

*Customer service is professional and compassionate at the Probate Court. Assistance available through this brochure is meant to help the public understand only probate procedures. It is not legal advice.*

**The best advice the Probate Court can give you is to consult with an attorney.**

*Fees for the estate's attorney and other professionals assisting in tax matters, etc are approved estate expenses. They are not the personal responsibility of the PR so long as the PR has performed his/her duties in accordance with the law.*

Creditors have 8 months from the running of the news ad to file claims against the estate. Distributions of estate assets before the 8 months could result in serious legal problems if there are insufficient assets in the estate to pay the claims.

Taxing authorities are not bound by the 8 months time period.

#### **SOUTH CAROLINA CODE OF LAWS - TITLE 62**

- ❑ SC Code Ann. §62-7-303, (a), (b) and (c)
- ❑ SC Code Ann. §62-3-913 b
- ❑ SC Code Ann. §62-3-913 c
- ❑ SC Code Ann. §62-3-803
- ❑ SC Code Ann. §62-3-807 b



#### **CAN I LOOK UP TITLE 62 ON THE INTERNET?**

---

- ❑ You can find the SC Code of Laws, Title 62 on our website at [www.greenvillecounty.org](http://www.greenvillecounty.org)



Debora A. Faulkner, Probate Judge

**County of Greenville  
Probate Court**  
301 University Ridge, Suite 1200  
Greenville, SC 29601  
Phone (864) 467-7170  
Fax (864) 467-7198

#### **CAN I DISTRIBUTE THE ESTATE ASSETS NOW THAT I AM APPOINTED AS THE PERSONAL REPRESENTATIVE?**



*Future Solutions Now*

## ***WHAT ARE THE PROCEDURES FOR PAYING ESTATE DEBTS?***

### ESTATE DEBTS

1. Generally, Personal Representatives should make sure all estate debts are properly filed and all valid debts paid before any beneficiary receives any portion of his/her inheritance. **See your attorney for exceptions to this general rule.**
2. Creditors have 8 months from the estate newspaper advertisement or one year from death to file claims against the estate. Typical claims are unpaid medical bills, Medicaid recovery or charge card bills. There can also be claims of relatives or caregivers for the decedent. The law provides who and what should be paid first from estate assets. This is important especially if there are not enough assets in the estate. 62-3-805. **If you find yourself in this situation, legal advice from an attorney is recommended.**
3. If the decedent had a judgment against him/her or the estate real estate goes into foreclosure, other rules apply and **you will need to see your attorney.**



Currently, estate tax returns are due nine months from date of death and taxing authorities have three years

to audit. Sometimes valuations placed upon estate assets may not be accepted by taxing authorities. This may result in a larger tax. If the estate does not have the funds to pay additional taxes, because assets have already been distributed to beneficiaries, the **Personal Representative will need a lawyer and perhaps a tax specialist.**



### **ESTATE LITIGATION**

Estate litigation can dictate who will inherit and what will be inherited.

The following proceedings are examples:

- ✓ WILL CONTEST
- ✓ DISCOVERY OF A SUBSEQUENT WILL
- ✓ COMMON LAW SPOUSE
- ✓ PATERNITY CASES
- ✓ BENEFICIARIES WHO CANNOT BE LOCATED
- ✓ MINOR BENEFICIARIES
- ✓ INTERPRETATION BY COURT OF AMBIGUOUS LANGUAGE IN WILL

**CHECK WITH YOUR ATTORNEY BEFORE MAKING ANY DISTRIBUTIONS WHILE ANY LITIGATION IS PENDING.**

**MYTH:** *As soon as the court appoints a personal representative, that person can start transferring the assets immediately without regard to anything or anybody.*

**FACT:** *Not true. This is not an automatic power of the PR. Under many circumstances, such as the decedent dying without a will, the Court must formally approve transfers. Even if there is a Will and it confers broad powers, the court does not recommend transferring real estate or other assets until after the inventory and appraisal (From 350PC) has been filed and the creditor' time has elapsed in the estate and taxes have been paid.*

**MYTH:** *The Probate Court personnel can give me legal advice.*

**FACT:** *Probate Court can NEVER give you legal advice. Probate Court employees can ONLY give procedural information. We ALWAYS suggest that you seek the advice of an attorney to assist you.*