

PROBATE COURT OF MONTGOMERY COUNTY, OHIO

**INFORMATION SHEET FOR RELEASE OF
ESTATE FROM ADMINISTRATION**

THE FOLLOWING INFORMATION SHEET IS INTENDED TO SERVE ONLY AS A GENERAL GUIDE AND SHOULD NOT BE RELIED UPON AS A COMPLETE LIST OF ALL STEPS THAT MAY BE NEEDED IN A RELEASE FROM ADMINISTRATION. THE CIRCUMSTANCES IN EACH CASE MAY REQUIRE ADDITIONAL STEPS OR ACTIONS TO BE TAKEN THAT ARE NOT LISTED BELOW.

STEP ONE: WHEN TO USE A RELEASE OF ESTATE FROM ADMINISTRATION

A release of estate from administration may be used for dates of death on or after March 19, 1999 when:

1. The value of the decedent's probate assets do not exceed \$35,000.00 when there is no surviving spouse, **or**
2. The values of the estate assets do not exceed \$100,000.00 and the applicant is the decedent's surviving spouse, by a statutory marriage and not by a common law marriage. The surviving spouse must be entitled to receive the entire estate under Section 2105.06 and/or Section 2106.13 of the Revised Code.

STEP TWO: ASSETS SUBJECT TO PROBATE

You must determine the assets that must pass through the probate process.

Generally, any asset held solely in the name of the person who has died must pass through the probate process.

Assets held in a joint survivorship form, payable on death form or in a transfer on death form are generally not subject to the probate process.

Assets, such as life insurance, that are paid to a beneficiary generally do not have to pass through the probate process.

STEP THREE: DETERMINING THE VALUE OF PROBATE ASSETS

Once you have determined the assets that have to pass through the probate process, you must value these assets.

Bank accounts are valued by using the balance in the account on the date of death. Be careful with checking accounts as there may be outstanding checks that have not cleared the bank. Also, be careful if the deceased person was receiving social security payments as the last check may have to be repaid to the government.

Real estate must be valued by using the Auditor's tax value for the decedent's interest in the real estate. If the real estate is located in Montgomery County, you can find the tax value on the following website www.mcrealestate.org. You may also have the real property appraised by a court approved appraiser. A list of approved appraisers can be found on the Court's website under General Resources.

Motor vehicles may be valued by using the average trade-in book value for the month of death or by having the vehicle valued, in writing, by a local car dealership. You can obtain the book value on the internet from any nationally recognized service such as NADA or Kelly

STEP FOUR: COMPLETING THE PROBATE FORMS

ALL FORMS MUST BE COMPLETED IN INK OR TYPEWRITTEN. THE FORMS MUST BE LEGIBLE AND MEET THE COURT'S STANDARDS TO IMAGE. THE COURT MAY REJECT ANY FORM THAT DOES NOT MEET THESE STANDARDS.

The applicant must obtain and complete the following forms from the Clerk's Office, Room 209:

1. Form 5.0 – Application to Relieve Estate From Administration.
2. Form 1.0 – Surviving Spouse, Children, Next of Kin, Legatees and Devisees. The front side of this form lists the decedent's next of kin. The backside of this form lists the persons named in the will. There must be complete addresses for all persons listed.
3. Form 5.1 – Assets and Liabilities of Estate to be Relieved From Administration. The probate assets are listed on the front side of this form. If any assets are appraised, a court approved appraiser must sign the backside of this form. All known outstanding debts are listed on the backside of this form. Funeral expenses should be listed even if paid or prepaid. If any debts have been paid, proof of payment should also be submitted.
4. Form 5.6 – Entry Relieving Estate From Administration.
5. Form 12.0 - Application For Certificate of Transfer if there is real estate.

6. Form 12.1 - Certificate of Transfer if there is real estate. This form must be submitted in duplicate.
7. Form 5.2 – Waiver of Notice of Application To Relieve Estate From Administration (If required).
8. Form 5.3 – Notice of Application To Relieve Estate From Administration (If required).
9. Form 2.0 -Application to Probate Will - if the decedent left a will and the will is being used to transfer the decedent’s interest in property.
10. Form 2.1 - Waiver of Notice of Probate of Will – to be signed by all persons listed on both sides of the Form 1.0.
11. Form 2.2 – Notice of Probate of Will – to be served upon all persons listed on the Form 1.0 who does not sign the Form 2.1. This form is served upon any required persons, after the will has been admitted to probate, by certified mail return receipt requested.
12. Form 2.4 – Certificate of Service of Notice of Probate of Will – must be filed if a will is probated along with any waivers of notice or green cards to show service of notice of probate of the will. This form must be filed within two months of the probate of any will.
13. Form 2.3 – Entry Admitting Will to Probate.

