

INFORMAL PROBATE

1

Application for Appointment as Personal Representative (known in other states as “executor”)

Part 1: The Application and Notice

(Forms Packet)

SELF-SERVICE CENTER

**INFORMAL PROBATE
APPOINTMENT OF PERSONAL REPRESENTATIVE
AND ADMISSION OF WILL (if applicable)**

CHECKLIST

You may use the forms and instructions in this packet only if the following factors apply to your situation:

- ✓ You are related to a person who died or you have a legal interest in the person's property.
- ✓ The person had a will *or did not* have a will.
- ✓ If the person did have a will, you have the original will, AND
- ✓ The person died more than 120 hours ago, *but less than 2 years ago*.*
- ✓ You want to file court papers to be appointed the Personal Representative of the estate.

*There are certain limited exceptions to the two-year limitation for informal probate listed in Arizona Revised Statutes (A.R.S.) Title 14 § 3108. An attorney may be of assistance in determining whether your situation qualifies for one of the exceptions or in handling the more complex "formal" probate process for which forms and instructions are not available from the court.

READ ME: Consulting a lawyer before filing documents with the court may help prevent unexpected results. If you need to consult a Lawyer, the Pima County Bar Association offers a Lawyer Referral Service that provides half-hour consultations for a low cost.

<http://www.pimacountybar.org/>

The Clerk's office cannot provide legal advice. Employees may be able to offer instruction about how and where to file appropriate paperwork, but will not provide help on issues of law

SELF-SERVICE CENTER

**INFORMAL PROBATE
APPLICATION FOR APPOINTMENT AS PERSONAL
REPRESENTATIVE**

PART 1: The Application and Notice

FORMS

This packet contains court forms and instructions to file informal probate application for appointment as personal representative. Items in **BOLD** are forms that you will need to file with the Court. Non-bold items are instructions or procedures. Do not copy or file those pages!

Order	File Number	Title	# pages
1		Checklist for using this packet	1
2		Table of Contents (this page)	1
3		“Probate Cover Sheet” and Interpreter Request	3
4		“Declaration of Completion of Training” * *Mandatory training at 12&13 below and online View training material before you file to avoid delays.	1
5		“Waiver of Right to Appointment and Consent”	1
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10		“Letters of Appointment and Acceptance of Appointment”	1
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13		“Personal Representative Training Manual”	13

The documents you have received are copyrighted by the Superior Court of Arizona in Maricopa County. You have permission to use them for any lawful purpose. These forms shall not be used to engage in the unauthorized practice of law. The Court assumes no responsibility and accepts no liability for actions taken by users of these documents, including reliance on their contents. The documents are under continual revision and are current only for the day they were received. It is strongly recommended that you verify on a regular basis that you have the most current documents.

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

PROBATE INFORMATION COVER SHEET

FOR CLERK'S USE ONLY

Case Number: _____

INFORMATION ABOUT THE FIDUCIARY, the person proposed to serve as: Guardian
 (please check one) Conservator
Personal Representative (executor)

NAME: _____		DATE OF BIRTH: _____	
MAILING ADDRESS: _____			
STREET ADDRESS: (if different) _____			
TELEPHONE (Home): _____	SSN: _____		
TELEPHONE (Cellular): _____	EMAIL: _____		
TELEPHONE (Work): _____	CERTIFICATION # _____		
(for State-Licensed Fiduciaries ONLY)			
RELATIONSHIP TO THE WARD OR (if an estate matter) THE DECEDENT: _____			
PHYSICAL DESCRIPTION:	RACE: _____	HEIGHT _____	WEIGHT: _____
	EYE COLOR: _____	HAIR COLOR: _____	GENDER: _____

INFORMATION ABOUT THE FIDUCIARY, the person proposed to serve as: Guardian
 (please check one) Conservator
Personal Representative (executor)

NAME: _____		DATE OF BIRTH: _____	
MAILING ADDRESS: _____			
STREET ADDRESS: (if different) _____			
TELEPHONE (Home): _____	SSN: _____		
TELEPHONE (Cellular): _____	EMAIL: _____		
TELEPHONE (Work): _____	CERTIFICATION # _____		
(for State-Licensed Fiduciaries ONLY)			
RELATIONSHIP TO THE WARD OR (if an estate matter) THE DECEDENT: _____			
PHYSICAL DESCRIPTION:	RACE: _____	HEIGHT _____	WEIGHT: _____
	EYE COLOR: _____	HAIR COLOR: _____	GENDER: _____

A person needing a guardian or conservator is the "ward". A person who died is the "decedent".

INFORMATION ABOUT THE WARD or THE DECEDENT

NAME: _____		DATE OF BIRTH: _____		GENDER: _____	
MAILING ADDRESS : _____					
STREET ADDRESS (if different): _____					
TELEPHONE (Home): _____	SSN: _____				
TELEPHONE (Cellular): _____	EMAIL: _____				
<input type="checkbox"/> ADDITIONAL WARDS ARE INVOLVED. Information listed separately.			DATE OF DEATH: _____		

Case No. _____

INFORMATION ABOUT THE PETITIONER, the person filing these papers.

NAME: _____	
MAILING ADDRESS: _____	
TELEPHONE: _____	EMAIL: _____
INFORMATION ABOUT PETITIONER'S ATTORNEY: <input type="checkbox"/> Petitioner is not represented by an attorney, <i>or</i>	
NAME: _____	BAR # _____
TELEPHONE: _____	EMAIL: _____

An INTERPRETER IS NEEDED for this language: _____
(List Names of) Persons who need interpreter: Name: _____
Name: _____ Name: _____

By signing below, I state to the Court under penalty of perjury that the contents of this document are true and correct to the best of my knowledge and belief.

Petitioner or Attorney Signature

NOTICE

SUBMIT THIS FORM WITH NEW CASES ONLY.

If there is already a (Pima County) Probate Court case number and you are filing in an existing Superior Court case in Pima County, **DO NOT SUBMIT THIS FORM.**



ARIZONA SUPERIOR COURT IN PIMA COUNTY
REQUEST FOR LINGUISTIC ACCOMMODATIONS

IN THE MATTER OF _____) CASE NUMBER: _____
_____) REQUEST FOR: (Mark One)
_____) [] Court Interpreter
_____) [] ADA Accommodation (ASL, CART, ETC.)

Contact Information of Individual Needing an Interpreter and Attorney Requesting an Interpreter:

- 1. Name: _____ Attorney: _____
2. Address: _____
3. City, State, Zip: _____
4. Phone: _____
5. E-mail: _____

- 6. Is the interpreter for a party in the case? Check party below.
[] Defendant [] Plaintiff [] Respondent [] Witness (Name/s): _____
[] Victim/Family member (Name/s): _____

Witness(es) or Victim/Family Member(s) are for: [] Defense or [] Prosecution or [] Pro Per

- 7. The hearing date is on: _____ at: _____ [] a.m. [] p.m. in Division: _____

NOTE: If you have a civil or domestic matter and are requesting an interpreter, please ask that the assigned division set this matter AT 10:30 A.M. OR LATER IN THE DAY.

