ESTATES

Formal Estates

Unsupervised administration of an estate may be conducted using informal or formal proceedings. While very similar to informal proceedings, probating a decedent's estate using formal proceedings provides the security of a court order deciding issues within the estate.

Informal Estates

Next to using the Small Estate procedures, probating a decedent's estate using informal proceedings is the easiest way probate an estate. Some of the features of an informal proceeding are that no court hearings are necessary, a personal representative (sometimes referred to as an executor) is appointed by the court and given authority to probate the estate, and most of the activities involved in probating the estate are done without court involvement.

Small Estates

Michigan law provides a streamlined process for distributing the assets in a decedent's estate if the balance of the estate after the payment of the decedent's funeral and burial expenses is $18,000 or less. The process is quick, inexpensive, and no court hearings are necessary.

Supervised Estates

Supervised administration of an estate is available in some limited circumstances and provides for close oversight by the court over the probate process. Only a very small percentage of decedents estates go through supervised proceedings.

FORMAL PROCEEDINGS

Probating a Decedent's Estate -- Formal Proceedings

I. Overview

Unsupervised administration of an estate may be conducted using informal or formal proceedings. While very similar to informal proceedings, probating a decedent's estate using formal proceedings provides the security of a court order deciding issues within the estate. Formal proceedings are conducted by a judge, rather than the probate register, with notice given to interested parties. Formal proceedings may be used to begin the administration of an estate or they may be used at any time during the administration of an informal estate to have issues within the estate decided by court order.

II. Opening a Formal Estate

The very first step is determining in which county the estate proceedings should be filed. This is referred to as the proper venue for a proceeding. MCL 700.1302(a) defines proper venue as being the county where the decedent was domiciled at the time of death or, if the decedent was domiciled outside of Michigan, in a county where the decedent's property was located at the time of death. Venue provisions for formal proceedings are identical to those for informal proceedings.

Michigan law provides that only an "interested person" may petition the court to begin an informal probate of an estate. According to MCR 5.125(C)(1) the persons interested in an application or a petition to probate a will are the:
(a) devisees,
(b) nominated trustee and current trust beneficiaries of a trust under the will,
(c) heirs,
(d) nominated personal representative, and
(e) trustee of a revocable trust

According to MCR 5.125 (C) (2) the persons interested in an application or a petition to appoint a personal representative, other than a special personal representative, of an intestate estate are the:
(a) heirs,
(b) nominated personal representative, and
(c) trustee of a revocable trust

A "devisee" is a person given property in the decedent's will. An "heir" is a person who is entitled to receive property from the decedent under the statute of intestate succession if the decedent died without a will.

When the petitioner has identified the proper Michigan County as having venue, the initial paperwork may be filed with the court. Once the interested person files the necessary paperwork to open an informal estate they become the "petitioner". Filing may

be made in person or by mail. Along with the court forms discussed below, the petitioner should also file the will and codicil of the decedent, if any, a death certificate, and must pay a filing fee of $150. The probate Court accepts payment by cash, check or money order. The Probate Court does not accept payment by credit or debit card.
The forms which must be filed with or presented to the Probate Court to commence a formal proceeding are:

A. Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate)(PC 559). This multi-purpose petition is used to request formal probate proceedings for a variety of reasons, as stated above. Typically the petitioner nominates him/herself to be appointed the Personal Representative of the estate.

A person may be appointed Personal Representative if they are over 18 years of age and do not have a guardian or conservator appointed for them.

Qualified persons have priority for appointment as personal representative in the following order:

(a) The person with priority as determined by a probated will including a person nominated by a power conferred in a will.
(b) The decedent's surviving spouse if the spouse is a devisee of the decedent.
(c) Other devisees of the decedent.
(d) The decedent's surviving spouse.
(e) Other heirs of the decedent.
(f) After 42 days following the decedent's death, the nominee of a creditor if the court finds the nominee suitable.
(g) The state or county public administrator if no interested person applied or petitioned for appointment of a personal representative within 42 days after the decedent's death; the decedent died apparently leaving no known heirs; there is no spouse, heir, or beneficiary under a will who is a United States resident and is entitled to a distributive share in the decedent's estate. MCL 700.3203.

A person who does not have top priority to be appointed Personal Representative for a given estate may send the form Notice of Intent to Request Informal Appointment of Personal Representative (PC 557) before filing the application for probate to those people who have equal or greater priority. If the address of a person with equal or greater priority to be Personal Representative is unknown the notice must be published.

B. Testimony of Interested Persons (PC 565)**.**

C. Supplemental Testimony of Interested Persons Testate Estate (PC 566)**.** This form is only filed if decedent left a will and some of the devisees named in the will and codicils are not heirs of the testator.

D. Acceptance of Appointment (PC 571).

E. Letters of Authority for Personal Representative (PC 572). Letters of Authority will be issued once the Court is satisfied that the petitioner is qualified to be named the personal representative and the petitioner has filed an Acceptance of Appointment (PC 571) and a bond if bond is required. The Letters of Authority shall not have an expiration date but if the estate is not closed within one year the Personal Representative must file a Notice of Continuing Administration. MCR 5.202

The court will issue an Order of Formal Proceedings (PC 569) following a hearing, if needed, which officially begins the probate administration process. The court must determine the decedent's heirs in all formal proceedings. MCL 700.3409. The surviving spouse is an heir as are the children of the decedent and the parents or the children of the decedents parents. The formal proceedings continue as unsupervised unless a formal proceeding is started or supervised administration is ordered.

III. Duties of Personal Representative

The Personal Representative acts primarily without the direct involvement of the Probate Court. After the initial paperwork is filed with the court, the Personal Representative administers the estate and then proceeds to close the estate. Among the duties of a Personal Representative:

A. Notice of Appointment

Michigan law requires that the Personal Representatives provide notice of their appointment to the "interested parties" in the decedent's estate. MCL 700.3705. The personal representative, except a special personal representative, shall give notice of the appointment to the decedent's heirs and devisees, except those who have executed a written waiver of notice.

The notice required under this subsection must be in a form approved by the Michigan Supreme Court and must include very specific information. The form Notice of Appointment and Duties of Personal Representative (PC 573) provides for all of the required information. This is discussed in more detail in the informal proceedings section.

Within 14 days after the appointment of a personal representative or the retention of an attorney by a personal representative, whichever is later, the personal representative must mail to the interested persons whose interests will be affected by the payment of attorney fees, a notice regarding the attorney fees. MCR 5.313. The form for this notice is Notice Regarding Attorney Fees (PC 576). Attorney fees must usually be approved by the court prior to payment. Costs may be paid without prior court approval. Attorney fees and costs paid without prior court approval remain subject to review by the court.

B. Notice to Creditors

Unless notice has already been given, the personal representative must publish a notice to creditors in a newspaper in a county in which a resident decedent was domiciled or in which the proceeding as to a nonresident was initiated. MCL 700.3801. The notice must include the name, and, if known, last known address, date of death, and date of birth of the decedent; the name and address of the personal representative; the name and address of the court where proceedings are filed; and a statement that claims will be forever barred unless presented to the personal representative, or to both the court and the personal representative, within 4 months after the publication of the notice. MCR 5.306(A) .

