
Administering an Estate in PA: A Step-by-Step Guide

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Administering an Estate in PA: A Step-by-Step Guide

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Foreword

When someone passes away, everything that person owned becomes his or her estate. In general terms, the process of administering a decedent's estate involves collecting all assets, locating all creditors, paying all debts, paying all applicable taxes, and then distributing the remaining assets to the persons entitled to inherit under the decedent's Will, or where there is no Will, under the laws of intestacy.

This course takes you through the steps that are involved in the process of administering an estate from start to finish.

We are especially grateful to our Course Planners and Faculty, **Trisha Williams Hall, Esq. Connolly Gallagher LLP, Wilmington, and Elaine T. Yandrisevits, Esq., Anheil Maslow & MacMinn, LLP, Doylestown.** They both have devoted significant time and effort developing the course and preparing written materials. They are described in the biographical section that follows.

On behalf of all who will benefit from this program we express our sincere gratitude to all of our volunteers.

Pennsylvania Bar Institute
Beverly Hendry, Program Manager

August 2021

Biographies

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Ms. Yandrisevits is an associate attorney with Antheil Maslow & MacMinn, LLP, in Doylestown, Pennsylvania, where she focuses her practice on estate planning for high net worth clients and their families, estate administration, special needs trusts, and guardianships, and Orphans' Court matters. She is licensed to practice in Pennsylvania and New Jersey. Ms. Yandrisevits is a member of the Bucks County Bar Association and Pennsylvania Bar Association. She is also a member of the Bucks County Estate Planning Council, Lehigh Valley Estate Planning Council, Philadelphia Estate Planning Council, and the Drexel University Thomas R. Kline School of Law chapter of the American Inns of Court. Ms. Yandrisevits earned her undergraduate degree, cum laude, from the University of Delaware and her Juris Doctor from Drexel University Thomas R. Kline School of Law. Ms. Yandrisevits also holds an LL.M. in Taxation and Estate Planning Certificate from the Villanova University Charles Widger School of Law Graduate Tax Program.

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Chapter One

Initial Steps in Estate Administration

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Initial Steps in Estate Administration

Elaine T. Yandrisevits, J.D., LL.M.

I. General Timeline of the Probate Process

II. Overview of Important Terms

A. Testate vs. Intestate

- i. Testate – An estate where the decedent died having executed a Last Will and Testament naming an Executor and disposing of the decedent’s real and personal property.

1. 20 Pa. C.S. § 2501. Who may make a will.

Any person 18 or more years of age who is of sound mind may make a will.

2. 20 Pa. C.S. § 2502. Form and execution of a will.

Every will shall be in writing and shall be signed by the testator at the end thereof, subject to the following rules and exceptions:

(1) Words following signature.--The presence of any writing after the signature to a will, whether written before or after its execution, shall not invalidate that which precedes the signature.

(2) Signature by mark.--If the testator is unable to sign his name for any reason, a will to which he makes his mark and to which his name is subscribed before or after he makes his mark shall be as valid as though he had signed his name thereto: Provided, That he makes his mark in the

presence of two witnesses who sign their names to the will in his presence.

(3) Signature by another.--If the testator is unable to sign his name or to make his mark for any reason, a will to which his name is subscribed in his presence and by his express direction shall be as valid as though he had signed his name thereto: Provided, That he declares the instrument to be his will in the presence of two witnesses who sign their names to it in his presence.

- ii. Intestate – An estate where the decedent did not execute a Last Will and Testament, or the Last Will and Testament executed by the decedent is not valid and cannot be admitted to probate by the Register of Wills.

B. Probate vs. Nonprobate

- i. Probate – Assets that will pass to the beneficiaries identified by the Last Will and Testament or as determined by the laws of intestacy.
 - 1. Typically includes property titled only in the decedent's individual name that does not have a beneficiary designation.
 - 2. Common examples:
 - a. Checking and savings accounts

- b. Sole ownership real property or the decedent's interest in real property owned jointly as tenants-in-common
 - c. Automobiles
 - d. Personal property
 - ii. Nonprobate – assets that will pass either to the beneficiaries named in a properly-executed beneficiary designation or to a surviving joint owner.
 - 1. Nonprobate assets do not pass to the beneficiaries named in the Last Will and Testament.
 - 2. Common examples:
 - a. Real property owned as tenants by the entirety or joint tenants with the right of survivorship
 - b. IRAs/401Ks
 - c. Life insurance
 - d. Jointly-owned bank accounts

III. Grant of Letters

A. Necessary Documents

- i. Death Certificate
- ii. Last Will and Testament, if applicable
- iii. Names and contact information for the decedent's heirs and immediate family members
- iv. Estimated value of assets that comprise the probate estate

B. Manner and Place of Probate

i. 20 Pa. C.S. § 3131. Place of probate.

The will of a decedent domiciled in the Commonwealth at the time of his death shall be probated only before the register of the county where the decedent had his last family or principal residence. If the decedent had no domicile in the Commonwealth, his will may be probated before the register of any county where any of his property is located.

ii. 20 Pa. C.S. § 3132. Manner of probate.

All wills shall be proved by the oaths or affirmations of two competent witnesses and

(1) Will signed by testator.--In the case of a will to which the testator signed his name, proof by subscribing witnesses, if there are such, shall be preferred to the extent that they are readily available, and proof of the signature of the testator shall be preferred to proof of the signature of a subscribing witness.

(2) Will signed by mark or by another.--In the case of a will signed by mark or by another in behalf of the testator, the proof must be by subscribing witnesses, except to the extent that the register is satisfied that such proof cannot be adduced by the exercise of reasonable diligence. In that event other proof of the execution of the will, including proof of the subscribers' signatures, may be accepted, and proof of the signature of a

witness who has subscribed to an attestation clause shall be prima facie proof that the facts recited in the attestation clause are true.

iii. 20 Pa. C.S. § 3132.1. Self-proved wills.

