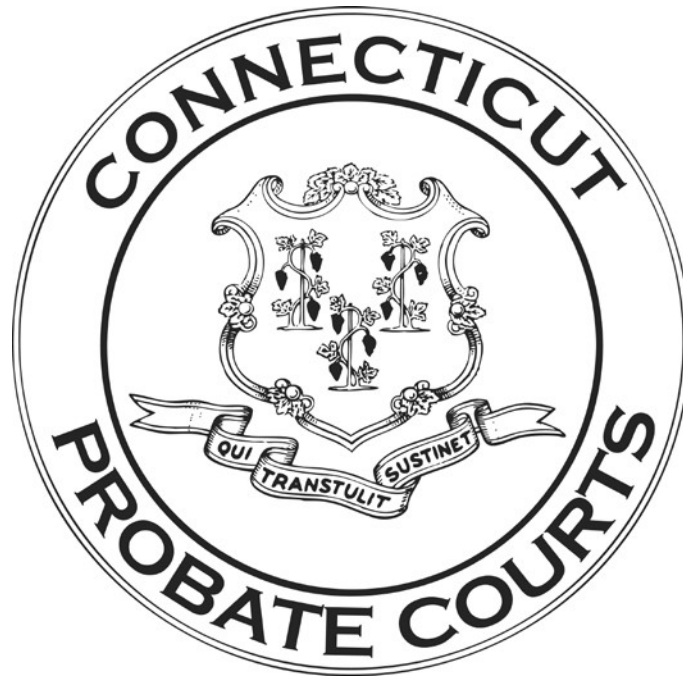


# **PROBATE COURT USER GUIDE**

## **ADMINISTRATION OF DECEDENTS' ESTATES**



PUBLISHED BY  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR  
STATE OF CONNECTICUT

COMPLIMENTS OF YOUR LOCAL PROBATE COURT

## **ATTENTION**

### **All Estates Must File an Estate Tax Return in the Probate Court**

An **Estate Tax Return** must be filed within **six (6) months of death**.

Probate fees are calculated on the value of the estate of a decedent, whether or not the estate is administered in a Probate Court.

Interest accrues on unpaid probate fees:

- 1) If a bill from a Probate Court is not paid within 30 days, or
- 2) If an estate tax return is not filed within six (6) months of the date of death.

Please contact your local Probate Court for more information.

## **Introduction**

The administration of decedents' estates is a legal process by which any outstanding financial obligations of a deceased person are paid, and the person's property is transferred to those entitled to receive it. In Part I, this booklet provides a brief outline of the estate administration process. In Part II, this booklet answers some commonly asked questions.

Additional information and forms can be found online at [ctprobate.gov](http://ctprobate.gov). For specific information regarding the probate process and procedures, please review the relevant Connecticut General Statutes and the Probate Court Rules of Procedure. Neither this booklet nor the information contained on the website should be seen as a substitute for competent legal advice.

## **Glossary**

**Administrator** – A person named by the Probate Court to settle the estate of a decedent who dies without a will.

**Beneficiary** – A person named in a will to receive a share of the decedent's estate.

**Codicil** – An amendment to a will.

**Conservator** – A person appointed by the Probate Court to supervise the affairs of another person who is incapable of managing his or her affairs or caring for himself or herself.

**Decedent** – A person who has died and whose estate is the subject of a probate proceeding.

**Domicile** – A person's primary and permanent place of residence.

**Executor** – A person named in a will to settle an estate.

**Fiduciary** – A general term for one who manages the property or arranges for the personal care of another. Examples include an executor, administrator, trustee, guardian and conservator.

**Guardian** – A person appointed by the Probate Court to manage the property or care of a minor child or an adult with intellectual disability.

**Heir** – A person entitled to receive a share of the estate if the decedent died without a will.

**Intestate** – The estate of a decedent who died without a will.

**Personal Property** – All property not classified as real property. Personal property includes bank accounts, shares of corporate stock, bonds, automobiles, household furnishings and personal effects.

**Probate Bond** – A guarantee by a third party insurance company to reimburse the estate for financial losses resulting from a fiduciary's breach of his or her duties.

