

# SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

## PROBATE DIVISION

### GENERAL INFORMATION FOR HEIRS, LEGATEES, AND CREDITORS (For estates of decedents dying on or after July 1, 1995)

#### INTRODUCTION

Pursuant to the provisions of D.C. Code, sec. 20-704(b), the Personal Representative of a decedent's estate is required to send this statement of general information to each heir, legatee, and known creditor. The law requires that this statement contain the following information:

- (1) the typical duties of a Personal Representative, including a description of the essential steps in both supervised and unsupervised estates;
- (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;
- (4) if the Personal Representative is not subject to continuing court supervision, the right of any interested person, on petition to the Court duly presented and filed with the Register, to begin a proceeding requiring notice to interested persons and a hearing to impose Court supervision on the estate, or to seek any other court order necessary for protection of rights of the interested person.

This information is intended only to highlight 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. 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, and consult an attorney.

The following definitions are provided to help understand this information:

**Creditor:** A person or organization owed money by the decedent at the time of the decedent's death.

**Heir:** A relative of a decedent who inherits property if the decedent had no will.

**Interested Person:** An heir, legatee, or creditor who timely presents a claim of \$500 or more.

**Legatee:** A person who receives property under the terms of a will.

**Personal Representative:** The person appointed by the D.C. Superior Court to settle the financial affairs of someone who has died.

**Supervised Administration:** An estate administration wherein the actions of the personal representative are supervised by the court, in that an inventory and accounts are filed and the accounts are audited by the Court.

**Unsupervised Administration:** An estate administration wherein the actions of the personal representative generally are not supervised by the court.

As an heir, legatee, or creditor, it is important that you understand your rights, what to expect during the administration of the estate, and how to protect your interests in the estate. An administration begins with the appointment of the personal representative by order of the Court. The administration will be unsupervised unless the court order of appointment specifically provides for supervised administration.

An unsupervised personal representative is not required to file an inventory or accounts with the Court and is not subject to continuing court supervision. If the estate is supervised, the personal representative will be required to file an inventory and accounts, which are audited by the Court.

Each time an account or other notice from the personal representative is provided to you, it will state how and when you may oppose or object to that document. Note carefully that you must make any such objection within the stated time period or you will lose the right to do so. Because of these time limits, you should carefully and promptly review all documents received from the personal representative.

## **I. TYPICAL DUTIES OF A PERSONAL REPRESENTATIVE**

(a) Both supervised and unsupervised Personal Representatives must:

- (1) determine the kind, amount, and location of all assets of the decedent and, where feasible, bring them into the Personal Representative's possession;
- (2) determine the whereabouts of all of the decedent's heirs and legatees and make reasonable efforts to identify creditors of the decedent;
- (3) file a bond to protect the interests of all interested persons and creditors unless excused by the testator in a will or excused by the interested persons;
- (4) within 20 days after appointment, publish a notice in the newspaper advising persons who have claims against the decedent to file claims with the Court, and after the expiration of this publication period (which is 6 months), pay the valid claims in accordance with the law;
- (5) within three months after appointment, prepare and deliver or mail to each interested person a detailed inventory and appraisal of all estate assets;
- (6) within 90 days after appointment, file both original proofs of publication and a verification and certificate of notice with the Register of Wills, certifying that notices required under D.C. Code, sec. 20-704(b) have been given;
- (7) prepare and file 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.

(b) An unsupervised Personal Representative:

- (1) may file the inventory with the Court at his or her option;
- (2) shall account to interested persons for all receipts, disbursements and distributions of estate assets at reasonable intervals or on reasonable demand. These accounts are not filed with the Court;
- (3) may make full distribution and close the estate by filing a Certificate of Completion at any time after expiration of the time for filing creditors' claims against the estate. If no Certificate is filed, the appointment of the unsupervised Personal Representative will terminate automatically 3 years after appointment, unless a Request for Extension is filed and granted by the Court.

(c) A supervised Personal Representative:

- (1) must file the inventory with the Court within three months of appointment of the personal representative;
- (2) 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, prepare, deliver to interested persons and file with the Court an account setting forth all assets of the decedent's estate, all transactions made (such as purchases, sales, leases, etc.), all disbursements, 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;
- (3) continue to prepare, deliver to interested persons, and file accounts every 9 months after the first account until a final account is filed;
- (4) within 30 days after approval by the Court of a final account, distribute remaining assets to the heirs or legatees. Approval of a final account automatically closes the estate and terminates the appointment of the Personal Representative if requested in the final account and approved by the Court. If termination of appointment is not approved, the Personal Representative may file a Petition to Terminate accompanied by all receipts not previously filed.

## **II. DETERMINATION OF FEES**

- (a) The Personal Representative and any other agent employed by the Personal Representative are each entitled to reasonable compensation for services rendered.
- (b) As soon as feasible, employees or agents providing services for estate administration must provide an estimate to the Personal Representative of the fees expected to be charged.
- (c) The reasonableness of the compensation may be reviewed by the Court only upon request of an interested person and after notice and hearing.
- (d) The Personal Representative and any agent employed by the estate should maintain accurate records of the date, time, and nature of the services rendered, as well as the results achieved in order to justify the reasonableness of the fees upon request of an interested person or the Court.

## **III. RIGHTS OF INTERESTED PERSONS**

(An INTERESTED PERSON means an heir, legatee or a creditor who has timely presented a claim in excess of \$500 that has not been barred or discharged.)

- (a) In the absence of a waiver in a decedent's will, any interested person has the right to require the personal representative to give bond with surety approved by the Court to protect his or her interest in the estate. If a bond is waived in a decedent's will, any interested person whose interest exceeds \$1,000 has the right to request a bond.
- (b) An interested person may at any time petition the Court for an Order protecting his or her rights or to resolve questions arising in the course of a supervised or unsupervised administration.
- (c) In an unsupervised administration, an interested person may, at any time before the termination of a probate proceeding, petition the Court for supervised administration or any other court order necessary to protect the rights of the interested parties. The change from unsupervised to supervised will be prospective only.
- (d) An heir or legatee has the right to contest the validity of a will within six months of the first date of the notice of publication.
- (e) In a supervised administration, an interested person 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.
- (f) In an unsupervised administration, an interested person is entitled to accountings by the personal representative at reasonable intervals and may request same upon reasonable notice to the personal representative. An interested person may also petition to compel an unsupervised Personal Representative to account to the Court.

- (g) An interested person has the right to file written objections with the Court as to:
  - (1) the contents of or value stated in any inventory;
  - (2) the contents of any account; and
  - (3) the amounts stated for compensation for services rendered by a Personal Representative or any agent employed by the Personal Representative.
- (h) An interested person has the right to receive a copy of all documents identified in (g) above and to request justification for fees and other actions of the personal representative and agents employed by the personal representative.
- (i) 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.
- (j) A person in possession of property that the 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.
- (k) An interested person has a duty to inform the Personal Representative of all matters which will aid in the administration of the estate.
- (l) Creditors must present claims within six months of the first notice of publication. See Chapter 9, Title 20 of the D.C. Code.

#### **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) In a supervised administration, 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. In an unsupervised administration, the Register of Wills generally will not monitor the administration.
- (c) Any questions or information concerning the estate administration should be addressed to the Personal Representative. If an interested person 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 5<sup>th</sup> St, N.W., 3<sup>rd</sup> Floor, Washington, D.C. 20001.