



DEBORA FAULKNER

Probate Judge
Greenville County

Estate Division, Suite 1200
(864) 467-7170
Commitment Division, Suite 1400
(864) 467-7186
Marriage License Division, Suite 1425
(864) 467-7171
Protective Proceedings Division, Suite 1400
(864) 467-7404

Edward M. Sauvain
Associate Probate Judge
FAX: (864) 467-7198
FAX: (864) 467-7082
Toll Free: 1-877-55COURT

PROBATING ESTATES

You have now been appointed to administer or probate an estate and have received your Certificates of Appointment. The following information concerning the statutory requirements of administering an estate is furnished to assist you during the course of your administration. Please do not hesitate to ask specific questions about any problem encountered which is not explained here. The staff of this Court will be happy to furnish assistance and information to the extent allowed by law. Beyond that, legal counsel is recommended

1. **NOTICE TO CREDITORS**

Immediately after appointment, the Personal Representative is required to publish the Notice to Creditors advertisement. Publication is to be once a week for three weeks. In Greenville County, the Probate Court handles this for you. Publication is in the Greenville News, and the fee for advertising is \$46.00, which was paid when the estate was opened. Creditors, by law, have eight months from the date of first publication of this notice to file claims.

2. **INFORMATION TO HEIRS AND DEVISEES**

Within 30 days after your appointment you must give information of your appointment and the probate of the Will, if applicable, to all devisees and heirs by mailing them a copy of the Information to Heirs and Devisees (Form 305PC). [Devisees are those named to inherit anything in the Will, and the heirs are those who would inherit if there was no will. Both groups must be sent this form.] You must return the Proof of Delivery (Form 120PC) to the Probate Court along with a copy of the Information to Heirs and Devisees form to show this step has been completed. If you use a different manner of giving notice for different persons, please indicate such on the Proof of Delivery form.

3. **INVENTORY AND APPRAISEMENT**

Within 90 days after your appointment, you must file an Inventory and Appraisement (Form 350PC) with the Probate Court. You are to list and value all property owned by the decedent at death including property owned with another person. You may petition the Probate Court to authorize the employment of appraisers (Form 351PC) if you feel there is a need. Take care to discover, list, and value all property (including fractional interests and inherited interests) to avoid delays in closing this estate later. In the event an extension is needed, please submit a Petition for Extension (Form 352PC) prior to the Inventory due date.

Upon receipt of the Inventory, a Court cost will be assessed and billed:

\$0 - \$5,000.....	\$25.00
\$5,000-\$20,000.....	\$45.00
\$20,000-\$60,000.....	\$67.50
\$60,000-\$100,000.....	\$95.00
\$100,000 - \$600,000	\$95.00 +
	.15 of 1% for amount over
	\$100,000 up to \$600,000
\$600,000+.....	\$845.00 +
	1/4 of 1% over \$600,000

(Payment by check or money order preferred; make payable to Greenville County Treasurer.)

The filing of returns and/or payment of any South Carolina and Federal estate taxes or income taxes are the responsibility of the Personal Representative.

4. **CLAIMS**

Eight months after the first publication of the Notice to Creditors, the period for filing creditor's claims expires. If you have not already done so, proceed to pay claims. If the assets of the estate are insufficient to pay all claims in full, payment is to be made in the following order and may need to be prorated.

- 1) Costs and expenses of administration, including attorney's fees and reasonable funeral expenses;
- 2) (a) Reasonable and necessary medical and hospital expenses of the last illness of the decedent; and
(b) medical assistance paid under Title XIX;
- 3) Debts and taxes with preference under federal law;
- 4) Debts and taxes with preference under other laws of this state, in order of their priority;
- 5) All other claims.

5. **DEED OF DISTRIBUTION**

If there is real estate in the estate, a Deed of Distribution must be filled out (Form 400PC). It is recommended that your attorney assist you with this particular duty. The Deed of Distribution transfers the real property from the decedent's name to those who inherit it. It is suggested that this not be done until all the claims are received and it is determined that the real estate does not need to be sold to pay the debts. For Greenville County real property, this document will be recorded in the Register of Deeds Office (Suite 1300); recording fee is \$10.42. A copy of the recorded Deed of Distribution needs to be filed with the Probate Court. Real property in other counties will require the Deed of Distribution be recorded at that location. You should then deliver the recorded Deed of Distribution to the new owners of the property.