(a) Proof.--Unless there is a contest with respect to the validity of the will, or unless the will is signed by mark or by another as provided in section 2502 (relating to form and execution of a will), an affidavit of witness made in conformity with this section shall be accepted by the register as proof of the facts stated as if it had been made under oath before the register at the time of probate.

(b) Acknowledgment and affidavits.--An attested will may at the time of its execution or at any subsequent date be made self-proved by the acknowledgment thereof by the testator and the affidavits of the witnesses, each made before an officer authorized to administer oaths under the laws of this Commonwealth or under the laws of the state where execution occurs, or made before an attorney at law and certified to such an officer as provided in subsection (c) and evidenced, in either case, by the officer's certificate, under official seal, attached or annexed to the will. A separate affidavit may be used for each witness whose affidavit is not taken at the same time as the testator's acknowledgment.

C. Appointment of Personal Representative

i. Testate estates

1. 20 Pa. C.S. § 3155. Persons entitled.

(a) Letters testamentary.--Letters testamentary shall be granted by the register to the executor designated in the will, whether or not he has declined a trust under the will.

2. The Executor named in the Will may seek appointment by the Register of Wills.

3. If a successor named in the Will is going to serve, the proposed Executor must obtain a Renunciation from the first named Executor in order to serve.

4. May require a bond, although most Wills waive this requirement.

ii. Intestate estates

1. 20 Pa. C.S. § 3155. Persons entitled.

(b) Letters of administration.--Letters of administration shall be granted by the register, in such form as the case shall require, to one or more of those hereinafter mentioned and, except for good cause, in the following order:

(1) Those entitled to the residuary estate under the will.

(2) The surviving spouse.

(3) Those entitled under the intestate law as the register, in his discretion, shall judge will best administer the estate, giving preference, however, according to the sizes of the shares of those in this class.

(4) The principal creditors of the decedent at the time of his death.

(5) Other fit persons.

(6) If anyone of the foregoing shall renounce his right to letters of administration, the register, in his discretion, may appoint a nominee of the person so renouncing in preference to the persons set forth in any succeeding paragraph.

(7) A guardianship support agency serving as guardian of an incapacitated person who dies during the guardianship administered pursuant to Subchapter F of Chapter 55 (relating to guardianship support).

(8) A redevelopment authority formed pursuant to the act of May 24, 1945 (P.L.991, No.385), known as the Urban Redevelopment Law.

2. If only one individual in a class of entitled persons wishes to serve as Administrator, that individual must obtain Renunciations from all other members of the class.
3. May require a bond if not a resident of Pennsylvania.

D. Short Certificates

- i. Letters Testamentary or Letters of Administration denote that an estate has been opened and list the personal representative who may act on behalf of the estate.
- ii. Short certificates include the same information, but are in a format more easily distributed to third parties dealing with the personal representative.

E. Small Estate Petition

- i. If a decedent died with less than \$50,000.00 of personal property, any party in interest may petition the Orphans' Court to direct the distribution of the estate.
- ii. Debts and inheritance tax must still be paid.
- iii. Real property cannot be distributed under a Small Estate Petition.
- iv. 20 Pa. C.S. § 3102.

F. Revocable Trust and Pour Over Will

- i. Some individuals may choose to execute a Revocable Trust during their lifetimes as a "will substitute."

- ii. Any property titled to the Revocable Trust during life is nonprobate property, and the Successor Trustee will be responsible for its management and distribution.
- iii. If any property remains in the name of the decedent at death (not titled to the Revocable Trust), an estate must be opened and an Executor appointed to handle this property.
- iv. A Pour Over Will may provide that any assets in the decedent's name at death are to be distributed to the Revocable Trust, and then further managed and distributed under the terms of the Trust.

IV. Determining Beneficiaries

A. Intestacy

- i. If the decedent did not have a Will, or if there is property that is not effectively distributed under the Will, the property will pass to the beneficiaries as determined by the intestacy laws.
- ii. Distribution
 - 1. Share of the surviving spouse:
 - a. If the decedent is not survived by issue or parents, the surviving spouse receives the entire estate.
 - b. If the decedent is survived by parents, the surviving spouse receives the first \$30,000.00 plus one-half of the balance of the estate.
 - c. If the decedent is survived by issue, all of whom as the issue of the surviving spouse, the surviving

spouse receives the first \$30,000.00 plus one-half of the balance of the estate.

- d. If the decedent is survived by issue, at least one of whom is not the issue of the surviving spouse, the surviving spouse receives one-half of the balance of the estate.

2. Shares of others:

- a. Issue
- b. Parents
- c. Siblings or their issue
- d. Grandparents
- e. Uncles, aunts, their issue, and grandchildren
- f. Commonwealth of Pennsylvania

3. 20 Pa. C.S. § 2102-03

B. Modification of Will by Circumstances

i. Divorce

1. Any provision in a Will for a spouse is void if:

- a. The decedent dies after obtaining a divorce from that spouse; or
- b. The decedent dies in the middle of divorce proceedings after grounds for divorce have been established, but no divorce decree has been entered.

2. Unless the Will indicates that the provisions for the spouse are intended to survive the divorce.

ii. Marriage

1. If a decedent executes a Will, marries, then later dies, the surviving spouse is entitled to receive the share the spouse would be entitled to under the intestacy laws.
2. Unless the Will gives a larger share to the spouse than he or she would be entitled to under intestacy or the Will indicates that it was executed in contemplation of marriage.

iii. Afterborn Children

1. If a decedent's Will makes no provisions for a child born after the execution of the Will, such child is entitled to receive the share of property the child would be entitled to if the decedent died unmarried and intestate.
2. The share for the afterborn child is calculated using only the assets not passing to the surviving spouse.
3. Unless the Will indicates that the omission of any afterborn children is intentional.

iv. 20 Pa. C.S. § 2507

C. Elective Share

- i. When a married person dies, the surviving spouse has the right to elect to receive up to one-third of the decedent's property.

