INSTRUCTIONS FOR FULL ADMINISTRATION OF AN ESTATE
ALL FORMS MUST BE TYPEWRITTEN

These instructions are provided as a public service of the Butler County Probate Court, and are intended as a guideline only. Depending on the circumstances of each case, additional steps may be required that are not listed below.

Please review the Full Administration packet. The clerks are not attorneys and therefore cannot answer legal questions, assist you in completing the forms, or deciding which forms apply to your situation.

The documents that you file *must* be typewritten, legible, *and* completed in their entirety. (For your convenience, forms on our website may be filled in prior to printing). Illegible or incomplete documents may be refused for filing or, if filed, could result in your application being denied, delayed or dismissed.

All names and addresses must be complete, P.O. boxes are not permitted.

EFFECTIVE JULY 1, 2009

Rules 44-47 of the Rules of Superintendence for the Courts of Ohio require that when submitting case documents to the Court for filing, the party shall omit personal identifiers from the document and submit those personal identifiers on a separate form. This includes Social Security numbers (except the last four digits) and any financial account numbers.

Rather than listing the personal identifiers on the forms, you must complete Form 45(D) and attach it to any case document that would normally contain such numbers. If you have an original Will that contains Social Security or account numbers - do not alter the document. The Court will make a copy and redact those numbers from the copy.

Failure to comply with this rule could result in your application being delayed, denied, or your filings being returned to you.

Not all assets of a decedent must pass through probate. As fiduciary, it is your responsibility, with the help of your attorney, to determine what the asset(s) are and the value of those asset(s). The type and/or amount of the asset(s) will determine which type of estate you must file.

Once you, with the assistance of your attorney, have determined what assets must pass through probate, you will need to determine the date of death value for those assets:

- **Bank Accounts** - Use the date of death balance. If the account is a checking account, be sure you deduct the amount of any outstanding checks.
- **Stocks & Bonds** - Use the closing value for the date of death. If the person died over the weekend, use the opening value for Monday morning.
- **Real Estate -** You must use an appraiser named on the Approved Appraiser List. You may obtain the list by downloading it from this website.
- **Motor Vehicles** - Use either the blue book value or have a local dealership write out an appraisal for you.
- **Business/Partnership** - You must have it appraised using an appraiser named on the Approved Court Appraiser list. You may obtain the list by downloading it from this web site.

Certain assets of the decedent may be transferred by contract, such as joint and survivorship property, payable on death (POD) accounts, transfer on death (TOD) property, and life insurance or retirement benefits with named beneficiaries. These are non-probate and therefore may not have to be included in the estate administration. If you have questions about an asset, you will need to consult with an attorney of your choosing.

Property that must be included in probate and property that is subject to estate taxes are two different matters. Even if property is not required to be included in probate, it may still be subject to federal and/or Ohio estate taxes. To determine this, you would need to consult with an attorney of your choosing.

If the decedent was a recipient of Social Security, railroad benefits, or any other pension plan, you must notify the agency or entity directly.

A deposit of $200.00 is required at the time of filing. Please confirm the amount with the clerk since filing fees may have changed subsequent to the publication of this instruction sheet. This fee must be paid in exact cash, check, or money order made payable to Butler County Probate Court.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND DESIRE TO AVOID COSTLY ERRORS, MOST INDIVIDUALS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, YOU ARE EXPECTED TO BE ABLE TO READ, UNDERSTAND AND FOLLOW THE OHIO REVISED CODE, RULES OF SUPERINTENDENCE, LOCAL RULES OF THIS COURT, AND THE OHIO RULES OF CIVIL PROCEDURE. PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE BUTLER COUNTY PROBATE COURT FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE, YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.

