalties owing if the mortgage is paid before its maturity; and
- 2**6. whether the mortgage is life insured.

Thank you very much for your co-operation.

Yours truly,

cc: client

EMAIL TO THE MINISTRY OF FINANCE AND CORPORATE RELATIONS

Land Tax Deferment Act Program

General Notes

The Province of British Columbia Land Tax Deferment Program (or Property Tax Deferment Program) allows qualifying BC homeowners to defer the payment of annual city or municipal property taxes with respect to their principal residence. It is a form of a low interest loan. An Agreement with respect to such deferred taxes is registered as a charge against the property. Information with respect to this charge may be obtained from a Land Title Office search.

The deferred taxes, plus interest and administrative fees, must be paid when the residence is transferred to a different owner, save and except a qualifying surviving joint tenant (the survivor must be over 60, and the property must be his or her principal residence). To determine if a person qualifies go to **Government of British Columbia** website ⇒ **Pay or Defer your annual taxes** ⇒ **Defer Your Taxes** or see the link **Defer your Taxes** in **Addresses and Links – Helpful Information**.

The most expedient way to obtain the information with respect to the balance owing is to email the request (see opposite). Please note that the Ministry does not accept fax requests.

In the case of an application for a grant of administration without will annexed, if the amount of the unpaid debt exceeds \$10,000, **Notice of Proposed Application** must be delivered to the Ministry of Finance & Corporate Relations and Tax Deferment Program as such creditor.

Preparation

- ❶ Copy the charge number from the Land Title and Survey Authority search.
- ❷ You must show the property owner's (or owners') name(s) as it/they appear(s) on the Land Title Office search. If different, ensure that the name of the Deceased, **exactly** as it appears on Title, is also included as one of the names in the application.
- ❸ The address of the property to which the charge applies must be the Deceased's **principal** residence.
- ❹ Payout statements are calculated on the day the statements are prepared. The Ministry will not forward or backdate the account balance. You will have to calculate the amount owing as at the date of death by multiplying the interest rate provided by the number of days between the date of death and the state of the statement and deducting it from the amount on the statement.

Processing

Email the request to the Ministry.

You must include the **balance as at the date of death** (excluding of any charge to file the release the agreement) as a charge against the property in the Disclosure Statement (see **Statement of Assets, Liabilities and Distribution (Forms)** attached to an Affidavit of Assets).



If there are sufficient funds on hand, it may be expedient to arrange to pay the balance owing with respect to this charge right away (unless the property is transferred to a qualifying surviving joint tenant). Upon receipt of the funds, the Ministry will file a Notice of Satisfaction discharging the Land Tax Deferment Act Agreement and provide the law firm with written discharge particulars (see *Payout Letter – Land Tax Deferment Act Program – Post-Application Letters*).

EMAIL TO PROPERTY TAX DEFERMENT – PROPERTY TAX DEFERMENT

Email to: Property Tax Deferment
Property Taxation Branch
Ministry of Finance

By email address: taxdeferment@gov.bc.ca

Request for the payout letter from:

{Name of Lawyer}
Name of Law Firm, Barristers and Solicitors
{Postal Address}
{phone number}
{Email}

Email subject line: Tax Deferment Payout Request
Estate of *{Name of the Deceased}*, Deceased
Land Tax Deferment Act Agreement No. ❶
Owner(s): ❷
PID *{000 000 000}*
Property address: ❸

We are the solicitors for *{Name of applicant[s]}*, applicant[s] for a representation grant with respect to the estate of the Deceased.

Please provide us with your usual form of written payout statement showing:

- (a) the full balance due and owing as at the date of the statement ❹;
- (b) the per diem interest rate thereafter;
- (c) any administration fees owing;
- (d) your discharge fee; and
- (e) any other charges to file the release of the above agreement.

Please email the requested information to us at: *{email address}*

Thank you for your cooperation in this matter.

LETTER TO BROKER REQUESTING VALUATION OF SECURITIES
(Re: shares, stocks, and bonds)

General Notes

In order to obtain the value of the shares, stocks, and bonds held by the Deceased, you can:

- **for widely traded securities:** write to the broker (see letter opposite);
- **for Canada Savings Bonds:** check their website or telephone, write or email to:
Bank of Canada
Registry Services, Transfers and Exchanges
Public Debt Department

(for **Canada Savings Bonds**, see **Addresses and Links – Helpful Information**)
- **for other shares or securities:** such as shares in closely held or family companies, consult the principal of the company or its accountants.

