

Dealing With a Death and Settling an Estate

Documents, funerals, wills and settling someone's affairs

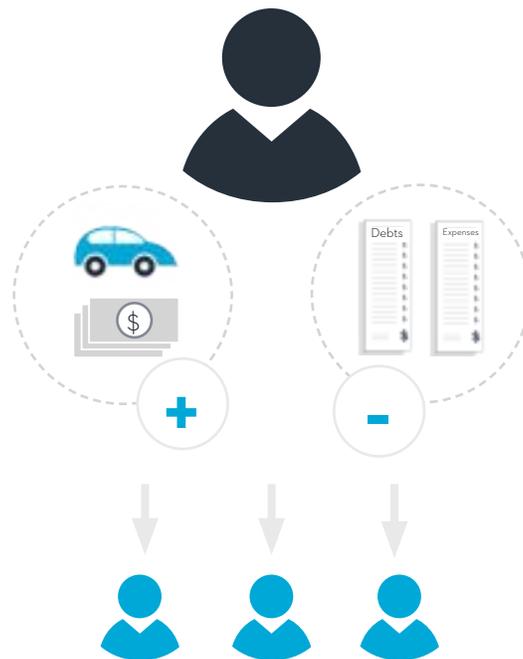


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Important Notice!

The law changes. This guide is up to date to March 2, 2017. This guide is meant as legal information, not legal advice. If you need advice on a specific situation, consult a lawyer or notary. This guide only applies in Quebec.

Summary of Five Key Steps

Five key things 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 spouse, other person in the family circle or someone entitled to inherit.

You can also ask a notary or lawyer to do them, but there will be a fee.

Step 5: This step 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 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.

How to notify the government

In the days right after the death, the documents listed below must be sent to a Quebec-government agency called the Directeur de l'état civil (registrar of civil status):

1. an “attestation of death” form. This is usually filled out by a doctor.
2. a “declaration of death” form. This document is provided by the funeral company that takes care of the body. Usually, it is filled out by the spouse or partner of the person who died, or anyone else who can identify the person.
3. the medicare card of the person who died

If you deal with a funeral company, they can help you with these documents.

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

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

To get proof, you can ask the Directeur de l'état civil to send you one of these documents:

1. copy of the act of death
2. a death certificate (The Directeur can make a certificate using the act of death.)



Number of copies to get

Some organizations will keep the document you send them to confirm the death. So, it's important to request several copies from the Directeur de l'état civil.

Cost of official proof of death

The documents cost between \$31 and \$72. The exact cost depends on how you request them, for example, Internet, mail or in person. Also, if you request fast delivery, there might be extra fees.

How long official proof takes

It takes about two to three weeks to get it from the Directeur de

Step 2: Organize a Funeral if Necessary

Did the person want a funeral? If so, did the person leave specific instructions about what kind of funeral?

Find out what the person wanted

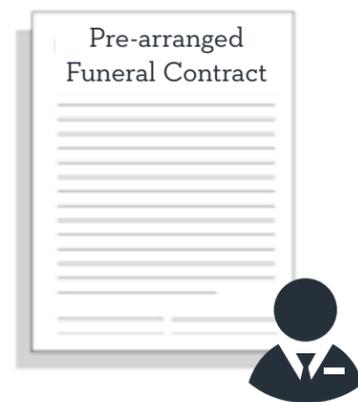
Check with the family circle and other people close to the person who died.

You can also check the person's personal papers for wishes expressed in a note, will or other document. There might also be a pre-arranged funeral contract (see below).

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

Pre-arranged funeral contract

This is a legal agreement that lets you arrange and pay for a funeral before your death. To learn more, see Éducaloi's website.



Cost of funerals

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

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

To learn, more, visit the Retraite Québec website: www.rrq.gouv.qc.ca under the heading "Death", then "Québec Pension Plan."

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.

Fill out the will search forms for these two registries:

- wills made by notaries: registry of the Chambre des notaires
- wills made by lawyers: registry of the Barreau du Québec

The Useful Resources section at the end of this guide explains how to get the search forms.

There is a fee of between \$17 to \$23 for each registry. You will get an answer in two to three weeks.

If there is a will listed in one of the registries, you will not get the will itself. You will 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 is possible to write a will yourself, without a notary or lawyer. This kind of will is not put in the registries mentioned above.

Check for this kind of will in the personal papers of the person who died, and with the circle of family and friends.

There is a will made by a notary

You need to get an official copy of the will, if you don't already have one.

- **How:** Contact the notary mentioned in the will search certificate you got. (See the section on searching for a will.) You will need to send that notary proof of death and a copy of your will search certificates.
- **Who can get a copy:** The people entitled to inherit under the will, or who would inherit by law if there were no will.
Other people can have a copy only if a court gives permission.
- **Cost:** Depends on the notary's fees
- **How long:** Roughly a few days



What if there is a more recent will that is not notarized?