**Real Property** – Land and buildings, including a condominium unit.

**Testate** – The estate of a decedent who died with a will.

**Trust** – An arrangement under which one party holds and manages assets for the benefit of another according to written instructions contained in a will or trust agreement.

**Will** – A written declaration of a person's instructions for the distribution of his or her property after death, executed in accordance with specific legal procedures.

## **Part I: Steps to Administer an Estate**

When a person who owns property dies, the Probate Court becomes involved to oversee the division of property among the persons legally entitled to it. If the deceased person, referred to as the “decedent,” left a will, the division of property will be carried out according to the instructions in the will. (The process of proving that a will is valid is known as “probating” a will.) If the decedent did not leave a will, his or her property will be divided according to Connecticut’s laws of “intestacy.” The court will also ensure that any debts, funeral expenses, expenses of administering the estate and taxes are paid before approving the distribution of the remaining assets of the estate.

The following steps outline the major responsibilities of the fiduciary in settling a decedent's estate. The outline is not intended to be all-inclusive and cover every situation. Fiduciaries of some estates may have additional responsibilities, depending on individual circumstances.

### ***Step 1: File the will and Petition/Administration or Probate of Will, PC-200, within 30 days of the decedent’s death.***

A petition for administration or probate of will should be submitted to the Probate Court within 30 days of the decedent's death. It should be accompanied by the original will and codicils, if any, and a copy of the death certificate. The petition must contain the names and addresses of all heirs (the decedent's closest relatives) and beneficiaries (those parties who are named to receive assets under the will). The petitioner must send copies of the petition and will to each person listed on the petition and certify that the copies were sent.

A hearing on the petition may be held in Probate Court. The hearing is an opportunity for family members and other interested parties to ask questions or state their positions. There are three options for the hearing:

- (1) The court may send notice to all parties informing them of the time and place of the hearing.
- (2) If all those entitled to notice file written waivers of their right to notice, and the court does not believe a hearing is necessary, then the court may enter a decree without a formal hearing and without the parties being present.
- (3) The court may follow the “streamline” notice procedure under which the court notifies all parties that they have the right to a hearing if requested by a specified date. If a party requests a hearing, the court will send notice and hold a hearing. If no hearing is requested, the court may, without the presence of the parties, issue a decree on or after the decree entry date specified in the notice.

The court formally appoints the executor named in the will when the will is admitted to probate. If the estate is intestate, the court appoints an administrator.

The court generally requires the executor or administrator to provide a probate bond, and the court sets the amount. However, the court may decide not to require a bond if one of these conditions is met:

- (1) The will excuses bond.
- (2) The assets of the estate are less than \$20,000, or the amount of the estate that is not restricted by Probate Court order is less than \$10,000.
- (3) All heirs or beneficiaries waive the requirement of a bond.

*For more information, see Questions 4 through 10 and Question 13 in Part II, and see Rule 35 of the Probate Court Rules of Procedure.*

***Step 2: Take possession of the decedent's property.***

The first responsibility of the fiduciary is to gather the assets of the estate and place them under his or her control. For example, the fiduciary should transfer any bank accounts from the decedent's name into an estate account. Stock certificates need not be registered in the name of the estate, although the transfer agents should be notified and instructed to send dividends in care of the fiduciary. Utility companies need to be notified of the decedent's death, and accounts that will remain open should be transferred to the estate. Any dwellings, seasonal homes, etc. should be secured, protected from the elements and insured.

The fiduciary must keep the estate's income, assets and expenses completely separate from his or her own.

The fiduciary should use particular care in dealing with any firearms owned by the decedent. The sale or transfer of firearms is highly regulated and complex.

*For more information, see Questions 14 and 15 in Part II.*

***Step 3: If the decedent owned real estate, record Notice for Land Records/ Appointment of Fiduciary, PC-251, within two months of appointment as fiduciary.***

The fiduciary must record a *Notice for Land Records/Appointment of Fiduciary* form with the town clerk in each town in Connecticut where real estate owned by the decedent is located. The form is obtained from the court.

***Step 4: File Inventory, PC-440, within two months of appointment as fiduciary.***

The fiduciary must file an inventory of the estate with the Probate Court within two months of appointment as fiduciary. In general, the inventory should list any property the decedent owned in his or her name, including real estate, bank accounts, stocks and bonds, motor vehicles, household furnishings and personal effects. It should include life insurance policies only if payable to the decedent's estate.