Notice to a known creditor of the estate shall be given within 4 months after the date of the publication of notice to creditors. If the personal representative first knows of an estate creditor less than 28 days before 4 months after the date of the publication, then notice shall be given within 28 days after the personal representative first knows of the creditor. MCL 700.3801. No notice need be given to creditors if the estate has no assets, the decedent has been dead for more than 3 years, notice has previously been given in the county where the decedent was domiciled in Michigan, or to a creditor whose claim has been presented or paid.

C. Administration of the Estate

The personal representative is responsible for identifying, valuing and protecting everything that the decedent owned at the time of death, which makes up the assets of the estate. The Personal Representative must prepare an Inventory (PC 577) which is described in more detail in the informal proceedings section.

One of the types of litigation found in formal proceedings is that to determine whether the decedent left a valid will. Any interested person is entitled to contest the probate of a will. MCL 700.3401. Various grounds exist for having a will declared invalid: the will was improperly executed, the decedent had a lack of testamentary capacity when the signed the will or that the decedent’s signature on the will was obtained through undue influence. The informal probate of a will lasts only until a subsequent order in a formal proceeding overturns it. A formal order of testacy, finding that the decedent did leave a valid will, is permanent once the 21 day appeal period has expired.

The Personal Representative may file a Sworn Statement to Close (PC 591) the estate along with a Certificate of Completion (PC 592), or they may file a petition for complete estate settlement which requires a hearing before the Judge.

Once the Sworn Statement to Close and Certificate of Completion have been filed the court must wait 28 days for any objections to be filed. If no objections are filed the register will sign the Certificate of Completion and close the estate. Alternatively, once proper notice to interested persons is given of the petition for complete estate settlement, and a hearing is held, the Judge may enter an Order for Complete Estate Settlement.

Then, after the Personal Representative provides the court with proof of payment of claims and distributions, and the court is satisfied that the administration is complete, the Judge will issue an Order of Discharge which will close the estate and terminate the authority of the Personal Representative.

This petition for complete estate settlement is a formal proceeding which provides finality and certainty in the form of an order from the Judge determining all issues in the estate. The Personal Representative has a choice of two forms to use if they wish to petition for complete estate settlement: Complete Estate Settlement, Testacy Previously Adjudicated (PC 593) and Petition for Adjudication of Testacy and Complete Estate Settlement (PC 594) . If there is a request for adjudication of testacy there must also be a determination of heirs.

If the personal representative discovers assets belonging to the estate after an estate has been closed and the personal representative has been discharged or one year has expired after a sworn statement was filed, the court may appoint the original or a successor personal representative upon the petition of an interested person. MCL 700.3959.

INFORMAL

An informal probate proceeding has several steps. An Application for Informal Probate is filed with the Probate Clerk along with the Will and Codicil of the decedent. In addition, several other forms must be filed: Testimony of Interested Persons, Supplemental Testimony of Interested Persons Testate Estate, Register's Statement, Acceptance of Appointment and Letters of Authority for Personal Representative. If all papers are properly filled out and the Probate Register is able to make the required findings, the Register will sign the Register's Statement and issue Letters of Authority to the Personal Representative.

The Personal Representative must then:

- prepare an Inventory
- pay the Inventory fee
- give notice to creditors
- pay the taxes
- pay the bills of the estate and claims against the estate
- distribute the assets as appropriate
- file a Notice of Continuing Administration if the estate is open for more than a year
- file a Sworn Statement to Close the estate once the estate has been fully administered.

The Sworn Statement to Close requires that service be made on all interested parties. Once the Sworn Statement to Close has been filed the court must wait 28 days for any objections to be filed. If no objections are filed the register will sign the Certificate of Completion and close the estate.

Opening an Informal Estate

The very first step is to determine in which county (venue) the estate proceedings should be filed. MCL 700.1302(a) defines proper venue as being the county where the decedent was domiciled (lived) at the time of death or, if the decedent was domiciled (lived) outside of Michigan, in a county where the decedent’s property was located at the time of death.

Michigan law provides that only an “interested person” may petition the court to begin an informal probate of an estate. According to MCR 5.125 (C) (1) the persons interested in an application or a petition to probate a will are the:

(a) devisees,
(b) nominated trustee and current trust beneficiaries of a trust under the will,
(c) heirs,
(d) nominated personal representative, and
(e) trustee of a revocable trust

According to MCR 5.125 (C) (2) the persons interested in an application or a petition to appoint a personal representative, other than a special personal representative, of an intestate estate are the:

(a) heirs,
(b) nominated personal representative, and
(c) trustee of a revocable trust

A “devisee” is a person given property in the decedent’s will. An “heir” is a person who is entitled to receive property from the decedent under the statute of intestate succession if the decedent died without a Will.

Once the interested person files the necessary paperwork to open an informal estate they become the “petitioner”. When the petitioner has identified the proper Michigan County as having venue, the initial paperwork may be filed with the Court. Filing may be made in person or by mail. Along with the court forms discussed below, the petitioner should also file the Will and codicil of the decedent, if any, a death certificate, and must pay a filing fee of $150. The Probate Court accepts payment by cash, check or money order. The Probate Court does not accept payment by credit or debit card.

The forms which must be filed with or presented to the Probate Court to commence an informal proceeding are:

A. Application for Informal Probate and/or Appointment of Personal Representative (Testate/Intestate) (PC 558). This application may be for informal probate (informal admission of a will) or appointment of a personal representative or both. Typically the petitioner nominates him/herself to be appointed the Personal Representative of the estate.

A person may be appointed Personal Representative if they are over 18 years of age and do not have a guardian or conservator appointed for them.
Qualified persons have priority for appointment as personal representative in the following order:

1. The person with priority as determined by a probated will including a person nominated by a power conferred in a will.

2. The decedent's surviving spouse if the spouse is a devisee of the decedent.

3. Other devisees of the decedent.

4. The decedent's surviving spouse.

5. Other heirs of the decedent.

6. After 42 days following the decedent's death, the nominee of a creditor if the court finds the nominee suitable.

7. The state or county public administrator if no interested person applied or petitioned for appointment of a personal representative within 42 days after the decedent's death; the decedent died apparently leaving no known heirs; there is no spouse, heir, or beneficiary under a will who is a United States resident and is entitled to a distributive share in the decedent's estate.

A person entitled to be appointed Personal Representative may nominate a qualified person to act as personal representative. A person may renounce his or her right to nominate or to an appointment by filing an appropriate writing with the court. If two (2) or more persons share a priority, those who do not renounce shall concur in nominating another to act for them or in applying for appointment.

A person who does not have top priority to be appointed Personal Representative for a given estate may send the form Notice of Intent to Request Informal Appointment of Personal Representative (PC 557) before filing the application for probate to those people who have equal or greater priority. If the address of a person with equal or greater priority to be Personal Representative is unknown the notice must be published. If proper notice is given of the petitioner's intent to be appointed Personal Representative MCL 700.1401, and nobody else seeks appointment or objects to the petitioner's appointment, the petitioner may be appointed Personal Representative.