You must follow the same steps you would if the original will was not 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, that it is the most recent one and that it respects the legal requirements.

- **How:** There are two ways:
 1. Ask a notary to prepare a probate document.
 2. Get a court decision on your own or with the help of a lawyer.

To learn more about going to court yourself, read Éducaloi’s website article on probate. You can also get a pamphlet on probate from Publications Québec. It is mentioned in the Useful Resources section of this guide.

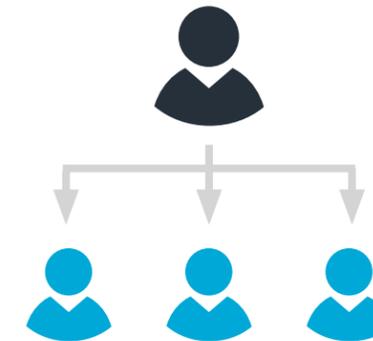
- **Cost:** Usually more than \$1,000
- **How long:** Usually about six to 12 weeks. But if you go through the courts, it varies in each region of Quebec.

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.

There is no will

Legal rules will decide which relatives inherit and how much. It is 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 on Éducaloi’s website: www.educaloi.qc.ca/en/capsules/dying-without-will

A notary or lawyer can provide a document saying who will inherit. This is called a “declaration of heredity.”

Some institutions, such as insurance companies, the government and banks, will ask for this declaration to deal with the deceased’s money.

- **How:** To get a declaration, you must provide proof of death and information on the family of the deceased.
- **Cost:** It depends on the fees of the notary or lawyer and the complexity of the situation.
- **How long:** Usually a few days

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. A person who inherits can be a liquidator.



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.

How to know who the liquidator is

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

If the will does not name anyone, or there is no will, the people who inherit name the liquidator by a majority decision. If they do not name one, or disagree on who to name, a court can name one.

The name of the liquidator must be registered in the Registre des droits personnels et réels mobiliers (RDPRM), a Quebec-government registry. It must also be registered in the land registry (“register foncier”) if the person owned property. For contact information for these registries, see the Useful Resources section of this guide.

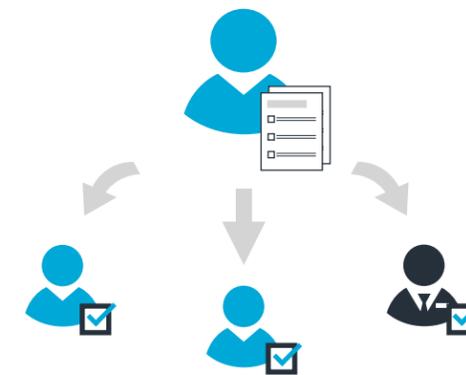
Step 5: The Liquidator’s Tasks

The liquidator must wrap up all the affairs of the person who died and carry out instructions in the will, if there is one. This is also called settling the succession. Succession is the official name in Quebec law for an estate.

The liquidator has eight main tasks, listed in the pages that follow.

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 must respect the will and the law and protect the rights of the people who will inherit.



Refusing to be liquidator

The person named as liquidator does not 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.

This is important because the law gives people the right to refuse an inheritance. Why would you want to refuse? It might be because the person who died had a lot of debts. This is explained more below.

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!

Usually, the people entitled to inherit are not responsible for debts of the person who died over and above the amount they inherit.

But they can be held responsible in these situations:

- they don't follow the legal rules in settling the estate
- they refuse to or don't settle the estate
- they take things belonging to the person who died

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

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

This includes the Québec Pension Plan, the Quebec health insurance board (medicare), 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 a spouse and children

Death puts an end to marriage or a civil union. (Civil union is a kind of marriage recognized in Quebec.)

The surviving spouse has a right to claim certain money coming from a division of property under family law rules, and a division under what is called a matrimonial or civil union regime.

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 is a good idea to get legal advice on this.



Wondering if you are named in a will?

You can try asking the liquidator for a copy of the will. To get a copy from a notary who made a notarized will, you will need the will search certificates and proof of death explained earlier in this guide.

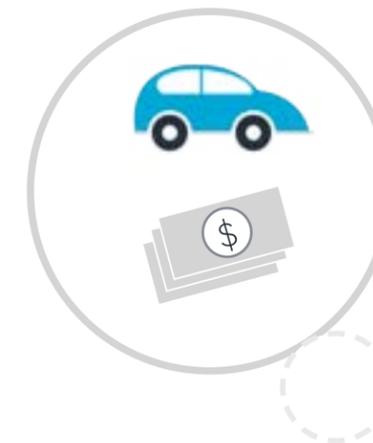
Task 5: Make a list of money, property and debts

This list is called an inventory. It is important because it lets people entitled to inherit know whether the deceased had more debts than property and money. Remember that these people can turn down their inheritances if they are worried about these debts.