You should also bring with you the additional documents that are noted on the Documents That May Be Needed form that you can find on the Court’s website or obtain from the Clerk’s Office.

STEP FIVE: WHEN THE FORMS ARE COMPLETED

When all required forms are completed, they should be taken to the Clerk’s Counter at the Montgomery County Probate Court, 41 N. Perry Street, 2nd, Dayton, Ohio 45402. Your case will be assigned to a Magistrate. You should then take your forms to the Magistrate’s Office to be reviewed. Once the forms have been reviewed, if you have all of the necessary information and forms, the papers will be submitted to the Judge for approval and signature. The forms should then be taken back to the Clerk’s Office to be filed.

Any required court costs are paid at this time. The applicant must bring cash, a money order or cashier’s check to pay court costs. The Court does not accept personal checks. For a convenience fee of \$1.80, you may use Discover Card, Master Card or American Express to pay court costs. Visa Cards are not accepted. Please check with the Clerk’s Office to determine the filing fee that is required.

STEP SIX: NOTICE

When the forms are approved, the Court may require notice to be given. If notice is required by publication, the Court will arrange for the notice to be published in the Daily Court Reporter. If notice is ordered, a hearing date is set. At any hearing, Form 5.6 -Entry Relieving Estate From Administration may be submitted for review and the Judge's approval. The Court may dispense with notice and proceed to issue the Entry Relieving the Estate From Administration.

Once the Entry Relieving the Estate From Administration is approved, it should be filed at the Clerk's Counter. You will need a certified copy to transfer or to receive any assets.

STEP SEVEN: APPOINTMENT OF A COMMISSIONER

It may be necessary to appoint a Commissioner to receive the assets, to pay debts and to distribute any remaining assets. The Commissioner must be a resident of this State unless the person is nominated as an Executor in the decedent's will or is the sole person to inherit the assets and there are no outstanding debts.

The Commissioner will need to be bonded unless the Commissioner is nominated as Executor in the decedent's will or the Commissioner is the sole person to inherit the assets and there are no outstanding debts. An attorney, licensed to practice in Ohio, is not required to post a bond to serve as Commissioner. If a fiduciary bond is required, Form 4.2- Fiduciary Bond, must be completed and signed by both the person serving as Commissioner and an agent for the bonding company. All interested person may also sign a form provided by the Court to waive the bond requirement.

STEP EIGHT: WHEN THERE IS REAL ESTATE

If there is real estate, you must correct the real estate records to reflect the proper owner of the real estate due to the person's death. Take the Certificate of Transfer issued by this Court to the Auditor's Office and Recorder's Office in the County where the real estate is located. In Montgomery County, the Auditor's Office is located on the Third Floor of the Montgomery County Administration Building, 333 W. Third Street, Dayton, Ohio. The Recorder's Office is located on the Fifth Floor of the Montgomery County Administration Building. There will be additional costs to pay and forms to completed at the Auditor and/or Recorder offices.

STEP NINE: COMMISSIONER REPORT

A Report Form may be ordered to be filed within sixty days to verify that the assets have been received by the Commissioner and distributed as ordered by the Court. Receipts, not invoices, are required to verify all disbursements.

Ohio Estate Tax forms may be required to be filed in some cases. If the applicant has questions about the need to file Ohio Estate Tax Forms, they should contact the Ohio Department of Taxation at 1-800-977-771.

If you wish a copy of the forms for your records, you should make copies before you file the documents with the Court or you will be charged for additional copies.

THE JUDGE AND THE EMPLOYEES OF THIS COURT ARE PROHIBITED BY LAW FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE YOU SHOULD CONTACT AN ATTORNEY. IF YOU DO NOT KNOW AN ATTORNEY YOU MAY WISH TO CONTACT THE DAYTON BAR ASSOCIATION REFERRAL SERVICE AT (937) 222-7902.