B. Testimony of Interested Persons (PC 565).

C. Supplemental Testimony of Interested Persons Testate Estate (PC 566). This form is only filed if decedent left a will and some of the devisees named in the will and codicils are not heirs of the testator.

D. Register's Statement (PC 568).

E. Acceptance of Appointment (PC 571).

F. Letters of Authority for Personal Representative (PC 572). Letters of Authority will be issued once the Court or Probate Register is satisfied that the petitioner is qualified to be named the personal representative and the petitioner has filed an Acceptance of Appointment (PC 571) and a bond if bond is required. The Letters of Authority shall not have an expiration date but if the estate is not closed within one year the Personal Representative must file a Notice of Continuing Administration. MCR 5.202

Duties of Personal Representative

The Personal Representative acts primarily without the direct involvement of the Probate Court. Usually, the Personal Representative need not come to court to get permission or orders to transact the business of the informal decedent's estate. After the initial paperwork is filed with the Court, the Personal Representative administers the estate and then submits a Sworn Statement to Close, the estate is closed and the Personal Representative is discharged. The following is an overview:

Notice of Appointment

Michigan law requires that the Personal Representatives provide notice of their appointment to the "interested parties" in the decedent's estate. MCL 700.3705. The personal representative, except a special personal representative, shall give notice of the appointment to the decedent's heirs and devisees, except those who have executed a written waiver of notice. The personal representative shall give the notice by personal service or by ordinary first-class mail to each interested person whose address is reasonably available to the personal representative.

If the address or identity of a person who is to receive notice of appointment is not known and cannot be ascertained with reasonable diligence, the notice of appointment must be published one time in a newspaper in the county in which a resident decedent was domiciled or in the county in which the proceedings with respect to a nonresident were initiated. The published notice of appointment is sufficient if it includes statements that estate proceedings have been commenced, gives the name and address of the Court, and, if applicable, that a will has been admitted to probate, the name of any interested person whose name is known but whose address cannot be ascertained after diligent inquiry, a statement that the result of the administration may be to bar or affect that person's interest in the estate, the name and address of the person appointed personal representative, and the name and address of the court. After an interested person has once been served by publication, notice of appointment is only required if that person's address is known or becomes known during the proceedings.

The notice required under this subsection must be in a form approved by the Michigan Supreme Court and must include very specific information. The form Notice of Appointment and Duties of Personal Representative (PC 573) provides for all of the required information which includes:

The court will not supervise the personal representative.

Unless a person files a written objection to the appointment of the person named as personal representative in the notice or files a demand that bond or higher bond be posted, the person named in the notice is the personal representative without bond or with bond in the amount shown in the notice.

The name and address of the person appointed as the estate's personal representative.

During the course of administering the estate, the personal representative must provide all interested persons with a copy of the petition for the personal representative's appointment, a copy of the will, if any, a copy of the inventory, a copy of the settlement petition or of the closing statement and, unless waived, a copy of the account.

An interested person may petition the court for a court hearing on any matter at any time during the estate's administration.

Federal and Michigan estate taxes, if any, must be paid within 9 months after the date of the decedent's death or another time period specified by law.

If the estate is not settled within 1 year after the personal representative's appointment, within 28 days after the anniversary of the appointment, the personal representative must file with the court and send to each interested person a notice that the estate remains under administration and must specify the reason for the continuation of settlement proceedings

The identity and location of the court where papers relating to the estate are on file.

Within 14 days after the appointment of a personal representative or the retention of an attorney by a personal representative, whichever is later, the personal representative must mail to the interested persons whose interests will be affected by the payment of attorney fees, a notice regarding the attorney fees. MCR 5.313. The form for this notice is Notice Regarding Attorney fees (PC 576). A personal representative may make, and an attorney may accept, payments for services and costs, on a periodic basis without prior court approval if prior to the time of payment if notice is given pursuant to the court rule. In all other instances, attorney fees must be approved by the court prior to payment. Costs may be paid without prior court approval. Attorney fees and costs paid without prior court approval remain subject to review by the court.

Notice to Creditors

Unless the notice has already been given, the personal representative must publish a notice to creditors in a newspaper in a county in which a resident decedent was domiciled or in which the proceeding as to a nonresident was initiated. MCL 700.3801. The notice must include the name, and, if known, last known address, date of death, and date of birth of the decedent; the name and address of the personal representative; the name and address of the court where proceedings are filed; and a statement that claims will be forever barred unless presented to the personal representative, or to both the court and the personal representative, within 4 months after the publication of the notice. MCR 5.306(A).

If a specific creditor is known to the personal representative, the personal representative who has published notice must cause a copy of the published notice or a similar notice to be served personally or by mail to each known creditor of the estate whose identity at the time of publication or during the 4 months following publication is known or can be reasonably ascertained.

Notice to a known creditor of the estate shall be given within 4 months after the date of the publication of notice to creditors. If the personal representative first knows of an estate creditor less than 28 days before 4 months after the date of the publication, then notice shall be given within 28 days after the personal representative first knows of the creditor. MCL 700.3801. No notice need be given to creditors if the estate has no assets, the decedent has been dead for more than 3 years, notice has previously been given in the county where the decedent was domiciled in Michigan, or to a creditor whose claim has been presented or paid.

A creditor is known to the personal representative if the personal representative has actual notice of the creditor or the creditor's existence is reasonably ascertainable based on an investigation of the decedent's available records for the 2 years immediately preceding death and the decedent's mail following death. Publication of notice to creditors may be accomplished by using Notice to Creditors Decedent's Estate (PC 574).

MCR 5.306(B) requires that the personal representative must also serve notice personally or by mail on each known creditor of the estate and the trustee of a trust of which the decedent is settlor, as defined in MCL 700.7501(1).

Administration of the Estate

The personal representative is responsible for identifying, valuing and protecting everything that the decedent owned at the time of death, which makes up the assets of the estate. The Personal Representative must prepare an Inventory (PC 577) which lists all assets of the estate, the fair market value of each asset as of the date of death and any lien or encumbrance on each item. This Inventory must be sent to all presumptive distributees and other interested persons requesting it within 91 days following the appointment of the Personal Representative. MCL 700.3706. The Personal Representative must also submit "information necessary for computing the probate inventory fee," which is usually accomplished by either showing or filing the Inventory with the probate court. The Probate Court will use the Inventory amount to calculate the Inventory fee which must be paid to the court as part of probate administration.

If the administration of the estate lasts more than one year from the date that the Personal Representative was appointed, the Personal Representative must file a Notice of Continued Administration (PC 587) with the court and send copies to all interested persons within 28 days from the anniversary date of the Personal Representative's appointment. The Court may administratively close the estate if a Notice of Continued Administration or a Sworn Statement to Close is not timely filed.

