

**INSTRUCTIONS TO PERSONAL REPRESENTATIVE
FOR ADMINISTRATION OF ESTATE**

The following contains general information about the laws in Oklahoma and is intended to act solely as a guideline for administration of an estate trust following the death of an individual with a will. The laws concerning administration of estates and related areas such as social security, taxation and probate are constantly changing. You should consult with a lawyer.

I. As soon as reasonably possible after the death of the decedent, you should take the following actions:

- A. *Life Insurance.* You should gather all original life insurance policies on the life of the decedent and begin the claim procedure. This may be done by contacting (either by telephone or in writing) each insurance company and requesting that they forward to you the appropriate claim forms. However, the decedent's insurance agent, if any, will usually handle this for you. You should follow the same procedure for claims under any annuities or retirement benefits.
- B. *Social Security Benefits.* You should contact the local Social Security office to determine what, if any, benefits may be payable.
- C. *Bank and Investment Accounts.* You should notify each bank and brokerage or investment company where the decedent had an account or other cash investment (such as Certificate of Deposit). You will need to become a signatory on all accounts as the successor trustee (if you are not already on the accounts). If the accounts are not owned by the trust, then notify us as soon as possible to determine whether the funds can be transferred to the trust or whether a probate is required.
- D. *Safe Deposit Box.* You should contact any banks where the decedent had a safe deposit box and make arrangements to have the box inventoried (if you are not already on the account for the safety deposit box). This is a simple procedure whereby you will make an appointment and you and a bank employee will jointly make a list of all items in the safe deposit box. You should deliver a copy of the inventory to us as your attorney.
- E. *Payment of Funeral and Other Expenses.* You may, if you wish, go ahead and pay funeral expenses, for which you will later be reimbursed by the estate. You may also pay other minor necessary expenses, such as utility bills, for which you will also be reimbursed. For reimbursement purposes, you should keep a list of expenses paid. However, you should delay payment of as many items as possible until after you have been appointed personal representative of the estate.

- F. *Attorney.* As soon as possible, you should make an appointment with us and bring with you the following information and documents:
1. The will (if any), trust agreement (if any) and death certificate;
 2. A list of the full names, ages and residential mailing addresses of all potential heirs, legatees and devisees (this will include spouse, children, children of deceased children, mother and father if there are no children, as well as all other organizations or individuals who may be named in the Will or Codicils).
 3. A preliminary list showing the ownership (trust, individual or joint), the nature (real estate or personal property) and approximate value of the decedent's assets.

The attorney will determine from this information whether or not a probate proceeding is necessary and, if so, will be able to prepare the required court documents. (The remainder of this instruction sheet assumes that probate proceedings will be required).

II. Initial Court Proceedings

- A. *Pre-Appointment.* Your attorney will prepare a Petition to have you appointed the Personal Representative of the estate and to have the Will admitted to probate (if there is a Will). After you have signed the Petition, the Petition, the Will and other documents will be filed with the court. A hearing will be set approximately ten days after the documents are filed. In the meantime, a notice of the hearing will be mailed to all of the heirs, devisees and legatees. They will not be required to attend the hearing but may do so if they so desire.
- B. *Admitting Will to Probate.* It may or may not be necessary for you to be present with your attorney at the initial hearing; each Judge has their own preferences and will let your attorney know beforehand if you are required to attend. If none of the interested parties contest the Will, the hearing will be very informal and will usually be held in the judge's chambers rather than in a courtroom. The judge will admit the Will to probate and will issue to you "Letters Testamentary," which you will sign in the presence of the judge. If there is no Will then the laws of the State of Oklahoma govern how the estate is to be distributed and the Court will appoint an "administrator" whose functions are the same as an executor under a Will. These Letters are your legal authority to transact business for the estate. Your attorney will provide you with a number of certified copies of the Letters for your use in handling the estate business.
- C. *Notice to Creditors.* Immediately after the hearing, your attorney will have you sign a Notice to Creditors. Oklahoma law requires that this Notice be mailed to all known creditors of the deceased that are reasonably ascertainable to advise creditor's to file claims for your approval by a specific presentment date (2 months from filing of Notice).