- ii. Property not subject to election (unless such property passes as part of the probate estate):
 - 1. Any property conveyed with the express joinder or consent of the surviving spouse.
 - 2. Life insurance.
 - 3. Interests in any employer-established pension, profit-sharing, stock bonus, deferred compensation, disability, death benefit, or other such plan.
 - 4. Property passing under a power of appointment that the decedent exercised or failed to exercise.
- iii. The surviving spouse must claim the elective share in a writing filed with the Orphans' Court within six months of the decedent's date of death or the appointment of the personal representative, whichever is later.
- iv. 20 Pa. C.S. § 2201-11

D. Disclaimers

- i. Any beneficiary may choose to disclaim his or her interest in the estate.
- ii. If a beneficiary disclaims, that beneficiary is treated as having predeceased the decedent.
- iii. This disclaimer must:
 - 1. Describe the interest disclaimed;
 - 2. Declare the exercise of the disclaimer; and

3. Be signed by the disclaimant.
- iv. The disclaimer must be filed with the Orphans' Court.
- v. 20 Pa. C.S. § 6201-07

V. Administrative Steps

A. Probate Notices

- i. The personal representative must provide written notice of the opening of an estate and the appointment of the personal representative within three (3) months of appointment.
- ii. This notice must be sent to:
 1. For testate estates, all beneficiaries named under the Will;
 2. The decedent's surviving spouse and children, whether or not they are named under the Will as beneficiaries;
 3. For intestate estates, all intestate beneficiaries;
 4. The parent or legal guardian of the estate of a minor beneficiary;
 5. The legal guardian of the estate of an adjudicated incapacitated beneficiary; and
 6. The Attorney General of the Commonwealth of Pennsylvania if a charity has a beneficial interest in excess of \$25,000.00.
- iii. The personal representative must certify to the Register of Wills that this notice has been sent within ten (10) days.
- iv. Orphans' Court Rule 10.5

B. PA Estate Recovery Act

- i. The Department of Human Services (DHS) has a claim for reimbursement for all Medical Assistance provided to residents of Pennsylvania from the time they are fifty-five (55) years of age until their deaths.
- ii. If a decedent is older than age fifty-five (55) at the time of his or her death, the personal representative must notify DHS of the death and ask that DHS provide the estate with its claim.
- iii. Pennsylvania Code § 258.1-258.14

C. Notification of Administrative Agencies

- i. The personal representative must be sure to notify all other administrative agencies of the decedent's death.
 1. Social Security Administration
 2. Veterans' Affairs

Chapter One

Attachment: Probate Forms

pennsylvania

DEPARTMENT OF REVENUE
REV-346 EX (11-15)

3460015105

FOR REGISTER'S OFFICE USE ONLY

County Code Year File Number

09 05 9999

ESTATE INFORMATION SHEET

1 DECEDENT INFORMATION: Enter data as it will appear on all documents submitted to the Department.

Decedent's Social Security Number	Date of Death	Date of Birth	
123 45 6789	01 01 2021	01 01 1925	
Last Name	Suffix	First Name	MI
DOUGH (CASE 5)		JOE	

2 TYPE FILING: Enter mark (x) to indicate the nature of the return to be filed with the department.

Probate Return Joint Assets Only Non-probate Assets Only Litigation Purposes (No Other Assets)

3 LETTERS GRANTED: Enter mark (x) to indicate the nature of the proceedings at the Register of Wills Office. (Attach additional sheets if explanation is necessary.)

Testamentary Administration No Letters Other (Please Explain)

4 ATTORNEY / CORRESPONDENT INFORMATION: Enter all data concerning the attorney or other individual to receive all tax information and correspondence.

Last Name	Suffix	First Name	MI
YANDRISEVITS		ELAINE	T

Supreme Court I.D.#

Telephone Number

215 230 7500

Attorney / Correspondent's e-mail address:

First line of address

131 W. STATE STREET

Second line of address

PO BOX 50

City or Post Office

DOYLESTOWN

State

PA

ZIP Code

18901

5 PERSONAL REPRESENTATIVE INFORMATION:

Enter all data concerning the personal representative(s) of the estate authorized by the Register of Wills.

Executor/Administrator

Last Name	Suffix	First Name	MI
DOUGH		MARY	

First line of address

211 BROAD STREET

Second line of address

City or Post Office

DOYLESTOWN

State

PA

ZIP Code

18901

Telephone Number

OFFICIAL USE ONLY
TRANSACTION COUNT <input type="text"/> <input type="text"/>

Complete general estate information questions, and indicate additional personal representatives on reverse side.

PLEASE USE ORIGINAL FORM ONLY

Side 1



3460015105

3460015105

PETITION FOR GRANT OF LETTERS

REGISTER OF WILLS OF BUCKS COUNTY, PENNSYLVANIA

Petitioner(s) named below, who is/are 18 years of age or older, apply(ies) for Letters as specified below, and in support thereof aver(s) the following and respectfully request(s) the grant of Letters in the appropriate form:

Mary Dough

Decedent's Information

Name: Joe Dough (Case 5) File No: 09-05-9999
 a/k/a: _____ (Assigned by Register)
 a/k/a: _____
 a/k/a: _____
 Social Security No: 123-45-6789
 Date of Death: 01/01/2021 Age at Death: 96

Decedent was domiciled at death in Bucks County, PA (State) with his/her last principal residence at 123 Elm Street, Doylestown 18901 Doylestown Bucks
Street address, Post Office and Zip Code City, Township or Borough County
 Decedent died at 123 Elm Street, Doylestown 18901 Doylestown Bucks PA
Street address, Post Office and Zip Code City, Township or Borough County State

Estimate of value of decedent's property at death:

If domiciled in Pennsylvania..... All personal property \$ 2,859,000.00
If not domiciled in Pennsylvania..... Personal property in Pennsylvania \$ _____
If not domiciled in Pennsylvania..... Personal property in County \$ _____
 Value of real estate in Pennsylvania..... \$ 2,600,000.00
TOTAL ESTIMATED VALUE \$ 5,459,000.00

Real estate in Pennsylvania situated at 123 Elm Street, Doylestown 18901 Doylestown Bucks
(Attach additional sheets, if necessary.) Street address, Post Office and Zip Code City, Township or Borough County

A. Petition for Probate and Grant of Letters Testamentary

Petitioner(s) aver(s) that he/she/they is/are the Executor(s) named in the Last Will of the Decedent, dated 07/02/2015 and Codicil(s) thereto dated _____

State relevant circumstances (e.g., renunciation, death of executor, etc.)