A Personal Representative may close an estate by filing with the court, no earlier than 5 months after the date of a general Personal Representative's original appointment, a sworn statement that the Personal Representative or a previous Personal Representative has: determined that notice was published and the time for presentation of creditors claims has expired; fully administered the decedent's estate by making payment, settlement, or other disposition of all claims that were presented; sent a copy of the statement to all estate distributees and to all creditors or other claimants of whom the Personal Representative is aware whose claims are neither paid nor barred and furnished a full account in writing of the Personal Representative's administration to the distributees whose interests are affected by the administration. The account shall clearly state the amount paid out of the estate in fiduciary fees, attorney fees and other professional fees. MCL 700.3954.

If the Personal Representative discovers assets belonging to the estate after an estate has been closed and the Personal Representative has been discharged or one year has expired after a sworn statement was filed, the Court may appoint the original or a successor Personal Representative upon the petition of an interested person. MCL 700.3959.

SMALL ESTATES

Michigan Compiled Law MCL 700.3982 states that a person wishing to file a small estate must provide evidence, satisfactory to the court, of payment of the expenses for the decedent's funeral and burial. Typically this can be done by filing the paid funeral or burial statement with the Probate Court office. Along with such evidence of payment the person should fill out and file a Petition and Order for Assignment (PC 556). The filing fee is $25 plus inventory fees.

If the Petition and Order for Assignment shows that the balance of a decedent's gross estate consists of property worth $20,000 or less, the Court may order that the property be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

If the Petition and Order for Assignment shows that the decedent's funeral or burial expenses are unpaid or were paid by a person other than the estate, and if the value of the estate after payment of the expenses would be less than $20,000, the Court must order that the property in the estate be first used to pay the unpaid funeral and burial expenses, or to reimburse the person that paid those expenses, and may then order that the balance be turned over to the surviving spouse or, if there is not a spouse, to the decedent's heirs.

Other than a surviving spouse or minor children of the decedent, an heir who receives property through an Order under this section is responsible, for 63 days after the date of the Order, for any unsatisfied debt of the decedent up to the value of the property received through the Order.

Currently the maximum value an estate can have and still qualify as a small estate is $20,000, however this amount could change on a yearly basis. For annual updates on this limit, visit the Michigan Department of Treasury website and view the cost-of-living adjustment factor.

MCL 700.3983 contains a very similar provision that may be used to distribute estates of this size when no real property is involved.

SUPERVISED ESTATE

Probating a Decedent's Estate -- Supervised Administration

I. Overview

Supervised administration of an estate is available in some limited circumstances and provides for close oversight by the court over the probate process. Supervised administration requires the Personal Representative to get court approval before taking many actions and a supervised Personal Representative may not make distributions from the estate without prior court order. Only a very small percentage of decedents estates go through supervised proceedings.

II. Opening a Supervised Estate Proceeding

The very first step is determining in which county the estate proceedings should be filed. This is referred to as the proper venue for a proceeding. MCL 700.1302(a) defines proper venue as being the county where the decedent was domiciled at the time of death or, if the decedent was domiciled outside of Michigan, in a county where the decedent's property was located at the time of death. Venue provisions for supervised and unsupervised proceedings are identical.

Michigan law provides that only an "interested person" may petition the court to begin an informal probate of an estate as defined in MCR 5.125(C)(1) and discussed in more detain in the informal proceedings section.

Unlike unsupervised administration, supervised administration may only be granted by the court if it finds it is necessary regardless of whether the decedent's will does or does not direct supervised administration, or in any other case. MCL 700.3502.

Any interested person may file a petition for supervised administration at any time, and an unsupervised administration may be changed to a supervised administration. Interested persons and notice requirements are the same for supervised administration as for unsupervised administration. The procedure and burdens of proof at a hearing regarding supervised administration are the same as those for unsupervised administration. Except that testimony about the need for court supervision is required.

The forms which must be filed with or presented to the Probate Court to commence a formal proceeding are:

- Petition for Probate and/or Appointment of Personal Representative (Testate/Intestate) (PC 559)
- Testimony of Interested Persons (PC 565)
- Supplemental Testimony of Interested Persons Testate Estate (PC 566)
- Acceptance of Appointment (PC 571)
- Letters of Authority for Personal Representative (PC 572)

The court will issue an Order of Formal Proceedings (PC 569) following a hearing, if needed, which officially begins the probate administration process. The court must determine the decedent's heirs in all formal proceedings. MCL 700.3409.

III. Duties of Personal Representative

The duties of the Personal Representative in Supervised Administration include all duties required in unsupervised administration, whether formal or informal proceedings. However, in Supervised Administration the Personal Representative is also responsible for filing an Account (PC 583), a Notice of Appointment and Duties of Personal Representative (PC 573), Notice to Spouse of Rights of Election and Allowances, Proof of Service and Election (PC 581), an affidavit of any required publication, Notice to Creditors (PC 574) and Publication of Notice of Hearing (PC 563).

The Account must be filed with the court, and served on beneficiaries, on an annual basis. The Account must be itemized showing the receipts and disbursements within the accounting period, include a description of the services performed by the Personal Representative and include notices regarding objections and the right of interested persons to review proofs of income and disbursements. The Personal Representative must prepare a final Account and service it on all interested persons except those who have already received their full share of the estate. The final Account must be filed with the court when the estate is ready for closing.

The Personal Representative must close the estate by filing a Petition for Complete Estate Settlement, Testacy Previously Adjudicated (PC 593). Supervised administration is terminated by the order issued by the court directing complete estate distribution and discharging the personal representative. Final distributions will generally be made after the order is entered.

DIRECTIONS FOR COMPLETING ACCOUNT FORM IN A DECEASED ESTATE
PC 584 – LONG FORM

Follow these directions to save yourself time in having your Account approved by the Court.

Note: Please type or print neatly in black or blue ink.

"Estate of": Unless it already appears on the form, put the name of the person the estate is for here.

Item 1 - Account Period: The Account period must be for 1 year (unless the account is the final accounting, in which case the period may be less than 1 year and ends upon the end of your authority over the estate). If you are filing your 1^{st} Annual account, the beginning date is when your Letters of Authority were issued by the Court. If you are filing a 2^{nd} or later Annual account, the beginning date is the end date of the last Account. Also, indicate what kind of Account it is in the top box (i.e., Annual, Final, or Interim).

Item 2 - Summary: This item asks you to tell the Court how the balance in the estate has changed from the last Account (or the Inventory) to this Account. This item begins with the *balance on hand from last account* and ends with *total balance of assets remaining*.

Balance on hand from last account: Go to your copy of the last Account (if this is the first Account, then go to your copy of the Inventory). Find what was recorded for *balance of assets remaining* in that Account (if you go to the Inventory, find the total on the Inventory). Write this number down for *balance on hand from last Account*. This represents what was in the estate at the beginning of this accounting period.

Add income in accounting period: Write down the total you put down for Schedule A. This represents the amount of money or other assets that came in to the estate during the accounting period.

Total assets accounted for: Add these top two numbers together and write the sum here. Subtract disbursements in this accounting period: Write down the total you put down for Schedule B. This represents the amount of money that went out of the estate during the accounting period.

Total balance of assets remaining: Now subtract the *disbursements* from the *total assets accounted for*. This represents the amount of money and\or other assets in the estate at the end of the accounting period.

