

**Probate Practice Book Advisory Committee
Subcommittee III**

Meeting Minutes
Monday, March 5, 2012
3:00 p.m.

New Haven Regional Children's Probate Court
873 State St.
New Haven, CT

Judge Michael Albis, Chair of Subcommittee III, convened the meeting at 3:10.

Other members in attendance: Ms. Suzette Farrar, Judge Gerald Fox, Attorney Patricia Kaplan, Attorney Gabriella Kiniry, Judge Paul Knierim, Attorney Andrew Knott

Members not present: Judge Robert Killian, Mr. Stephen Pedneault, CPA

Also in attendance: Attorney David Biklen, Committee Reporter

Approval of Minutes of February 6, 2012 Meeting

The minutes of the February 6, 2012 meeting were unanimously approved.

Review of draft rule on Decedents' Estates

The subcommittee reviewed the draft rule on decedents' estates identified as "2-22-12 DDB draft with PJK edits."

Sections 38.5 and 38.6 Appointment of guardians ad litem. The list of heirs and beneficiaries for whom a court may appoint a guardian ad litem should be modified to include those who are legally incapable of acting and undetermined.

Section 38.10 Small estates. The committee decided that no rule is needed regarding the practice of sending affidavits in lieu of administration to the commissioner of administrative services. The committee also concluded that no rule is necessary regarding notice in affidavit estates.

Section 38.11 Sale of real property. The rule should reflect the statutory requirement that a fiduciary seeking authority to sell real property submit an inventory.

Review draft rule on Estate Tax Matters

The subcommittee reviewed the draft rule on estate tax matters identified as “2-22-12 DDB draft with PJK edits.”

The subcommittee reviewed the various usages of the term “form” and “return” and recommended that the draft be revised to improve clarity.

Review draft rule on Trusts

The subcommittee reviewed the draft rule on trusts identified as “2-22-12 DDB draft with PJK edits.”

Section 40.3 Who must sign when trust has more than one trustee. This section should be moved to the section on rules for all case types, since the concept applies also to other co-fiduciary arrangements.

Section 40.5 When financial reports to be filed. The draft should be amended to indicate that the measuring period used to determine when an account is due should commence with the trustee’s appointment.

Revised drafts of the three rules incorporating the above-referenced changes and miscellaneous edits are attached to these minutes.

Next Meeting

Our next meeting will be held on Monday April 2, 2012 at 3:00 p.m. at the New Haven Regional Children’s Probate Court.

The meeting was adjourned at 5:50 p.m.

Approved April 2, 2012

Rule 38 Decedents' Estates

Draft as of March 5, 2012

Sec. 38.1 Death certificate or other proof of death. A petitioner seeking the admission of a *will* to probate or the grant of administration for the estate of an *intestate* decedent shall accompany the petition with a certified copy of the decedent's death certificate. If the petitioner is unable to obtain a death certificate for the decedent, the petitioner may present other evidence to prove the decedent's death.

(C.G.S. § 45a-329)

Sec. 38.2 Court may require petitioner to submit family tree. If necessary to determine the decedent's *heirs*, the *court* may require a petitioner seeking the admission of a *will* to probate or the grant of administration for the estate of an *intestate* decedent to submit a family tree or other reasonably available information about the identity of the decedent's family members.

Sec. 38.3 Notice in proceedings to admit will to probate.

(a) The *court* shall send notice in accordance with Rule 8 on a petition to admit a *will* to:

- (1) the decedent's *heirs*;
- (2) the *beneficiaries* under the *will* being offered for probate;
- (3) the *current and presumptive remainder beneficiaries* of any trust established under the *will* being offered for probate;
- (4) the Office of the Attorney General, if any of the *beneficiaries* under the *will* being offered for probate or any *current* or *presumptive remainder beneficiaries* of any trust established under the *will* are charities;
- (5) the proposed executor or administrator;
- (6) the *beneficiaries* under any other *will* in the custody of the *court*;
- (7) the *current and presumptive remainder beneficiaries* of any testamentary trust under any other *will* in the custody of the *court*; and
- (8) such other persons or entities as the *court* determines.

