

PROBATE COURT OF MONTGOMERY COUNTY, OHIO

PRO SE INFORMATION SHEET APPLICATION TO RELIEVE 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.

A PERSON WITHOUT AN ATTORNEY MAY FILE A RELEASE OF ESTATE FROM ADMINISTRATION IN TWO (2) DIFFERENT WAYS

ATTORNEYS ARE REQUIRED TO E-FILE

1.) YOU CAN BRING THE NECESSARY PAPERWORK, SUPPORTING DOCUMENTS AND YOUR PAYMENT TO THE PROBATE COURT. YOUR PAPERS WILL BE REVIEWED AND FILED, IF APPROVED.

2.) YOU CAN E-FILE REMOTELY. SEE THE COURT'S WEBSITE FOR INFORMATION ON E-FILING , INCLUDING AN INSTRUCTIONAL VIDEO.

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 probate 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 named beneficiary generally do not have to pass through the probate process so long as the named beneficiary survived the decedent.

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. You **must** submit a copy of the last account statement or a statement from the bank to verify the balance in the account at the time of death.

Stocks that are publicly traded can be valued using the closing value for the stock on the date of death. The local library or the internet may be used to locate these values on the date of the person's death. Use the opening value on Monday if the person died on Saturday or Sunday. A **copy of all stock certificates** should be presented. If the stock is in book form **a statement** that lists the current stocks may be submitted.

If the real estate is located in Montgomery County, you can find the tax value on the following website: www.mcrealestate.org. If you wish you can 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. You should submit a **copy of the deed** for any real property.

Motor vehicles may be valued by using the average trade-in book value for the vehicle or you can have the vehicle valued, in writing, by a local car dealership. You can obtain the book value for the vehicle on the internet or the public library from any nationally recognized service such as NADA or Kelly. You **must submit a copy of the computation of value** used to value the vehicle. A **copy of the title or registration** for all motor vehicles should be submitted.

The Applicant may value household goods and clothing based upon his or her estimated rummage sale value for the assets so long as the value does not exceed \$5,000.00 and so long as there are no antiques or collectables. The value of assets that exceed \$5,000.00, antiques or collectables must be valued by an appraiser.

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.

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 persons who would inherit if there is no will. The backside of this form lists the persons named in any will. Complete addresses must be provided. If a person is deceased please note this and list any children of the deceased person. There must be complete addresses for all persons listed. If a next of kin died before the decedent
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. If attorney fees are being requested Appendix B of the Local Rules should be completed and filed if the fees are being taken pursuant to the guidelines set forth in the Local Rules of Court. If the fees requested exceed the fees allowed in the Court's Guidelines an Application for Attorney Fees with itemized time must be filed.
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. A full legal description for the real property with prior deed references and parcel ID numbers must be included.
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.
14. Form 4.2 – Fiduciary Bond, if needed.
15. Form 2.0A – Notice of Deposit of Original Will – to be filed first *if* there is a Last Will and Testament. (E-Filing only)
16. Form 4.2B – Notice of Deposit of Fiduciary Bond – to be filed first *if* there is a need to have your assets bonded. (E-Filing only)
17. Form 4.0A – Statement of Intention –to be filed *if* you previously filed a Notice of Deposit and the type of case your intentions have since changed as to what type of case you will be filing. (E-Filing only)
18. Form 7.0- Certificate of Notice to Administrator of Medicaid Estate Recovery Program must be completed and filed if the Applicant is required to notify, and has completed and service Form 7.0 (A) on the Administrator of Medicaid Estate as the decedent or the decedent’s spouse is a person subject to medicaid estate recovery.
See R. C. 5162.21

You should also bring with you or submit by E-Filing, 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 ALL THE REQUIRED FORMS ARE COMPLETED

ATTORNEYS MUST E-FILE RELEASE OF ESTATE FROM ADMINISTRATION ACTIONS.

PRO-SE PERSONS WITH NO ATTORNEY MAY FILE A RELEASE OF ESTATE FROM ADMINISTRATION ACTIONS TWO (2) DIFFERENT WAYS.

1.) Pro se persons may take their completed forms and supporting documents in person to the Clerk’s counter at the Montgomery County Probate Court, 41 N. Perry Street, 2nd Floor, 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, and the forms are approved, the papers will be submitted to the Judge for her approval and signature. The forms should then be taken back to

the Clerk's office to be filed. You will have the option to either come back down to the Court to pick up your certified copies or the clerk can mail them back to you for a fee.

Court costs are due at the time of filing and can range up to \$350.00 depending on what the Magistrate orders. 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, you may use Visa, Discover Card, Master Card or American Express to pay court costs. Please check with the clerk's office to determine the filing fee that is required.

OR

2.) The forms and supporting documents can be E-Filed remotely using the following link.

http://www.mcohoio.org/government/courts/common_pleas_court_-_probate_division/efiling.php

If you choose to E-File and you have a Last Will and Testament, you will need to first present the original Will to the Court along with a Notice of Deposit of Original Will (Form 2.0A). You should bring the Will to the Court in person. An original Will may be mailed to the Court but it is not recommended. The cost to file a Notice of Deposit of Original Will is \$5.00 plus \$1.00 for EVERY page of the Will. Once the Court receives and verifies that the will is an original will, a new case will originate and you will be given a case number. At a later date, you will E-File the subsequent paperwork and pay for those filings at that time using the assigned case number.

If you choose to E-File and you need to file a Fiduciary's Bond (Form 4.2) you will need to first present the original Bond to the Court along with a Notice of Deposit of Fiduciary Bond (Form 4.2B). You can either bring that Bond in person to the Court or submit it, by some means, through the mail. The cost to file the Notice of Deposit is \$5.00. Once the Court receives this they will originate a new case and you will be assigned a case number. At a later date, you will E-File the subsequent paperwork and pay for those filings at that time using the assigned case number.

In filing this Notice of Deposit form, you are stating your intentions as to what type of case you will be E-Filing. If for some reason after filing the Notice of Deposit your intentions change, you will then need to E-File a Statement of Intention Form (4.0A) stating what your new intentions are. This allows you to receive the correct "Document Types" to correspond with the type of case you will be E-Filing.

STEP SIX: NOTICE

When the forms are approved, the Court may require notice to be given. If the date of death is six months or less you may be required to publish notice to creditors. If the date of death is six months or longer from filing notice is generally not necessary. If notice is required by publication, the Court will arrange for the notice to be published in the Dayton Daily News also known as Cox Media Group Ohio. 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.

If the decedent received Medicaid benefits notice is required to be served by the Applicant by completing Form 7.0A and serving the Form on the Administrator of Medicaid Estate Recovery Program and completing and filing a Form 7.0 with the Court.

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 certified copy of 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 complete 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 1-800-977-7711.

If you wish to have 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.

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