

SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

PROBATE DIVISION

GENERAL INFORMATION FOR HEIRS AND LEGATEES (For estates of decedents dying from January 1, 1981, through June 30, 1995)

INTRODUCTION

Pursuant to the provisions of D.C. Code, sec. 20-704(b), the personal representative is required to send a statement to each heir and legatee containing certain information regarding the administration of a deceased person's estate, including:

- (1) the typical duties of a personal representative in estate administration, including a description of the essential steps of estate administration;
- (2) how fees for estate administration are determined in this jurisdiction and that the personal representative is to be provided as soon as feasible with an estimate of attorney's fees to be claimed against the estate;
- (3) the rights of heirs and legatees, the assistance an heir or legatee may provide to the personal representative, and the role of the Register of Wills. The personal representative shall certify to the Register that notices under this subsection have been given.

The information hereinafter set forth is intended only to highlight, very briefly, certain aspects of this process and is not intended to be a detailed and complete legal guide for the administration of an estate. Depending on the factual situation in a particular case, the rights of certain classes of heirs and legatees may differ from others, so that this summary is not meant to include a description and explanation of the entire probate procedure as it may affect the rights of all parties. For more complete information, refer to Title 20 of the District of Columbia Code, court decisions relating thereto, and the Court Rules, or consult an attorney.

I. TYPICAL DUTIES OF A PERSONAL REPRESENTATIVE

- (a) The personal representative must determine the kind, amount, and location of all assets of the decedent and, where feasible, bring them into the personal representative's possession.
- (b) The personal representative must determine the whereabouts of all of the decedent's heirs and legatees.
- (c) Within three months of appointment, the personal representative must file a detailed inventory and appraisal of all assets with the Court.
- (d) The personal representative, within 20 days after appointment, must publish a notice in the newspaper advising persons who have claims against the decedent to file said claims with the Court. (Creditors ordinarily have six months after the first date of publication in the newspaper to file their claims.) After the expiration of this publication period, the personal representative may pay the valid claims of the decedent's creditors.
- (e) The personal representative obtains court approval for payment of compensation to personal representative and attorney (see section II below).
- (f) Within one year and one day of the first date of publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs, an account must be filed with the Court setting forth all assets of the decedent's estate, all transactions made by the personal representative (such as purchases, sales, leases, etc.), all disbursements made by the personal representative, and a statement as to the value of any remaining assets. This account will be audited by the Court in a very cursory and informal way if all heirs and legatees consent to such audit. Otherwise, the personal representative will be required to

exhibit detailed documentation to support every asset and disbursement shown in the account.

- (g) The personal representative is responsible for the preparation and filing of decedent's final federal and state income tax returns, estate income tax returns, and inheritance and estate tax returns, both federal and state, where such returns are required by law.
- (h) After approval by the Court of the personal representative's final account, distribution is made of the remaining assets to the heirs or legatees. If the estate remains open (i.e., if the approved account was not a final account), the personal representative must file an account every nine months thereafter until the estate can be closed.

II. DETERMINATION OF FEES

- (a) The personal representative and the attorney employed by the personal representative are each entitled to be paid for services rendered.
- (b) As soon as feasible, the attorney must provide an estimate to the personal representative of the fees expected to be charged by the attorney.
- (c) Unless the will specifically authorizes compensation in a stated amount, compensation cannot be paid from estate assets without first obtaining Court approval. The compensation awarded by the Court shall be based on time spent, the responsibilities assumed, the nature of the service rendered, and the results achieved. Detailed statements must be filed with the Court by the personal representative and attorney itemizing their efforts.

III. RIGHTS OF HEIRS AND LEGATEES

- (a) An heir or legatee has the right to contest the validity of a will within six months of the first date of publication of the Notice of Appointment, Notice to Creditors and Notice to Unknown Heirs.
- (b) An heir or legatee has the right to decide whether the Court should conduct a cursory review or a detailed audit of the personal representative's books and records.
- (c) An heir or legatee has the right to file written objections with the Court as to:
 - (1) the contents of, or value stated in any appraisal;
 - (2) the contents of any account; and
 - (3) the amounts sought in any request for compensation for services rendered by a personal representative or the personal representative's attorney.
- (d) An heir or legatee has the right to obtain a copy of all documents identified in (c) above. The personal representative can choose to provide a copy of these documents to the heirs or legatees or to notify the heirs or legatees that the said documents are filed and available at the Court.
- (e) Prior to the sale or transfer of a particular piece of real or personal property, an interested person may request the Court to have a priority placed on the sale or transfer. After a hearing, the Court will decide the order in which estate property will be sold or transferred.
- (f) An heir or legatee in possession of property that said person is presumptively entitled to receive at some later time as heir or legatee, may retain said property unless the personal representative requests possession of the property for purposes of estate administration.
- (g) An heir or legatee has a duty to inform the personal representative of all matters which will aid in the administration of the estate.

IV. ROLE OF THE REGISTER OF WILLS

- (a) The Register of Wills is the administrative officer of the Court who serves as Clerk of the Probate Division.
- (b) It is the duty of the Register of Wills to ensure that prompt and accurate reports and accounts are filed, creditors are paid, and distribution is made to the proper persons.
- (c) Any questions or information concerning the estate administration should be addressed to the personal representative. If the heir or legatee is not satisfied with the response or action of the personal representative, the matter may be brought to the attention of the Court by filing a petition with the Register of Wills, 515 5th St, N.W., 3rd Floor, Washington, D.C. 20001.