Required forms:

(ITEMS ONE, TWO, & THREE ARE REQUIRED IN ALL FULL ADMINISTRATION ESTATES):

1. **Surviving Spouse, Next of Kin, Legatees Devisees (Form 1.0)**
   [R.C. 2105.06]
   - A fully completed list of the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees (Form 1.0) shall be filed with each Application for Authority to Administer Estate (Form 4.0). In estates in which an Application to Probate Will (Form 2.0) has been filed with an accompanying Form 1.0, it will not be necessary to file a second Form 1.0.
   - On front of form, list all *next of kin* (those persons who are or would be entitled to inherit if decedent had died without leaving a Will); on back (page 2) of form, list all persons named in Will who will inherit (if decedent left a Will).
   - Specify *complete* addresses of all listed.
   - Specify *Date of Birth* for ***all*** Minors.
   - Applicant must sign at bottom of page.
2. **Classification Form for Estates (BCPC 412)**
   - Complete form.
3. **Statement of Permanent Address (BCPC 721)**
   [RC 2109.21(F)]
   - Every fiduciary must complete and sign a Statement of Permanent Address and notify the Court of any changes.
   - Failure to comply could result in your removal as fiduciary.

(PROBATE OF WILL):

4. **Application to Probate Will (Form 2.0)**
   [R.C. 2107.11, 2107.18, 2107.19]
   - Complete information and sign.
5. **You must present the original and one copy of the Last Will and Testament**
6. **Entry Admitting Will (Form 2.3)**
   [R.C. 2107.18]
   - Fill in name of decedent only.
7. **Waiver of Notice of Probate of Will (Form 2.1)**
   [R.C. 2107.19 (A)(2)]

   Notice of Probate of Will (Form 2.2)
   [R.C. 2107.19 (A)(1)]
   - All parties listed on the front and back of Form 1.0 are entitled to be notified of the probate of the Will.
   - Notice of the Will cannot be mailed until after the Will is admitted to probate.
   - Notice shall be issued within two weeks of the admission of the will to probate.
   - Notice shall be issued in the manner provided by Civil Rule 73(E) and proof of service (green cards) if by certified mail must be filed with the Court along with a copy of the notice that was issued.
   - A minor age 15, may be served notice in care of a parent or guardian.
   - A minor age 16-17 must be served notice personally.
   - A waiver may be signed by individuals over the age of 18 who are not under legal disability.
   - A parent or guardian of a minor, age 14 and under, may waive notice for the minor.
8. **Certificate of Service of Probate of Will (Form 2.4)**
   [R.C. 2107.19 (A)(3)]
   - Form 2.4 is filed after all waivers and/or certified mail notices of probate of Will have been obtained.
   - For dates of death prior to 1/1/2002, the Certificate must be filed within 120 days of the appointment of Executor.
   - For dates of death on or after 1/1/2002 the Certificate must be filed within two

months of the appointment of fiduciary, or if no appointment is made, within two months of the Will being admitted to Probate. Failure to file the Certificate could result in the attorney and applicant being cited to appear and show cause.

(APPOINTMENT OF FIDUCIARY)

9. Application for Authority to Administer Estate (Form 4.0)

[R.C. 2109.02, 2113.07]

- Local Court Rule 60.2(A) requires that all applicants seeking to be appointed as executor or administrator of a decedent's estate must complete all portions of the Application For Authority To Administer Estate, including the portion of the form that requires a statement by the applicant of the "estimated value of the estate." Failure to fully complete Form 4.0, including the portion of the form that requires a statement by the applicant of the "estimated value of the estate," will be deemed to be an incomplete filing and may be rejected by the Clerk, or if filed, may later be stricken from the Court's record without hearing.

***NOTE**: A notation on the portion of Form 4.0 that requires a statement by the applicant of the "estimated value of the estate," such as "to be determined," or "unknown," or some similar phrase or term, shall be deemed to constitute an incomplete filing.*

- A fully completed list of the Surviving Spouse, Children, Next of Kin, Legatees, and Devisees (Form 1.0) must be filed with each Application for Authority to Administer Estate. In estates where an Application to Probate Will has been filed with an accompanying Form 1.0, it will not be necessary to file a second Form 1.0.
- If applicant owes money to the estate or is owed money from the estate, the applicant must report this. *Any claim that the applicant has against the estate must be filed within three months of the appointment*. If the claim is greater than $500, a hearing is required.