Except as follows: after the execution of the instrument(s) offered for probate, Decedent did not marry, was not divorced, was not a party to a pending divorce proceeding wherein the grounds for divorce had been established as defined in 23 Pa. C.S. § 3323(g), and did not have a child born or adopted; and Decedent was neither the victim of a killing nor ever adjudicated an incapacitated person.

NO EXCEPTIONS EXCEPTIONS _____

B. Petition for Grant of Letters of Administration

(If applicable) _____

c.t.a., d.b.n., d.b.n.c.t.a., pedente lite, durante absentia, durante minoritate

If Administration, *c.t.a.* or *d.b.n.c.t.a.*, enter date of Will in Section A above and complete list of heirs.

Except as follows: Decedent was not a party to pending divorce proceeding wherein the grounds for divorce had been established as defined in 23 Pa. C.S. § 3323 (g) and was neither the victim of a killing nor ever adjudicated an incapacitated person.

NO EXCEPTIONS EXCEPTIONS _____

Petitioner(s), after a proper search has/have ascertained that Decedent left no Will and was survived by the following spouse (if any) and heirs (*attach additional sheets, if necessary*):

Name	Relationship	Address

Oath of Personal Representative

Official Use Only

COMMONWEALTH OF PENNSYLVANIA }
 } SS:
 COUNTY OF Bucks }

Petitioner(s) Printed Name	Petitioner(s) Printed Address
Mary Dough	211 Broad Street Doylestown, PA 18901

The Petitioner(s) above-named swear(s) or affirm(s) the statements in the foregoing Petition are true and correct to the best of the knowledge and belief of Petitioner(s) and that, as Personal Representative(s) of the Decedent, Petitioner(s) will well and truly administer the estate according to law.

Sworn to or affirmed and subscribed before _____ Date _____
 me this ____ day of _____, _____ Date _____
 By: _____ Date _____
For the Register _____ Date _____

BOND Required? YES NO

FEES:

Letters..... \$ _____
 () Short Certificate(s)..... _____
 () Renunciation(s)..... _____
 () Codicil(s)..... _____
 () Affidavit(s)..... _____
 Bond..... _____
 Commission..... _____
 Other _____

 Automation Fee..... _____
 JCS Fee..... _____
 TOTAL..... \$ _____

To the Register of Wills:

Please enter my appearance by my signature below:

Attorney Signature:	_____
Printed Name:	<u>ELAINE T. YANDRISEVITS</u>
Supreme Court ID Number:	_____
Firm Name:	<u>ANTHEIL, MASLOW & MACMINN, LLP</u>
Address:	<u>131 W. STATE STREET</u> <u>PO BOX 50</u> <u>DOYLESTOWN, PA 18901</u>
Phone:	<u>215-230-7500</u>
Fax:	<u>215-230-7796</u>
E-mail:	_____

DECREE OF THE REGISTER

Estate of Joe Dough (Case 5) File No: 09-05-9999
 a/k/a: _____

AND NOW, _____, _____, in consideration of the foregoing Petition, satisfactory proof having been presented before me, IT IS DECREED that Letters Testamentary are hereby granted to Mary Dough

in the above estate and (if applicable) that the instrument(s) dated 07/02/2015 described in the Petition be admitted to probate and filed of record as the last Will (and Codicil(s)) of Decedent.

IMPORTANT NOTICE
NOTICE OF ESTATE ADMINISTRATION
PURSUANT TO Pa. O.C. RULE 10.5

THIS NOTICE DOES NOT MEAN THAT YOU WILL RECEIVE
ANY MONEY OR PROPERTY FROM THIS ESTATE OR OTHERWISE

Whether you will receive any money or property will be determined wholly or partly by the decedent's will. If the decedent died without a will, whether you will receive any money or property will be determined by the intestacy laws of Pennsylvania.

BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Attorney General PA** (Beneficiary)
Strawberry Square (Address)
Harrisburg, PA 17120

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register of Wills of _____

Register's address and telephone number: **Register of Wills**
55 E. Court Street
Doylestown, PA 18901
215/348-6265

A copy of the Will or Petition may be obtained by contacting the Register of Wills and paying the charges for duplication.

Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS _____
Name of Person

131 W. STATE STREET _____
Address

DOYLESTOWN, PA 18901 _____
City, State, Zip

215-230-7500 _____
Telephone

Email

Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Church** (Beneficiary)
789 Main Street (Address)
Doylestown, PA 18901

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register of Wills of _____

Register's address and telephone number: **Register of Wills**
55 E. Court Street
Doylestown, PA 18901
215/348-6265

A copy of the Will or Petition may be obtained by contacting the Register of Wills and paying the charges for duplication.

Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

131 W. STATE STREET

Address

DOYLESTOWN, PA 18901

City, State, Zip

215-230-7500

Telephone

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Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Brother Dough** (Beneficiary)
131 West State Street (Address)
Doylestown, PA 18901

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register of Wills of _____

Register's address and telephone number: **Register of Wills**
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215/348-6265

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Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

131 W. STATE STREET

Address

DOYLESTOWN, PA 18901

City, State, Zip

215-230-7500

Telephone

Email

Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Jane Dough** (Beneficiary)
123 Elm Street (Address)
Doylestown, PA 18901

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
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Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

131 W. STATE STREET

Address

DOYLESTOWN, PA 18901

City, State, Zip

215-230-7500

Telephone

Email

Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Joe, Jr. Dough**
PA

(Beneficiary)
(Address)

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register of Wills of _____

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Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

131 W. STATE STREET

Address

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City, State, Zip

215-230-7500

Telephone

Email

Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Mary Dough** (Beneficiary)
211 Broad Street (Address)
Doylestown, PA 18901

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
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Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

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Address

DOYLESTOWN, PA 18901

City, State, Zip

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Signature of Person

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BEFORE THE REGISTER OF WILLS, COUNTY OF BUCKS, PENNSYLVANIA

IN RE: ESTATE OF Joe Dough (Case 5), Deceased

File Number: 09-05-9999

TO: **Sister Dough** (Beneficiary)
24 Oak Avenue (Address)
Doylestown, PA 18901

Please take notice of the death of the Decedent and the grant of Letters to the personal representative(s) named below.

The Decedent died on January 1, 2021, a resident of Bucks County, PA.

The Decedent died: testate (with a will) or intestate (without a will).

You may have a beneficial interest in the estate as follows:

See Will attached

The name(s), address(es) and telephone number(s) of all personal representatives appointed are:

NAME	ADDRESS	TELEPHONE
Mary Dough	211 Broad Street, Doylestown, PA 18901	

If the Decedent died testate, the will has been filed with the Office of the Register of Wills of Bucks County, PA
If the Decedent died intestate, a Petition for the Grant of Letters of Administration was filed with the Office of the Register of Wills of _____

Register's address and telephone number: **Register of Wills**
55 E. Court Street
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A copy of the Will or Petition may be obtained by contacting the Register of Wills and paying the charges for duplication.

Date _____ Capacity: Personal Representative Counsel

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

ELAINE T. YANDRISEVITS

Name of Person

131 W. STATE STREET

Address

DOYLESTOWN, PA 18901

City, State, Zip

215-230-7500

Telephone

Email

Signature of Person

Chapter Two

Dealing with Estate Assets

Chapter Two
Section 1

Dealing with Estate Assets

Trisha W. Hall, Esq.
Connolly Gallagher LLP
Wilmington, DE

I. Dealing with Estate Assets

A. General Duties and Responsibilities

1. General Duty. A personal representative has a duty to marshal and preserve the assets of an estate:

A decedent's personal representative is under a duty to take custody of the estate and administer it in such a way as to preserve and protect the property for distribution to the proper persons within a reasonable time. In the discharge of this duty, he is regarded as a fiduciary and is held to the highest degree of good faith. Moreover, he will be required to exercise the care and diligence which prudent persons ordinarily exercise in their own affairs. A personal representative who fails to use common skill and ordinary business caution may be held liable for losses to the estate which result therefrom. In re: Kurkowski's Estate, 409 A.2d 357, 361 (Pa. 1979).

2. Statutory Authority. In carrying out this duty, a personal representative is authorized to take possession of the real and personal property of an estate, per PEF Code § 3311(a):

A personal representative shall have the right to and shall take possession of, maintain and administer all the real and personal estate of the decedent, except real estate occupied at the time of death by an heir or devisee with the consent of the decedent. He shall collect the rents and income from each asset in his possession until it is sold or distributed, and, during the administration of the estate, shall have the right to maintain any action with respect to it and shall make all reasonable expenditures necessary to preserve it. The court may direct the personal representative to take possession of, administer and maintain real estate so occupied by an heir or a devisee if this is necessary to protect the rights of claimants or other parties. Nothing in this section shall affect the personal representative's power to sell real estate occupied by an heir or devisee.

3. Responsibility to Value Assets. While marshalling the property of an estate, the personal representative must also obtain or determine the value of the property for the purposes of filing an inventory of the decedent's probate estate with the Register of Wills, filing the Pennsylvania inheritance tax return, accounting to the beneficiaries, and, as needed, filing a Federal estate tax return.

(a) Inventory. Pennsylvania requires that a personal representative file an inventory of all property owned by a decedent at the time of her death, except real property not located in Pennsylvania at the earlier of when the inheritance tax return is due (nine months

from date of death without extension) or when the accounting is filed which inventory must show the fair market value of each asset. PEF Code §§ 3301 and 3302.

(b) **Inheritance tax.** Pennsylvania imposes a tax on the transfer of property of a Pennsylvania resident by will or intestacy and on the transfer of real and tangible personal property located in Pennsylvania of a non-Pennsylvania resident by the laws of another jurisdiction. Tax Reform Code of 1971, P.L. 6, No. 2, § 2107(a) and (b). Generally, property subject to the inheritance tax is to be valued according to federal estate tax regulations. Tax Reform Code of 1971, P.L. 6, No. 2, §§ 2121(c). (See below for federal estate tax regulations.)

(c) **Federal estate tax.** Federal law imposes a tax on the transfer of the taxable estate of every citizen or resident of the U.S. under I.R.C. § 2001(a), after the exclusion of the first \$10,000,000, as adjusted annually for inflation per I.R.C. § 2010(a) and (c)(3). Additionally, an estate tax return may be filed by a surviving spouse to claim any unused exemption amount of the deceased spouse under I.R.C. § 2010(c)(4) and (5). Generally, federal estate tax regulations provide that the value to be used be the fair market value of property, defined as “the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.” Treas. Reg. § 20.2031-1(b).

B. Marshalling Estate Assets

1. Identify the Assets of the Decedent

(a) Review the decedent’s own records, for example, spreadsheets, brokerage and bank statements, credit card statements (for payments on storage facilities, etc.), deeds, invoices (for storage or safe deposit fees), and checkbooks.

(b) Contact the decedent’s other advisors for information (accountant, financial planner, insurance agent, and investment advisor).