6. **CLOSING**

ACCOUNTING

Between eight months and twelve months after the first publication of the Notice to Creditors (or, if this is a taxable estate, 90 days after receipt of South Carolina Department of Revenue and Taxation 's estate tax closing letter), you must file with the Court a complete accounting (Form 361PC) of the entire administration (assets received during the course of administration, disbursements/bills paid out, and balance to be distributed to the beneficiaries). If applicable, file a Proposal for Distribution (Form 410PC) indicating assets which have not yet been accounted for or have not yet been distributed.

PETITION FOR SETTLEMENT

Complete and file your Petition for Settlement (Form 412PC) with the Probate Court.

NOTICE OF RIGHT TO DEMAND HEARING

Notice of Right to Demand Hearing (Form 416PC) is to be sent to all interested parties, including unpaid creditors, along with a copy of the full Accounting, Proposal for Distribution (if applicable), and Petition for Settlement. Proof (Form 120PC) that you have sent these documents must be filed with the Probate Court. If no written requests are received by the Probate Court within 30* days, you may proceed with making your final distributions and completing the final requirements as outlined by the Probate Court. This will include beneficiary receipts from the distributees (Form 403PC), release of claims, and copy of transfers for titled personal property (i.e., stocks, cars, etc.). You will need to check with your assigned Judicial Assistant to determine any other final requirements. Upon receipt of all final documents, the Probate Court will issue an Order closing the file and terminating your appointment as Personal Representative (Form 413PC).

*The 30-day period can be waived if Waiver (Form 111PC or Form 112PC) is signed by all interested parties.

GENERAL CONSIDERATIONS

When coming to the Probate Court to transact any estate business, you will need to contact your assigned Judicial Assistant to **schedule an appointment**.

One set of forms for each task will be given to the Personal Representative. Additional blank forms can be obtained at the Probate Court for \$.50 per form or at Greenville Office Supply.

Generally, a Personal Representative is entitled to a **commission** of 5% based on the appraised value of personal property of the probate estate, sales proceeds of real estate specifically sold by the Personal Representative, and income earned by the probate estate. Probate estate personal property consists of those items listed on the Inventory and Appraisal under Schedules B, C, D (part 1), F, and I (part 1). For further detail, see S. C. Code of Laws, Section 62-3-719.

For inheritance tax purposes, an estate is considered taxable if the gross value at date of death is more than:

<u>DATE of DEATH</u>	<u>FILING REQUIREMENT</u>
1/1/79 - 6/30/88	\$120,000
7/1/88 - 6/30/89	\$140,000
7/1/89 - 6/30/90	\$170,000
7/1/90 - 6/30/91	\$320,000
7/1/91 - 12/31/97	\$600,000
1998	\$625,000
1999	\$650,000
2000-2001	\$675,000
2002-2003	\$1,000,000
2004-2005	\$1,500,000
2006-2008	\$2,000,000
2009	\$3,500,000

See www.irs.gov for further tax information. Form SS-4 (www.irs.gov/forms_pubs/forms.html) is used to obtain a Federal Identification Number (EIN). S. C. Tax Waivers are no longer required.

In order to keep proper books for the estate, you may wish to establish an *estate bank account* in which you will deposit every item of money belonging to the decedent which comes into your hands and pay all claims and bills by check. By doing this you will have no trouble in keeping the account in exact balance and preparing your final accounting.

If a formal Petition requiring a hearing is filed by you or anyone else during the course of administration, it is highly recommended that an attorney be employed. The Court cannot advise on matters which it must decide.

If, at any time during the administration of the estate, you receive a Demand for Notice (Form 111PC) you must comply with the demand and send a copy of whatever is demanded to the person indicated on the form. Any time you file documents with the Court, if a copy of the document has previously been demanded, you will be required to provide the Court with a Proof of Delivery (Form 120PC) indicating what you served on whom.

**SEE TITLE 62 ARTICLE 3 OF THE SOUTH CAROLINA CODE OF LAWS
FOR MATTERS NOT INCLUDED IN THESE INSTRUCTIONS.**

Copy of this law is available for viewing at the Public Library, Law Library,
or on the Internet: www.lpittr.state.sc.us/code/titl62.htm