

800 North French Street, 2nd Floor
Louis L. Redding City/County Bldg.
Wilmington, DE 19801



Phone 302-395-7800
Fax 302-395-7801
www.nccde.org/wills

Ciro Poppiti, III
Register of Wills

STEPS FOR PROBATING AN ESTATE

A **Personal Representative**, (PR) also referred to as an **Executor/Executrix** or **Administrator**, is the fiduciary put in charge of settling a deceased person's estate. There is a host of duties and responsibilities imposed by law upon the PR. It is the personal representative's duty/responsibility to ensure that all documents have been filed, fees are paid, and deadlines are met on the probated estate. Failure to do so can and may result in penalties, which may include fees, court appearance, and/or removal of a personal representative.

Note that forms, instructions, and samples can be found on our website: www.nccde.org/152/wills .

Blank/incomplete forms will not be logged as filed and may be returned to you for completion. As a result, the estate may be subject to a complex case fee as well as late fees.

Overdue documents are subject to late fees. Missed appointments without 24 hour notice are subject to a \$25 fee.

1. **Filing and Proving the Will (if the decedent had a will)** – If applicable, this step has been completed.
2. **Opening the Estate** – You had an appointment with a deputy in our office. You received a complete packet of forms and samples/instructions from your deputy. This step has been completed.
3. **Inventory - START HERE**

DUE DATE: _____ FILING FEE: PREPAID, ADDITIONAL PAGES \$1/PAGE

Within three months after the granting of letters (the date the estate is opened), an Inventory Form 600RW is to be filed with this office. The inventory is a list of the assets of the estate that have been gathered by the personal representative during the three months prior. Note that you received an instruction sheet in your packet to assist in completing this form. On the inventory, the personal representative must list the personal, joint and real estate assets on the proper schedule pages, and the value of those assets at the time of death. Also to be included with real estate is the name, address, relationship and share of the person(s) who inherited the real estate when the owner died as well as the tax parcel number of the property. Overdue documents will be charged a late fee. In addition, there is a penalty for the third returned inventory. The Inventory form should not be submitted to the deputy. The Inventory form should be submitted to the Register of Wills Accounting department via mail or drop off. The inventory will be audited and if errors are discovered, the personal representative will be contacted within a few days. The inventory is not considered filed until all math is correct and pages are filled out correctly. You may check the filing date of your inventory by checking the Wills Search on our website, www.nccde.org/152/wills.

4. **State of Delaware, Division of Revenue Estate Tax (302) 577-8170**
As of 1/1/99, there is no Delaware inheritance tax. For deaths prior to 6/30/2009, nothing is required to be filed with this office. For more information, contact the Division of Revenue or a tax advisor.

Deaths occurring 1/1/2018 to present: There is no longer a Delaware estate tax. No affidavit is required.

Deaths occurring between 7/1/2009 and 12/31/17: If no Delaware estate tax is due, an Affidavit That No Delaware Estate Tax Return is Required must be filed with the Register of Wills. The filing fee for the affidavit is \$10.00.

5. Accounting

DUE DATE: _____ **RECORDING AND INDEXING: PREPAID AT OPENING**

The next filing requirement with the Register of Wills is the accounting. It is to be filed **within one year of opening the estate**. Your packet includes a sample for your reference. An accounting begins with the total value of the decedent's solely owned personal assets as stated on the inventory ("total of probate assets") and any additional amount which may have come into the estate since the inventory was filed. On the second and third pages, deductions for administrative costs, debts, funeral expenses, and personal representative and attorney's fees are listed. Deductions for early distributions to beneficiaries are not considered estate expenses and should not be listed. All expenses should be identified individually, and the amount paid shown. You can also list these items on attachments categorized by type of expense. Write or type "See attached" and place the total for that category on the associated subtotal line.

If the decedent's real estate is sold under the direction of the will or by court order, the net proceeds from the sale are to be included under the additional assets section of the accounting. A copy of the settlement sheet must be attached to the accounting.

To compute the Total Expenses, add all the deductions on page 2 as well as Attorney's Fees and Commissions Allowed on the top of page 3. (To assist in determining commissions, please refer to Chancery Court Rule 192.) Subtract Total Expenses from the Total Assets (carried from page 1). **The difference is known as the "net personal estate."** The Closing Costs are then determined by taking 1.75% of the net personal estate, **plus** .25% of the net personal estate (**ONLY IF date of death occurred on or after 7/1/2018**) **plus** \$5.00 for each release that you wish to file with the Register of Wills. To arrive at the Total Amount Disbursed, add Total Closing Costs to the Total Expenses. The "Balance Remaining in the Hands of the Personal Representative Due the Estate" equals the difference between the Total Assets on page 1 less the Total Disbursed.

The following forms need to be filed with the accounting:

Form N.C. 5 – List of Beneficiaries. For every beneficiary listed on this form, one of the following forms should also be filed:

- **Form N.C. 2** – Waiver from each beneficiary to receive mailed notice that an accounting has been filed.
- **Form N.C. 3** – Same as above; used if beneficiary is legally incapacitated (example, under age, etc.).

If the N.C. 2 form cannot be obtained from a beneficiary, then present a stamped envelope addressed to the beneficiary to the Register of Wills office and complete form N.C. 1 at closing (Step 6 below) for mailing.

Submit the complete accounting to the deputy via mail or drop-off. At this time, you will also need to submit a cancelled check or receipts evidencing payment for every debt and expense (deductions) listed on the accounting. If the above NC5 and NC2 forms are complete, please submit those as well. The deputy will audit the account and you will be notified that it has been approved or if corrections are necessary. This process will take at least 10 business days. You may verify that the account has been received by the deputy by checking the estate information under Wills Search on our website, www.nccde.org/152/wills.

6. Closing the Estate

After the accounting has been audited and approved, the deputy will contact you to schedule an appointment to close the estate. At the closing, the personal representative will be administered an oath, sign a form for that oath, and must present a check or cash for any final costs due. The accounting will go through a final check process. Once that has been completed an Estate Closed Document will be issued verifying that all filing requirements have been met and all fees have been paid.