(c) Review the last three years of the decedent’s income tax returns, in particular schedules B (interest and ordinary dividends) and D (capital gains and losses).

(d) Have the decedent’s mail forwarded to the personal representative and review all statements, dividend and pension checks, and invoices for at least six months.

(e) If authorized to do so, have personal representative review decedent’s computer, tablet or phone for folders or apps that may contain financial information.¹

¹ 20 Pa. C.S.A. § 3907. Disclosure of content of electronic communications of deceased user.

If a deceased user consented to or a court directs disclosure of the content of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of an electronic communication sent or received by the user if the personal representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the death certificate of the user;
- (3) a certified copy of the letters;

- (f) Conduct a title search for interests in real property.
- (g) Determine whether litigation regarding the manner of decedent's death is warranted.
- (h) When notifying financial institutions about known accounts, request information about any others.
- (i) Check unclaimed property website.
- (j) Review all business records.
- (k) Review all prior gift tax returns. Transfers made within one year of the date of death without valuable and adequate consideration in money or money's worth in excess of \$3,000 are taxable on the Pennsylvania inheritance tax return. Tax Reform Code of 1971, P.L. 6, No. 2, § 2107(c)(1) and (3).² Similarly, for federal estate tax purposes, transfers made within three years of death are includable in the taxable estate under I.R.C. § 2035(a).

2. Determine Rights and Responsibilities of Personal Representative to Property

(a) The duty discussed above that a personal representative has to take possession of and preserve the property of the estate only applies to probate property, i.e., that which was in decedent's name alone at the time of death, tenant in common interests and any assets payable to the estate.³

(4) unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney or other record evidencing the user's consent to disclosure of the content of electronic communications; and

(5) if requested by the custodian:

(i) any number, username, address or other unique subscriber or account identifier, assigned by the custodian to identify the user's account;

(ii) evidence linking the account to the user; or

(iii) a finding by the court that:

(A) the user had a specific account with the custodian, identifiable by the information specified in subparagraph (i);

(B) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. Ch. 121 (relating to stored wire and electronic communications and transactional records access), section 222 of the Communications Act of 1934 (48 Stat. 1064, 47 U.S.C. § 222) or other applicable law;

(C) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or

(D) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

² In addition to the gift tax returns, the decedent's financial statements and checkbooks will also need to be reviewed for gratuitous transfers made within one year of date of death because only gifts over the federal gift tax annual exclusion amount of \$14,000 require a return.

³ 20 Pa. C.S.A. § 3908. Disclosure of other digital assets of deceased user.

(a) Obligations of representative.--Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalog of

(b) However, see discussion above regarding the personal representative's responsibility to file a Pennsylvania inheritance tax return⁴, and possibly, a Federal estate tax return, which will require values of taxable non-probate property. This includes, for example, the decedent's interest in jointly titled property and accounts, retirement accounts that are payable to a beneficiary other than the estate, and for federal estate tax, life insurance proceeds (by requesting an IRS Form 712 – Life Insurance Statement from the insurance carrier). For Pennsylvania inheritance tax, the personal representative may elect for transferees of non-probate property to be billed separately for the tax due. Tax Reform Code of 1971, P.L. 6, No. 2, § 2136(b).

3. Real Property

(a) If no one is living in the real property of the decedent, have the personal representative change the locks to prevent others who may have keys from entering.

electronic communications sent or received by the user and any digital assets other than the content of electronic communications of the user, if the personal representative gives the custodian:

- (1) a written request for disclosure in physical or electronic form;
- (2) a certified copy of the death certificate of the user;
- (3) a certified copy of the letters; and
- (4) if requested by the custodian:
 - (i) any number, username, address or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
 - (ii) evidence linking the account to the user;
 - (iii) an affidavit by the personal representative stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
 - (iv) a finding of the court that:
 - (A) the user had a specific account with the custodian identifiable by the information specified in subparagraph (i); or
 - (B) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

(b) Finding of the court.--For the purposes of disclosure to the personal representative of the estate of a deceased user of a catalog of electronic communications, the issuance of letters testamentary or letters of administration to the personal representative by a register under section 901 (relating to register's jurisdiction) shall, unless otherwise provided by rules of court or a court order, have the same force and effect as a finding of the court under subsection (a)(4)(iv) and section 3916(e) (relating to custodian compliance and immunity), if the personal representative:

(1) files with the register an affidavit subject to penalties under 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities) setting forth the information required by subsection (a)(4)(i), (ii) and (iii) regarding records of electronic communications in the custody or control of the custodian; and

(2) upon request, provides to the custodian a copy of the affidavit bearing evidence of filing with the register.

(c) Form of affidavit.--The affidavit required by subsection (a)(4)(iii) or (b)(1) may be provided by:

(1) an averment in the petition under section 3153 (relating to contents of petition) or the affidavit under section 3154 (relating to affidavit and oath); or

(2) a supplement to the petition under section 3153 or the affidavit under section 3154 which is filed with and sworn before the register.

⁴ "The personal representative of the estate of the decedent as to property of the decedent administered by him and additional property which is or may be subject to inheritance tax of which he shall have or acquire knowledge" shall make a return. Tax Reform Code of 1971, P.L. 6, No. 2, § 2136(a).

(b) Notify property and casualty insurer of death so that policy will cover the estate in the event of an occurrence.

(c) Continue essential utilities, for example, heat and electricity to avoid damage, for example, burst pipes, and to maintain property for sale or distribution.

(d) Remove and secure any tangible personal property that would attract criminals or that would likely result in accusations of theft among beneficiaries, such as, valuables, guns and ammunition, and prescription medications.

(e) There is no need to transfer the real property into the name of the estate if it is to be sold or distributed within a reasonable amount of time.