(b) The *court* shall send a copy of the decree on the petition to admit the *will* to the parties listed in section 38.3(a). If the *court* admits the *will* to probate, the *court* shall also send notice of the admission of the *will* to probate, which notice shall include:

(1) a list of the *beneficiaries* named in the *will* and the names of the *current* and *presumptive remainder beneficiaries* under any trust established under the *will*;

(2) the name and address of the *fiduciary*;

(3) a statement indicating whether the *fiduciary* is required to submit a *probate bond* and advising the *beneficiaries* of their right to request a *bond*; and

(4) a statement indicating that the *beneficiaries* may address any questions regarding the estate to the *fiduciary*.

(C.P.P.B. Rule 8)

Sec. 38.4 Petitioner seeking admission of a will to send copy of will to parties.

A petitioner seeking admission of a *will* to probate shall send a copy of the *will* to the parties listed under section 38.3(a).

Sec. 38.5 Appointment of guardians ad litem in proceedings to admit will to probate.

(a) In any proceeding for the admission of a *will* to probate, the *court* may appoint a guardian ad litem for an *heir* or *beneficiary of a decedent's estate* whose location is unknown or who is a minor or is legally incapable of acting or undetermined if:

(1) in the case of an *heir*, the *court* determines that the *heir* would likely receive a greater share of the estate if the decedent died *intestate* than under the *will* that is being offered for probate;

(2) in the case of a *beneficiary* under a *will* in the custody of the *court* that is not being offered for probate, the *court* determines that the *beneficiary* would receive a greater share of the estate under the *will* that is not being offered for probate than under the *will* that is being offered for probate; and

(3) in the case of a *beneficiary* under a *will* being offered for probate, the *court* determines that a guardian ad litem is necessary to protect the interests of the *beneficiary*.

(b) Except as otherwise directed by the *court*, a guardian ad litem appointed under section 38.5(a) shall verify that an *heir* or *beneficiary* whose location is unknown cannot be located with reasonable efforts, but is not required to conduct an exhaustive search for the *heir* or *beneficiary*. If the guardian ad litem is unable to locate an *heir* or *beneficiary* or if the *heir* or *beneficiary* is a minor or is legally incapable of acting or undetermined, the guardian ad litem shall verify that the *will* was duly executed and make inquiry of appropriate parties to determine whether a reasonable basis exists to challenge the validity of the *will*. The guardian ad litem shall submit a written statement indicating whether the guardian ad litem objects to the admission of the *will*. If the guardian ad litem objects to admission of the *will*, the guardian ad litem shall request a hearing on the petition and shall present such evidence as the guardian ad litem considers relevant.

(c) The appointment of the guardian ad litem under section 38.5 shall terminate upon the admission of the *will* to probate and the disposition of any appeal from the admission of the *will* unless the *court* determines that a guardian ad litem is necessary under section 38.6.

(C.G.S. § 45a-132; 45a-329; C.P.P.B. Rule 12 (GALs))

Sec. 38.6 Appointment of guardians ad litem in other decedents' estate proceedings.

(a) In any proceeding concerning an *intestate* estate or concerning a *testate* estate after the admission of the *will*, the *court* may appoint a guardian ad litem for an *heir* or *beneficiary of a decedent's estate* whose location is unknown or who is a minor or is legally incapable of acting or undetermined if the *court* determines that a guardian ad litem is necessary to protect the interests of the *heir* or *beneficiary*.

(b) Except as otherwise directed by the *court*, a guardian ad litem appointed under section 38.6 shall take reasonable steps to locate an *heir* or *beneficiary* whose location is unknown. If the guardian ad litem is unable to locate the *heir* or *beneficiary* or if the *heir* or *beneficiary* is a minor or is legally incapable of acting or undetermined, the guardian

ad litem shall review each petition concerning the estate and the *fiduciary*'s overall management of the estate. The guardian ad litem shall submit a written statement indicating whether the guardian ad litem objects to any petition and may petition the *court* for review of any action of the *fiduciary* to which the guardian ad litem objects. If the guardian ad litem objects to a petition or petitions the *court* for review of an action by the *fiduciary*, the guardian ad litem shall request a hearing and shall present such evidence as the guardian ad litem considers relevant at the hearing.