The inventory should not include property held in such a way that it passes outside of probate, such as by joint survivorship or beneficiary designation or property held in a trust.

All property must be valued on the inventory at its fair market value at the time of death. It is the responsibility of the fiduciary to determine these values through inquiry and his or her own experience. The value of real estate may be determined in one of several ways, including:

- (1) A written appraisal;
- (2) A comparative market analysis by a real estate agent;
- (3) The assessed value from the local tax assessor, adjusted to reflect 100 percent of the fair market value; or
- (4) The actual sale price obtained in an arm's-length transaction within six months following the decedent's death.

The inventory should include a copy of the deed. The balance of any mortgage on real estate and the name of the person or corporation to whom the debt is owed must be included. Itemized lists of valuable personal property, such as jewelry and antiques, should also be included. Household furnishings and personal items need not be itemized unless of particular value. Articles specifically bequeathed in the will should be listed individually.

The fiduciary must send copies of the inventory to each party and attorney involved with the estate and must certify on the inventory that the copies have been sent.

*For more information, see Question 5.*

#### ***Step 5: Obtain cash for estate administration as needed.***

The fiduciary should anticipate the cash needs of the estate to pay for administration expenses, taxes, claims and bequests. He or she has the authority to convert into cash any personal property not specifically bequeathed but must obtain permission from the Probate Court to sell, mortgage or otherwise convey real estate, unless specifically authorized to do so under the terms of the will. When personal property is to be sold, the fiduciary (if the fiduciary is not named in the will as executor or is not a family member) must send a copy of the inventory to all interested parties, with a notice of intent to sell. The parties have the right to object to the sale within five (5) days of the receipt of the notice. (The court may waive this requirement if an expeditious sale is necessary.) The court will hold a hearing to determine the advisability of the requested sale. If parties interested in the estate do not want certain assets sold, cash may be advanced to the estate to pay estate obligations.

The surviving spouse or other dependent family members may apply to the Probate Court for a support allowance from the estate during the period of settlement of the estate. To accomplish this, the surviving spouse or other dependent family members may file the *Petition/Support Allowance*, PC-202.

The court may allow the surviving spouse or family of the decedent to use the decedent's automobile while the estate is being settled, provided the decedent maintained the automobile as a family car. The fiduciary must ask the court in writing for permission to use the vehicle. The fiduciary need not register the vehicle until the expiration of the registration in force at the time of the decedent's death.

*For more information, see Question 16 in Part II.*

**Step 6: Follow statutory procedures for the payment of claims against the estate, and file *Return of Claims and List of Notified Creditors, PC-237*, at the required time.**

“Claims” refer to debts incurred during the decedent’s lifetime and unpaid at the time of death. It is the fiduciary’s responsibility to determine the validity of any claims presented to him or her.

Within 14 days after the fiduciary’s appointment, the Probate Court will place a newspaper notice informing the estate’s creditors of the decedent’s death, the creditors’ obligations to present their claims promptly, the fiduciary’s name and the address where claims are to be presented. Creditors generally have at least 150 days to present their claims to the fiduciary. Please note that the 150-day period does not preclude later presentation of a claim. The period may be reduced using an optional procedure by which the fiduciary sends certified mail notice to any creditors informing them that they must present their claim by a specified date that is at least 90 days from the date of the notice and that their failure to do so will result in their claim being barred. The form to use is *Fiduciary’s Notice to Creditors to Present Claims, PC-234*.

The fiduciary must determine the legal validity of each claim and notify the creditor whether the claim is allowed or rejected, in whole or in part. If there is doubt regarding the validity of a claim, the fiduciary should seek legal assistance. Within 60 days after the end of the 150-day period, the fiduciary must file with the court a *Return of Claims and List of Notified Creditors, PC-237*, reporting all claims presented and the extent to which each was allowed or rejected.

A fiduciary who distributes estate assets in good faith following the expiration of the 150-day period will not be liable to creditors who present their claims following distribution. However, beneficiaries may be liable for legitimate claims properly brought after distribution.