10. Fiduciary's Bond (Form 4.2)

[R.C. 2109.04, 2109.07, 2109.09]

- A bond is required by all fiduciaries (including a surviving spouse if he/she is not entitled to the entire net proceeds of the estate) unless the decedent's Will requests that no bond be required, the applicant is a trust company duly qualified in Ohio, or the applicant is the decedent's next of kin and entitled to the entire net proceeds of the estate and there is no Will.
- The applicant and the surety must sign the form ***prior*** to filing with the Court.
- The bond shall be in a penal sum not less than double the probable value of the personal property and the annual real estate rentals.
- A signature bond of $200.00 may be accepted ***only*** if the sole asset is real estate that is being transferred or the estate is being opened to pursue a wrongful death claim or other civil action.

11. Waiver of Right to Administer (Form 4.3)

[R.C. 2113.07]

- The surviving spouse and all next of kin (front of Form 1.0) who reside in the state of Ohio with an equal or greater right to administer the estate may sign a waiver of right to administer, unless the applicant is named to serve in the Will. If unable or unwilling to obtain the waivers, a hearing will be scheduled.

12. Notice and Citation of Hearing on Appointment of Fiduciary (Form 4.4)

[R.C. 2113.06 and 2113.07]

- If the applicant was not named to serve in the Will and waivers are not obtained from the next of kin who reside in Ohio, the Court may schedule a hearing.
- If the Court schedules a hearing the applicant must be serve the Notice and Citation of Hearing to those in Ohio who did not waive notice by certified mail.

13. Fiduciary Acceptance (BCPC 423)

[R.C. 2109.02]

- All fiduciaries must read and sign the Fiduciary Acceptance. The Court will hold the applicant responsible for the duties described on the form.

14. Entry Appointing Fiduciary; Letters of Authority (Form 4.5)

[R.C. 2113.05, 2113.06]

- Complete form in duplicate
- The court clerk will forward the letters of authority to the Judge or Magistrate for signature. Upon obtaining a signature, the Court will mail to you a certified copy of the Letters of Authority.

15. Notice to Administrator of Estate Recovery Program (Form 7.0)

[R.C. 2117.061]

- If the decedent was fifty-five (55) years of age or older at the time of death, the fiduciary must determine whether the decedent was a recipient of Medicaid under Chapter 5111 of the Revised Code.
- If the decedent was a recipient, within 30 days of being appointed, the person responsible for the estate shall give notice to that effect to the administrator of the estate recovery program.

(ELECTION OF SPOUSE)

16. Waiver of Service to Surviving Spouse of the Citation to Elect (Form 8.6)

[R.C. 2106.01(A)]

- If the date of death is on or after 01/01/2002, the surviving spouse has the right to waive service of the Citation to Elect. If the surviving spouse chooses to sign the Waiver, the attorney/applicant must give them a copy of the Summary of General Rights of Surviving Spouse (Form 8.3)
- The Waiver of Service to Surviving Spouse of the Citation to Elect must be filed at the time of the Entry Appointing Fiduciary; Letters of Authority (Form 4.5) or a Citation to Elect will be issued to the surviving spouse by certified mail.

17. Citation to Surviving Spouse to Exercise Elective Rights (Form 8.0)
Summary of General Rights of Surviving Spouse (Form 8.3)

[R.C. 2106.01 and 2106.02]

- If the surviving spouse chooses not to sign the Waiver of Service to Surviving Spouse, the Court will issue a Citation to Elect (Form 8.0) with a Summary of General Rights of Surviving Spouse (Form 8.3) by certified mail to the surviving spouse after the fiduciary is appointed.
- A notice that the citation has been issued by the Court shall be sent by regular mail to the attorney of record and to the fiduciary of the estate if they are not the surviving spouse.

18. Election of Surviving Spouse to Take Under Will (Form 8.1)

[R.C. 2106.05]

- Election by the spouse to take under the Will may be made at any time after the death of the decedent but must be made within five months of the original date of the appointment of a fiduciary.