- 8. Do not file for a Waiver or Deferral of Fees as an interpreter will be provided to you at no cost regardless of ability to pay.

- 9. The primary language is: _____ Region/Dialect: _____

- 10. [] This is also a request for an ADA accommodation and the type of interpreter needed is an:
[] American Sign Language Interpreter [] Lip reader and/or Assisted Listening Device
[] CART (can read and articulate, and need to follow the proceedings in written English)
[] Mexican Sign Language Interpreter... [] Other: _____

- 11. [] I have filed this form with the Office of the Clerk of the Court for imaging in the case file

- 12. [] I have submitted to the Office of the Court Interpreter by email to: CtInterpreter@sc.pima.gov or by fax to: 520-724-8872, a copy of this form 10 business days in advance of my hearing.
If it is an emergency hearing, you must call 520-724-3888 a.s.a.p. Forms are also accepted via U.S. Mail (Arizona Superior Court in Pima County, Office of the Court Interpreter, 110 W. Congress, Ste. W919, Tucson, AZ 85701) or you may hand deliver it to the Superior Courthouse, 9th Floor, Suite W919.

- 13. [] I have forwarded a copy to the court division that will hear my case.

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of:

Case Number: PB _____

 an Adult a Minor, deceased

WAIVER OF RIGHT TO APPOINTMENT AS PERSONAL REPRESENTATIVE AND CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE

THE UNDERSIGNED PERSON STATES AS FOLLOWS:

1. I am: (check one box)
 - (Check only if there is **NO Will**) an heir of the decedent's estate without a Will or
 - (Check only if there **IS a Will**) a person named in the decedent's Will.

2. I have priority for appointment as Personal Representative of this estate under A.R.S. § 14-3203 because: (check which box applies)
 - (Check only if there **IS a Will**) I am named as Personal Representative in the Will of the person who died;
 - (Check only if there **IS a Will**) I am the surviving spouse of the person who died and I am named in the Will;
 - (Check only if there **IS a Will**) I am another person named in the Will of the person who died;
 - I am the surviving spouse of the person who died;

I am another person entitled to inherit the property of the person who died because (explain)

3. I waive and want to give up any right I have to appointment as the Personal Representative of this estate.

4. I consent to the appointment of (name) _____ as
Personal Representative of the estate.

Signature

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate

Case No:PB _____

WAIVER OF BOND

an Adult a Minor, deceased

THE UNDERSIGNED PERSON STATES AS FOLLOWS:

1. I am: (check one box)

- (only if there is no Will) an heir of the decedent's estate without a Will or
 (only if there is a Will) person named in the decedent's Will.

2. The person who is applying to be the Personal Representative of the estate

(name) _____

has estimated that the total value of the estate of the person who died is \$ _____.

3. I waive any and all bond in connection with his or her appointment as Personal Representative. I ask that the court not require any bond in this proceeding.

Signature

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____

Address (if not protected): _____

City, State, Zip Code: _____

Telephone: _____

Email Address: _____

Lawyer's Bar Number: _____

Licensed Fiduciary Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of:

Case No: PB _____

_____ an Adult or a Minor, deceased

APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE
(Person Died Without a Will - "Intestate Estate")

OR

APPLICATION FOR INFORMAL PROBATE OF WILL and FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE
(Person Died With a Will - "Testate Estate")

1. This is an application for: (check one box)

Informal Appointment of Personal Representative because the person died without a Will
("Intestate Estate")

OR

Informal Probate of Will and for Informal Appointment of Personal Representative because the person died with a Will ("Testate Estate").

2. I live in _____ (County) _____ (State), and I am entitled to file this Application under A.R.S. § 14-3301 because I am: (check the box that applies)

The surviving spouse of the person who died;

An adult child of the person who died;

A parent of the person who died;

A brother or sister of the person who died;

(Check the box only if there is not a Will) A person entitled to property of the person who died under Arizona law;

- (Check the box only if there is a Will) A person who was nominated/named as Personal Representative by a Will;
- At least 45 days have passed since the person died, and I am a creditor.

3. **The name of the person who died is:** _____
This person died on _____, (date of death) **at the age of** _____ **years.**
At the time of death, the person who died lived in the following county and state: _____
 _____ **and 120 hours or more have passed since the time of death.**

4. **There is a Will and the original of the Will of the person who died, dated** _____, **is filed with this Application.**

5. **The person who died left behind the following persons who are the surviving spouse, children and others entitled to take property under Arizona law:** (if you need more space, attach a separate page):

Name	Age	Relationship	Address
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

6. **This is the correct county in which to file the probate because the person who died was a resident of this county or owned property in this county at the time of death.**

7. **To the best of my knowledge,** (check one box)

no personal representative for the estate has been appointed in this state or elsewhere

OR

a personal representative for the estate has been appointed in this state or elsewhere:

_____ (name of the person)

_____ (name of state)

8. I have **OR** I have not received a demand for notice from any interested person, **and**

I am **OR** I am not aware of any demand for notice by any interested person or any proceedings concerning the person who died, in this state or elsewhere.

9. I believe that the person who died had no Will. (Check the box only if there is not a Will.)

I exercised reasonable diligence, and I am not aware of any unrevoked Will, amendment to a Will, or a trust signed by the person who died that relates to property in this state.

OR

- I believe that the Will dated _____ was validly executed and is the last Will of the person who died. I exercised reasonable diligence, and I am not aware of any document that revokes the Will, or any amendment to the Will signed by the person who died.

10. **I have priority for appointment as Personal Representative because there is a will and:**
(Check boxes that apply – *if* there is a will)

- I am named as personal representative in the Will of the person who died;
- I am the surviving spouse of the person who died and am named in the Will;
- I am another person named in the Will of the person who died;
- I am the surviving spouse of the person who died;
- I am another person entitled to inherit the property of the person who died because (explain):

11. **The names, relationships and addresses of all parties who have a prior or equal right to appointment under A.R.S. § 14-3203 are** (if you need more space, attach a separate page):

Name	Relationship	Address

12. **BOND INFORMATION:** (Check one box)

- A bond is not required** of the Personal Representative under A.R.S. 14-3603 because all the legal heirs have filed written waivers of bond. **I request to be appointed Personal Representative to administer the estate without bond,**

OR

- A bond is not required because the Will waives the bond** for the Personal Representative. **I request to be appointed Personal Representative to administer the estate without bond,**

OR

- A bond is required of the Personal Representative under A.R.S. 14-3603 because all the legal heirs have not filed written waivers of bond** and my best estimate of the fair market value of all the property owned by the person who died and subject to the probate jurisdiction of the Court is as follows:

Personal Property	\$ _____
Real Property (less encumbrances)	\$ _____
Expected annual income of Estate	\$ _____
TOTAL	\$ _____

I request to be appointed Personal Representative to administer the estate with a bond as might be required.