The estate will also be responsible for paying some expenses that arise after the decedent’s death. Funeral expenses take priority over virtually all other expenses for which the estate is responsible. “Administration expenses” include statutory probate fees, attorney’s fees, fiduciary’s fees, the cost of legal notices and any expenses related to maintenance of the decedent’s property incurred after the decedent’s death. If the estate is insufficient to pay all proper expenses, some of them will take precedence over others. Before paying claims and expenses, the fiduciary should use care to determine that the estate is sufficient to pay them in their proper order of priority.

If the assets of the estate are not adequate to pay the debts, the estate may be settled as insolvent. The procedure for settling an insolvent estate is substantially different from that in a solvent estate, and the fiduciary should obtain competent legal advice.

*For more information, see Question 16 in Part II.*



**Step 7: File tax returns and pay applicable taxes.**

The Connecticut estate tax is imposed upon the transfer of property by reason of an individual's death. A Connecticut estate tax return must be filed for each decedent who was a Connecticut resident as well as non-residents who died owning real or tangible personal property located in Connecticut.

A Connecticut estate tax return is required for every decedent's estate, whether or not tax is due. The return must report all property, real and personal (tangible and intangible), wherever located. The executor or administrator is responsible for filing the necessary tax returns and paying taxes in connection with the estate. If there is no executor or administrator, then a person in actual or constructive possession of any property of the decedent must file.

Under Connecticut law, no tax is due from a decedent's estate if the Connecticut taxable estate is lower than the exemption amount for the year of death. For estates of decedents dying on or after January 1, 2020 the exemption amount is \$5.1 million.

Form CT-706 NT must be filed if the Connecticut taxable estate is less than the exemption amount. Estates that exceed the exemption must file a Form CT-706/709 with the Department of Revenue Services and file a copy with the Probate Court. The filer is responsible for paying applicable probate fees.

The term "Connecticut taxable estate" is highly technical and is beyond the scope of this publication. For example, the calculation of the Connecticut taxable estate includes gifts made on or after January 1, 2005, but it is reduced by certain deductions, including amounts that pass to a surviving spouse. If there is any doubt about whether an estate tax return is required or which tax return is required, professional advice is strongly recommended.

The Connecticut estate tax return is due is six months from the decedent's date of death. The Probate Court may extend the time to file a CT-706 NT, provided that the *Application for Extension of Time for Filing Form CT-706 NT*, Form CT-706 NT EXT, is filed before the due date of the return. The court may allow one extension of up to six months. For taxable estates, an extension of time to file a CT-706/709 may be obtained only from the Department of Revenue Services.

The Connecticut estate tax is related to Probate Court fees, which are set by statute. The fee is based on the greater of the amount reported on the inventory, the gross estate or the Connecticut taxable estate for estate tax purposes. In most cases, the amounts reported on the CT-706 NT or CT-706/709 are used to calculate the probate fee.

Interest may be added to probate fees in some instances, including when the estate tax return is not filed by the due date. Interest is added to the probate fee at the rate of 0.5% per month beginning 30 days after the due date of the estate tax return.

In addition to Connecticut estate taxes, a decedent may owe other types of taxes, such as federal estate taxes, income taxes and property taxes. Taxes may also be payable to other states in which the decedent owned property. The executor or administrator is responsible for filing necessary tax returns, paying taxes in connection with the estate and reporting income received during estate administration. An executor or administrator must also file a federal estate tax return if the gross estate plus adjusted taxable gifts is more than the federal exemption amount. The federal exemption amount is \$11.58 million for decedents dying in 2020 and is indexed to adjust annually for inflation. Federal estate taxation is complex and beyond the scope of this publication. If a federal estate tax return is required or if there is any doubt about whether a return is required, professional advice is strongly recommended.

*For more information, see Questions 17 through 19 in Part II.*

***Step 8: File final financial report or account, usually within 12 months of the decedent's death.***

Every executor or administrator must file a financial report or account with the court when the administration of the estate is complete or when the executor or administrator seeks to resign or is removed by the court.

In most cases, the simpler financial report, *Financial Report/Decedent's Estate, PC-246*, can be used. The more detailed account, *Decedent's Estate Administration Account (Short Form), PC-242*, will be required in some instances, such as where the will establishes a trust under which the persons receiving the income of the trust differ from the persons who will receive the ultimate distribution of the principal. The statute also requires an account if the will establishes a life use in property or if a surviving spouse elects to take the statutory share.

