

Responsibilities of a Personal Representative/Administrator/Executor

This letter is intended to give some overview as to the responsibilities of a personal representative/executor of a decedent's estate. Obviously, this list does not cover all eventualities. For instance, additional procedures are required if the decedent owned and/or operated a business in the State of Washington. However, for most estates, the process of probate is straightforward. Basic responsibilities of a Personal Representative include a duty to:

- 1) Determine the names, ages, residences and relationship of all heirs and next of kin of the decedent, the identity and addresses of all beneficiaries named in the will and present the will of the decedent to the court for filing.
- 2) Notify heirs, beneficiaries under the will and creditors of probate proceedings. This must be done on court-approved forms with proof of mailing, best accomplished by your attorney.
- 3) Take possession of, inventory and preserve the probate assets of the decedent.
- 4) Collect all income, such as rents, interest and dividends, and make demand for and collect all debts, claims and notes due the decedent.
- 5) Complete and file forms SS-4 (Application for ID number) with the IRS in most estates.
- 6) Complete any pending lawsuits in which the decedent had an interest and represent the estate in any will contest.
- 7) Determine liability for, prepare tax returns for, and pay all federal estate tax, state death taxes and federal income taxes from estate assets.
- 8) Pay the valid claims of creditors of the decedent. The personal representative has an obligation to notify all known creditors.
- 9) When necessary, sell property to raise funds to pay any claims, taxes or expenses of administration.
- 10) Transfer real property to the decedent's beneficiaries.
- 11) Transfer personal property, such as stocks and bonds, to the decedent's beneficiaries.
- 12) Distribute the remaining assets to the decedent's beneficiaries.

All these duties should be undertaken in conjunction with an attorney, as many require advance notice, specific forms or a filing with the court.

First of all, the Personal Representative needs to compile the information required in number (1) above in order to begin probate proceedings.

Secondly, the Personal Representative is required to give actual notice to all creditors who become known to the personal representative during the four month period after the date of the first publication of the Notice to Creditors and filing such Notice with the court. The Personal Representative must exercise “reasonable diligence” to discover creditors. Specifically, this means conducting a reasonable review of the decedent’s correspondence (including incoming mail), financial records (checkbooks, income tax returns, bank statements) reasonably available to the Personal Representative and asking the decedent’s heirs about possible claimants. The Personal Representative is required to file an Affidavit with the court before the probate is concluded stating he has completed such a process.

Thirdly, the Personal Representative must gather information regarding the decedent’s assets, with their value as of the date of decedent’s death, not at present value. This includes real property, bank accounts, stocks, bonds, etc. The Personal Representative must also disclose any debts, mortgages, and the like against decedent’s estate. An inventory of the decedent’s estate, listing assets and debts, need not be filed with the court, but should be prepared and made available to heirs no later than three months after commencing probate proceedings.

After all reasonable creditor’s claims have been settled and other estate debts paid, such as costs of administration, we will assist you in distributing the estate assets according to the will, preparing the required documents, preparing and recording real estate deeds, etc. After distribution, the probate will be closed, and notice sent to all heirs. The Personal Representative is discharged effective immediately if the estate is closed pursuant to court order, and if a Declaration of Completion is filed (this procedure is most common) the personal Representative is discharged 30 days later if no objection is brought.

Again, this letter is meant as a general explanation of the duties of a Personal Representative to give you a better understanding of this appointment. The time and effort necessary to complete these duties will depend on the size and character of the estate. We will try to give you an idea of what to expect in our conference. Please do not hesitate to ask questions at any time during the course of the probate.