13. **The time for informal appointment has not expired under A.R.S. § 14-3108 because:**
(check which box is true)

- Two years have not passed since the death of the person; OR**
- Other (Explain)** (It is Recommended that you see a lawyer if more than 2 years have passed):

OATH or AFFIRMATION AND VERIFICATION OF APPLICANT

The Applicant states under oath or affirms that the statements in the Application are accurate and complete to the best of his or her knowledge and belief.

Signature of Applicant

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

_____.

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of:

Case Number: PB _____

DECLARATION SUPPORTING PUBLICATION

An Adult A Minor Deceased

UNDER PENALTY OF PERJURY, I STATE THESE FACTS:

1. I am the Petitioner or Applicant and make these statements to show the circumstances why notice by Publication was used, and to show how service by publication was done.

2. Here are the names of people entitled to notice of this matter to whom I gave notice by publication:

- Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____
- Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____
- Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____
- Name: _____
Last Known Address: _____
Last Date I Tried to Find Person: _____
Relationship to Protected or Deceased person: _____

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

Representing Self, without a Lawyer or Attorney for Petitioner OR
Respondent

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of:

Case No: PB _____

_____ an Adult or a Minor, deceased

- STATEMENT OF INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE (Person Died Without a Will - "Intestate Estate")**
OR
 STATEMENT OF INFORMAL PROBATE OF A WILL AND INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE (Person died With a Will – "Testate Estate")

THE PROBATE REGISTRAR FINDS:

- An Application for Informal Appointment of a Personal Representative has been submitted by _____, requesting the following:
 - (Check the box only if there is no Will)** The appointment of _____ as the Personal Representative to administer the estate of the person who died without a Will,
 - (Check the box only if there is a Will)** The admission to probate of the Will of the person who died dated _____,
 - (Check the box only if there is a Will)** The appointment of _____ as the Personal Representative to administer the estate of the person who died with a Will.
- The Probate Registrar has found compliance with A.R.S. 14-3303 and is satisfied that the Will is entitled to probate.
 The Probate Registrar has found compliance with A.R.S. 14-3308 and is satisfied that the person named below is entitled to appointment as Personal Representative under Arizona law.

THEREFORE:

- (Name) _____, is appointed as Personal Representative of the estate of the person who died.
- (Check the box only if there is a Will)** The Will of the person who died, dated _____ is admitted to informal probate.
- No bond is required OR the Personal Representative shall post a bond in the amount of \$ _____ with this Court. Letters will be issued to the Personal Representative upon accepting and posting a bond (if required).
- The Personal Representative shall immediately notify the Court in these proceedings of any change in his or her address and shall be responsible for the costs resulting from his or her failure to do so.

DATED: _____

Probate Registrar

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of:

Case No.: PB _____

_____ an Adult OR a Minor, deceased

LETTERS OF APPOINTMENT OF PERSONAL REPRESENTATIVE AND ACCEPTANCE OF APPOINTMENT AS PERSONAL REPRESENTATIVE

LETTERS OF PERSONAL REPRESENTATIVE

_____ (name) is appointed as Personal Representative of this Estate without restriction except as follows:

WITNESS: _____ (date)

Toni Hellon
Clerk of the Superior Court

By _____
Deputy Clerk

ACCEPTANCE OF APPOINTMENT

I accept the duties of Personal Representative of the Estate of the above-named person who has died and do solemnly swear or affirm that I will perform the duties as Personal Representative according to law.

DATED: _____

Signature of Personal Representative

STATE OF _____

COUNTY OF _____

Subscribed and sworn to or affirmed before me this: _____ by
(date)

(notary seal)

Deputy Clerk or Notary Public

Person Filing: _____
Address (if not protected): _____
City, State, Zip Code: _____
Telephone: _____
Email Address: _____
Lawyer's Bar Number: _____
Licensed Fiduciary Number: _____

FOR CLERK'S USE ONLY

Representing Self, without a Lawyer or Attorney for Petitioner OR Respondent

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of:

Deceased.

Case No.: _____
**ORDER TO PERSONAL
REPRESENTATIVE AND
ACKNOWLEDGEMENT AND
INFORMATION TO
HEIRS/DEVISEES**

Assigned to the Honorable:

The best interest of this estate is of great concern to this Court. As Personal Representative, you are subject to the power of the Court. Therefore, to help avoid problems and to assist you in your duties, this Order is entered. You are required to be guided by this Order and to obey it.

This Court will not review or supervise your actions as Personal Representative unless an interested party files a written request to the Court. In Arizona, if you are a beneficiary of an estate, you are expected to protect your own interests in the estate. The Personal Representative is required to provide sufficient information to the beneficiary to permit the beneficiary to protect his or her interests. The Court may hold a Personal Representative personally liable and responsible for any damage or loss to the estate resulting from a violation of the Personal Representative's duties. The following is an outline of some of your duties as Personal Representative.

DUTIES OF THE PERSONAL REPRESENTATIVE

The duties of the Personal Representative are found in Chapter 3, Title 14 of the Arizona Revised Statutes (from now on called "A.R.S."). You are responsible for knowing and doing your duties according to these statutes. Some of the duties are as follows:

1. **Gather, control, and manage estate assets.** As Personal Representative you have the duty to gather and control all assets that belonged to the decedent (the person who has died) at the time of his or her death. After the valid debts and expenses are paid, you have the duty to distribute any remaining assets according to the decedent's will, or, if there is no will, to the intestate heirs of the decedent. As Personal Representative, you have the authority to manage the estate assets, but you must manage the estate assets for the benefit of those interested in the estate.

2. **Fiduciary Duties.** As Personal Representative you are a fiduciary. This means you have a legal duty of fairness and impartiality to the beneficiaries and the creditors of the estate. You must be cautious and prudent in dealing with estate assets. As Personal Representative, the estate assets do not belong to you and must never be used for your benefit or mixed with your assets or anyone else's assets. Arizona law prohibits a Personal Representative from participating in transactions that are a conflict of interest between you, as Personal Representative, and you as an individual. Other than receiving reasonable compensation for your services as Personal Representative, you may not profit from dealing with estate assets.

3. **Provide Notice of Appointment.** Within thirty (30) days after your Letters of Appointment as Personal Representative are issued, you must mail notice of your appointment to the Arizona Department of Revenue and to the heirs and devisees whose addresses are reasonably available to you. If your appointment is made in a formal proceeding, you need not give notice to those persons previously noticed of a formal appointment proceeding. *See* A.R.S. § 14-3705.

4. **Provide Notice of Admission of Will to Probate.** Within thirty (30) days of the admission of the will to informal probate, you must give written notice to all heirs and devisees of the admission of the will to probate, together with a copy of the will. You must notify the heirs that they have four (4) months to contest the probate. *See* A.R.S. § 14-3306.

5. **Mail Copies of this Order to Personal Representative.** Within thirty (30) days after your letters of personal representative are issued, you must mail a copy of this *Order to Personal Representative and Acknowledgment and Information to Heirs/Devisees* to all the heirs or devisees of the estate and to any other persons who have filed a demand for notice.

