

FREQUENTLY ASKED QUESTIONS ABOUT PROBATE

o **What is probate?**

Probate is the court-supervised process for the orderly transfer of a decedent's assets to those who are entitled to them. The process ensures that notice is properly given, that all debts, taxes and expenses are paid, that the assets are distributed in accordance with the last Will or to the heirs as determined by statute.

o **What do I have to do when someone dies?**

- - If the decedent left a Will, it must be filed with the probate office within 30 days of death, - even if no probate proceedings are required. Complete and file with the Register in Probate office an Affidavit of No Probate form. The form can be obtained in person or by mail through the Register in Probate office.

o **Do I need a lawyer?**

A lawyer is not required for Informal Probate and certain other proceedings. You may seek advice or the services of an attorney at any point in the process. A lawyer is required, however, for Formal Probate proceedings. Probate office staff cannot give legal advice.

o **What does the personal representative do?**

The personal representative (formerly the executor) is the person nominated to administer the decedent's assets in a probate proceeding. The personal representative cannot assume the duties until the court appoints the personal representative and issues Domiciliary Letters. Duties and responsibilities include making an inventory of **and** managing the decedent's property, paying debts, expenses and taxes, and distributing the property to the heirs or beneficiaries. The personal representative has the duty to protect the estate assets, administer and distribute estate assets in a diligent and timely manner according to statutory deadlines, and file any required tax returns for the decedent.

o **Where can I find the law on probate?**

The Wisconsin Statutes have several chapters regarding probate court actions. Look especially in chapters 851-882.

o **Where can I find standard forms?**

Standard, statewide forms are required by all Wisconsin circuit courts. In addition, there may be other forms that are needed in a specific county. Forms may be obtained in

person from the Register in Probate office. There is a charge for some form packets, or forms can be obtained online at www.wicourts.gov.

o What are some types of probate procedures?

Formal Administration

Informal Administration is the most commonly used procedure. In most cases, you do not need an attorney to proceed informally.

Summary Settlement proceedings can be used whenever there is a surviving spouse or minor children and the estate assets, less the amount of the debts for which any property is security, does not exceed \$50,000. It may also be used whenever the value of the estate does not exceed the priority debts (e.g. taxes, administrative, funeral and burial, last illness, spousal and family allowances).

Summary Assignment can be used whenever the value of the estate, less the amount of the debts for which any property is security, does not exceed \$50,000 and summary settlement does not apply.

o What if the decedent owned less than \$50,000 in assets?

Form PR-I831, Transfer by Affidavit \$50,000 and under, can be found on the court website

o Are any probate records on the internet?

Yes! A scaled-down version of the information on the court computer docket is available on the internet at Wisconsin Circuit Court Access. www.wicourts.gov Here you can find case numbers, the name of the personal representative, the final date to file claims, and whether any claims have been filed.

o Where can I find information about probate court deadlines?

The Wisconsin Statutes have several chapters that outline deadlines for probate court related actions. Look especially in chapters 851-882.

o Where can I find out more general information about probate?

Check the Wisconsin Register in Probate Association website or the links on the Wisconsin State law Library's legal topics for more resources and information.