19. Election of Surviving Spouse to Take Against Will (Form 8.2)

[R.C. 2106.01 and 2106.06]

- Election by the spouse to take against the Will and under section 2105.06 of the Revised Code may be made at any time after the death of the decedent but must be made within five months of the original date of the appointment of a fiduciary.
- Election of Surviving Spouse to Take Against the Will **must** be signed in the presence of the Judge or Magistrate. If a surviving spouse intends to take against the Will, they will need to call the Court at (513) 887-3303 and make an appointment.

(INVENTORY AND APPRAISEMENT)

20. Appointment of Appraiser and Entry (Form 3.0)

[R.C. 2115.06]

- If there are assets in the estate whose values are not readily ascertainable, an appraisal of that property must be completed by a person who is named on the Court-approved appraiser list. A list of Court-approved appraisers is available on our website.
- If the fair market value of all of the decedent's household goods and furniture is less than $6,000.00, it will not need to be appraised unless the Court orders otherwise.
- The appraiser appointed must sign the inventory form (Form 6.0).

21. Inventory & Appraisal (Form 6.0)
Schedule of Assets (Form 6.1)

[R.C. 2115.02 & 2115.09]

- The Inventory & Appraisal is due within three months of the date of appointment. Failure to file the Inventory and Appraisal within the three months may result in the attorney and applicant being cited to appear and show cause.
- Court costs will be due at the time of filing the inventory and appraisal.
- Notice of Surviving Spouse of Taking of Inventory [R.C. 2115.04]

Not less than five days previous thereto, a written notice stating the time and place of making the inventory required by section 2115.02 of the Revised Code, must be served by the executor or administrator on the surviving spouse, but such notice may be waived in writing by such surviving spouse. The Waiver of Notice by Spouse (of taking Inventory) is located on back of Form 6.0.

- The Schedule of Assets (Form 6.1) must be completed and filed at the same time as the Inventory and Appraisal (Form 6.0).
- Fiduciary must list grand total values in the estate on the Inventory & Appraisal (Form 6.0) and have an appraisal completed for assets whose values are not readily ascertainable.
- The name and address of appraisers shall be typed or printed underneath each appraiser's signature on the Appraiser's Certificate. In lieu of the appraiser's certificate, a copy of the actual appraisal signed by the appraiser may be attached to the Inventory and Appraisal (Form 6.0).
- Unless otherwise ordered by the Court, in estates wherein the fiduciary determines, in good faith, that the total fair market value of all the decedent's household goods and furniture is less than $6,000.00, the decedent's household goods and furniture may be considered assets the value of which is readily ascertainable, and which need not be appraised. In the event that an interested party objects to the determination and files an exception to the inventory pursuant to R.C. 2115.16, the fiduciary shall obtain a formal appraisal of decedent's household goods and furniture prior to the hearing on such exceptions.
- All real estate must be appraised by a Court-approved appraiser. The list of Court-approved appraisers is located on our website (Form 3.0 must be filed).
- The street address, auditor's parcel number, and legal description of all decedent's real property located in Ohio (subject to Probate proceedings) must be included on the Schedule of Assets (Form 6.1).
- Each item of personal property set forth on the Schedule of Assets (Form 6.1) shall be identified as being tangible personal property or intangible personal property.
- Motor vehicles, the value of which is listed in published compilations of motor vehicle values generally used and relied upon by the public or by persons in the motor vehicle sales industry, may be considered assets, the value of which is readily ascertainable, and which need not be appraised.
- On the Schedule of Assets (Form 6.1), the fiduciary must specifically list each asset of the decedent's estate. The description should include names of banks, stock companies, insurance companies, etc. Do not list the identifying numbers (this includes any part of an bank account number) – instead replace those numbers with

non-identifying numbers and attach form BCPC 45D (Confidential Disclosure of Personal Identifiers).
- The Court requires that in place of account numbers or other personal identifiers on the Schedule of Assets, the applicant or attorney replace those numbers with non-identifiers such as "Name of Bank – Savings Account A" and complete form BCPC 45D (Confidential Disclosure of Personal Identifiers).
- Bond previously posted must be increased to double the amount of the personalty and any annual real estate rentals.
- Although not required, it is recommended that if there is any question of conflict within the estate (i.e. children from previous marriage), that Waivers of Notice of Hearing on Inventory (6.2) be obtained or Notice of Hearing on Inventory (6.3) be served on all interested parties no less than five (5) days prior to the hearing. After obtaining service, an "Affidavit of Service" shall be filed.

