

800 North French Street, 2nd Floor
Louis L. Redding City/County Bldg.
Wilmington, DE 19801



Ciro Poppiti, III
Register of Wills

Phone 302-395-7800
Fax 302-395-7801
www.nccde.org/wills

Hours of Operation
8:00 a.m. to 4:00 p.m.
Closed from 12:00 -1:00pm

NOTE:

A **Personal Representative**, (PR) also referred to as an **Executor/Executrix** or **Administrator**, is the fiduciary put in charge of settling a deceased person's estate. There is a host of duties and responsibilities imposed by law upon the PR. It is the personal representative's duty/responsibility to ensure that all documents have been filed, fees are paid, and deadlines are met on the probated estate. Failure to do so can and may result in penalties, which may include fees, court appearance, and/or removal of personal representative.

STEPS FOR PROBATING AN ESTATE

1. **Filing and Proving the Will (if the decedent had a will)**
If applicable, this step has been completed.
2. **Opening the Estate**
You have had an appointment with a deputy in our office. This step has been completed.
3. **Inventory - START HERE**

Within three months after the granting of letters (the date the estate is opened), an Inventory Form 600 RW is to be filed with this office. The inventory is a list of the assets of the estate that have been gathered by the personal representative during the three months prior. The inventory will be audited and if errors are discovered, the personal representative will be contacted within a few days. On the inventory, the personal representative must list the assets, both personal and real estate, on the proper schedule pages, and the value of those assets at the time of death. Also, to be included is the name, address, relationship and share of the person(s) who inherited the real estate when the owner died as well as the tax parcel number of the property. Overdue documents will be charged a late fee. In addition, there is a penalty for the third returned inventory. The fee to file the Inventory is \$15.00, which is pre-paid with the opening costs. There is a fee of \$1.00 per page for submitting additional pages with the Inventory. Note: The Inventory form should not be submitted to the deputy. The Inventory form should be submitted to the Register of Wills Accounting department. If you visit the Register of Wills office, the Accounting department will audit the Inventory and notarize it for you for no additional cost. No appointment is required for this service. However, you may sign the Inventory in front of any notary and mail it in if you prefer.

4. **State of Delaware, Division of Revenue Estate Tax (302) 577-8170**
As of 1/1/99, there is no Delaware inheritance tax or requirement to file an inheritance tax return. For more information, contact the Division of Revenue or a tax advisor.

Deaths occurring between 7/1/2009 and 12/31/17:

If no Delaware estate tax is due, an Affidavit That No Delaware Estate Tax Return is Required must be filed with the Register of Wills. The filing fee for the affidavit is \$10.00.

Deaths occurring between 1/1/2005 and 6/30/2009:

No documents required to be filed with the Register of Wills office related to Estate Taxes.

Deaths occurring between 1/1/1999 and 12/31/2004:

If no Delaware estate tax is due, an Affidavit That No Delaware Estate Tax Return is Required must be filed with the Register of Wills. The filing fee for the affidavit is \$10.00.

5. The Accounting

The next filing requirement with the Register of Wills is the accounting. It is to be filed within one year of opening the estate. Overdue documents will be charged a late fee. An accounting begins with the total value of the decedent's solely owned personal assets as stated on the inventory ("total of probate assets") and any additional amount which may have come into the estate since the inventory was filed. On the second page, deductions for administrative costs, debts, funeral expenses, and personal representative and attorney's fees are listed. All expenses should be identified individually, and the amount paid shown.

If the decedent's real estate is sold under the direction of the will or by court order, the net proceeds are to be included under the additional assets section of the accounting. A copy of the settlement sheet must be attached to the accounting.

To compute the Total Paid Expenses, add all the deductions on page 2 down through commissions taken. (To assist in determining attorney's fees and commissions, please refer to Chancery Court Rule 192.) Subtract total Expenses from the total Assets (page1). **The difference is known as the "net personal estate."** The Closing costs are then determined by taking 1.75% of the net personal estate, **plus .25% of the net personal estate (Technology fee for deaths occurring on or after 7/1/2018) plus \$20.00 for the recording and indexing (unless prepaid) plus \$5.00 for each release that you wish to file with the Register of Wills.** To arrive at the total amount Disbursed, add total closing costs to the Total Expenses. Balance Remaining equals subtract total amount disbursed from the total assets on page1. This balance is the "Balance Remaining in the Hands of the Personal Representative Due the Estate."

The following forms need to be filed with the accounting:

Form N.C. 5 – List of Beneficiaries. For every beneficiary listed on this form, one of the following forms must also be filed:

- **Form N.C. 1** – Notice to each Beneficiary that the accounting is open for inspection for 3 months
- **Form N.C. 2** – Waiver from each beneficiary relinquishing their right to contest the accounting and receive notices that an accounting has been filed.
- **Form N.C. 3** – Waiver used if beneficiary is legally incapacitated.

If the voluntary waiver form N.C. 2 cannot be obtained from a beneficiary, then prepare Form N.C. 1 and a stamped envelope addressed to the beneficiary and present these to the Register of Wills office for mailing.

Submit the account to the deputy. At this time, you will also need to submit a cancelled check or receipts evidencing payment for every debt and expense (deductions) listed on the accounting. The deputy will audit the account and you will be notified that it has been approved or if corrections are necessary. This process will take at least 10 business days. You may verify that the account has been received by the deputy by checking the Wills Search on our website, www.nccde.org/wills.

6. Closing the Estate

After the accounting has been audited and approved, the deputy will contact you to schedule an appointment to close the estate. At the closing, the personal representative will be administered an oath, sign the affidavit and must present a check or cash for the total closing costs. Please note there is a fee for missed appointments.