Preparation

Make a list of all securities (such as Canada Savings Bonds, etc.) and save the list as a separate electronic file. You can then use the list for this letter and for subsequent documents where such a list is required (such as the *Statement of Assets, Liabilities and Distribution*) and, in due course, for the reporting letter to the client.

Processing

Prepare and attach to the letter:

- notarially-certified copies of the *Death Certificate* and the Will (if there is one). For instructions as to the preparation of a notarially-certified copy of a document, see *Notarially-Certified Copy – Post-Application Documents*; and
- *Authorization to Release Information to Law Firm*;

If it is the law firm's policy firm, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

*{Name and address of
broker}*

Attention:

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: 20**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose:

1. notarially-certified copy of the Death Certificate;
2. notarially-certified copy of the Deceased's Will dated *{date}*; and
3. authorization to release information to our firm, signed by the personal representative.

We would appreciate your advising us of the market value of the following securities as at the date of death:

{list the securities}

(or:)

{attach a list of securities}

(or:)

Please provide us with details of all investments, securities, shares, bonds and stocks held by you for the Deceased including:

1. certificate numbers, class of shares, and other registration particulars;
2. market value of such investments as at the date of death; and
3. particulars of any dividends declared and unpaid as at the date of death.

Thank you very much for your co-operation in this matter.

Yours truly,

cc: client

LETTER TO THE EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA
(Re: Canada Pension Plan Benefits and Old Age Security)

General Notes

If the Deceased was receiving pension benefits or an old age pension, usually a cheque for the month in which he or she died would have been mailed before the end of the month. In general, pension cheques issued for the month in which the Deceased passed away belong to the estate. For example, if the Deceased died on May 5 and a cheque for May was received, that cheque will be included in the assets of the estate. If the Deceased did not cash the cheque, as it is payable to the Deceased (and obviously, the Deceased is no longer around to cash it), the cheque must be re-issued and the name of the payee changed to “Estate of *{Name of the Deceased}*”.

If, subsequently, another cheque arrives in June, it should be returned because neither the Deceased nor the estate are entitled to it.

If the Deceased was employed in his or her lifetime, and has contributed to the Canada Pension Plan, the surviving spouse and/or the children may be entitled to survivor’s benefits. The information and forms are available online on the Canada Pension Plan website – see link: **Canada Pension Plan Death Benefits – Helpful Information**.

If you have trouble determining whether or not the Deceased received any benefits under the Canada Pension Plan, check line 114 of the Deceased’s latest Income Tax Return.

In order to minimize legal fees, the personal representative should be encouraged to apply for those benefits directly unless it is the law firm’s policy to attend to it.

Please note that the following benefits may be available under the income security programs:

- **lump sum death benefit**, which is payable to the estate of a deceased;
 Note the following conditions for the application for the Death Benefit:
 - if there is a Will, the Executor named in the Will must apply for the Death Benefit within 60 days of the date of death;
 - if there is no Will, or if the Executor did not apply for the Death Benefit within 60 days of the date of death, the following person should apply and payment of the Death Benefit will be made in the following order:
 - the Administrator of the estate appointed by the Court or the person or institution who has paid, or is responsible for, the payment of the Deceased’s funeral expenses; or
 - the surviving spouse of the Deceased; or
 - the next-of-kin of the Deceased.
- **monthly pension** payable to the surviving spouse of a deceased contributor; and
- **flat rate monthly orphan’s benefit** provided for the children of a deceased contributor if the children are under the age of 18 or are between the ages of 18 to 25 years and in full time attendance at school or university.

Preparation

- ① If the law firm will be dealing with the Employment and Social Development Department, we suggest that you arrange for the personal representative to complete and sign **Form ISP 1603 – Consent to Communicate Information to an Authorized Person** and attach it to this letter.
- ② List all cheques that are being returned.

Processing

If it is the law firm’s policy, mail a copy of the letter to the client. Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

Employment and Social Development Canada
Income Security Program
P. O. Box 1177
Federal Building
Victoria, B. C.
V8W 2V2

Dear Sirs:

Re: Estate of {Name of the Deceased – as it appears on cheque}
Date of Death: 20

We are the solicitors for {Name of applicant[s]}, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose ❶ a notarially-certified copy of the Death Certificate.