6. **File proof of Compliance.** Within forty-five (45) days after your letters of personal representative are issued, you must file with the Court a notarized statement swearing that a copy of this Order was mailed to each devisee, to each heir in intestate (no will) estates, and to any other persons who have filed a demand for notice.

7. **Publish Notice.** Unless a predecessor personal representative already has fulfilled this duty or you were appointed more than two years after the decedent's date of death, you must publish a notice once a week for three (3) consecutive weeks in Pima County in a newspaper of general circulation that announces your appointment as Personal Representative and tells creditors of the estate that, unless they present their claims against the estate within the

prescribed time limit, the claims will not be paid. In addition, you must mail a similar notice to all persons you know are creditors of the estate. *See* A.R.S. § 14-3801.

8. **Protect Assets.** You must immediately find, identify, and take possession of all the estate assets and make proper arrangements to protect them. *See* A.R.S. § 14-3709. All property must be retitled to show ownership in the name of the estate--such as "Estate of (decedent's name), by (your name) as Personal Representative." **Do not** put the estate assets into your name, anyone else's name, joint accounts, trust accounts ("in trust for"), or payable on death ("POD") accounts. Do not list yourself or any other person as joint owner or beneficiary on any bank accounts or other assets belonging to the estate. Do not mix any estate assets with your own assets or anyone else's assets.

If your authority as Personal Representative has been limited by the Court, you must promptly protect the estate assets as ordered and file a Proof of Restricted Assets with the Court. You may not sell, encumber, distribute, withdraw, or otherwise transfer restricted assets without first obtaining permission from the Court.

9. **Determine Statutory Allowances.** It is your responsibility to determine whether any individuals are entitled to statutory allowances under A.R.S. §§ 14-2402, -2403, and -2404. Statutory allowances include a homestead allowance, exempt property allowance, and a family allowance.

10. **Inventory Assets.** Unless a predecessor personal representative already has fulfilled this duty, within 90 days after your Letters of Appointment as Personal Representative are issued, you must prepare an inventory or list of the decedent's probate assets and their values as of the date of death. *See* A.R.S. § 14-3706. The inventory must be either (1) filed with the Court and mailed to all interested persons who request it, or (2) not filed with the Court, but mailed or delivered to: (a) each of the heirs if the decedent died intestate or to each of the devisees if the decedent's will was admitted to probate; and (b) to any other interested person who requests a copy of the inventory.

11. **Standard of Care.** In administering estate assets, you must observe the standards of care applicable to a trustee, including the prudent investor rules. *See* A.R.S. §§ 14-10801 et seq. and 14-10901 et seq.

12. **Keep Detailed Records.** You must keep detailed records of all receipts and expenses of the estate. You are required to provide an accounting of your administration of the estate to all persons affected by the administration. *See* A.R.S. § 14-3933.

13. **Pay Valid Debts and Expenses.** You must determine which claims and expenses of the estate are valid and should be paid. You must provide to any creditor whose claims are not allowed prompt written notification that they will not be paid or will not be paid in full. *See* A.R.S. § 14-3806. To the extent there are enough assets in the estate, you are responsible for payment of any estate debts and/or expenses that you know about or can find out about. If there are not enough estate assets to pay all debts and expenses, you must determine which debts and

expenses should be paid according to the law. *See* A.R.S. § 14-3805. You may be personally liable if you pay a debt or expense that should not be paid.

14. **Pay Taxes.** It is your responsibility to determine that all taxes are paid and that all tax returns for the decedent and the estate are prepared and filed.

15. **Distribute Remaining Assets.** After payment of all debts and expenses of the estate, you must distribute estate assets as directed in the will, or, if there is not a will, to the intestate heirs. If there are not enough assets in the estate to make the gifts set forth in the will, it is your responsibility to determine how the distributions should be made as required by law. *See* A.R.S. §§ 14-3902 and -3907. You may be personally liable if you make an improper distribution of estate assets.

16. **Change of Address.** Until the probate is closed and you are discharged as Personal Representative, you must notify the Court in writing if you change your home or mailing address.

17. **Payment as Personal Representative.** As Personal Representative, you may be entitled to reasonable compensation. *See* A.R.S. § 14-3719. Arizona statutes do not designate percentage fees for your work or say how much a Personal Representative should be paid. You must keep receipts to prove out-of-pocket expenses. In determining whether a fee is reasonable, the Court will consider the following factors.

- a. The time required (as supported by detailed time records), the novelty and difficulty of the issues involved, and the skill required to do the service properly;
- b. The likelihood that your acceptance as Personal Representative will preclude other employment;
- c. The fee normally charged in the area for similar services;
- d. The nature and value of estate assets, the income earned by the estate, and the responsibilities and potential liability assumed by you as Personal Representative;
- e. The results obtained for the estate;
- f. The time limitations imposed by the circumstances;
- g. The experience, reputation, diligence and ability of the person performing the services;
- h. The reasonableness of the time spent and service performed under the circumstances; and
- i. Any other relevant factors.

18. **Court Involvement.** Usually, to reduce estate expenses, estates are administered and estate claims and expenses are paid, including the fees to the attorney and Personal Representative, with little Court involvement. The Court does not supervise informal probates or the conduct of a Personal Representative. However, if any interested party believes that the estate has not been properly handled or that the fees charged by the attorney or Personal Representative are not reasonable under the circumstances, that party may request that the Court review the accounting for the Personal Representative's administration of the estate. Any additional Court involvement may result in additional delay and expenses. If appropriate, the Court may assess the additional expense against the estate or the nonprevailing party.

19. **Close the Estate.** After you have administered the estate and the assets of the estate have all been distributed, the estate must be closed, either formally or informally. In an informal closing, a copy of the Closing Statement must be filed with the Court and sent to all persons receiving a distribution from the estate. *See* A.R.S. § 14-3933. For a formal closing, *see* A.R.S. §§ 14-3931 and -3932. **Usually, the estate should be completely administered and closed within two (2) years after the initial appointment of the Personal Representative.**

WARNING: This is only a general outline of some of your duties as Personal Representative. This Order does not describe all of your duties and is not a substitute for obtaining professional legal advice. If you have any questions as Personal Representative, before taking any action, you should contact an attorney who handles probate estates to find out what to do.

Failure to obey a Court Order and the statutory provisions relating to this estate may result in your removal as Personal Representative and other penalties. In some circumstances you may be held in contempt of court, punished by confinement in jail, a fine, or both. In addition, if you violate any of your fiduciary duties, you could be held personally liable for any losses for which you are responsible.

The Pima County Bar Association offers legal forms and has a Lawyer Referral Service (LRS) program that, for a \$35 referral fee (as of June 2017), can connect you to a licensed attorney who will provide a 30-minute consultation, legal advice, and a fee estimate for further services or representation (if necessary). The bar association also has a reduced-fee program, known as the Qualified-Income Legal Team (QUILT) program, for individuals who meet certain financial eligibility requirements and who are in need of assistance in a legal area included in the QUILT program. For more information, contact the Pima County Bar Assn. LRS at (520) 623-4625, 177 N. Church Avenue, #101, Tucson, AZ 85701, or www.pimacountybar.org.