The fiduciary must provide copies of the financial report or account to each party and attorney involved with the estate and must certify on the document that the copies have been sent.

The Probate Court will hold a hearing on the financial report or account to allow any interested party to ask questions about, or object to, the manner in which estate funds were managed.

Alternatively, the court may provide the parties with a "streamline" notice as explained in section 8.6 of the Probate Court Rules of Procedure. The notice will inform the parties of the right to a hearing on the financial report or account if one is requested by a given date. In the absence of such a request, the court may proceed to approve the financial report or account.

If all parties interested in the estate sign a *Waiver of Right to Hearing Re: Financial Report, PC-244A*, or a *Waiver of Right to Hearing Re: Account, PC-245*, indicating that they have received and reviewed a copy of the final financial report or account and waive their right to a hearing, the court may waive the formal hearing and act on the report or account without the parties having to appear.

If the estate remains open for longer than one year, the executor or administrator must file a status update with the court. The *Status Update/Decedent's Estate, PC-286*, should be filed within three months following the first anniversary of appointment and annually thereafter, if no interim or final financial report or account has been filed. The update should include the approximate amount of any distributions made, the approximate amount remaining on hand and the reasons that administration has not been completed.

The executor or administrator must maintain complete records concerning the management of the estate. No financial records should be destroyed until the court has approved the final financial report or account and the appeal period has passed or any appeal is concluded.

*For more information, see Rules 36 and 38 of the Probate Court Rules of Procedure.*

***Step 9: Distribute assets to beneficiaries.***

A final financial report or account must report all distributions made to heirs or beneficiaries, as well as distributions that are proposed to be made. When the court approves the final financial report or account, it will order the fiduciary to distribute the remaining assets of the estate according to the approved distribution.

***Step 10: File Affidavit of Closing of Estate, PC-213.***

The affidavit of closing is used to report receipts and disbursements that occur after the filing of the final financial report or account, as well as the disposition of any reserve shown on the financial report or account.

If the court directs the fiduciary to file an affidavit of closing, he or she should file it within 30 days following the distribution of all assets. For all practical purposes, the filing of the affidavit is the executor or administrator's final act as fiduciary.

The fiduciary must provide copies of the affidavit of closing to each party and attorney involved with the estate and must certify on the document that the copies have been sent.

If a probate bond was required, the court will send the surety company a certificate stating that the fiduciary has complied with all orders of the court relating to the settlement of the estate and terminating the probate bond.

## **Part II: Frequently Asked Questions about Decedents' Estates**

### **1. Who can serve as an executor or administrator of an estate?**

Anyone can be an executor or administrator: a member of the decedent's family, a beneficiary of a will, an attorney or a bank. An executor is named in the will and chosen by the person making the will. If there is no will, the court will select an administrator.

The law requires the court to give priority to the decedent's family members when appointing an administrator, unless it appears that it would not be in the best interests of the parties concerned, in which case the court will usually appoint an impartial person or a bank.

### **2. Is it necessary to have a lawyer to probate an estate?**

While not required, it is often advisable for the executor or administrator to consider seeking professional assistance in connection with settling an estate, particularly when preparing tax returns, dealing with substantial or unusual assets or in the event of a dispute among the parties. Probate Court clerks may provide forms and limited assistance with procedural questions but may not give legal advice. The executor or administrator is responsible for completing the necessary forms and taking the other steps necessary to settle the estate.

### **3. What are the costs involved in settling a decedent's estate?**

Upon the death of any person, some or all of the following costs may be payable to settle the decedent's affairs: funeral expenses, expenses incurred by the executor or administrator in administering the estate, Probate Court fees, fees of an executor or administrator, attorney's fees, municipal, state and federal taxes and the decedent's debts.

Probate fees and taxes are fixed by law. The fees of an executor or administrator and of an attorney are based on the work performed and are subject to the approval of the Probate Court. Often, members of the family are willing to serve for little or no compensation.