(C.G.S. § 45a-132; 45a-329; C.P.P.B. Rule 12 (GALs))

Sec. 38.7 Notice in testate estates after admission of will. After sending a copy of the decree admitting a *will* to probate and sending the notice required under section 38.3(b), notice of subsequent proceedings is not required for the decedent's *heirs* or for *beneficiaries* under any *will* not admitted to probate unless requested under C.G.S. § 45a-127.

(C.G.S. § 45a-127; C.P.P.B. Rule 8)

Sec. 38.8 Notice when heir or beneficiary is a foreign citizen. If required by treaty between the United States and the country of which an *heir* or *beneficiary* is a citizen, the *court* shall send a copy of a decree admitting a *will* to probate or granting administration of the estate of an *intestate* decedent to the embassy or consulate of the country of the *heir* or *beneficiary*.

Sec. 38.9 Executor or administrator to send copies of inventory to all parties.

The executor or administrator of an estate shall send a copy of the inventory and each supplemental or substitute inventory to each *party* and attorney of record at the time of filing with the *court*.

Sec. 38.10 Conflicting petitions for appointment of Commissioner of Administrative Services as legal representative and settlement using small estates procedure.

(a) If the Commissioner of Administrative Services seeks appointment as legal representative of a decedent's estate under C.G.S. § 4a-16, the *court* shall dismiss any affidavit in lieu of administration concerning the same estate that was not acted upon prior to the *court's* receipt of the commissioner's application. The *court* shall send a copy of the decree dismissing the affidavit to the petitioner and the commissioner.

(C.G.S. §§ 4a-16, 45a-273)

Sec. 38.11 Sale of real property.

(a) Publication notice of a hearing on the petition of an executor or administrator for authority to sell real property shall not be required unless the *court* determines that notification of the public is necessary to protect the interests of the *parties*. The *court* may excuse notice of hearing if all *heirs* and *beneficiaries* and all creditors that have notified the *court* of a claim have waived notice.

(b) The *fiduciary* seeking authority to sell real property shall submit an inventory containing a legal description of the real property.

(c) The *court* may require the *fiduciary* seeking authority to sell real property to submit any of the following:

(1) a return and list of claims; and

(2) a comparative market analysis, appraisal, municipal assessment, or other information about the fair market value of the property.

(d) If a prospective purchaser notifies the *court* that it is willing to pay a higher price for the real property than the amount under the proposed contract of sale that is the subject of the petition, the *court* may continue the hearing and direct the *fiduciary* to take such further action as the *court* determines to be in the best interest of the *estate*. The *court* may appoint a committee under C.G.S. section 45a-167.

(C.G.S. sections 45a-164 through 169; 45a-324; 45a-341(e); C.P.P.B. section on publication notice)

Sec. 38.12 Construction, title, and cy pres petitions involving decedents' estates. If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a decedent's estate under C.G.S. § 45a-98a, the court shall send written notice of the declination to all *parties* and attorneys of record.

(C.G.S. § 45a-98a)

Sec. 38.13 Distribution from estate to minor or beneficiary who is incapable.

(a) Except as provided in section 38.13(c), an executor or administrator shall not make distribution to or on behalf of an adult *heir* or *beneficiary of an estate* who is not legally capable of acting unless a conservatorship or suitable alternate arrangement for management of the financial affairs of the *heir* or *beneficiary* has been established. The *court* may require proof of the authority of a conservator or other representative to receive property on behalf of the *heir* or *beneficiary*.

(b) Except as provided in section 38.13(d), an executor or administrator shall not make distribution to or on behalf of an *heir* or *beneficiary* who is a minor residing in this state if the total amount of distributions from the *estate* are anticipated to exceed the amount under C.G.S. section 45a-631 unless a guardianship has been established for the minor. If the minor resides in a jurisdiction other than this state, the *fiduciary* shall not make distribution to or on behalf of the minor unless the requirements of the jurisdiction of residence concerning the management of estates of minors have been satisfied. The court may require proof of the authority of a guardian or other representative to receive property on behalf of the minor.