(f) If the property will be sold within a reasonable amount of time, the sale price can be used as the date of death value for the inventory and tax returns. If the property will not be sold, an appraisal will be needed for a Federal estate tax return. If no Federal estate tax return will be required, the value reported on the inventory and Pennsylvania inheritance tax return can be the assessed value multiplied by the common level ratio.

(g) See above discussion at A.2 regarding authority of personal representative to take possession of real property from an heir or devisee. For others, an ejectment action may be appropriate.

2. Tangible Personal Property

(a) Located in a safe deposit box. To access a safe deposit box and remove any contents:

i. arrangements may be made with the financial institution for an employee to supervise the entry and attest to an inventory of the box's contents prior to their removal. An original and one copy of the inventory will then be filed with the Register of Wills. 61 Pa. Code §§ 93.31 and 93.33.

ii. with a representative of the Department of Revenue present who then attests an inventory of the box's contents. 61 Pa. Code § 93.34.

iii. by order of court, under supervision as the court directs, with an inventory that has been attested to by an employee of the financial institution. 61 Pa. Code § 93.35.

iv. with notice having first been given to the Department of Revenue by certified mail, the local office of the Department of Revenue, and the financial institution where the box is located, specifying the date of entry (at least 7 days after mailing notice) and place where the box is located. 61 Pa. Code § 93.41

(b) Located in a residence or storage facility.

(c) Valuation – contact an appraiser - either an estate appraiser or a specialty appraiser, if needed.

(d) Automobiles or other motor vehicles should be secured, kept in working condition and insured.

(e) Guns and ammunition must be handled carefully. They should be secured in a secure and dry location, and possibly insured. Different types of guns and weapons have different rules that apply to their transfer. Consider working with a local Federal Firearms Licensee to value and transfer any guns and weapons to ensure that the transferee is not a prohibited person.

(f) Coin collections and gold and silver bullion and bars are considered tangible personal property, not intangible personal property. *In re Macfarlane's Estate*, 459 A.2d 1289 (Pa. Super. Ct. 1983).

(g) After identifying, inventorying and valuing tangible personal property, it may be distributed to beneficiaries, sold or donated in accordance with the terms of the will.

3. Intangible Assets

(a) Before transferring any income-producing assets, the personal representative will need to obtain a taxpayer identification number for the estate by completing IRS Form SS-4 (which can be done online at <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>).

(b) Bank and brokerage accounts. Contact financial institutions to request date-of-death values of any assets and either retitling of the accounts into the name of the estate, or liquidation of the accounts payable to the estate. This request will likely need to be accompanied by a death certificate and a short certificate (and if the attorney is making the request rather than the personal representative directly, an authorization by the personal representative).

i. A DOR Form 516 – Request for Waiver or Notice of Transfer may also be required. PEF Code § 6411(a):

No corporation, financial institution, broker or similar entity shall transfer on its books or issue a new certificate for any share of its capital stock, its registered bonds, a security or a security account, belonging to or standing in the name of a resident decedent, belonging to or standing in the joint names of a resident decedent and one or more persons, held in trust by or for a resident decedent or in a beneficiary form indicating that a resident decedent was the

present owner or became the owner upon the death of another, unless the inheritance tax upon the transfer has actually been paid, or the written consent of the Secretary of Revenue, or its designee, is first secured, or there is presented to it an affidavit of the personal representative or heir of the decedent, or his or their attorney, that the decedent was a nonresident at the time of his death, or that the person in whose name said security, security account, shares of registered bond stands jointly with the decedent by right of survivorship was the spouse of the decedent at the time of death and that the ownership in or designation of such spouse was not created within one year before the decedent's death, or written notification of the transfer is given to the Secretary of Revenue within ten days of the transfer as provided in subsection (d).

(c) Certificated stock.

i. Determine if the company still exists, whether the stock has any value, and how many shares were owned by the decedent.

ii. Stock certificates will need to be located, and retitled into the name of the estate with signatures Medallion guaranteed. If stock certificates cannot be located, the company will charge a lost certificate fee. The certificates will need to be returned to the company or its transfer agent along with any forms the company or transfer agent may require, which at a minimum will include an Affidavit of Domicile and Substitute W-9.

(d) Closely-held entities.

i. Determine if the company still exists, whether the stock or interest has any value, and how many shares or what percentage interest the decedent owned.

ii. Determine if the shares or interest are certificated or book entry. If certificated, locate certificates.

iii. Locate and review any governing documents (articles of incorporation, bylaws, partnership agreement, LLC operating agreement, shareholders agreement, buy-sell or succession agreement, etc.) to determine what is to happen with the decedent's interest in the entity upon his or her death (redemption by company, purchase by other shareholders/members/partners) and begin process.

iv. Unless a third party will be purchasing shares or interest at fair market value, obtain an appraisal of the decedent's interest.

v. If the decedent owned all or a controlling interest in the entity, determine whether the personal representative is authorized in the will to continue operating the business. If there is no authority in the will, the personal representative will need to petition for authority under PEF Code § 3314.

(e) Refunds.

(f) Cash in wallet, purse or other locations.

C. Debts of the Estate

1. Legal Advertising

(a) A personal representative may distribute an estate without the filing and audit or confirmation of an account without liability to creditors of the estate for doing so unless the claim is made known to the personal representative within one year from the first complete advertisement of the grant of letters to the personal representative. PEF Code § 3532. The first complete advertisement is the date upon which the first of the two required advertisements has run for three weeks.

(b) PEF Code § 3162(a) sets forth the requirement for advertising the grant of letters:

The personal representative, immediately after the grant of letters, shall cause notice thereof to be given in one newspaper of general circulation published at or near the place where the decedent resided or, in the case of a nonresident decedent, at or near the place where the letters were granted, and in the legal periodical, if any, designated by rule of court for the publication of legal notices, once a week for three successive weeks, together with his name and address; and in every such notice, he shall request all persons having claims against the estate of the decedent to make known the same to him or his attorney, and all persons indebted to the decedent to make payment to him without delay.