DATED this _____ day of _____, 20____.

Judge/Special Commissioner/ Judicial Officer
Superior Court of Arizona in Pima County

ACKNOWLEDGMENT

I, the undersigned, acknowledge receiving a copy of this order and agree to be bound by its provisions, whether or not I read it before signing, as long as I am Personal Representative.

Signature of Personal Representative

Date Signed

Signature of Co-Personal Representative

Date Signed

UNLICENSED FIDUCIARY TRAINING MANUAL



This program was developed under grant number SJI-11-E-008 from the State Justice Institute. The points of view expressed are those of the faculty and do not necessarily represent the official position or policies of the State Justice Institute.

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TRAINING SHOULD BE COMPLETED BEFORE THE COURT HEARING.

The fiduciary may for good reason request additional time to complete the training.

You may access and complete the training FREE online at:
<http://www.azcourts.gov/probate/Training.aspx>

Go to the section for “**Non-licensed Fiduciaries**” and click on the link to access a narrated slide-show presentation of the materials applicable to your situation.

-  [Introduction to Serving as a Non-Licensed Fiduciary \(Video\)](#)
-  [Introduction to Serving as a Non-Licensed Fiduciary \(printable PDF\)](#)

-  [Welcome to Guardianship training module \(Video\)](#)
-  [Welcome to Guardianship training module \(printable PDF\)](#)

-  [Welcome to Personal Representatives training module \(Video\)](#)
-  [Welcome to Personal Representative training module \(printable PDF\)](#)

-  [Introduction to Conservatorship Account Forms Video Tutorial](#)
-  [Welcome to Conservatorship training module \(Video\)](#)
-  [Welcome to Conservatorship training module \(Printable PDF\)](#)

**You may also pick up a printout of the same materials
at no charge from any Self-Service Center location.**

AFTER reviewing the materials, you will need to inform the Court that you have completed the training by filing either the Certificate available at the end of the online training, or the Declaration of Completion form available at the end of this training manual, or from either the Probate Filing Counter or the Self-Service Center. If you have questions about the training, contact the Probate Clerk at 602-506-3668.

Probate Fiduciary Training Manual

After viewing the contents of this manual you will be able to:

- Recall the qualifying requirements
- Discuss the differences among the 3 roles
- List the basic responsibilities for each role
- Describe the order of priority for assigning each role

Unlicensed Fiduciary Roles

As an unlicensed fiduciary you may be appointed in one of 3 roles: Guardian, Conservator or Personal Representative. These roles have similarities, but also distinct differences. This overview is designed to help you determine the responsibilities associated with your appointed role.

GUARDIANSHIP

➤ What is a Guardian?

A guardian is responsible for making personal decisions for an individual deemed incapacitated by the Superior Court, typically referred to as the “ward.” The guardian of a ward has the same rights and responsibilities as a parent does to an un-emancipated minor, except that the guardian does not have any liability to a third party. In other words, a guardian is not responsible for the debts or actions of their ward that a parent is for their child.

➤ Qualify for Appointment

A person must first qualify in order to be considered for appointment as someone’s guardian. They must attest (or swear) that they have never been convicted of a felony, never been removed as a guardian for wrongdoing, and that they understand the responsibilities of being a guardian.

➤ Priority of Appointment

The court has the ability to pass over an individual who has a higher priority if the court believes there is a valid reason to do so. For example, if the court determines that the durable or healthcare power of attorney presented by the proposed ward’s spouse is not a valid document, the proposed ward did not have the legal capacity to execute the document, or the spouse used undue influence to get the proposed ward to sign the document, the court may instead appoint the proposed ward’s adult child.

➤ General Responsibilities

The guardian is responsible for making all medical and personal decisions on behalf of the ward. For example, the guardian must consent to medical treatment, determine where the ward will live while maintaining their current standard of living, and ensure that they are receiving the education and training that they would be entitled to and which may increase their quality of life.

CONSERVATORSHIP

➤ What is a Conservatorship?

A conservator is an individual who is responsible for managing the assets – for example, money, brokerage accounts, homes, or businesses - of a “ward” or “protected person.” A ward is an individual who has been determined to be incapacitated by the superior court. A protected person is someone who has not had a guardian appointed and has not been declared incapacitated by the superior court but the court has determined that they need assistance in managing their assets. The court determines that someone needs protection if they have assets that may be wasted or lost because they cannot protect the assets themselves due to a number of reasons including mental illness, mental deficiency or chronic intoxication.

➤ Priority of Appointment

Just as when being appointed a guardian, an individual who wants to be appointed as conservator must first show the court that they are qualified. They must prove they have never been convicted of a felony, never been removed as conservator due to wrongdoing, and understand the role of a conservator. Once the court has determined that an individual is qualified, the court may also assign priority to the individual based on given criteria.

1st Level - A conservator who has been appointed in ANOTHER jurisdiction where the protected person resides.

A first level priority may be assigned to a conservator who has been appointed in ANOTHER jurisdiction where the protected person resides. This is different than the guardianship priority statute as it distinguishes between someone who has already been appointed in any jurisdiction, including the one where the petition may currently be pending, and one appointed in another jurisdiction, such as another county or state.

2nd Level - Nominated by protected person

A second level priority is assigned to someone nominated by the proposed person in need of protection if the court determines that the individual has the mental capacity to make the nomination.

3rd Level - Nominated in protected person’s power of attorney

A third level priority is an individual nominated in the proposed protected person’s durable power of attorney.

Additional levels of priority are assigned based on a certain set of criteria. However, as in a guardianship proceeding, the court has the ability to pass over an individual who has a higher priority if the court believes there is a valid reason to do so.

4th Level - The proposed protected person’s spouse

5th Level - The proposed protected person’s adult child

6th Level - The parent of the proposed protected person or an individual nominated in the Last Will and Testament of the deceased parent

7th Level - Any relative who the proposed protected person has lived with for the six months prior to the petition.

8th Level - Someone nominated by an individual proving care to or paying benefits for the proposed protected person.

9th Level - If the proposed protected person is a veteran or the spouse of a veteran, than the Department of Veterans Affairs

10th Level - A fiduciary who is licensed by the Arizona Supreme Court who is NOT the public fiduciary

11th Level - The public fiduciary

➤ **General Responsibilities**

The conservator has the responsibility to manage the assets of the protected person as a prudent man would. In other words, the conservator must ensure that the money and assets of the protected person are used only for the benefit of the protected person. The conservator must ensure that the assets of the protected person are invested properly and appropriately to maintain the protected person's current living circumstances.

➤ **Endorsement**

Finally, an individual who has been appointed as the conservator may petition the court to allow their letters of conservatorship to be "endorsed." This means that the court grants the same authority to the conservator that a personal representative has and that they may administer the estate of the decedent in accordance with the Last Will and Testament of the decedent, or by the laws of the State of Arizona. A conservator must wait 40 days from the date of death of the decedent before they apply to have their letters of conservatorship endorsed. There are a number of provisions to allow individuals with an interest in the estate to nominate an individual they believe is more appropriate to act.