*For more information, see Questions 17 through 19 in Part II.*

### **4. When is it necessary to open an estate?**

An estate must be opened if a decedent owned property in his or her name alone at the time of death. It is also necessary to open an estate if the decedent owned assets with others, but the assets were not titled in survivorship. A court order is required to transfer this type of property from the decedent's name to heirs or beneficiaries.

## **5. What does “in survivorship” mean and must survivorship property be reported to the Probate Court?**

The placing of a savings account, shares of corporate stock, bonds or real estate “in survivorship” with another means that each of the named parties has an undivided interest in the asset. Upon the death of a joint owner, his or her interest automatically passes to the surviving joint owner(s). Survivorship property is not included in the probate estate, but it must be reported on the Connecticut estate tax return required to be filed with the Probate Court.

*For more information, see Question 17 in Part II.*

**Note:** *Under the provisions of C.G.S. section 14-16, the owner of a motor vehicle can designate a beneficiary on the registration certificate. To obtain ownership of the vehicle after the owner’s death, the beneficiary must make application to the Department of Motor Vehicles within 60 days of the date of death.*

## **6. Is there a simple method to probate a small estate?**

Yes. If the total assets left by a decedent in his or her name alone do not exceed \$40,000 and do not include real estate, a simpler small estate procedure can be used. The decedent may own survivorship assets exceeding \$40,000 in value and still qualify for this simple procedure. This process is effective for transferring assets, such as bank accounts, shares of corporate stock, bonds, unpaid wages, death benefits, insurance proceeds or motor vehicles.

To use the small estate procedure, the surviving spouse, next of kin or other person files an *Affidavit in Lieu of Probate of Will/Administration, PC-212*, listing the decedent’s solely owned assets, funeral expenses, expenses associated with settling the estate, taxes and the decedent’s debts. Thereafter, the judge will authorize the transfer of assets to reimburse the person who paid the expenses and debts or, if the assets are needed to pay outstanding expenses or debts, directly to the person(s) entitled to payment. A Connecticut estate tax return is also required for a small estate.

## **7. What are my responsibilities if I have a decedent’s original will?**

A person in possession of a decedent’s will must deliver it to the Probate Court where the decedent lived within 30 days after the decedent’s death. There may be criminal penalties for failing to produce a will. Ordinarily, the person filing the will also files the *Petition/Administration or Probate of Will, PC-200*, with the court at the same time.

However, if the decedent left no assets in his or her name that would pass under the will, the will is simply filed with the court and not admitted to probate.

## **8. Is an old will valid?**

A will can be legally binding no matter how old it is. However, certain subsequent events may cause a change in the will's formula of distribution. For example, the birth or adoption of a child, marriage, divorce or annulment after the will was signed may alter how assets will be distributed among family members. For this reason, it is very important to review your will periodically, especially if a major life event has occurred.

## **9. What if a will is in a safe deposit box?**

If the decedent's will or other important papers are in a safe deposit box, the Probate Court can issue an order authorizing a family member or other person to gain access to the safe deposit box. The box will be opened in the presence of a bank officer and the contents cataloged. If there is a will in the safe deposit box, it must be filed with the Probate Court.

A similar situation might involve a decedent who lived alone in a house or apartment, and no relative can be found to take proper action. The court has the ability to appoint a temporary administrator to safeguard the decedent's belongings and take other action to protect the estate.

## **10. What if a person dies without a will?**

If the decedent had property solely in his or her name, then it is necessary for an appropriate person (usually a family member) to file a petition with the Probate Court for administration of the decedent's estate. After payment of expenses and debts, the remaining property is distributed in accordance with the Connecticut laws of intestate distribution. The estate is called "intestate" because there is no will.

## **11. How is the property distributed when there is no will?**

If the decedent is survived by:

*Spouse and children\* of both decedent and spouse*

Spouse takes first \$100,000 + 1/2 of the remainder. Children\* take the other 1/2.

*Spouse and children\* of decedent, when one or more of the children is not a child of the surviving spouse*

Spouse takes 1/2. All the children\* share the other 1/2 equally.

*Spouse and parents (no children or descendants)*

Spouse takes first \$100,000 + 3/4 of the remainder. Parents take the other 1/4.

*Spouse only (no children or descendants, no parents)*

All goes to the spouse.