(c) If permitted by the *will*, a *fiduciary* may make distribution directly to a *beneficiary* who is legally incapable of acting or to an attorney-in-fact, trustee or other person on behalf of an adult *beneficiary* who is incapable.

(d) If permitted by the *will*, a *fiduciary* may make a distribution directly to a *beneficiary* who is a minor or to a custodian under the Uniform Transfers to Minors Act, trustee, parent, guardian, or other person on behalf of the minor.

Sec. 38.14 Mutual distribution agreements.

(a) In an *intestate estate*, a mutual distribution agreement that provides for distribution of any property to a person other than an *heir* is valid if all the *heirs* execute the agreement in accordance with the requirements of C.G.S section 45a-433(b).

(b) In a *testate estate*, a mutual distribution agreement that provides for distribution of property to a person other than a *beneficiary* under the *will* is valid if all

the *beneficiaries* execute the agreement in accordance with the requirements of C.G.S. section 45a-434(b).

(C.G.S. sections 45a-433(b); 45a-434(b))

Sec. 38.15 Distributions that bypass an inoperative trust.

An executor or administrator who proposes distribution from an estate directly to the beneficiaries of a trust rather than to the trustee shall petition the court for authorization to bypass the trust under C.G.S. § 45a-482. The petition may be heard together with the fiduciary's final financial report or account.

(C.G.S. section 45a-482)

Sec. 38.16 When executor or administrator to submit financial reports or accounts.

(a) The executor or administrator shall submit a final financial report or account when the *fiduciary* has completed settlement of the decedent's estate or when the *fiduciary* seeks to resign or is removed by the *court*.

(b) The *fiduciary* of the estate of an executor or administrator who dies while administering a decedent's estate shall file a final financial report or account on behalf of the deceased *fiduciary*.

(c) The *court* may, on the motion of a party or on the *court's* own motion, after notice in accordance with Rule 8, direct the executor or administrator to file an interim financial report or account if necessary to protect the interests of the parties.

(C.G.S. § 45a-180)

Sec. 38.17 Required contents of financial report or account of executor or administrator. See Rules 34 through 36.

Sec. 38.18 When executor or administrator to submit status update.

(a) Not later than three months after the first anniversary of the appointment of an executor or administrator and on each anniversary date thereafter, a *fiduciary* that has not

submitted an interim or final *financial report* or *account* shall submit an update on the status of the estate, which status update shall include:

(1) the approximate amount of distributions already made to the *heirs* or *beneficiaries of the estate*;

(2) the approximate amount of the *estate* on hand on the date of the status update; and

(3) the reasons why administration of the *estate* has not been completed.

(b) The *court* may, on the motion of any party or on the *court's* own motion, after notice in accordance with Rule 8, instruct the *fiduciary* to take specific steps to expedite the administration of the *estate*.

(c) A *fiduciary* who fails to file a required status update or to comply with any expediting steps ordered by the *court* shall be subject to removal, disallowance of fees, surcharge, contempt of *court* and other sanctions permitted by law. In addition, a *fiduciary* who is a member of the Connecticut bar who fails to file a required status update or to comply with any expediting steps ordered by the *court* shall be subject to sanction under C.G.S. § 51-84.

(C.G.S. sections 45a-242; 51-84)

Sec. 38.19 Executor or administrator to send copies of financial report or account or status update to all parties. The executor or administrator of a decedent's estate shall send a copy of each *financial report* or *account* under section 38.17 and status update under section 38.18 to each *party* and attorney of record at the time of filing with the *court*.

Sec. 38.20 Waiver of inventory and final financial report or account for temporary administrator of a decedent's estate.

(a) The temporary administrator of a decedent's estate may petition the *court* to waive the requirement of an inventory and final *financial report* or *account* by submitting a statement signed under penalties of false statement that the administrator did not take control of any assets or income of the estate.

(b) The *court* may, after notice in accordance with Rule 8, waive the requirement that the administrator submit an inventory and final *financial report* or *account* if the *court* determines that the administrator did not take control of any assets or income of the estate.