PERSONAL REPRESENTATIVE

➤ **What is a Personal Representative?**

A personal representative (also known as an executor or administrator in other states) is a person responsible for handling the assets of a deceased, the decedent, and individual.

➤ **Priority of Appointment**

The court may assign priority to the individual appointed as personal representative based on a certain set of criteria.

1. The person nominated in the Last Will and Testament
2. The surviving spouse who is also a devisee (Devisee is a person named in the Will to receive property of the decedent)
3. Other devisees of the Will
4. The surviving spouse
5. Other heirs of the decedent (An heir is someone who is authorized to receive the property of a decedent by law such as children, grandchildren, siblings, etc. Just because someone is an "heir at law" does not mean they are the devisee of a Will.)
6. If the decedent was a veteran or the spouse of a veteran, the Department of Veteran's Affairs

7. Any creditor if a probate has not been initiated 45 days after the death of the decedent
8. The public fiduciary

➤ **Testate versus Intestate**

Testate administration means the decedent left a valid Last Will and Testament and the personal representative shall administer the assets of the estate in accordance with the provisions of the Last Will and Testament. An intestate estate is one in which an individual dies without leaving a valid Last Will and Testament and their assets pass according to what is referred to as “intestate succession.” This is a provision in the law that outlines who is to receive the property of the decedent; typically, the spouse, children, grandchildren, parents, siblings, nieces/nephews, cousins, or other relatives.

➤ **General Responsibilities**

The personal representative is responsible for distributing the property of the decedent based on either the terms of the Last Will and Testament or the laws of the State of Arizona if the decedent died without a Will. The personal representative must protect the property of the decedent for the benefit of the beneficiaries.

Thank you for viewing this training manual. The welfare of the ward and/or protected person is of utmost importance to the court. For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

PERSONAL REPRESENTATIVE TRAINING MANUAL



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Personal Representative Training Manual

After viewing the contents of this manual you will be able to:

- Summarize the role of the Personal Representative
- Compare and contrast supervised vs. unsupervised probate administration
- Explain how handling an intestate differs from an estate with a Last Will and Testament
- Discuss the process for closing the estate

Supervised Administration v. Non-Supervised Administration

The intent of the probate court is to stay out of the affairs of a decedent (the deceased individual) estate as much as possible. The probate courts in Arizona take the position that the heirs, beneficiaries or devisees of an estate likely have the ability to protect their own interest in the estate and therefore, do not need the court monitoring the activities of a personal representative as they would for a guardianship or conservatorship.

➤ Unsupervised Personal Representative

Most probate administrations are not supervised by the court. This means the personal representative has the ability to liquidate property or make distributions without first seeking approval of the court. Any interested party may request the court “supervise” the activities of the personal representative. This can happen for a number of reasons. The interested party may be concerned that the personal representative is not acting for the benefit of the estate or the heirs, or one of the heirs or beneficiaries may be a minor or incapacitated, so the interested party believes additional court oversight is necessary.

➤ Supervised Personal Representative

When the court orders that a personal representative’s appointment is supervised this means the personal representative must petition the court for approval to take most actions. For example, the personal representative would need to seek the court’s approval before liquidating property, distributing property/cash, or closing the estate.

Intestate and Heirs

➤ If the estate is intestate, how do you determine heirs?

Arizona Revised Statutes §14-2103 outlines who should inherit the estate of the decedent if the person dies without leaving a will. According to this statute there is a prescribed order in which an estate passes on to the heirs. The order of inheritance is shown below:

Surviving spouse

If no surviving spouse:

The decedent’s children or their children,

If no children:
The decedent's surviving parent(s),

If no parents:
The decedent's sibling(s) or their children

If no sibling(s) or nieces/nephews:
The decedent's grandparents – one-half to the maternal side and one-half to the paternal side

If there are no relatives:
The State of Arizona

➤ **Determining Heirs**

Determining who may be the heirs and in what percentage can be complicated. You should seek the advice of legal counsel to ensure that you have identified all potential heirs. It is best to seek a professional who will conduct an heir search and provide you with a report as to who may be entitled to inherit from the estate. Once you have determined who you believe to be the heirs of the intestate estate, you will want to file a petition for determination of heirs with the court so that the court may confirm the heirs of the estate.

Providing Notice to Interested Parties

Interested parties are individuals or companies who may have a financial interest in the estate such as an heir, beneficiary or devisee. An interested party may also be an individual who has filed a demand for notice, such as a creditor. If you are dealing with an intestate estate, you will need to provide notice to the Arizona Attorney General as they may receive the estate proceeds if no relatives can be located.

Filing Informal Probate

If you are filing an informal probate you shall give notice to interested parties, of the fact that you were appointed as the personal representative, within thirty days from the date of appointment. You shall notify the parties of the court where the Will was filed or where the petition for appointment was filed. You shall also provide them with a copy of the Order to Personal Representative which outlines your duties and responsibilities as the personal representative.

Filing Formal Probate

If you are filing a formal probate proceeding, you shall give notice of the date and time of the hearing to all interested parties at least 14 days prior to the hearing.

Providing Notice to Creditors

Once you are appointed as the personal representative, you must give notice to all known and unknown creditors. A creditor is any individual or entity which may have been owed money by the decedent before their death or as a result of their death. Examples include mortgage companies, physicians, credit card companies, and tax authorities, among others.

➤ **Unknown Creditors**

In order to ensure you have notified all unknown creditors, you shall publish notice in a newspaper of general circulation in the county where you were appointed. The notification shall state that you were appointed as the personal representative and provide the address where creditor's claims may be sent. You shall publish this one time per week for three successive weeks.

➤ **Known Creditors**

A known creditor is some person or company you know the decedent owed money to before death, such as a personal physician or credit card company. You shall provide actual notice to all known creditors by providing them with a copy of the Notice to Creditors that you file with the court.

➤ **Creditor's Claim**

Once a potential creditor has been notified of the death, the creditor has 120 days to present a bill to the estate for payment. Some creditors will file a creditor's claim directly with the court; others will simply send you the bill. Both methods are acceptable for presenting the claim to the estate.

➤ **Time Frame for Claim**

The time frame for presentation of the creditor's claim is calculated in one of two ways:

For unknown creditors the 120 day countdown begins on the date of first publication. As an example, if the first date that the creditor's notice is published in the newspaper is February 1, the creditor has until May 31 to present their claim.

For known creditors who receive actual notice, the 120 day countdown begins on the day you sent out the notification.

➤ **When Creditor's Period Expires**

If you receive a creditor's claim after the creditor's period has expired you have an obligation to deny the claim. The notice to creditors notifies the creditor that if they do not present their claim with 120 days, their claim is barred. A creditor may petition the court to argue against the fact that you denied the claim. The court will then determine whether the creditor should be paid or if the claim should be denied.

Order of Payment

➤ **Who gets paid in what order?**

The state statutes outline how creditor's claims are to be paid in the order as follows.