22. Confidential Disclosure of Personal Identifiers (BCPC 45(D))

[Rules 44-47 of the Rules of Superintendence for the Courts of Ohio]
- ***EFFECTIVE JULY 1, 2009***

Rules 44-47 of the Rules of Superintendence, require that all personal identifiers be omitted from any document being filed with the Court (this includes the Schedule of Assets). Personal identifiers include Social Security numbers or **any** financial account numbers.
- Anytime a document is filed with the Court that would normally contain identifying numbers, such as account numbers, policy numbers, or Social Security numbers, those personal identifiers must be omitted from the document and disclosed on form BCPC 45D.

23. Waiver of Notice of Hearing on Inventory (Form 6.2)
Notice of Hearing on Inventory (Form 6.3)

[R.C. 2115.16]
- All inventories are scheduled for hearing within a month of the date of filing of the inventory. At this time, the attorney/fiduciary may obtain waivers (Form 6.2) or serve notice of hearing (Form 6.3) pursuant to Civ. R. 73 upon the surviving spouse, children, next of kin, and any beneficiary named under the Will, as well as any interested parties, or any attorneys who represent the same.
- If the attorney/fiduciary chooses to send notice of the hearing (Form 6.3), it must be sent by certified mail, return receipt requested, and the receipt (green card) must be presented for filing with a copy of the notice that was issued (Form 6.3).
- Depending on the circumstances of the estate, the Court may order that notice of hearing on the inventory be issued.
- If the attorney/fiduciary chooses not to obtain waivers, and exceptions to the inventory are filed after the inventory is approved, the Court may set aside the approval and hear the exceptions.
- At the time of hearing on approval of inventory, in addition to checking for exceptions, the Court will also review the file to ensure that all filings are up to date and completed correctly. If there are documents missing, incomplete filings, or court costs due, the Court will issue an "Entry Continuing (in progress) Hearing on Inventory" to the attorney of record detailing the court requirements. Failure to comply with this Entry within thirty days may result in both the attorney and fiduciary being ordered to appear to show cause.

(MOTOR VEHICLE)

24. Application and Entry Transferring Motor Vehicle

[R.C. 2106.18]

- The administrator or executor may file an Application for Transfer/Sale of Motor Vehicle **after** the Inventory & Appraisal (Form 6.0) and Schedule of Assets (Form 6.1) are filed.
- Complete application section of form and obtain necessary consents.

(REAL ESTATE)

25. Statement of Counsel Concerning Examination of Record Title (BCPC 462)

[B.C.L.R. 61.1 (C)]

- An **attorney must examine the record title** and complete the form in its entirety.
- Not later than the date on which the Inventory (Form 6.0) and the corresponding Schedule of Assets (Form 6.1) are due to be filed, counsel for the estate, or if there is no counsel for the estate, then counsel employed by the fiduciary to examine record title to each parcel of real property in the estate, shall file with the Court a fully completed "Statement of Counsel Concerning Examination of Record Title" (BCPC 462).

26. Application for Certificate of Transfer of Real Estate (Form 12.0)

[R.C. 2113.61]

- The administrator or executor may file an Application for Certificate of Transfer of Real Estate at anytime ***after*** the Inventory & Appraisal (6.0), Schedule of Assets (6.1), and Statement of Counsel Concerning Examination of Record Title (BCPC 462) are filed.
- Form must be completed in its entirety and the Certificate of Transfer (Form 12.1) must accompany the Application.
- Real property sold by an executor or administrator or land registered under Chapters 5309. and 5310. are excepted from the application requirement.

27. Certificate of Transfer (Form 12.1)

[R.C. 2113.61]

- Must be filed with the Application for Certificate of Transfer of Real Estate (Form 12.0).
- List each beneficiary's name, address, and the fractional interest that the beneficiary is receiving from the decedent's estate. When completing the back side of the form, you must include the legal description in its entirety.