Sec. 38.21 Waiver of final financial report or account for estate that may be settled as a small estate. If a decedent's estate is opened as a full estate but is subsequently determined to be eligible for settlement as a small estate under C.G.S. section 45a-273, the *court* may, after notice in accordance with Rule 8, excuse the requirement of a final financial report or account and approve an affidavit in lieu of administration and request for order of distribution to conclude the settlement of the estate.

(C.G.S. §§ 45a-273)

Sec. 38.22 Administrative closure of decedents' estates.

(a) The *court* may, after notice in accordance with Rule 8, close a decedent's estate administratively prior to the receipt of a final *financial report* or *account* and prior to the expiration of the period specified in C.G.S. section 45a-331 if the *court* finds that:

- (1) the clerk has made reasonable efforts to remind the executor or administrator, in writing, of the requirements to complete the administration of the estate;
- (2) the *fiduciary* has neglected or refused to complete administration of the estate;
- (3) the appointment of a successor *fiduciary* would serve no useful purpose; and
- (4) no party objects to the administrative closure.

(b) The administrative closure of an estate shall not relieve the *fiduciary* from any liability or obligation arising from the appointment as *fiduciary* and shall not release any existing *probate bond* or restricted account.

(c) The *court* may reopen an estate that has been administratively closed at any time.

Rule 40 Trusts
Draft as of March 5, 2012

Sec. 40.1 Notice in trust proceedings.

(a) The court shall send notice in accordance with Rule 8 for any proceeding concerning a trust to:

- (1) the settlor, if living;
- (2) the current beneficiaries;
- (3) the presumptive remainder beneficiaries;
- (4) the Office of the Attorney General, if:

(i) any of the current beneficiaries or presumptive remainder beneficiaries are charities; or

(ii) the trust is a special needs trust established under C.G.S. sections 45a-151(b) or 45a-655(e);

- (5) the trustees;
- (6) the trust protector, if any; and
- (7) such other persons or entities as the court determines.

(b) Notice to contingent remainder beneficiaries is not required unless the court determines that the interests of the presumptive remainder beneficiaries conflict with the interests of the contingent remainder beneficiaries.

(C.G.S. sections 45a-151(b); 45a-655(e); C.P.P.B. Rule 8))

Sec. 40.2 Virtual representation and appointment of guardians ad litem in trust proceedings.

(a) In accordance with Rule 7, a petitioner in a trust proceeding shall inform the court if the location of a trust beneficiary entitled to notice under section 40.1 is unknown or that a beneficiary is a minor, is legally incapable of acting or may be undetermined or unborn at the time that the petition is filed. The petitioner shall indicate whether one or more of the adult beneficiaries who are legally capable of acting can virtually represent any such missing, minor, incapable, undetermined or unborn beneficiary under C.G.S. sections 45a-487a through 45a-487f.

(b) The court shall, with or without notice as the court deems appropriate, make a written determination whether any missing, minor, incapable, undetermined or unborn beneficiary or class thereof will be virtually represented in the proceeding. If the court determines that the interests of a missing, minor, incapable, undetermined or unborn beneficiary are not virtually represented or that the representation might be inadequate, the court shall appoint a guardian ad litem to represent the interests of any such beneficiary or class of beneficiaries.

(C.G.S. sections 45a-132 and 45a-487a through 45a-487f; C.P.P.B Rule 7)

Sec. 40.3 Who must sign filings when a trust has more than one trustee.

(a) Except as provided in Rule x (when attorney can sign a filing on behalf of a party) and in section 40.3(b), when a trust has more than one trustee, any petition or other document submitted by the co-trustees shall be signed by all co-trustees.

(b) A co-trustee may submit a petition or other document that is not signed by another co-trustee if the co-trustee making the filing includes a written statement explaining the reasons why the signature of the co-trustee could not be obtained.

(C.P.P.B. Rule x (when attorney can sign a filing on behalf of a party))

Scribe's note: This section will be moved to the section on rules applicable to all case types.