Costs and expenses of administration. This means your fees and expenses as the personal representative and those of your attorney; Funeral expenses; Debts and taxes under federal law (Internal Revenue Service); Medical and hospital expenses related to the last illness of the decedent, including compensation to individuals providing care; Debts and taxes with preference under state law (Arizona Department of Revenue); all other claims. This means that all other debts of the decedent fall into the same category. If there is more than one creditor in a particular category, they are all treated equally and no one has priority over the other for payment.

Pro Rata Share

➤ **What if the estate is not large enough to cover all debts?**

If the estate is not large enough to cover all of the debts, the debts are paid in the order outlined in the state statute. If all creditors with the exception of creditors in the final category have been paid, the remaining creditors get a pro rata share of the remaining cash. A pro rata share is the percentage of debt the creditor represents in comparison to the entire value of the debt owed.

➤ **Debt Example**

As an example, there are 10 creditors with a total debt owing of \$100,000. Creditor 1 submitted a claim worth \$50,000. This means that Creditor 1 represents 50% of the total debt owed by the decedent. If there is only \$25,000 available to pay the remaining creditors, Creditor 1 would receive \$12,500 toward their bill as they represent 50% of the claims.

Marshal and Secure All Assets

As a personal representative, your first priority is to marshal and protect the assets of the decedent's estate. When the court tells you to marshal an asset, do you know what they mean? The court wants you to take control of the assets, on behalf and for the benefit of, the estate. There are a number of different ways that you can do this.

➤ **"Certified" Letter**

One of the first things you need to do is obtain a current "certified" copy of your letter of appointment. A certified copy is a copy issued by the Clerk of the Court in the county where your letter was issued. The certified copy states that it is a true and complete copy of the original letter on file with the issuing court, and that the letters of personal representative are currently in effect.

➤ **Record Your Letter**

Once you have obtained the certified copy of your letters of appointment (or letters of personal representative) you will need to record these with the county recorder in every county where the decedent owned property. By recording your letters of appointment you are putting the public on notice of your appointment. You are also creating a record should someone attempt to sell real property belonging to the estate that you are the only person entitled to transfer property on behalf of the estate.

➤ **Notice of Filing**

Once you have received the recorded copy of your letters of appointment back from the recorder's office (there will be a marking on the document that reflects it has been recorded and where that record can be found for future reference), you will need to file a Notice of Filing with the court to show that you have recorded the letters of appointment.

➤ **Marshal an Account**

In order to marshal a bank or brokerage account, you will need to notify the financial institution of your appointment. When you first meet with the financial institution be sure to bring the original, stamped letter or the certified copy of your letter of appointment with you. Most banks' legal department will want to see a certified copy of your letter of appointment in order to allow you access to the account. You should also have a copy of the decedent's death certificate and a copy of the letter from the Internal Revenue Service assigning the employer identification number of the estate.

How Should Assets Be Titled?

Once you have presented your letter of appointment, the account(s) will be re-titled to the name of the estate. The way the account is titled depends on the organization you are working with. Some will title it as "Estate of Jane Doe, by John Doe, Personal Representative"; others will title it as "John Doe, Personal Representative for the Estate of Jane Doe." The purpose of this is to notify the organization (bank, brokerage firm, Department of Motor Vehicles) that you are the only person who should be dictating how the asset is held, spent, or managed.

Recording Transactions

You should be very careful not to let any other individual have access to any bank accounts you manage. While there is no law that prohibits you from using a debit card or cash to transact business on behalf of the estate, it is best to avoid using a debit card or cash whenever possible. Debit cards can be easily accessed by another individual and it is difficult to prove that a cash transaction was used for the benefit of the estate. If it is necessary to use cash for a purchase be sure to keep all receipts to prove the purchase was for the benefit of the estate.

Re-Title Vehicles

You may also re-title vehicles in the name of the estate. In order to transfer the title of vehicles into the estate you will need to bring your letters of appointment with you. The Motor Vehicle Division typically requires a certified copy dated within 60 days from the date of the re-title request. Vehicles may be cars, motorcycles, boats, recreational vehicles or motor homes.

Obtain an EIN

An EIN is an employer identification number. This is similar to a Social Security Number and is the number that is used to report the estate income to the Internal Revenue Service. You may obtain an EIN online from the Internal Revenue Service's website at www.irs.gov

Inventory and Appraisement

Unlike a conservatorship that requires you file the Inventory and Appraisement with the court AND provide a copy to interested parties, in a probate proceeding you can choose. You may file

the inventory and appraisal with the court and notify the interested parties that you filed it and they may request a copy from the court. Alternatively, you are not required to file it with the court (unless the court has ordered you to do so) and you can mail a copy of the inventory and appraisal directly to the interested parties. You must do one or the other within 90 days from the date of your appointment.

Assets of the Estate

All assets of the probate estate should be listed on the inventory and appraisal. Assets to be included, but not limited to, are shown below:

- Bank accounts
- Brokerage accounts
- Annuities
- Life insurance policies (the cash surrender value)
- Real property (homes, vacant land, and burial plots)
- Automobiles
- Jewelry/Artwork/Antiques
- Household items
- Cash/Coins

How Much Detail

➤ How much detail should you include?

You should include as much detail as is necessary to reasonably identify the asset. For example, if the protected person has a checking account at Bank of America, you would document it as “Bank of America Checking” and provide the Account number.

➤ Documenting Assets

When documenting an automobile, you should include the make, model, year and vehicle identification number (VIN). You should include the address and parcel number for real estate.

Documenting household items on an inventory is a little more difficult. Some will include a lump sum value of miscellaneous household property and others will include details such as one sofa, one end table and one coffee table. No matter the amount of detail you choose to include for household items, you should always photograph or video tape the personal property.

➤ Date and Valuation of Assets

When dealing with a probate estate, the value of an asset on the inventory and appraisal is determined by its value on the date of death of the decedent. When listing a bank account, brokerage account or annuity, you will want to list the value as of the date of death. A reliable way to determine the value of an automobile would be to use the Kelley Blue Book valuation.

➤ Provide a Reasonable Estimate

Determining the value of other assets may be a little more difficult. Appraisals may be obtained for homes, jewelry, artwork or antiques. Appraisals can be very costly so if it is not your intent to

liquidate the asset in the very near future, it may be best to provide a reasonable estimate of the asset's value as the value can change significantly in a very short period of time, such as with real estate. If you provide an estimate for the value be sure to make note of this on the inventory.

➤ **In-Kind Distribution**

Additionally, some assets may be distributed to a beneficiary as an “in-kind” distribution. An in-kind distribution is when you give the individual the property just as it is, such as a ring. Instead of selling the ring and giving the individual the cash, you are giving them the actual asset. The statute requires that the personal representative obtain an appraisal of any property given “in-kind” within 30 days of distributing the property. This is another reason it may be best to wait on an appraisal as you do not want to waste estate assets getting multiple appraisals for the same piece of property.

