

**Probate Court of Hall County**  
**Patty Walters Laine, Judge**  
116 Spring Street, SE, Gainesville, Georgia 30501  
770-531-6921

**Personal Representative Checklist**

Estate of: \_\_\_\_\_

Docket (Estate) Number: \_\_\_\_\_

Date Letters issued to Personal Representative: \_\_\_\_\_

Notice to Debtors and Creditors

You are required by Georgia law to publish in The Gainesville Times before \_\_\_\_\_ (60 days after appointment), a legal notice to be run once each week for four consecutive weeks. A form is attached. After publication, obtain a Publisher's Affidavit from the newspaper and file the affidavit with the court.

Notice to Beneficiaries in the Will

You are required by Georgia law before \_\_\_\_\_ (30 days after appointment) to give notice by certified or registered mail to each beneficiary named in the will notice that you have been appointed as personal representative and your name, mailing address, and phone number.

You are required by Georgia law before \_\_\_\_\_ (60 days after appointment) to file with the Probate Court documentation from each beneficiary that they have waived the notice, certified mail receipt showing you sent the notice, or an affidavit of diligent search proving your efforts to find any beneficiary whose whereabouts is unknown.

Due Dates for Reporting to the Court

Report

Due on or before:

Inventory (w/in 6months after Letters issued)

\_\_\_\_\_

Mail copy to each heir or beneficiary

Annual Returns w/in 60 days of anniversary - each year \_\_\_\_\_  
Mail copy to each heir or beneficiary

Checklist

<u>Item or Action</u>	<u>Date Completed</u>
Apply for taxpayer identification (FEI) number:	_____
Establish estate bank account(s):	_____
Publish Notice to Debtors and Creditors:	_____
File personal income tax returns for year of death and any prior years still due:	_____
File income tax returns for estate for each year estate remains open:	_____
File estate tax return(s), if required:	_____
Make final determination of debts and priority; ascertain solvency of estate; pay debts:	_____
File Inventory, if required	_____
File Return(s), if required, for each year estate remains open:	_____
Make final distribution:	_____
File Petition for Discharge, with Final Return (if req'd):	_____

Guidelines for Personal Representatives and Executors of an Estate

As Personal Representative (PR) or executor of an estate, it is now your responsibility to administer the entire estate, and you may be held personally liable for any loss suffered as a result of your failure to properly administer the estate. It is strongly advised that you hire an attorney to represent and advise you while you serve in this position. This list is not all encompassing and may include steps unnecessary for your particular estate. Each estate is unique.

The Judge and the staff of the Court may not act as your legal advisors or give you legal advice. The Judge is prohibited from advising PR's and from discussing with any PR any matter involved in an estate unless all parties have been given an opportunity to be present.

The required steps have been laid out for you in this outline. You are to (1) gather all of the assets, (2) pay all debts and expenses of administration, (3) pay tax returns, (4) sell estate assets, if necessary, (5) distribute the remaining estate, (6) file returns and (7) close the estate. This booklet presents only a basic outline of your duties and responsibilities; no attempt has been made to

address every situation or legal issue that could arise in the administration of an estate. If you have questions, you need to speak with an attorney.

#### 1. Gathering all of the Assets

- a. First, locate, identify and take possession of all of the decedent's assets.
  - i. Estate assets include personal items (furniture, jewelry), vehicles, investments, real estate and ownership interests in businesses.
  - ii. Non-Estate assets pass outside of Probate. Examples may include jointly owned bank accounts, life insurance policies and pension benefits.
- b. The process of securing the assets will vary based upon the type of assets in the estate.
  - i. Protect personal effects by ensuring that the decedent's residence is locked and secure.
  - ii. Title certificates should be secured and protected against pending sales or distributions. The PR must pay property tax bills, utility bills and insurance.
  - iii. All financial investments (including stocks, bonds and accounts) should be transferred into an estate account titled in the name of the PR as administrator/executor of the estate. You must keep the estate assets separate from your personal finances and avoid commingling of assets.

#### 2. Paying the Debts and Expenses of the Administration

- a. The PR must publish notice to creditors within 60 days of the PR's issuance of letters if the Probate Court did not do this for the PR.
- b. Notice starts the countdown for creditors, who must make their demands known to the PR within 3 months after the fourth publication of notice.
- c. Georgia law sets out the order estate debts are to be paid. If the assets run out, lower creditors are not paid. The order of creditors is as follows:
  - i. An award of Year's Support to the immediate family
  - ii. Decedent's funeral bills (or reimbursement to payee)
  - iii. Expenses from administration (court filing fees, advertising costs, legal advice, bond premiums, PR commissions)
  - iv. Reasonable expenses from the decedent's last illness
  - v. Judgments against the decedent, secured loans and liens created during life
  - vi. All other debt not mentioned above. Debt must ALWAYS be paid prior to distributions to heirs/beneficiaries.

#### 3. Paying Tax Returns

- a. A PR is responsible for filing state and federal income and/or estate tax returns when necessary and may be liable if they fail to do so.
- b. The PR will be required to file income tax returns for the estate if the estate earns income beyond the date of deceased's death. A federal employer identification

number (EIN) from the IRS may be required for accounts opened by the PR in the name of the estate. The EIN will also be used on tax returns.

- c. If required, the PR is also responsible for filing an estate tax returns. Professional advice should be sought within 15 months of the death.
4. Selling Estate Property
    - a. A PR may need to sell property during the course of administering the estate. To do so, a PR must have the authority to sell the property. Authority may be found: 1) under the terms of the will 2) granted by law in the case of publicly traded stocks or bonds when sold at the current stock exchange price 3) granted by Court order at the time of PR appointment or 4) granted by the Court on a Petition concerning specific property.
    - b. It is wise to consult an attorney when selling estate property. A PR should be very cautious to make sure no conflict of interest appears that would make the purchase fraudulent and incur PR liability.
  5. Distributing the Estate to Heirs or Beneficiaries
    - a. After the debts are settled and paid the remaining assets may be distributed. A final accounting is prepared and presented to the heirs for approval prior to distribution.
      - i. When there is a will, the PR is required to distribute the assets of the estate to the beneficiaries as directed.
      - ii. If there is no will, the PR is required to distribute the assets to the heirs as required by the laws of intestacy.
  6. Filing Returns
    - a. The Letters issued to the PR will indicate any reporting requirements from the Court. Every PR should keep complete and accurate records of all dealings in the administration of the estate until the time of discharge.
    - b. The usual reports are:
      - i. Inventory: due within 6 months of PR appointment. The inventory is an itemized list of all property owned by the decedent on the date of death and an approximate valuation of the assets. The inventory is attested under oath and must be provided to all heirs/beneficiaries. The Court may require a bond on the value of property on the inventory.
      - ii. Accountings/Returns: An annual return is due within 60 days of the anniversary of appointment every year until discharge. A final return is due with the Petition for Discharge. Each return is an accounting under oath, of the receipts and expenditures on behalf of the estate during the preceding year.
  7. Closing the Estate
    - a. When all debts, taxes and expenses of administration have been paid, all tax returns have been filed and all remaining assets have been distributed, the PR may apply to the Probate Court for discharge by filing a Petition for Discharge.
      - i. The Probate Court Judge will examine the condition of the estate and review the returns. Once the Court is satisfied that the PR properly administered the estate, the Court will order discharge of the PR. This order formally closes the estate and terminates further PR responsibility and discharges both the PR and the surety on the PR's bond.