III. After you have been appointed Personal Representative of the estate, you should take the following actions

- A. *Bank Account.* As soon as possible after you have been appointed Personal Representative, you should take a copy of the death certificate and a certified copy of your Letters Testamentary and open an estate checking account at the bank of your choice. The account should be titled:

Your Name, Personal Representative
of the Estate of Decedent's Name,
Deceased.

All cash transactions, no matter how small, should be handled through this checking account, so that later the account will provide a single complete record of all transactions. This will make it much easier to complete some of the items which are necessary later, such as estate and income tax returns. It may be easiest to open this account where Decedent's personal account is located although this is not required.

- B. *Marshal Cash Assets.* As soon as possible you should begin to collect all of the decedent's cash assets, such as checking and savings accounts, brokerage cash accounts and certificates of deposit. You should either close all such accounts and deposit them to the estate checking account or transfer them to your name as Personal Representative of the Estate. Assets such as certificates of deposit can be withdrawn or transferred to your name as Personal Representative of the estate at no interest penalty.

You should maintain enough cash in the checking account to pay the decedent's debts and the expenses which will be incurred in the administration of the estate and retain the remainder in an estate savings account, certificates of deposit or other types of cash accounts which are readily available. Your attorney or your accountant can assist you in making this decision.

- C. *Safety Deposit Box.* You may wish to maintain an estate safe deposit box. If the decedent had an individual safe deposit box, you can usually simply have the same box re-registered in your name as Personal Representative of the estate.
- D. *Other Assets.* You may wish to consider transferring other estate assets, such as stocks and bonds, real estate, and mineral interests, to your name as Personal Representative of the estate. However, it is frequently easier simply to leave such assets in the decedent's name until the probate proceedings are completed and it is appropriate to distribute the assets to the beneficiaries. Your attorney can assist you in making this decision.
- E. *Payment of Expenses.* You should begin to deposit all estate income to, and pay debts and administration expenses from, the estate checking account. Administration expenses include such items as court costs, bank charges, expenses of maintaining (not improving) estate property, and your out-of-pocket expenses such as postage, travel and long-distance telephone expenses.

Your attorney will discuss with you the procedures for paying debts, which are expenses incurred by the decedent prior to death but which were unpaid at the time of death. In general, unless they are of a very small amount, you should not pay any debts until the creditor has submitted a claim which both you and the probate judge have approved. Even family members to whom the decedent may have owed money must submit a claim. You definitely should not pay any debts for which a claim was submitted after the two-month period following publication of Notice to Creditors (as discussed above) without first consulting your attorney.

- F. *Listing Assets.* You should begin to compile a very detailed list of the decedent's assets, both those held in the decedent's name only and those held in the decedent's name jointly, and if possible determine the value of those assets as of the date of death. This information will be necessary in order to prepare estate tax returns, if required.
- G. *Estate Tax Returns.* Estate tax returns are due nine months from the date of death. There is no longer an Estate Tax in the State of Oklahoma for deaths occurring after January 1, 2010, therefore an Estate tax return will not be required for these deaths. A federal Estate tax return will only be filed if Decedent's Estate has gross assets in excess of the Estate tax exemption for that year. For deaths occurring in 2019 that amount is \$11,180,000 per person or \$22,360,000.
- H. *Income Tax Returns.* You should also give some thought as to whom you will retain to prepare the necessary income tax returns for you. Two types of income tax returns are required.
 - 1. Decedent's Final Individual Income Tax Return. This tax return will cover the period from January 1 of the year in which the decedent died to the date of death. It will be due on the same date the decedent would file an income tax return if he or she were still alive.
 - 2. Fiduciary Income Tax Returns. Beginning on the date of death, the estate, rather than the decedent, becomes the taxpayer for income tax purposes. You will need to have the appropriate estate income records, such as your Personal Representative's checking account records, for the preparation of this return. You should consult your accountant or your attorney regarding the options available to you for this purpose.

The fiduciary (estate) income tax return is different from the estate tax return in that it cover only income, whereas the estate tax return covers the value of the assets owned and not the income produced from them.