If all the people entitled to inherit agree, the liquidator does not have to make an inventory. But by making this decision, the people entitled to inherit become responsible for any debts of the deceased.

What's in an inventory?

- a description of things belonging to the deceased and their value (e.g., money, buildings, cars, investments)
- a description of any debts and payments to be made (e.g., taxes, money owed to a surviving spouse and children, funeral costs, fees for 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 is property outside Quebec?

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

Task 6: Pay taxes and get tax certificates

Before handing out any property or money, the liquidator must file and pay provincial and federal taxes.

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 to pay any debts and give out specific gifts mentioned in the will, the liquidator pays the debts and gives out these gifts.

A specific gift means the will left a specific thing to a specific person (or a specific thing to several people) who would not otherwise inherit.

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

Task 8: Give a report to 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 is 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 person who died and the place the report can be looked at by people with an interest in the estate, such as people owed money.

This is the end of settling the estate.



Giving money and property in advance

If the estate obviously has more money and property than debts, the liquidator can give a kind of advance on an inheritance even before preparing a final report on settling the estate.

Also, if they all agree, and even before the liquidator finishes settling the estate, the people entitled to inherit can divide among themselves property that is not very valuable. This includes clothing, diplomas and souvenirs.

Useful Resources

Information on Death, Estates and the Law Generally

Éducaloi

www.educaloi.qc.ca

Switch to English.

Services Québec

Website section “What to Do in the Event of Death.”

www.gouv.qc.ca

Switch to English. Click on “Death” in the menu in the middle of the page.

You can also download a PDF version of this information from the same page.

Or call:

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

Quebec Justice Department

www.justice.gouv.qc.ca

Switch to English. Under the “Most popular” menu, click on “Successions.”

Publications Québec

Pamphlet on probating a will

www.publicationsduquebec.gouv.qc.ca

Switch to English. Put the word “probate” in the search box on the top left to get to the pamphlet.

Chambre des notaires (Quebec order of notaries)

www.cnq.org

Switch to English. Go to “Successions and Wills.”

Find a Notary

Chambre des notaires du Québec

www.cnq.org

Switch to English. Go to “Find a notary” at the top of the page. You can search by region, language, accessibility for people with mobility challenges and notaries who accept legal aid.

Free, Bilingual Notary Information Line

Chambre des notaires du Québec

1-800-668-2473

Get legal information from a notary during business hours.

Find a Lawyer and Get a Free or Low-Cost Consultation

Quebec Bar (professional order for lawyers)

www.barreau.qc.ca/en/public/trouver/avocat/index.html

Or call:

- Island of Montreal: 514-866-2490 (first 30 minutes for \$30)
- Longueuil: 450-468-2609 (first 30 minutes for \$50)
- Quebec City, Beauce and Montmagny: 418-529-0301 (first 30 minutes for free)
- Other regions of Quebec: 1-866-954-3528 (one-hour consultation for \$100)

Free and Low-Cost Legal Services (legal clinics, etc.)

Quebec Bar List

www.barreau.qc.ca

Switch to English. Locate “For the Public” in the middle of the page. Click on “Access to Justice” on the left side, then “Pro bono or low cost services.”

La boussole juridique

www.votreboussolejuridique.ca

Search for legal information and services by region of Quebec. (Website in French only)

Community Justice Centres (Centres de justice de proximité)

www.justicedeproximite.qc.ca

Get legal information in person and sometimes by phone.

Switch to English. Go to “Find a Center” to see if there is one near you.

Check for a Will

Wills made by a notary: Chambre des notaires registry

www.cnq.org

Switch to English. Click on “The Chambre” near the top of the page. In the “Services” list that appears, click on “Search the Registers of Testamentary Dispositions and Mandates.”

Or call:

- 514-879-1793
- 1-800-263-1793

Wills made by a lawyer: Barreau du Québec registry

www.barreau.qc.ca

Switch to English. Click on “For the Public” in the middle of the page. Look on the left side to find “Will or mandate in case of incapacity.” Click on “Search of wills and mandates.”

Or call:

- 514-954-3411
- 1-844-954-3411

Get Death Certificates and Related Documents

Directeur de l'état civil

www.etatcivil.gouv.qc.ca

Switch to English.

Or call:

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

Get Tax Certificates

Canada Revenue Agency

www.cra-arc.gc.ca

Go to English.

Enter “clearance certificate” in the search box on the top right.

Revenu Québec

www.revenuquebec.ca

Switch to English. Click on “Citizens” then “Common Situations.” Click on “Dealing With a Death.” See “Certificate Authorizing the Distribution of Property.”

Éducaloi explains the law to Quebecers in everyday language.



Read about these and other topics at www.educaloi.qc.ca:

- Planning ahead
- Wills
- Pre-arranged funeral contracts
- Probating a will
- Dying without a will
- Life insurance



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