Payable/Transfer on Death

➤ **What if you discover assets are “payable on death” or “transfer on death”?**

If you discover that an asset is “payable on death” or “transfer on death” you should notify the individual(s) named as the beneficiary and provide them with the information necessary for them to take possession of the asset. As the personal representative you do not have the authority to marshal a payable on death asset because it no longer belongs to the decedent or his estate after his death; the interest in the asset now belongs directly to the beneficiary.

Record Keeping

➤ **What types of records should you keep?**

You are required to keep records of all income and expenses you manage as the personal representative of the estate. You will need to keep copies of all bank statements, brokerage statements, invoices, receipts, and any other record you need to support your efforts as personal representative.

Invoices

One good practice is to attach a copy of a check used to pay an invoice to the copy of that invoice. This ensures all parties that the expenses you are making are for the benefit of the protected person.

Original Papers

You should maintain the original papers for all important documents, such as deeds, titles, birth certificates, death certificates.

Maintaining Records

The amount of time you maintain records can depend on a number of factors. It is recommended that you keep all records regarding your activities as personal representative for, at a minimum, as long as you are acting as personal representative. Keep in mind, other laws may recommend you keep records for longer periods of time.

The typical recommendation is to follow the record retention requirements outlined by the Internal Revenue Service. The most recent information from the IRS indicates you should keep records according to the following conditions shown on this page.

1. If you owe additional tax and situations (2), (3), and (4), below, do not apply to you; keep records for 3 years.
2. If you do not report income that you should report, and it is more than 25% of the gross income shown on your return; keep records for 6 years.
3. If you file a fraudulent return; keep records indefinitely.
4. If you do not file a return; keep records indefinitely.
5. If you file a claim for credit or refund* after you file your return; keep records for 3 years from the date you filed your original return or 2 years from the date you paid the tax, whichever is later.
6. If you file a claim for a loss from worthless securities or bad debt deduction; keep records for 7 years.
7. Keep all employment tax records for at least 4 years after the date that the tax becomes due or is paid, whichever is later.

Payment for Personal Representative

You are entitled to payment for your time as the personal representative. The court may review your fees at the time you close the estate. You are also entitled to reimbursement from the estate for any money you pay out of pocket for the estate's benefit. For example, if you pay for a filing fee with the court, you would be entitled to be reimbursed for that expense.

Attorney's Fees

➤ Can You Hire An Attorney?

You may hire an attorney and are entitled to have the fees for that attorney paid for by the estate as long as the court determines that the fees are reasonable and necessary.

Closing the Estate

Upon expiration of the creditor's claims period, you should be able to close the estate. If the assets of the estate are sufficient to pay all claims, then all claims should be paid. If you have reason to believe a claim on the estate is not valid you may deny that claim. However, if you do so, you will need to allow time for the creditor to challenge the denial.

➤ Final Tax Return

You may want to meet with a CPA to discuss the timing and process for filing the final estate tax return. To file the final return you will need to obtain an Internal Revenue Service Form W-9 from each heir, beneficiary or devisee. At the time of filing the final tax return, the CPA will prepare a document called a Form K-1 which will be provided to each beneficiary, heir or devisee.

➤ Supervised Personal Representative

You may close the estate in one of two ways depending on your appointment type. If you are operating under a supervised administration, you will be required to file a formal account with the court which outlines the starting value of assets (the inventory value), the income and expenses, the ending value of the estate and a proposal as to how you plan to distribute those funds to the individuals /entities who are to receive them.

➤ **Non-Supervised Personal Representative**

If you are not operating under a supervised administration, you may still choose to file a formal account with the court but you are not required to do so. Instead, you may provide the interested parties with a copy of your accounting and obtain a waiver and release from them. The waiver and release will typically indicate that they acknowledge receipt of the account, they have no issues with its contents, they agree to the distribution plan and waive you filing the account with the court.

Distributions to Heirs

Upon approval of the distribution plan by the court or receipt of all waivers and receipts from the heirs, beneficiaries or devisees, you may distribute the assets of the estate according to law, the terms of the Last Will and Testament and/or the distribution plan.

Distribution Receipts

It is good practice to send a receipt to the individual/entity receiving the distribution as you will want to supply a copy of the signed receipt to the court to prove that you have distributed the assets of the estate. It can be difficult sometimes to get beneficiaries, heirs or devisees to return the receipt. It is suggested to send the distribution via certified mail/return receipt requested. If you are unable to obtain the receipt back, you will at least have the certified mail receipt to show the court that you delivered the distribution.

Closing the Estate

Upon filing of the final tax return, providing an account to all interested parties, and receiving proof of distribution, you may close the estate.

➤ **Formal Closing of the Estate**

As with the account, you can do this in one of two ways. If you are operating under a supervised administration, you will be required to petition the court for permission to close the probate estate. If you are not operating under a supervised administration, you may still choose to file a formal petition for discharge with the court. The benefit to filing the formal petition is that, if you have a bond, you are able to obtain exoneration of the bond immediately.

➤ **Informal Closing of the Estate**

Keep in mind, any time a formal closing procedure is used, the costs to the estate are typically higher. This is why the court recommends an “informal” closing. With an informal closing you will file a closing statement with the registrar (Clerk of the Court) which will include the waivers and receipts you obtained from the heirs, beneficiaries or devisees. The registrar will then sign the closing statement which indicates that if no objections are filed within one year, the estate is closed and the bond may be exonerated.

Thank you for viewing this training manual. The importance of probate is of great importance to the court. For more information about Probate please visit the Judicial Branch website devoted to Probate at www.azcourts.gov/probate.

Your Name: _____
Your Address: _____
Your City, Zip Code: _____
Your Telephone No. _____
Represents Self OR Attorney for: _____
State Bar Number (if applicable): _____

FOR CLERK'S USE ONLY

SUPERIOR COURT OF ARIZONA IN PIMA COUNTY

In the Matter of the Estate of _____

Case Number : _____

DECLARATION OF COMPLETION OF TRAINING for NON-LICENSED FIDUCIARIES

A Deceased or Protected Person

Rule 27.1 of the Arizona Rules of Probate Procedure requires that a person to be appointed guardian, conservator, or personal representative of an estate, who is neither a state-licensed fiduciary nor a corporation, complete a training program approved by the Supreme Court of this state before permanent **Letters of Appointment** are issued.

UNDER PENALTY OF PERJURY

I state to the Court that in accord with Rule 27.1 of the Arizona Rules of Probate Procedure, I have completed the required training for non-licensed, non-corporate fiduciaries, as indicated below:

(Check all that apply, include dates, and attach any certificates from online training.)

- | | |
|--|-----------------------|
| <input type="checkbox"/> Unlicensed Fiduciary | Date completed: _____ |
| <input type="checkbox"/> Conservatorship | Date completed: _____ |
| <input type="checkbox"/> Personal Representative | Date completed: _____ |
| <input type="checkbox"/> Guardianship | Date completed: _____ |

Date: _____

Signature _____

Printed Name _____

INSTRUCTIONS: Fill out this Declaration completely and provide accurate information. Make at least one copy. You will need to file the original with the Clerk of Court and provide a copy to the Probate Registrar before receiving any *permanent* letters of appointment.