28. Consent to Power to Sell Real Estate (Form 11.0)

[R.C. 2127.011]

- In addition to the other methods provided by law or in the will and unless expressly prohibited by the will, an executor or administrator may sell at public or private sale any parcel of real estate belonging to the estate if all the following conditions are met:
  - (1) The surviving spouse, all of the legatees and devisees in the case of testate estates, or all the heirs in the case of intestate estates, give written consent to a power of sale for a particular parcel of real estate or to a power of sale for all the real estate belonging to the estate.
  - (2) The real estate must be sold for at least eighty per cent (80%) of the appraised value, as set forth in an approved inventory.
  - (3) A consent to sell real estate is not effective if the surviving spouse, any legatee, devisee, or heir is a minor or incompetent person. No person may give the consent of a minor.
- If the surviving spouse, legatee, devisee, or heir is a minor or incompetent person, an action for authority to sell real estate must be commenced [R.C. 2127.10].
- Each consent to power of sale provided for in this section shall be filed in the Probate Court.

(ESTATE TAX RETURN)

29. Ohio Estate Tax Return

[R.C. 5731.23]

- Obtain tax forms and instructions at the Ohio Dept of Taxation website: http://dw.ohio.gov/tax/dynamicforms/.
- Forms must be filed in duplicate with original signatures – one copy will stay with Probate Court and one copy must be taken to Auditor's office.
- If taxes are owed, you will need to complete and file in duplicate Ohio Estate Tax Form 5.
- If date of death is between 1/1/2001 and 12/31/2001 and gross estate is under $200,000, a return is not required to be filed. A Form 22 Certificate of Estate Tax Payment and Real Property Disclosure is filed instead with Probate Court only (Form 22 is available on our website).
- If date of death is on or after 1/1/2002 and gross estate is under $338,333 a return is not required to be filed. A Form 22 Certificate of Estate Tax Payment and Real Property Disclosure is filed instead with the Probate Court only.

(ATTORNEY FEES)

30. Application and Entry for Approval of Attorney Fees

[B.C.L.R. 71.1]

- Consents to pay attorney fees may be obtained by counsel, but an **Application and Entry is still required in all full administration estates.**
- Counsel rendering services to an estate shall maintain an itemized statement of the services performed, the date the services were performed, the time spent in rendering the services, and if the fee arrangement with the estate is based on an hourly rate, the hourly rate charged. Time increments should be kept in one-tenth (0.1) of an hour.

(ACCOUNTING)

Every administrator and executor, **within six months after appointment**, shall render a final and distributive account of the administrator's or executor's administration of the estate unless one or more of the following circumstances apply:

- An Ohio estate tax return must be filed for the estate.
- A proceeding contesting the validity of the decedent's will pursuant to section 2107.71 of the Revised Code has been commenced.
- The surviving spouse has filed an election to take against the will.
- The administrator or executor is a party in a civil action.
- The estate is insolvent.
- For other reasons set forth by the administrator or executor, subject to Court approval.

31. Notice to Extend Administration (Form 13.10)

- Will extend time for filing final account to 13 months from date of appointment.

32. Application and Entry to Extend Administration (Form 13.8)

[R.C. 2109.301 & Sup. R. 78(B) & (C)]

- This form is to be used if a statutory reason applies that would extend the administration to 13 months. If there is no statutory reason, you must complete the Application to Extend Time (Form 410) and have the fiduciary sign it.
- An Application for Extension must be filed in all estates that must remain open for more than six months pursuant to R.C. 2109.301(B)(1).
- Form ***must*** be signed by the fiduciary.
- If there is real property in the estate and the property is not sold or transferred to the beneficial owners by a certificate of transfer within the first six months of the administration, then the Court expects the fiduciary to submit a plan to manage the real property in accordance with the provisions of R.C. 2113.31.

33. Certificate of Termination (Form 13.6)

[R.C. 2109.30.1(B)(2)]

- Court costs will be due at the time of filing a Certificate of Termination.