Sec. 40.4 Construction, title, and cy pres petitions involving trusts. If the court declines jurisdiction to hear a construction, title or cy pres petition concerning a trust under C.G.S. § 45a-98a, the court shall send written notice of the declination to all interested parties.

(C.G.S. § 45a-98a)

Sec. 40.5 When financial reports or accounts to be filed for testamentary trusts.

(a) Unless otherwise directed by the court or by the will, the trustee of a testamentary trust shall submit a periodic financial report or account at least once during

each three-year period. The first accounting periodic shall commence on the date of the court's appointment of the trustee.

(b) The court shall not require the trustee of a testamentary trust to submit periodic financial reports or accounts if the will excuses periodic accounts. The court may, on the motion of any party or on the court's own motion, after notice in accordance with Rule 8, require a financial report or account for a specified period if necessary to protect the interests of the parties. After court approval of a financial report or account, the court shall not require additional periodic financial reports or accounts unless the court determines that periodic financial reports or accounts are necessary to protect the interests of the parties.

(c) Except as provided in section 40.6, the trustee of a testamentary trust shall submit a final financial report or account when the trust terminates or any beneficiary's interest in the trust terminates or when the fiduciary seeks to resign or is removed by the court.

(d) Except as provided in section 40.6, the executor or administrator of the estate of a trustee who dies while serving as trustee shall file a final financial report or account on behalf of the deceased trustee.

(C.G.S. § 45a-180)

Sec. 40.6 Required contents of financial report or account of trustee. See Rules 34 through 36.

Sec. 40.7 Trustee to send copies of financial report or account or status update to all parties. A trustee submitting a financial report or account shall send a copy to each party and attorney of record at the time of filing with the court.

Sec. 40.8 Waiver of final financial report or account for testamentary trust with summary report and receipt and release.

(a) The trustee of a testamentary trust may petition the court to waive the requirement of a final financial report or account required under sections 40.5(c) or 40.5(d) if all of the current beneficiaries and presumptive remainder beneficiaries of the trust have executed a receipt and release. The trustee's petition shall include:

(1) the fully executed receipt and release; and

(2) a summary report that includes an itemized list of assets on hand with current fair market values, an itemized proposed distribution to each beneficiary, and a brief statement describing the information that has been provided to the beneficiaries and a summary of the trustee's management of the trust since the most recent financial report or account or, if none, since the trustee accepted the trusteeship.

(b) The court may, after notice in accordance with Rule 8, waive the requirement that the trustee submit a final financial report or account if the court determines that it would impose an unreasonable burden to require a final financial report or account and that all of the current beneficiaries and presumptive remainder beneficiaries have knowingly and voluntarily waived the requirement of a final financial report or account.

Sec. 40.9 Reimbursement of fees to petitioner in trust proceedings.

The court may, on the motion of any party or on the court's own motion, after notice in accordance with Rule 8, order the trustee of a trust to reimburse a party for any probate court fees incurred in making a petition to the court concerning the trust if the court determines that reimbursement of probate fees is equitable. If the court determines that reimbursement of probate fees is equitable but the court previously waived the petitioning party's probate court fees under C.G.S. section 45a-111 due to indigency, the trustee shall remit payment to the Probate Court Administration Fund. The reimbursed probate court fees shall be paid from trust assets as an administration expense.

(C.G.S. sections 45a-105 through 45a-112; 52-251)

(C.G.S. § 331; C.P.P.B. Rule 34)

Rule 39 Estate tax matters

Draft as of March 5, 2012

Sec. 39.1 Applicability. Sections 39.2 through 39.7 apply only to nontaxable estates. Sections 39.8 through 39.9 apply to both taxable and nontaxable estates.

Sec. 39.2 Requirements for estate tax forms for nontaxable estates. Except as modified by Rule 39, a person filing DRS Form CT-706 NT and related forms for a nontaxable estate shall comply with the instructions for the form published by DRS.

(Insert hyperlink to Form CT-706 NT instructions)

Sec. 39.3 Valuation of property for nontaxable estates.