IV. Final Court Proceedings

- A. *Closing Probate.* When all the debts and expenses have been paid, all necessary tax returns have been filed and approved, and any other estate business has been completed, it is appropriate to close the probate proceedings. At this time, your attorney will prepare a Petition for Distribution which you will sign. The Petition

will be filed with the court, set for hearing, and notice of the hearing given as was done for the hearing at which you were appointed Personal Representative of the estate.

- B. *Final Decree.* At that hearing, the court will enter a Final Decree of Distribution whereby you will be authorized to distribute all of the estate assets to the appropriate beneficiaries.
- C. *Discharge.* After all the estate assets have been distributed to the appropriate beneficiaries, you will be discharged as Personal Representative of the estate.

V. Some items during the administration of an estate require additional court approval. Accordingly, you should consult your attorney if you are contemplating any of the following types of actions

- A. Claiming a widow's allowance;
- B. Selling or otherwise disposing of any estate property;
- C. Investing any estate monies in anything other than Certificates of Deposit or U.S. Treasury Securities;
- D. Continuing to operate a business owned or operated by the decedent.

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PROBATE PROCEEDINGS

Minimum
Time Required

1. File Petition for Probate, Last Will, etc.
 - a. A hearing date will be set by the judge approximately two weeks from the date the Petition is filed.
 - b. Notice of the hearing will be published and will be mailed to all of the heirs, devisees and legatees. They will not be required to attend the hearing but may do so if they so desire.

2. Hearing to Admit Will to Probate
 - a. Depending on the County, it may be necessary for you to be present at this hearing. Some counties allow you to sign verified letters prior to the hearing if you are unable to appear. If the Will is not contested, the hearing will be very informal and will be held in the judge's chambers rather than in a courtroom.
 - b. At this hearing the judge will admit the Will to probate, appoint you Personal Representative of the Estate, and will issue to you "Letters Testamentary," which you will sign in the presence of the judge. The Letters Testamentary are your legal authority to transact business for the estate.

3. File and Publish Notice to Creditors
 - a. Immediately after the initial hearing, you will sign a Notice to Creditors. Oklahoma law requires that this Notice be published to advise all of the decedent's creditors to file claims for your approval or rejection. Creditors have two months to submit claims from the date of first publication or they are forever barred.

4. File Petition and Order for Widow's Allowance
 - a. If an allowance is to be paid by the estate to the surviving spouse, an application for the allowance can be filed with the Court at any time after the initial hearing in accordance with 58 O.S. §311. The Court

No earlier than 10 days from publication of Notice of Hearing and not later than 30 days

can approve the allowance at the time the application is filed.

2 months from first publication of Notice of Creditors

5. File Consents, Petition and Order waiving sales approvals, annual and final accounting
 - a. After the two months during which creditors may submit claims has expired and if all of the heirs, devisees and legatees sign written consents, the Court may waive the usual requirements that sales and cash accounting be filed and approved by the Court.
6. File estate tax returns
 - a. Federal and state estate tax returns must be filed on or before nine (9) months from date of death. There is no longer an estate tax in the State of Oklahoma for deaths occurring on or after January 1, 2010. A federal estate tax return will only be filed in Decedent's estate has gross assets in excess of the estate tax exemption for that year. For deaths occurring in 2014 that amount is \$5,340,000 per individual or \$10,680,000 per couple.
7. File Petition for Distribution
 - a. After all debts and expenses have been paid, federal estate tax releases have been issued, if required, by the appropriate authorities and any other estate business has been completed, a Petition for Distribution will be filed. A cash accounting of all estate transactions must be included if the Court has not waived that requirement (see No. 5 above).
 - b. A hearing date will be set by the judge approximately three weeks from the date the Petition is filed.
 - c. As was done for the initial hearing, Notice of the hearing will be published and will be mailed to all of the heirs, devisees and legatees. Again, they will not be required to attend the hearing but may do so if they so desire.
8. Hearing on Petition for Distribution Final Decree
 - a. It should not be necessary for you to attend the hearing, although you may do so. Again, the hearing

No less than 20 days from date of filing Petition

will be informal and will be held in the judge's chambers.

- b. At this hearing the Court will enter a Final Decree of Distribution authorizing distribution of all of the estate assets pursuant to the terms of the Will. At this time you are free to dispose of assets pursuant to the terms of the will.

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