We return:

❷

1. cheque No. _____ for \$_____, being the Old Age Security payment;
2. cheque No. _____ for \$_____, being the Canada Pension Plan payment.

We would appreciate your providing us with replacement cheques payable to the “Estate of {Name of the Deceased}”.

Please advise whether or not the estate is entitled to survivor benefits under the Canada Pension Plan and provide us with the appropriate forms.

Thank you for your co-operation in this matter.

Yours truly,

cc: client

LETTER TO INSURANCE COMPANY

General Notes

Generally, the personal representative will:

- bring you originals or copies of the insurance policies which the Deceased had; or
- advise you that there may be an insurance policy in existence.

If the personal representative has not provided the insurance company's address, and there is no address or telephone number on the insurance documents, obtain such information from the local telephone book or from the internet. Once you have the information, telephone the insurance company and ascertain the address and the name of the person to whom the letter should be addressed.

If the insurance company advises that a designated beneficiary is named in the policy, the amount of that policy **does not** form part of the assets of the estate. Arrangements should then be made either by the law firm or the personal representative to have the amount paid directly to the designated beneficiary.

Preparation

- ❶ If a policy is available, photocopy it and attach to the letter.
- ❷ If no policy is available, insert the second alternative.

Processing

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

*{Name and address of
insurance company}*

Attention:

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: 20**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose:

1. notarially-certified copy of the Death Certificate;
2. notarially-certified copy of the Deceased's Will dated *{date}*; and
3. authorization to release information to our firm, signed by the personal representative.

(select as applicable:)

❶ We enclose a copy of Policy No. _____, together with advice regarding the amount of paid-up insurance.

(or:)

❷ We are advised that the Deceased had an insurance policy with your company. Please confirm that such policy is in effect and provide us with the policy number.

(in both cases:)

We would (also) appreciate your confirming to us:

1. the amount of the proceeds that the estate can expect from each of the policies;
2. the name of the designated beneficiary, if any; and
3. what documentation will be required to release the funds to our firm/the estate/the designated beneficiary.

Please provide us with the requisite forms to effect the above transfer.

Thank you very much for your co-operation.

Yours truly,

cc: client

**LETTER TO TRUSTEE OF PENSION PLAN
OR REGISTERED RETIREMENT SAVINGS PLAN**
and
LETTER TO EMPLOYER

General Notes

If, at the time of death, the Deceased was either employed or retired from previous employment and was receiving benefits as a result of such employment, the amount and nature of such benefits should be ascertained. The information regarding employment is usually obtained from the personal representative.

The holders of the plans, whether pension or otherwise, generally have their own forms that must be completed in order to apply for any benefits. The requirements to release benefits will also vary, and when a reply is received, it should be read carefully to ascertain that all the required documentation can be provided (such as copy of *Death Certificate*, notarial copies of Will, or the representation grant, doctor's certificate, just to name a few).

If an asset has a designated beneficiary (other than the estate), then this asset does **not** form part of the estate, but instead passes automatically to that beneficiary.

As some assets may be taxable, the recipient of a benefit should be advised to consult an accountant.

Note: Pursuant to section 176 of WESA, the wages:

- earned by a worker during the three month period before the worker's death; and
- owing or accrued to the worker at the time of the worker's death

are payable directly to the surviving spouse, if any, of the deceased worker, free from debts of the deceased worker, and are not part of the estate and are not included in the *Statement of Assets, Liabilities and Distribution* (if there is an application for a representation grant).

Preparation

- ❶ For example, insert "the Deceased's (past) employment with you".

Processing

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

**LETTER TO TRUSTEE OF PENSION PLAN
OR REGISTERED RETIREMENT SAVINGS PLAN**

Date: _____

*{Name and address of trustee of
pension plan}*

Dear Sirs:

**Re: Estate of {Name of the Deceased}, Deceased
Date of Death: 20**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose a notarially-certified copy of the Death Certificate.

We understand that the Deceased ...

...was receiving payment under Pension Plan No. _____ with respect to ❶.

(or:)

...contributed to the Registered Retirement Savings Plan No. ____ administered by you.

We would appreciate your providing us with:

1. full particulars of the plan;
2. the value of the plan;
3. the name of the designated beneficiary, if any;
4. your requirements to deal with the plan; and
5. any forms that require completion in order for you to transfer the Plan to the estate or the designated beneficiary.