SCHEDULE A: INCOME

Income: List here all money or other assets by category that came into the estate during the Account period. Have only one entry per category, with the year total for that category listed in the dollars column to the right of the Schedule A section.

Typical income sources may include some or all of the following: Social Security, Interest on bank account, Pension, Dividends from stocks, Capital gains, VA benefits, Rental income, Inheritance, Tax refunds, SSI (Disability), Capital gains, and Life insurance benefits.

Total Income: Make sure to record the total of all income and other receipts at the bottom of Schedule A.

SCHEDULE B: EXPENSES AND OTHER DISBURSEMENTS

Expenses: List here all money that was paid out of the estate during the Account period.

Typical kinds of expenses: For conservatorships, these could include personal items (clothing), room & board in a facility, medical care, and insurance payments. These can be listed by category. Example: Utilities, rent, food, clothing, etc. For decedent estates, these could include taxes, payment of claims, partial distributions to heirs or devisees, etc. Have only one entry per category, with the year total for that category listed in the dollars column to the right of the Schedule B section. For conservatorship accountings, you must have receipts organized by category for each disbursement.

Total Expenses and Disbursements: Make sure to record the total of all expenses and other disbursements at the bottom of Schedule B.

SCHEDULE C: GAINS AND LOSSES

This is used if you sold an asset, such as a house, car, bonds, or mutual funds during the Account period. See Schedule C on the form for more information. Also, any gains or losses should be included in the appropriate place in Schedule A or B.

SCHEDULE D: ITEMIZED ASSETS

Itemized assets remaining: List what assets are in the estate at the end of the accounting period.

Typical assets: The usual types of assets in an estate include a checking account or some other bank account, a home, and personal and household property. These assets and their value may be listed by category. Here's an example:

Home at 123 Main Street	$50,000
Checking account, account #123456, Gigantic National Bank	$1,000
Personal and household property	$1,000
Total balance on hand	$52,000

Balance of Assets Remaining: You must total the value of the assets in the estate. Since this is a total of the assets remaining at the end of the accounting period, this total must equal the *total balance of assets remaining* you recorded on the last line of item 2 above.

ITEMS 3 THROUGH 8

Item 3 - Interested persons: If any interested persons have moved or died since their addresses were given to the court, you must list their new addresses (or state that they died).

Items 5 & 6: These are only used in deceased estates, not conservatorships.

Items 7 & 8 - Fiduciary/attorney fees: The law allows a fiduciary to obtain only "reasonable compensation" for services rendered. If you charge the estate a fee for serving as fiduciary, you must attach a written summary of services performed.

SIGNATURES

Fiduciary signature: You, as the fiduciary in charge of the estate, must date and sign the Account. If there are co-fiduciaries, all must sign.

Attorney signature: If you have an attorney representing you in the estate, they must also sign.

INVENTORY

What is an Inventory?

An Inventory is an official list filed or submitted to the Probate Court that describes all the property owned by a Decedent, Protected Individual, or an Individual with Developmental Disabilities and includes accurate values for the property. Personal Representatives, Conservators, and Guardians of the Estate of an Individual with Developmental Disabilities must prepare an Inventory.

Forms Used – PC 577, Inventory (Decedent Estate),
PC 674, Inventory (Conservatorship or Guardian of the Estate of an Individual with Developmental Disabilities)

When does an Inventory have to be filed or submitted?

Decedent Estate

For Unsupervised Administration (DE) – Must be submitted within 91 days of the date the Personal Representative's Letters of Authority were issued. Note: The Probate Court will review the Inventory to determine if it appears to be accurate and complete, and to officially calculate the inventory fee. The Inventory will be returned to the Personal Representative unless they would like to file it with the Court.

For Supervised Administration (DA) – Must be filed within 91 days of the date the Personal Representative's Letters of Authority were issued.

Conservatorship

Must be filed within 56 days of the date the Conservator's Letters of Authority were issued.

Guardian of the Estate of an Individual with Developmental Disabilities

Must be filed within 56 days of the date the Guardian of the Estate's Letters of Authority were issued.

What has to be listed on an Inventory?

For Decedent Estates, all the assets owned by the Decedent at the date of death.

For Conservatorships or Guardianships of the Estate for an Individual with Developmental Disabilities, all the assets owned by the Protected Individual or the Individual with Developmental Disabilities at the date the fiduciary's Letters of Authority were issued.

For real estate, include the street address and the complete legal description as reflected on the deed.

For motor vehicles, boats, trailers, or motor homes, include the year, make, model, and vehicle identification number (VIN).

For ordinary items, combine them into categories (i.e., clothing, furniture, etc.).

For items with special value, list them separately (i.e., antiques, coin\stamp collections, art, fine dishes\silverware).

Note: For Conservatorships, list the property the Protected Individual owns with others, along with the type of ownership (i.e., joint tenancy, tenancy in common, etc.).
For additional information, see the instructions contained on the Inventory forms (PC 577 or PC 674).

How are assets on an Inventory valued?

For all assets, use the fair market value as of the date of death (for Decedent Estates) or the date the fiduciary received their Letters of Authority (for Conservatorships and Guardianships of the Estate for an Individual with Developmental Disabilities).

For real estate, use any of the following methods: (1) two times the State Equalized Value (SEV), (2) a value based on a full narrative appraisal by a licensed appraiser within one year of the date of death, or (3) a sales price if the property was sold within one year of the date of death.

If you use an appraisal for any item(s), include a copy of the appraisal with the Inventory.

List the amount and type of any mortgage, lien, or encumbrance on any particular asset.

Is there a fee for filing an Inventory?

For Decedent Estates – Yes.

For Conservatorships and Guardianships of Estates of Individuals with Developmental Disabilities – No.

Important Note #1: No deduction is allowed for any mortgage, lien or encumbrance on any asset.

Important Note #2: The inventory fee must be paid within one year of the date the Personal Representative received their Letters of Authority or the filing of a Sworn Statement to Close Administration or Petition for Complete Estate Settlement, whichever is earlier.

The inventory fee for Decedent Estates is based on the value of the property pursuant to a schedule according to Michigan law. To determine the fee, go to the Inventory Fee Calculator on the Court's website.

Note: Fees can be paid by cash, check, or money order payable to the Tuscola County Probate Court. No credit cards, debit cards, or out of state checks are accepted.

Who has to receive copies of an Inventory?

The interested persons for the particular type of case. See the initial petition filed in your proceeding for more information.

MOTOR VEHICLES –
TRANSFER OF DECEDENT'S TITLE

If a decedent dies with no probate assets (i.e., owns nothing in their name alone) <u>except</u> for one or more motor vehicles whose total value is not more than $60,000, title to the vehicles can be transferred by the Secretary of State without opening an estate in the Probate Court.

<u>Note:</u> This entire procedure is done at a Secretary of State office – not the Probate Court.

Secretary of State Form Used: TR-29, Certification from the Heir to a Vehicle

Attach the vehicle title (if available) to the form.

A certified copy of the death certificate for the owner of the vehicle must also be presented.

