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The Most Commonly Asked Questions About:

ESTATE ADMINISTRATION

Quick answers to your questions about estate administration

Donald S. Baillie
Jay N. Hershman*
Timothy P. Kennedy
Ryan B. Corey†

ALSO ADMITTED TO PRACTICE IN:
* DISTRICT OF COLUMBIA
† NEW YORK

WHAT IS PROBATE?

The Probate Court becomes involved when a person who owns property dies and a division and distribution of property needs to be accomplished. The Probate Court oversees this process making sure that the decedent's wishes under the terms of the will are carried out. If the decedent leaves no will, the property will be divided according to statute, which generally provides for distribution to a spouse, children and/or next of kin. The Probate Court also oversees conservators and guardians as well as decedents' estates.

WILL MY ESTATE NEED TO BE PROBATED?

In Connecticut, a decedent's estate needs to be probated if at the time of his death he owned real estate or assets exceeding twenty-thousand ($20,000) dollars. First, an application to probate the estate needs to be filed with the will (if any) in the Probate Court. After the Probate Court accepts the will, it appoints a fiduciary (the Executor named in the will or an Administrator appointed by the court, if the decedent dies without a will). The fiduciary then files an inventory listing all solely owned assets, an Inheritance Tax Return, a Return of Claims listing Creditors, a Final Accounting and a closing statement. If an inheritance tax is due, the State of Connecticut requires payment within six (6) months of the decedent's death and the federal government requires payment within nine (9) months.

WHAT IS A "GUARDIAN"?

A guardian is a person who has legal right to make decisions on behalf of a minor (someone under the age of eighteen). A guardian may be required when a minor is without a legal guardian (for example when parents predecease children). The Probate Court may appoint a guardian for a minor child or for a mentally handicapped person. Before such an appointment, an investigation and hearing are usually required.

WHAT IS A "CONSERVATOR"?

A Probate Court may be asked to appoint a person to manage someone's financial affairs (Conservator of Estate) or someone's personal affairs (Conservator of Person). Under a Voluntary Conservatorship, if a person needs assistance, he may ask the court to appoint a Conservator.

WHAT IS AN INVENTORY?

An Inventory is a list of the solely owned assets of a decedent or a ward (in the case of Conservatorship). The Executor, Administrator or Conservator needs to file an Inventory with the Probate Court within sixty (60) days of being appointed.

IS THERE A SIMPLIFIED METHOD FOR SETTLING SMALL ESTATES?

There is a short form for settling estates where solely owned assets do not exceed $20,000 and where the decedent owned no solely owned real estate. The simplified method usually does not require the appointment of an Executor or Administrator, but an affidavit is required.

WHAT IS A RETURN AND LIST OF CLAIMS?

In a decedent's estate, creditors and debts owed by the decedent need to be listed on a form known as a Return and List of Claims. The debts listed are predeath expenses paid after the decedent's death. Notices to creditors may need to be filed as well.

WHAT IS A "SUCCESSION TAX RETURN"?

Succession tax is a tax on the decedent's estate. The amount of the tax varies depending on who is inheriting from the estate. Once the final accounting of an estate is approved and tax clearance is received, the Executor, Administrator or Conservator will need to file a Closing Statement with the Probate Court. All final bills must be paid. The decedent's estate administration process usually takes about nine to twelve months, but some complex estates take several years to settle.

WHAT IS AN ACCOUNTING?

In a decedent's estate, all income and all expenses of the settlement of the estate need to be listed on a final accounting. All proposed distributions need to be listed as well. The accounting is similar to a balance sheet and must balance. In other estates, accountings are required every three years and sometimes more frequently. These accountings, prepared by a Conservator, Guardian or other fiduciary, list income and expenses of estates. The Probate Court must hold a hearing on the three year accounting and may hold a hearing on a shorter term accounting.

HOW DOES THE ESTATE PROCESS END?

Once the final accounting of an estate is approved and tax clearance is received, the Executor, Administrator or Conservator will need to file a Closing Statement with the Probate Court. All final bills must be paid. The decedent's estate administration process usually takes about nine to twelve months, but some complex estates may take several years to settle.

Many clients have concerns about their estates and what will happen upon their demise. If you own real estate, stocks, bonds or bank accounts, when you pass away, your estate will need to be distributed. If you prepared a will, the will should direct who settles your estate and who inherits your estate. Without a will, it may be necessary to have an administrator appointed by the Probate Court to settle your affairs. In this situation, state statutes will govern which heirs will inherit your estate.

If you own property and become incapable of managing the property or making your own decisions, an agent under a Power of Attorney or a Conservator may be necessary. An estate administration attorney should be able to assist you and your family with appropriate planning and advice. The law firm of BAILLIE & HERSHMAN, P.C. practices in this complex area of estate administration law and can advise you on the proper course of action for your particular situation.

WHAT ELSE DO I NEED TO KNOW?

There will be many questions that arise during estate administration. This pamphlet can't answer all of those questions or even anticipate what they might be. Fortunately, the attorneys and staff at BAILLIE & HERSHMAN, P.C. can address your questions and concerns as they arise to help you in this area of the law.

This pamphlet is offered free by BAILLIE & HERSHMAN, P.C. and is intended to provide general information to help answer some of the questions you may have about buying and selling real estate. Hopefully, it will help you feel more comfortable entering into this type of legal transaction. We also offer information on estate planning, business services and personal injury.

Of course, you may have additional questions that we will also be pleased to answer for you. For a free initial consultation, simply call (203) 272-7000. You can rely on the experts at BAILLIE & HERSHMAN, P.C., to help you with any of your legal matters. Trust in us.

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BAILLIE & HERSHMAN P.C.
LAW OFFICES

WWW.BHHLEGAL.COM • INFO@BHHLEGAL.COM
290 Highland Avenue, Cheshire CT 06410
Phone: 203-272-7000 • Fax: 203-272-7100

FARMINGTON • NORWALK • WATERFORD • CHESHIRE