Yours truly,

File No. _____

LETTER TO EMPLOYER

Date: _____

{Name and address of employer}

Dear Sirs:

**Re: Estate of {Name of the Deceased}, Deceased
Date of Death: 20**

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased, and for your records, we enclose a notarially-certified copy of the Death Certificate.

We would appreciate your providing us with:

1. particulars of any salary, pension, or group insurance coverage owing to the Deceased;
2. your requirements to deal with any benefits; and
3. any forms which you may require to be completed in order to deal with the benefits.

Yours truly,

LETTER WITH AUTHORIZATION TO OBTAIN ESTATE/RESEALING INFORMATION

General Notes

In some instances, the holder of an asset is unwilling (or, because of the holder's internal policy is unable) to provide the applicant with the required information. For example, a bank's privacy policy may restrict it from providing the requested information. In such cases, the application for a representation grant may be filed with the probate registry without the appropriate *Affidavit of Assets and Liabilities* because its required attachment (the *Statement of Assets, Liabilities and Distribution*) cannot be completed. At the time the application is filed, the applicant may apply to the Court for:

- ***Form P18 – Authorization to Obtain Estate Information*** – in the case of all applications for an representation grant; and
- ***Form P27 – Authorization to Obtain Resealing Information*** – in the case of resealing a foreign grant in British Columbia, if the foreign grant was obtained in a jurisdiction prescribed by section 138 of WESA and Regulation 3 of the WESA Regulations.

When you receive the relevant ***Form P18*** or ***Form P27***, prepare the letter opposite and send it to the holder of the asset.

Once you receive the requested information, finalize the ***Statement of Assets, Liabilities and Distribution*** attached to the appropriate Affidavit and file it with the probate registry.

Preparation

- ❶ Copy this information from the letter received from the asset holder. Often, it is not the same as in the law firm's original letter requesting information.
- ❷ Describe the information that you have requested and not received.
- ❸ Select the applicable form.

Processing

Attach the appropriate ***Form P18*** or ***Form P27***. Ensure that you keep at least one copy of the form as you may need it for another asset. The Forms are not addressed to anyone in particular.

If possible, have the letter delivered by courier.

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize the file for two weeks and follow up if you have not received a reply.

File No. _____

Date: _____

BY COURIER

*{Name and ❶ address of
asset holder}*

Attention: ❶

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Your reference: ❶**

We refer you to our letter to you dated *{date}* and your letter to us dated *{date}*, in which you indicated that you are unable to provide us with ❷.

We enclose ❸ Form P18 – Authorization to Obtain Estate Information / ❸ Form P27 – Authorization to Obtain Resealing Information ❸ instructing you to provide us with the missing information/document within 30 days of delivery.

If you fail to deliver the information requested, please refer to the Notice contained in Form P18 / Form P27 and note that you may be responsible for court costs should the requested information not be provided within the time specified.

We look forward to receiving the requested information.

Thank you for your cooperation.

Yours truly,

cc: client

LETTER TO THE INSURANCE CORPORATION OF BRITISH COLUMBIA

General Notes

The requirements to transfer a Deceased's vehicle depend on:

- the party to whom the vehicle is transferred to;
- whether there is a Will; and
- the size of the estate (see **Small Estates – Pre-Application Procedure**).

Each individual situation requires different documents. The Insurance Corporation of British Columbia ("ICBC") provides a comprehensive chart with a checklist showing the requirements for various scenarios. The checklist can be viewed on the ICBC website ⇒ **Vehicle Registration** ⇒ **When a vehicle owner has passed away** ⇒ **Checklist for Estate Transfers** or see: "ICBC – Checklist" in **Addresses and Links, Helpful Information**.

The letter opposite may be addressed to ICBC's head office or to an agent, depending on the client's involvement in the transfer. The most practical and cost-effective way to arrange the transfer is to provide the client with the required documentation and have the client attend at the nearest branch to transfer the vehicle.

If a representation grant has not yet been obtained (if an application for one has been or will be made), ICBC requires that the lawyer for the estate provide ICBC with an **undertaking** that, when the representation grant is received, the lawyer will send a notarially-certified copy to ICBC.