Title to the motor vehicle(s) will be given according to the following priority:

- Surviving spouse.
- Surviving descendants (i.e., children and/or grandchildren).
- Surviving parents.
- Surviving grandparents or descendants of predeceased grandparents.

SALE OF REAL ESTATE IN DECEDENT ESTATES

Note: The Court is prohibited by law (Sec. 1211 of the Estates and Protected Individuals Code [EPIC]) from providing legal advice and completing forms. This item provides general information concerning the sale of real estate in decedent's estates and conservatorships and may be useful as a guide. If you have any questions, consider contacting an attorney for assistance.

Forms Needed:

(PC 646), Petition for Approval of Sale of Real Estate,
(PC 647), Order Approving Sale of Real Estate

Filing Fee - $20.00

Sale of Real Estate in Decedent Estate

Prior court approval of sale of real estate is not required in decedent estates unless the letters of authority are restricted.

The County Probate Court typically restricts the letters of authority on estates that were opened using a formal petition (as opposed to an informal application) to prevent the personal representative from selling real estate until court approval is obtained. MCR 5.202.

Sale of Real Estate in Conservatorship

A conservator is restricted from selling or otherwise disposing of real property without court approval, pursuant to a hearing, at which the court considers evidence of the property's value and otherwise determines whether the sale is in the best interest of the protected individual. MCL 700.5423(3).

The Tuscola County Probate Court, as additional insurance, also restricts the letters of authority for conservtorships to prevent conservators from selling real estate until court approval is obtained. MCR 5.202.

Procedures – Sale of Real Estate

Forms Used – Petition for Approval of Sale of Real Estate (PC 646) ; Order Regarding Sale of Real Estate (PC 647)

The petition to approve the sale of real estate must contain the terms\purpose of sale, legal description, and estate's financial condition prior to sale. MCR 5.207(A)(1)-(3). Instead of a written description of the terms, a copy of the purchase agreement or deed that details the terms may be attached.

The petition must also contain the most recent statement with the state equalized value (SEV) listed. A petitioner may submit and\or the Court can order a written appraisal, if it is not satisfied that the evidence demonstrates the fair market value. MCR 5.207(A)(4).

Bonds

The court can require the filing of a surety bond for the sale of real estate in decedent estates or conservatorships. A bond is an insurance policy which is purchased (the cost is payable from the estate or conservatorship) from a company. It is not a bail bond – i.e., money is not deposited with the court.

If a bond is set, it must be filed prior to approval of the sale.

CLOSING PROCEDURES – DECEDENTS ESTATES

Note: The Court is prohibited by law (Sec. 1211 of the Estates and Protected Individuals Code [EPIC]) from providing legal advice and completing forms.

This item provides general information concerning the procedures for closing an estate and may be useful as a guide. If you have any questions, consider contacting an attorney for assistance.

UNSUPERVISED ADMINISTRATION (DE case type)

An estate in unsupervised administration can be closed by filing a "Sworn Statement to Close Unsupervised Administration" (PC 591), or a "Petition for Adjudication of Testacy and Complete Estate Settlement" (PC 594), or a "Petition for Complete Estate Settlement, Testacy Previously Adjudicated" (PC 593).

1. Sworn Statement to Close Unsupervised Administration

Form Needed:

(PC 591), Sworn Statement to Close Unsupervised Administration

Filing Fee - None

Any estate that is not in supervised administration (DA case type) may be closed by filing a Sworn Statement to Close Unsupervised Administration (PC 591). If no objections are filed within 28 days of submission of the Sworn Statement to the Court, a Certificate of Completion (PC 592) may also be filed, but is not necessary to close the estate.

The Sworn Statement to Close Unsupervised Administration (PC 591) cannot be filed until at least 5 months after the personal representative has been appointed after all the following has been done:

- Notice was published and the time for presentation of creditors claims has expired.
- The decedent's estate has been fully administered by making payments, settlement, or other disposition of all claims that were presented, of administration and estate expenses, and of estate, inheritance, and other death taxes, except as specified in the statement, including distribution of the estate property to the persons entitled.

Note: If a claim remains undischarged, the sworn statement must note whether the personal representative distributed the estate subject to possible liability with the distributee's agreement or detail other arrangements that have been made to accommodate outstanding liabilities.

- A copy of the statement has been sent to all estate distributees and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred.

- A full accounting has been given in writing of the personal representative's administration to the distributees whose interests are affected by the administration. The account must clearly state the amount paid out of the estate in fiduciary fees, attorney fees and other professional fees.

Note: The accounting does not have to be filed with the court, and no particular form is required. However, a personal representative can use the Account of Fiduciary, Short Form (PC 583) or Account of Fiduciary, Long Form (PC 584).

Note: An Inventory (PC 577) must be presented to the court and the inventory fee calculated and paid before the Sworn Statement to Close Administration (PC 591) can be filed.

2. Petition for Adjudication of Testacy and Complete Estate Settlement

Forms Needed:

(PC 594), Petition for Adjudication of Testacy and Complete Estate Settlement,
(PC 596), Schedule of Distribution and Payment of Claims

Note: A final Account of Fiduciary (Short Form or Long Form, (PC 583) or (PC 584) and Inventory (PC 577) are not required to be filed with the court as long as the estate is in unsupervised administration (DE case type).

Note: An Inventory (PC 577) must be presented to the court and the inventory fee calculated and paid before the Petition for Adjudication of Testacy and Complete Estate Settlement (PC 594) can be granted.

Filing Fee - $20.00

A "Petition for Adjudication of Testacy and Complete Estate Settlement" (PC 594) is a formal proceeding to settle all issues in closing an estate. It can be used:

- In all estates that are in unsupervised administration (DE case type), whether started by informal application or formal petition and

- If formal testacy has not been determined, (i.e., whether the decedent died with or without a will).

Note: This petition cannot be filed until after the estate's claims period has passed.
If you also want an Order of Discharge (PC 597), the following additional forms (and Proof of Service (PC 564) that they were given to all interested persons) must also be filed:

(PC 577), Inventory
(PC 583), Account of Fiduciary, Short Form or
(PC 584), Account of Fiduciary, Long Form
(PC 573), Notice of Appointment and Duties of Personal Representative
(PC 576), Notice Regarding Attorney Fees (if applicable)
(PC 581), Notice to Spouse of Rights of Election and Allowances, Proof of Service, and Election
(PC 587), Notice of Continued Administration (if estate opened more than one year)
Affidavit of any required publications (i.e., claims, etc.)
Tax information concerning inheritance or estate tax
Other papers which the court may require

After either a court hearing with proper notice to all interested persons or upon filing Waiver and Consents (PC 561) from all interested persons, the probate court may enter an order determining the persons entitled to distribution of the estate under the will, and\or approving settlement, directing or approving estate distribution, and discharging the personal representative. After the personal representative pays the claims and makes the distributions as listed on the Schedule of Distribution and Payment of Claims (PC 596), the court will issue an Order of Discharge (PC 597) and close the estate if it is satisfied that the administration is complete.