- In estates of decedents in which the sole legatee, devisee, or heir is also the administrator or executor of the estate, the administrator or executor may file a certificate of termination.
- If there are co-executors, co-administrators, or if the beneficiary is a trust, an account is required to be filed.

34. Waiver of Partial Account (Form 13.4)

[R.C. 2109.301(A)]

- Court costs will be due at the time of filing a Waiver of Partial Account.
- In estates of decedents in which none of the legatees, devisees, or heirs are under a legal disability, a Waiver of Partial Account may be filed in lieu of a Partial Account.
- All legatees, devisees, or heirs must sign the Waiver of Partial Account.
- The fiduciary of every decedent's estate shall file a written status report (BCPC 463) whenever a waiver of partial account is filed.

35. Status Report (BCPC 463)

- The fiduciary and the attorney shall prepare, sign, and file a written status report with the Court in all decedent's estates that remain open after a period of one year from the date of appointment.
- A status report is required to be filed with each partial account, waiver thereof, or affidavit in lieu of partial account that is filed.

36. Fiduciary Account (Form 13.0)
Receipts and Disbursements (Form 13.1)

[R.C. 2109.30, 2109.301 and 2109.32]

- Court costs will be due at the time of filing an account. An account ***shall not*** be approved until all court costs have been paid.
- An account showing complete administration before distribution of assets shall be designated "final account." An account filed subsequent to the final account and showing distribution of assets shall be designated "account of distribution." An account showing complete administration and distribution of assets shall be designated "final and distributive account."
- A "final and distributive account" is due within six months of the date of appointment unless a statutory reason allows for an extension.
- The fiduciary of every decedent's estate shall file a written status report whenever a partial account is filed. If an estate is not fully administered within two years, the matter will be referred to a magistrate to determine whether Court intervention is necessary.
- The account must include an itemized statement of all receipts of the fiduciary during the accounting period and all of the disbursements and distributions made. ***DO NOT*** include any identifying numbers on the receipts and disbursements form.
- The Court requires that in place of account numbers or other personal identifiers on the Receipts and Disbursements, the applicant or attorney replace those numbers with non-identifiers such as "Name of Bank – Savings Account A" and complete form BCPC 45D (Confidential Disclosure of Personal Identifiers).
- If land has been sold during the accounting period, the account shall show the gross amount of the proceeds and include a copy of the closing statement itemizing all of the disbursements.
- For estates of decedents whose death occurs on or after January 1, 2002, no vouchers or canceled checks are required to be submitted with the account, but compliance with the provisions of R.C. § 2109.301 will be required.
- All corporate fiduciaries shall file a recapitulation of its accounts in conformity with Form 13.0, or as otherwise directed by the Court.
- All fiduciary accounts are scheduled for hearing; the hearing will be scheduled not less than thirty (30) days after the date of filing.

37. Confidential Disclosure of Personal Identifiers (BCPC 45(D))

[Rules 44-47 of the Rules of Superintendence for the Courts of Ohio]

- ***EFFECTIVE JULY 1, 2009***

Rules 44-47 of the Rules of Superintendence require that all personal identifiers be omitted from any document being filed with the Court (this includes the Receipts and Disbursements or Assets Remaining). Personal identifiers include Social Security Numbers, or **any** financial account numbers.

- Anytime a document is filed with the Court that would normally contain identifying numbers, such as account numbers, policy numbers, or Social Security numbers, those personal identifiers must be omitted from the document and disclosed on form BCPC 45D.

38. Assets Remaining in Fiduciary's Hands (Form 13.2)

- The Assets Remaining form is required to be filed with all Partial Accountings.
- Every account shall include an itemized statement of all funds, assets and investments of the estate or trust known to or in the possession of the fiduciary at the end of the accounting period and shall show any changes in investments since the last previous account.
- The Court requires that in place of account numbers or other personal identifiers on the Assets Remaining in Fiduciary's Hands, the applicant or attorney replace those numbers with non-identifiers such as "Name of Bank – Savings Account A" and complete form BCPC 45D (Confidential Disclosure of Personal Identifiers).