The Deceased's driver's licence should be cancelled. Advise the personal representative to take the Death Certificate and driver's licence to any driver licensing office or send a copy of the Death Certificate and the driver's licence to ICBC (see ICBC – Addresses and Links – Helpful Information)

Preparation

- ❶ Insert the description of the motor vehicle, including: year, make, model, and vehicle identification number (VIN), from the Owner's Certificate of Insurance.
- ❷ Attach a copy of the Will (if there is one) and insert the Will's date.
- ❸ The Transfer Form should be signed by the personal representative.
- ❹ Include this paragraph if the estate is less than \$25,000 and no application will be made for a representation grant.
- ❺ Insert the full name and address of the transferee. This could be the personal representative, beneficiary or next-of-kin, depending on the situation.
- ❻ Select one of the following paragraphs, depending on whether or not an application is made or the estate is over or under \$25,000.

Processing

If the estate is less than \$25,000 (see ❹ above), prepare the *Statutory Declaration* (Estates less than \$25,000.00) (see **Post-application Documents**); have it signed and sworn; and attach it to the letter.

If an undertaking is included in the letter, make a notation on the file to provide ICBC with a copy of the representation grant, when received.

File No. _____

Date: _____

Insurance Corporation of British Columbia
Motor Vehicle Branch
151 West Esplanade
North Vancouver, B. C.
V7M 3H9

Dear Sirs:

Re: Estate of *{Name of the Deceased}*, Deceased
Date of Death: _____, 20
Motor Vehicle: ❶
VIN: ❶

We are the solicitors for *{Name of applicant[s]}*, the applicant[s] for a representation grant with respect to the estate of the Deceased.

We enclose:

1. ❷ notarially-certified copy of Will of the Deceased dated ❷;
2. notarially-certified copy of Death Certificate;
3. Transfer Form signed by ❸;
4. Owner's Certificate of Insurance;
5. ❹ Statutory Declaration.

Please transfer the above motor vehicle to:

{Name} ❺
{Address}

❻ As the estate is less than \$25,000.00, no representation grant will be applied for.

❻ A Grant of ❻ Probate is being applied for, and we undertake to provide you with a copy of the Grant when we receive same from the Supreme Court of British Columbia.

Thank you for your assistance in this matter, and if you require any further documentation, please advise.

Yours truly.

cc: client

LETTER TO BANK **(Requesting Probate Fees)**

General Notes

As probate fees may be substantial, the personal representative may find it necessary to obtain them from the Deceased's bank (if there are sufficient funds in the account).

The supervising lawyer should ascertain whether or not the client wishes the bank to pay the probate fees.

In order to release the funds to the law firm and to pay the probate fees, the bank will require a letter signed by personal representative authorizing the bank to provide the law firm with a bank draft for the fees.



To expedite matters, prepare this letter before the client comes in to sign the application documents and leave the amount blank (if the client is willing to sign the letter with the blank amount).

Preparation

- ❶ Insert the name (or names) of the applicant(s).
- ❷ Ascertain from the personal representative the account to be used. The account number may also be found in the reply from the bank to the letter of inquiry.
- ❸ To calculate the fee, refer to:
 - **Appendix to Forms** chapter; and
 - **Fees – Helpful Information.**

Processing

When the application for the representation grant is approved and the probate registry contacts you with the amount of the probate fee, complete the letter, arrange to have it signed and mail or deliver it (with a short covering letter) to the bank.

If it is the law firm's policy, mail a copy of the letter to the client.

Diarize for one week and if funds have not been received, follow-up by telephone.

① {NAME OF PERSONAL REPRESENTATIVE}

Date: _____

{Name and address of Bank}

Dear Sirs:

**Re: Estate of *{Name of the Deceased}*, Deceased
Account No. ②**

I am/We are the applicant[s] for a representation grant with respect to the estate of the Deceased.

Please accept this letter as your authorization to issue a bank draft from the above account payable to the Minister of Finance in the amount of \$③, being the probate fees payable with respect to the application for the representation grant.

Please forward the draft to:

{Name of Law Firm}
Barristers and Solicitors
{Address of law firm}

Attention: *{Name of lawyer}*

If you have any questions, please telephone our solicitor, *{Name}*, at *{telephone number}*.

Thank you for your cooperation in this matter.

Yours truly,

{NAME OF PERSONAL REPRESENTATIVE}

③ Executor of the Will of the Deceased

③ Administrator of the Estate of the Deceased