3. Petition for Complete Estate Settlement, Testacy Previously Adjudicated

Forms Needed:

Same as #2 above (Petition for Adjudication of Testacy and Complete Estate Settlement), **except** use (PC 593) Petition for Complete Estate Settlement, Testacy Previously Adjudicated instead of (PC 594).

A "Petition for Complete Estate Settlement, Testacy Previously Adjudicated" (PC 593) is a formal proceeding to settle all issues in closing an estate. It can be used in all estate proceedings, whether they were started by informal application or formal petition, as long as there has been a formal determination of testacy (i.e., whether the decedent died with or without a will) at some point during the estate administration.

Note: This petition cannot be filed until after the estate's claims period has passed.

If you also want an Order of Discharge, the procedures listed in #2 above for getting this item must also be followed.

SUPERVISED ADMINISTRATION (DA case type)

An estate in supervised administration must be closed by filing a "Petition and Order for Complete Estate Settlement, Testacy Previously Adjudicated" (PC 593). Follow the instructions in #3 above.

Note: An Inventory (PC 577) and Final Account of Fiduciary (Short or Long Form, (PC 583) or (PC 584) must be filed for all estates in supervised administration (DA case type) as part of the closing process.

If you also want an Order of Discharge, the procedures listed in #2 above for getting this item must also be followed.

Filing Fee - $20.00

FEDERAL ESTATE TAX EXEMPTION AMOUNTS

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) increased the unified credit, i.e. the amount of a decedent's assets which are exempt from federal estate tax. For the year 2010, the federal estate tax is abolished. The exclusion amounts are as follows:

Year of Death	**Exclusion Amount**
2001	$ 675,000.00
2002 & 2003	1,000,000.00
2004 & 2005	1,500,000.00
2006, 2007 & 2008	2,000,000.00
2009	3,500,000.00
2010	NO ESTATE TAX
2011 & 2012	5,000,000.00
2013 and beyond	1,000,000.00

DUTIES OF PERSONAL REPRESENTATIVE

What are the duties of a personal representative in an estate that has been reopened?

1. To determine if the decedent had a will that was not offered for probate in the pevious administration. If they did, copies must be given to all interested interested persons. Either consents from all interested persons must be filed or a hearing must be conducted so the Judge can determine whether the will is valid.

2. Gather the estate's newly discovered assets and determine what they are worth. This includes obtaining appraisals, if necessary.

Within 91 days of being appointed, the personal representative for an estate reopened in supervised administration is required to file a Supplemental Inventory with the court listing all the decedent's newly discovered assets. For unsupervised administration, the personal representative must provide all interested persons with a Supplemental Inventory within 91 days.

3. Determine if there are any unpaid taxes, including inheritance/estate tax.

4. The estate's assets must be preserved and distributed to the heirs according to the will, or if none, by the laws of intestate succession. If you improperly distribute assets without leaving enough in the estate to pay taxes, you may be personally responsible for coming up with the difference.

5. The personal representative must keep careful records of all income of the estate and all disbursements of the estate's funds. The personal representative must keep the estate's assets separate and never "borrow" from them.

6. The estate must be reclosed within 1 year from the day it is reopened.

7. In supervised administration, file a Petition for Complete Estate Settlement, Schedule of Distribution, and Final Account when the reopened estate is closed. Signed consents from all interested persons or a hearing is required to grant the petition.

The Account must list receipts (monies in) and disbursements (monies out). Save your receipts; one must be presented to the court for each disbursement. In unsupervised administration the Accounts do not have to be filed with the Court, but they must still be served on interested persons.

8. Ensure that all taxes on the estate are paid. You must also see that the decedent's final federal, state and city income taxes are paid and the returns filed.

Do I need an attorney?

If you have questions that this pamphlet did not answer, please seek legal advice from an attorney. By law, court employees are not permitted to give legal advice.

How do I get certified copies of court documents?

They can be obtained in person or by mailing a request to:

Tuscola County Probate Court
440 N. State Street
Caro MI, 48723
Phone: 989-672-3850

If the request is mailed in, the court will send you a bill.

ADMINISTERING A DECEDENT'S ESTATE

Filing Fees

Small Estates
$20,000.00* or less.................................. $25.00**

All Other Estates...$150.00**

*As Indexed for inflation
**Inventory Fee

When is it necessary to open an estate for a decedent?

An estate must be opened if a person dies with property in their name alone (not joint), or owns an insurance policy or retirement benefits and has not named anyone as a beneficiary or has made the money payable to the estate. A personal representative is appointed by the court to handle the administration of the decedent's estate.

In which county should I file to open an estate for a decedent?

A petitioner would file a decedent's estate in the county in which the decedent was domiciled (usually, this is where the decedent lived) at the time of death. If the decedent was domiciled outside of Michigan, but had property in Michigan, the petitioner may file an estate in the county where decedent's property was located at the time of death.

What are the different types of estates?

Estate UNDER $20,000:

- Small Estate probate can be used if the estate is worth $20,000.00 or less. If a Tuscola County resident died leaving property, in their name only, and the property is under $20,000, the closest relative or person who paid the funeral bill may bring the death certificate and paid funeral bill to Probate Court. The cost is $36, plus an inventory fee. This can be done in one day.

Estate OVER $20,000:

- If a Tuscola County resident has died leaving property in their name only and the property is over $20,000, the closest relative or person named in the will may file a petition to have the estate probated. The filing fee is $150. There is also a publication charge of $45.00. It may take a while to process the forms. There are two types of estates over $20,000:

1. Supervised Administration requires the court to review and approve the actions of the personal representative.

2. In Unsupervised Administration, the court is only involved at the beginning and the end unless requested by an interested person or the personal representative.

How is a personal representative appointed?

A personal representative may be formally appointed by a Probate Judge after a petition is filed in the Probate Court. The petition can be filed by an interested person to the decedent's estate. When the petition is filed, unless waivers and consents from all interested persons are attached, a hearing will be held. The person who files the petition has the responsibility to properly notify the persons who have a right to know about the hearing. On the date of the hearing, the petitioner and anyone else who wants to take part goes before the Judge and explains the need for a personal representative.

A personal representative may be appointed informally by filing an application directed to the Probate Register. An applicant seeking appointment in an informal proceeding must give notice and a copy of the application to each person having a prior or equal right to appointment who has not waived the right. Such a waiver may be accomplished by filing a Waiver and Consent. A proof of service must also be filed with the court.

The person appointed personal representative is required to file an Acceptance of Appointment and possibly a Bond to protect the estate's assets. After filing the Acceptance of Appointment and Bond (if ordered), Letters of Authority will be issued to the personal representative. The Letters of Authority give the personal representative the right to perform the following duties, unless the court restricts their authority.

What are the duties of a personal representative?

1. To determine if the decedent had a will. If they did, copies must be given to the beneficiaries. A hearing must be conducted so the Judge can determine whether the will is valid.

2. Gather the estate's assets and determine what they are worth. This includes checking the decedent's safety deposit box; determining what, if any, insurance, social security, pension, veterans or other benefits are payable to the estate or its beneficiaries; and obtaining appraisals, if necessary.