*Children\* only (no spouse)*

All goes to the children.\*

*Parents (no spouse, no children or descendants)*

All goes to the parents.

*Brothers\* and sisters\* (no spouse, no parents, no children or descendants)*

All goes to the brothers\* and sisters.\*

*Next of kin (no spouse, no children or descendants, no parents, no siblings or descendants of siblings)*

All goes to the next of kin.

If there is no next of kin, but there is a stepchild,\* he or she will be next in line to take. If there is no stepchild, all goes to the State of Connecticut.

*\*If a person(s) in this category of heirs has died before the decedent, his or her descendants take instead.*

## **12. What is a Probate Court hearing?**

A Probate Court hearing is an opportunity for all family members and other interested parties to appear at the court to ask questions or state their positions on the issue that is the subject of the hearing.

The court will notify all parties when a hearing has been scheduled. A court may send notice that a petition or motion has been received and indicate that the petition or motion will be granted unless an interested party requests a hearing. A court may also act on a petition or motion without a hearing if all interested parties file a written waiver of notice of the hearing.

Notice of hearing is required at the time each estate is opened and at the time the executor or administrator files a final financial report or account. Hearings may also be necessary at other stages of the proceedings. Probate hearings are normally informal proceedings; however, the rules of evidence apply in contested matters

## **13. What if I don't know what the assets are?**

It is not necessary to have detailed information about the assets of an estate before beginning the probate process. When little or no information is available, an interested party may file a *Petition/Estate Examiner for Limited Purpose, PC-207* for the appointment of an "estate examiner" with limited authority to obtain information about the assets of the estate. An estate examiner can, for example, obtain information about bank accounts that would not otherwise be available to a person having no legal authority. This information may be necessary to determine whether there are any assets or whether the matter may be settled as a small estate. This process may also be used to obtain medical or other information to determine whether there is a basis to bring a lawsuit, such as for wrongful death, on behalf of the estate. An estate examiner has no authority over the assets but may be granted access to information. If probate assets are discovered, or a lawsuit on behalf of the estate is necessary, an estate must be opened.

#### **14. When a person dies, are his or her assets “frozen” and unavailable to the family?**

In most cases, joint survivorship assets between the decedent and family members are immediately available to the survivors without court approval. However, assets in the name of the decedent alone may not be used until an executor or administrator is appointed, which may take two to four weeks. In an emergency, the court can appoint a temporary administrator sooner. Once an executor or administrator is appointed, assets may be used to pay expenses and debts. A family car may be used during the settlement of the estate with permission of the court.

#### **15. Do any special rules apply if the decedent owned firearms?**

Firearms may be sold or transferred only to persons who are legally eligible to receive them. Transfers of handguns require written application to, and authorization from, the Department of Emergency Services and Public Protection (DESPP). The department's Special Licensing and Firearms Unit may be reached at (860) 685-8290 or (888) 335-8438. Long guns may be transferred in accordance with the above procedure.

Alternatively, they may be transferred to a person holding a valid firearms eligibility certificate or permit following a national instant criminal background check performed by a federally licensed firearms dealer.

Executors and administrators should also take note that handguns may be legally transported only by an individual holding a valid Connecticut permit to carry a pistol or revolver. An executor or administrator should avoid transporting such weapons unless he or she has the necessary permit.

If the decedent owned an assault weapon or one or more large capacity ammunition magazines, special rules apply. Generally, assault weapons and large capacity magazines may not be sold or transferred in Connecticut except to a licensed firearms dealer. They may, however, pass to heirs or beneficiaries under the provisions of a will or the laws of intestacy. The executor or administrator must obtain the approval of the Probate Court before distributing the items to any heir or beneficiary. In addition, the recipient must apply to DESPP for the necessary documentation.

#### **16. Does death relieve a family from paying the decedent's debts?**

A creditor has a right to look for payment of any outstanding obligation incurred in the decedent's lifetime from the decedent's estate. In most cases, creditors and family members agree on the amount that the decedent owed, and payment is made voluntarily by the executor or administrator. However, a creditor should protect himself or herself by filing a written claim of the debt with the executor or administrator. If the executor or administrator has given notice that the claims must be filed in a specified period, the creditor must file the claim by the deadline indicated in the notice. A creditor who fails to submit a claim by the deadline may lose the right to collect the debt.