39. Certificate of Service of Account to Heirs or Beneficiaries (Form 13.9)

[R.C. 2109.32]

- An administrator or executor shall file with the Probate Court a certificate of service of account prior to or simultaneously with the filing of the account.
- An administrator or executor filing an account pursuant to section 2109.301 of the Revised Code shall provide at the time of filing the account a copy of the account to each heir of an intestate estate or to each beneficiary of a testate estate. An administrator or executor is not required to provide a copy of the account to any of the following:
    - An heir or a beneficiary whose residence is unknown;
    - A beneficiary of a specific bequest or devise who has received his or her distribution and for which a receipt has been filed or exhibited with the Court.
- Receipts for distributive shares signed by persons holding power of attorney may be accepted, provided the power of attorney is recorded in the county in which the estate is being administered and a copy of the recorded power is attached to the account.

40. Waiver of Notice of Hearing on Account (Form 13.7)
Notice of Hearing on Account (Form 13.5)

- Every account is set for hearing at least thirty days after the date of filing.
- A fiduciary may serve notice of the hearing upon any person who is interested in the estate or trust. If notice is ordered to be issued, it must be served by certified mail, receipt return requested.
- The Probate Court may order that a notice of the hearing is to be served upon persons the Court designates. If notice is ordered to be issued, it must be served by certified mail, receipt return requested.
- The notice of the hearing shall be served at least fifteen days prior to the hearing on the account.
- Any person over the age of 18 years who is competent may waive service of notice and consent to the approval of any account by the Court.

NOTE: The Probate Court will not approve the final account or discharge the bondsman until all of the following have occurred:

(a) Three months have passed since the death of the decedent.
(b) The surviving spouse has filed an election to take under or against the will, or the time for making the election has expired.
(c) The Inventory and Appraisal is approved.
(d) The time allowed for a Will Contest has passed.

(e) All Court costs are paid.
(f) All claims presented against the estate are paid (proof of payment must be presented to the Court), a release of claim is filed, or a rejection of claim is filed.

Notice to Attorneys: Pursuant to Sup.R. 78(D), the Court may issue a citation to the attorney of record for a fiduciary who is delinquent in the filing of an inventory or account to show cause why the attorney should not be barred from being appointed in any new proceeding before the Court or serving as attorney of record in any new estate, guardianship, or trust until all of the delinquent pleadings are filed.

Additional Information and Statutory References:

- If you are transferring a mobile home, you will need to take a certified copy of the Transfer of Motor Vehicle (BCPC 414) to the Treasurer's Office with a completed "Mobile Home Processing Document in Lieu of Title" form which is available from the Butler County Auditor's Office, 130 High Street, Hamilton, OH.
- If you are transferring a motor vehicle or boat, you will need to take a certified copy of the Transfer of Motor Vehicle (Form 414) to the Clerk of Court's Title Division with the title.
- If you are transferring Real Estate, you will need to take a certified copy of the Certificate of Transfer (Form 12.1) to the Auditor's Office and obtain a conveyance form prior to taking it to the Recorder's Office.

If an administrator or executor learns of the existence of newly discovered assets after the filing of the final account or otherwise comes into possession of assets belonging to the estate after the filing of the final account, the executor or administrator shall file a supplemental final account with respect to the disposition of the assets and shall provide a copy of the supplemental final account to each heir of an intestate estate or to each beneficiary of a testate estate, as provided in division (B)(1) of this section and subject to the exceptions specified in divisions (B)(1)(a) and (b) of this section.

Exceptions to Inventory [R.C. 2115.16] or Account [R.C. 2109.33]:

Any person interested in an estate or trust may file exceptions to an inventory or account. All exceptions shall be specific and typewritten. The exceptions shall be filed not less than five days prior to the hearing on the inventory or account and the person filing the exceptions shall be responsible for furnishing a copy of the exceptions to the attorney and fiduciary of the estate.

Will Contest [R.C. 2107.71, 2107.76]:

- For dates of death prior to 01/01/2002, a Will Contest must be filed within four months of the filing of the Certificate of Service of Notice of Probate of Will.
- For dates of death on or after 01/01/2002, a Will Contest must be filed within three months of the filing of the Certificate of Service of Notice of Probate of Will.