Within 91 days of being appointed, the personal representative in supervised administration is required to file an Inventory with the court listing all the decedent's assets. For unsupervised administration, the personal representative must provide all interested persons with an Inventory within 91 days.

3. Give notice to the decedent's creditors. This must be published in a legal newspaper; if you know of particular creditors of the decedent, they must be given actual notice. You must determine what creditors' claims, if any, should be paid.

4. The estate's assets must be preserved and distributed to the heirs according to the will, or if none, by the laws of intestate succession. If you improperly distribute assets without leaving enough in the estate to pay taxes, you may be personally responsible for coming up with the difference.

5. The personal representative must keep careful records of all income of the estate and all disbursements of the estate's funds. The personal representative must keep the estate's assets separate and never "borrow" from them.

6. In supervised administration, file an annual Account each year within 56 days of the anniversary date of the personal representative's appointment and a Final Account when the estate is closed.

The Account must list receipts (monies in) and disbursements (monies out). Save your receipts; one must be presented to the court for each disbursement. In unsupervised administration the Accounts do not have to be filed with the Court, but they must still be served on interested persons.

7. If the estate is not settled within a year of the first personal representative's appointment, file a notice of continued administration with the court stating why the estate must remain open. A copy of this notice must be given to all interested persons.

8. Ensure that all taxes on the estate are paid. You must also see that the decedent's final federal, state and city income taxes are paid and the returns filed.

When may a personal representative be removed?

If the personal representative does not timely perform their duties, any interested person or the court itself may start proceedings to remove the personal representative or to force them to take action. The personal representative may be held liable for losses caused by his or her mistakes or for failing to act quickly and sensibly.

Do I have to serve as personal representative if I am nominated in the decedent's will?

No. You can decline to serve as personal representative. If you decline, the court will appoint someone else. Once you are appointed, you cannot resign without the court's permission.

Can I receive payment for serving as personal representative?

Yes. The amount must be reasonable and is subject to review by the court. The fees cannot be taken until the administration of the estate is completed.

Can I hire a lawyer or other professionals to help me administer the estate?

Yes. You can use attorneys, accountants, investment advisors or other professionals to help assist in estate administration. The fees of these professionals are subject to review of the court, and if reasonable, can be paid from the estate. Even if you hire experts, as personal representative, you are still responsible for the estate's administration.

Do I need an attorney?

If you have questions, please seek legal advice from an attorney. By law, court employees are not permitted to give legal advice.

How much time should I plan on spending at the court to open an estate?

The court's hours are 8:00 a.m. – 4:30 p.m., closed from 12:00 p.m. – 1:00 p.m. for lunch, closed weekends and holidays. Early morning is the best time to come to the court. Plan on coming no later than mid-afternoon.

How do I get certified copies of court documents?

They can be obtained in person or by mailing a request to:

Tuscola County Probate Court
440 North State Street
Caro, Mich. 48723

All certificate copies are $1.00 per page and $10.00 certification fee.

**MONEY DUE FROM DECEDENT'S EMPLOYER –
WAGES AND FRINGE BENEFITS**

If a decedent dies with no probate assets (i.e., owns nothing in their name alone) <u>except</u> for unpaid wages and\or fringe benefits, the wages and\or fringe benefits can be paid directly to the individuals entitled to receive them without opening an estate in the Probate Court.

Fringe benefits are payable as designated by the terms of the employer's written contract, policy, or plan.

If the deceased employee had a signed written designation filed with his employer before his death, the wages and fringe benefits are to be paid to the person(s) designated by the decedent.

Any wages and\or fringe benefits not covered by the employer's written contract, policy, or plan, or by the decedent's written designation, are to be paid in the following order to the decedent employee's survivors:

- Spouse
- Children
- Mother or Father
- Sister or Brother

<u>Note:</u> Payment under this process will be a full discharge and release of the employer from the wages and fringe benefits due and owing to the deceased employee.

HOW TO OBTAIN MEDICAL RECORDS OF A DECEASED PERSON

A probate estate must be opened to obtain the medical records of a deceased person. A formal Petition for Probate and\or Appointment of Personal Representative (Testate\Intestate) (**PC 559**) must be filed and include a request that a special personal representative be appointed.

NOTE: Tuscola County Probate Court will not appoint a special personal representative on an informal application.

For additional information, see Decedent Estate (found under Information – How to Start a Tuscola County Probate Court Case)
If there are no probate assets (i.e., nothing owned by the decedent in their name only), or it is thought that (1) the estate assets will be less than the cost of the funeral and other funeral related expenses or (2) the estate assets exceed funeral costs but there is also an urgent need to obtain medical records, a special personal representative could be appointed for the sole purpose of obtaining the deceased person's medical records. The letters of authority issued by the Court would limit the special personal representative's powers to securing medical records only.

If there were no probate assets, the special personal representative could close the estate by filing an Inventory (PC 577) and preparing either:

A first and final Account of Fiduciary (PC 583or PC 584) to be filed and allowed with Waivers and Consents (PC 561) or at a hearing.

Submitting a Sworn (Partial) Statement to Close Administration (PC 592) and serving it on all interested persons.

Notice to creditors would not be required.

If the assets exceed the funeral costs, a hearing must be requested to appoint a full personal representative. Notice to creditors would be required.

ADMINISTRATIVE CLOSING OF ESTATES

In accordance with MCL 700.3951 and MCR 5.144, the Tuscola County Probate Court may administratively close a probate file. The Tuscola County Probate Court has implemented the following procedures to reopen an administratively closed file:

- To reopen an administratively closed decedent's estate, the fiduciary or any interested person must file an Application/Petition to Reopen Estate PC607, and pay the filing fee of $150.00. If the former fiduciary is reappointed, they may be ordered to file any missing documents (e.g. Account, Inventory, Notice of Continued Administration).

To obtain probate forms, click on the Forms tab.

REOPENING A DECEDENT ESTATE

Note: The Court is prohibited by law (Sec. 1211 of the Estates and Protected Individuals Code [EPIC]) from providing legal advice and completing forms. This item provides general information concerning the opening of a decedent's estate and may be useful as a guide. If you have any questions, consider contacting an attorney for assistance.

Forms Needed:

PC 607, Application\Petition to Reopen a Decedent Estate,
PC 561*, Waiver and Consent,
PC 570*, Bond of Fiduciary,
PC 571, Acceptance of Appointment

*Forms may or may not be needed depending on the facts.

Filing Fee - $150.00

When is it necessary to reopen an estate for a decedent?

A decedent estate case may have to be re-opened for a variety of reasons. These could include:

- After discovered assets (i.e., new property, such as stocks, bonds, real estate) - found after the estate was closed.

- The estate was improperly closed without the administration being completed (i.e., property not deeded to the heirs, etc.).

Who can file to reopen an estate for a decedent?

An Application to reopen estate can be filed by any interested person, including the prior personal representative.

A Petition to reopen estate can be filed by any interested person, including the prior personal representative.

Note: If the case was closed as a Supervised Estate, only a Petition to Reopen Requesting Supervised Administration may be filed.