(a) A person filing DRS Form CT-706 NT for a nontaxable estate shall substantiate the fair market value of real property required to be reported on the form by submitting any one of the following:

(1) a comparative market analysis prepared by a real estate broker or agent;

(2) information from the municipal assessment of the property, adjusted to reflect 100 percent of the fair market value as of the date of the assessment;

(3) a written appraisal; or

(4) written proof of the actual sales price if the property is sold in an arm's length transaction that is completed on or before the first anniversary of the decedent's death.

(b) The court may require a person filing DRS Form CT-706 NT for a nontaxable estate to substantiate the fair market value of any personal property required to be reported on the form by supplying a written appraisal or other reasonable proof of value.

Sec. 39.4 Amended tax forms for nontaxable estates. If property reported on a DRS Form CT-706 NT for a nontaxable estate is sold in an arm's length transaction completed on or before the first anniversary of the decedent's death, the person filing the original form may amend the form to change the reported value of the property to the amount of the sales price. A form may be amended to change the reported value of any property that is not sold on or before the first anniversary of the decedent's death only if the person filing the form submits substantiation that the fair market value of the property at the time of the decedent's death is different from the amount originally reported. A

change to the reported value for real property shall be substantiated by one of the methods listed in section 39.3(a). A change to the reported value for personal property shall be substantiated by a written appraisal or such other reasonable proof of value as the court directs.

Sec. 39.5 Procedure when court unable to determine if estate is nontaxable.

If the court is unable to determine from review of a DRS Form CT-706 NT and materials supplied with it whether the Connecticut taxable estate is less than or equal to the amount that is exempt from the Connecticut estate tax under C.G.S. section 12-391, the court shall require the person filing the form to file DRS Form CT-706/709 with DRS and submit a copy of the form to the court.

Sec. 39.6 Domicile declaration for nontaxable estates. A person filing a DRS Form CT-706 NT claiming that the decedent was not domiciled in Connecticut shall submit DRS Form C-3 UGE State of Connecticut Domicile Declaration. If the court is unable to determine the decedent's domicile from the information contained in the domicile declaration, the court may on its own motion schedule a hearing to permit the person filing the domicile declaration to present additional evidence in support of the domicile declaration. The court shall make a written determination regarding the decedent's domicile and the clerk shall calculate the probate fee for the estate in accordance with the court's determination.

(C.G.S. section 45a-107)

Sec. 39.7 Release of lien and opinion of no tax for nontaxable estates.

(a) If the court determines that the requirements of C.G.S. § 12-398(e) are met for a nontaxable estate, the court shall issue a certificate of release of lien.

(b) If the court determines that the requirements of C.G.S. § 12-392(b) are met for a nontaxable estate, the court shall issue a written opinion that the estate is not subject to tax.

(c) The court shall not condition the issuance of a release of lien or opinion of no tax on the payment of a probate court fee.

Sec. 39.8 Recording of attachments to estate tax forms. The court shall record each DRS Form CT-706 NT or CT-706/709 together with all attachments submitted with

the form, unless the person filing the form specifies in writing that an attachment need not be recorded and the court determines that the attachment is not necessary to substantiate information on the form.

(C.G.S. section 12-398(c)(1))

Sec. 39.9 Confidentiality of information on filed tax form.

(a) Except as provided in sections 39.9(a) and 39.9(b), the court shall not disclose a filed DRS Form CT-706 NT or CT-706/709 or other estate tax return information to any person or entity.

(b) The court may permit disclosure of a DRS Form CT-706 NT or CT-706/709 or other estate tax return information without notice if:

- (1) the person who filed the form consents, in writing, to disclosure; or
- (2) the person seeking disclosure is;
 - (A) a fiduciary of the estate;
 - (B) in the case of an intestate estate, an heir of the estate; or
 - (C) in the case of a testate estate, a beneficiary of the estate.

(c) A person or entity not listed in section 39.9(b) may petition the court to disclose a DRS Form CT-706 NT or CT-706/709 or other estate tax return information pursuant to C.G.S. section 12-398(c). The court shall send notice of the proceeding in accordance with Rule 8.

(C.G.S. section 12-398(c))