In many instances, joint assets are not subject to the claims of creditors. However, there are exceptions to this rule that should be carefully considered. For example, the decedent's share of a joint bank account may be subject to certain expenses or debts if the estate lacks sufficient funds to pay for them.

### **17. How does the Connecticut Estate and Gift Tax operate?**

*Connecticut taxable estates valued at more than \$5.1 million.*

For Connecticut taxable estates of decedents dying on or after January 1, 2020 with more than \$5.1 million, the executor or administrator must file an original *Connecticut Estate and Gift Tax Return*, Form CT-706/709, with the Commissioner of Revenue Services and a copy with the Probate Court for the district in which the decedent resided on the date of death, OR, if the decedent died as a nonresident of Connecticut, with the Probate Court where the decedent's real property or tangible personal property was located within Connecticut. The filing deadline is six months from the date of death, and interest and penalties will accrue from that date.

The executor or administrator must send any tax due directly to the Department of Revenue Services with a cover letter referencing the name of the estate. The Department of Revenue Services will review the Form CT-706/709 and issue its tax assessment accordingly. Forms CT-706/709 and CT-706 NT (discussed below) are available at each of Connecticut's Probate Courts and on the Department of Revenue Services' website at [ct.gov/drs](http://ct.gov/drs). An internet link is also available on the Probate Court website, [ctprobate.gov](http://ctprobate.gov), under "Forms". Inquiries about the Connecticut Estate and Gift Tax should be directed to the Department of Revenue Services, 25 Sigourney St., Hartford, CT 06106.

*Connecticut taxable estates valued at \$5.1 million or less.*

The procedure is different for decedents dying on or after January 1, 2020 with estates of \$5.1 million or less. The fiduciary must file Form CT-706 NT, Connecticut Estate Tax Return (For Nontaxable Estates), only with the Probate Court. If the probate judge determines that the estate is not subject to tax based on this return, the judge will issue a written opinion of no tax. The filing deadline is six months from the date of death.

**Note:** *The laws governing estates of decedents who died prior to January 1, 2020 are different than those stated above. Refer to the statutes or contact an attorney with any questions.*

## 18. How are probate fees calculated?

Probate fees are established by statute. They are based on all assets in which the decedent had ownership, whether or not the assets are part of the probate estate. The formula for estates of decedents dying on or after July 1, 2016 is as follows:

<u>Value of Estate</u>	<u>Probate Fee</u>
\$0 to \$500	\$25
\$501 to \$1,000	\$50
\$1,000 to \$10,000	\$50, plus .01 of all in excess of \$1,000
\$10,000 to \$500,000	\$150, plus .0035 of all in excess of \$10,000
\$500,000 to \$2,000,000	\$1,865, plus .0025 of all in excess of \$500,000
\$2,000,000 to \$8,877,000	\$5,615, plus .005 of all in excess of \$2,000,000
Over \$8,877,000	\$40,000

For decedents dying before July 1, 2016, the fees are set forth in C.G.S. section 45a-107.

Note that the value of any asset passing to a surviving spouse is reduced by 50% for the purpose of calculating the probate fee.

## 19. Is interest charged for late payment of probate fees?

Yes. If an invoice for probate fees is not paid within 30 days, interest is charged at the rate of 0.5% per month on the unpaid balance.

Interest is also charged when an estate tax return is not filed by the deadline. Estate tax returns are required for all estates, regardless of value. If an estate tax return is not filed by the due date, including any extension, interest is charged on the probate fee at the rate of 0.5% per month.

The Probate Court may extend the time for filing an estate tax return or the deadline for payment of the probate fee if the court finds that requiring such payment by the due date would cause undue hardship. No additional interest accrues during the extension period. The Probate Court may not waive interest outside of any extension period.

## 20. What can I do if I disagree with a decision of the court?

Any party who is aggrieved by a decision of the Probate Court may appeal to the Superior Court. In general, appeals must be taken within 30 days of the date on which the Probate Court sent a copy of the decision to the party. Some matters have a shorter or longer appeal period. Procedures in the Superior Court are typically more formal than in the Probate Courts. A person wishing to appeal should consider consulting with an attorney.