

PROBATE COURT OF MONTGOMERY COUNTY, OHIO

PRO SE INFORMATION SHEET

SUMMARY RELEASE FROM ADMINISTRATION

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

ATTORNEYS ARE REQUIRED TO E-FILE SUMMARY RELEASE FROM ADMINISTRATION ACTIONS. A PERSON WHO DOES NOT HAVE AN ATTORNEY MAY FILE A SUMMARY RELEASE FROM ADMINISTRATION TWO (2) DIFFERENT WAYS.

1.) YOU CAN BRING THE NECESSARY PAPERWORK, SUPPORTING DOCUMENTS AND YOUR FORM OF 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 THE INSTRUCTION VIDEO.

STEP ONE: WHEN TO USE A SUMMARY RELEASE FROM ADMINISTRATION

A summary release from administration may be used when:

There is no surviving spouse and:

- a) The value of the assets to be probated do not exceed \$5,000.00;
- b) The Applicant has paid or is obligated in writing to pay the decedent's funeral and burial expenses that are equal to or greater than the assets to be probated.

or

There is a surviving spouse and:

- a) The value of the estate assets do not exceed \$45,000.00;
- b) The surviving spouse paid or is responsible in writing to pay the decedent's funeral and burial expenses, **and;**
- c) The surviving spouse is also entitled to the entire allowance of support provided for under Section 2106.13 of the Revised Code.

The funeral bill and burial expenses, showing who is responsible for the bills, and/or verification as to who paid the funeral bill and burial expenses if paid, **must** be submitted

with the Application.

If the decedent made a Will the original Will should be submitted to the probate court.

A certified copy of the death certificate **must** be submitted.

The decedent's obituary should be reviewed to insure that all family members, who are entitled to inherit, are listed on the Form 1.0 that is filed with the Application.

STEP TWO: ASSETS SUBJECT TO PROBATE

You must determine the assets that must pass through Probate Court.

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 as 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 for 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 must be presented.** If the stock is in **book form a statement that lists the current stocks must 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 use the county tax value a copy of the Auditor's valuation **must** be submitted with the Application. 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 **must** 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 **shall** also be submitted.

The Applicant should also bring to the Probate Court the additional documents that apply that are listed on the Documents That May Be Needed form that you can access on this website.

The Applicant must bring cash, 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 Visa, Discover Card, Master Card or American Express to pay court costs.

STEP FOUR: COMPLETING THE PROBATE FORMS

ALL FORMS MUST BE COMPLETED IN INK OR TYPEWRITTEN IF THE FORMS ARE GOING TO BE PRESENTED IN PERSON AT THE COURT. 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 complete the following Standard Probate Forms to file a summary release from administration:

1. Form 5.10 – Application for Summary Release From Administration must be fully completed. **THIS FORM MUST BE NOTARIZED OR SIGNED IN FRONT OF A DEPUTY CLERK.**

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.

3. Form 5.11 – Entry Granting Summary Release from Administration.

4. Form 12.0 - Application for Certificate of Transfer and Form 12.1 - Certificate of Transfer, if real estate is an asset of the estate.

5. Form 2.0A – Notice of Deposit of Original Will – to be filed first *if* there is a Last Will and Testament. (E-filing only)

6. Form 4.0A – Statement of Intention – this would need to be filed *if* you previously filed a Notice of Deposit of Original Will and your intentions have since changed as to what type of case you will be filing. (E- Filing only)

STEP FIVE: WHEN ALL THE REQUIRED FORMS ARE COMPLETED

ATTORNEYS ARE REQUIRED TO E-FILE.

A PERSON WHO DOES NOT HAVE ANY ATTORNEY MAY FILE TWO (2) DIFFERENT WAYS

1.) The forms can be taken 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 for filing, the papers will be submitted to the Judge for her approval and signature. The forms are then taken back to the Clerk's Office to be filed. Once signed and filed you will receive certified copies either through the mail or by coming back to the Court to pick them up.

Court costs are due at the time of filing starting at \$73.00. However, the cost depends on what forms are actually filed. The Applicant must bring cash, 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.

If you come to the Court in person you should be at the Court by 3:30 p.m. to have sufficient time to complete and to process your forms and to obtain approval of your papers before the Clerk's Office closing for new filings at 4:15 p.m.

OR

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

http://www.mcoho.org/government/courts/common_pleas_court_-_probate_division/E-filing.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 in person to the Court. You can mail the Will but it is not recommended.. Costs to file the Notice of Deposit of Original Will are \$5.00 plus \$1.00 for EVERY page of the Will. Once the Court receives the Original Will, the Court will originate a new case and you will be given a case number. At a later date, you will E-File all subsequent paperwork and pay for those filings at that time.

In filing this Notice of Deposit form, you are stating what your intentions are as to what type of case you intend to E-File. If for some reason after filing the Notice of Deposit your intentions change, you will 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" corresponding to the type of case you now intend to be E-File.

STEP SIX: WHEN THERE IS REAL ESTATE

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

Ohio Estate Tax forms may also need to be filed. The Ohio Department of Taxation can be contacted at 1-800-977-7711.

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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