2. Notice to Department of Human Services. PEF Code § 3393 requires notice to the Department of Revenue or other political subdivision when Pennsylvania or a political subdivision thereof has a claim for maintaining in an institution a person who has died in the institution within three months after the grant of letters.

3. Other than those claims that are sent to the personal representative or filed with the Register of Wills after the legal advertisement has run, debts can be identified in much the same way as assets, and often will be discovered while working to identify assets.

4. Insolvent Estates.

(a) Pennsylvania sets forth an order of priority of how claims of creditors are to be paid if an estate is insolvent at PEF Code § 3392, as follows:

- claims of the United States;
- costs of administration;
- the family exemption;
- costs of decedent's funeral and burial and medical expenses incurred in the last 6 months before death;
- the cost of a gravemarker;
- rent for the decedent's residence incurred in the last 6 months before death;
- claims of the Commonwealth and its subdivisions; and
- any other claims.

(b) If an estate is insolvent, the personal representative may need to negotiate with creditors to satisfy their claims for less than the full amount.

Chapter Two
Section 1

Attachment: Dealing with Estate Assets (Slides)

Administering an Estate in Pennsylvania: A Step by Step Guide Dealing with Estate Assets

PBI - August 17, 2021



General Duties and Responsibilities

- “duty to take custody of the estate and administer it in such a way as to preserve and protect the property for distribution”
- “regarded as a fiduciary and is held to the highest degree of good faith”
- failure “to use common skill and ordinary business caution may be held liable for losses”
 - In re: Kurkowski’s Estate, 409 A.2d 357, 361 (Pa. 1979).

General Duties and Responsibilities

- In addition to the duty to marshal assets, a personal representative must obtain values of probate and non-probate property for:
 - Inventory (probate only)
 - Pennsylvania Inheritance Tax Return
 - Except for life insurance and joint property owned between spouses
 - Federal Estate Tax Return (if over \$11.7 million or electing portability)
 - Basis Reporting
 - Business Succession
 - Other

General Duties and Responsibilities

- Marshaling Probate Assets
 - Identify
 - Determine Rights and Responsibilities
 - Probate v. non-probate
 - Taxable (federal and state) v. non-taxable
 - Secure and Insure
 - Liquidate

General Duties and Responsibilities

- Debts of the Estate
 - Legal Advertisement
 - Order of Priority Among Creditors

ESTATE AND TRUST NOTICES

Notice is hereby given that, in the estate of the decedent set forth below, the Register of Wills has granted letters testamentary or of administration to the persons named. Notice is also hereby given of the existence of the trusts of the deceased set forth below for whom no personal representative has been appointed within 90 days of death. All persons having claims or demands against said estates or trusts are requested to make known the same, and all persons indebted to said estates or trusts are requested to make payment, without delay, to the executors or administrators or trustees or to their attorneys named below.

FIRST PUBLICATION

THOMAS ANTONELLI, dec'd.
 Late of the Borough of Darby, Delaware County, PA.
 Admr.: Frank W. Daly, Esquire, 110 West Front Street, Media, PA 19063.
FRANK W. DALY, ATTY.
 110 West Front Street
 Media, PA 19063

KATHARINE A. BRADLEY, dec'd.
 Late of the Township of Havortford, Delaware County, PA.
 Extr.: Helen Teresa Druryday o/o Katharine F. Thackray, Esquire, 1608 Walnut St., Ste. 900, Philadelphia, PA 19102.
KATHERINE F. THACKRAY, ATTY.
 Alexander & Pohl, LLC
 1608 Walnut St.
 Ste. 900
 Philadelphia, PA 19103

JOAN ESTHER BUCCIARELLI a/k/a JOAN E. BUCCIARELLI and JOAN BUCCIARELLI, dec'd.
 Late of the Borough of Aldan, Delaware County, PA.
 Extr.: Richard R. Buontaroli, 117 W. Maryland Ave., Aldan, PA 19018.
MICHAEL P. PIERCE, ATTY.
 Piers & Hughes, P.C.
 P.O. Box 604
 Media, PA 19063

KATHERINE R. BULLOCK, dec'd.
 Late of the Township of Havortford, Delaware County, PA.
 Extr.: Steven J. Dissipio o/o William E. Malone, Jr., Esquire, 21 West Third St., Media, PA 19063.

WILLIAM E. MALONE, JR., ATTY.
 21 West Third St.
 Media, PA 19063

ROSE MARIE De-LEONARDES a/k/a ROSEMARIE De-LEONARDES, dec'd.
 Late of the Township of Marple, Delaware County, PA.
 Extr.: Patricia Pico o/o Matthew C. Stone, Esquire, 4126 Edgmont Avenue, Brookhaven, PA 19015.
MATTHEW C. STONE, ATTY.
 The Law Offices of Stone & Stone, LLC
 4126 Edgmont Avenue
 Brookhaven, PA 19015

HENRIE EGGER, dec'd.
 Late of the Township of Upper Darby, Delaware County, PA.
 Admr.: Michael J. Piscaro o/o Nancy W. Pina, Esquire, 104 S. Church St., West Chester, PA 19382.
NANCY W. PINE, ATTY.
 Pina & Pina, LLP
 104 S. Church St.
 West Chester, PA 19382

NANCY C. FRITZ a/k/a NANCY COOPER FRITZ and NANCY FRITZ, dec'd.
 Late of the Borough of Swarthmore, Delaware County, PA.
 Extr.: Rebecca F. Clark (Named in Will As Rebecca Fritz Clark), 397 Evergreen Rd., King of Prussia, PA 19408.
LINDA M. ANDERSON, ATTY.
 Anderson Elder Law
 206 State St.
 Media, PA 19063

JOSEPH F. GREENWICH, dec'd.
 Late of the Township of Marple, Delaware County, PA.
 Extr.: Lawrence R. Greenwich o/o Raymond J. Falsona, Jr., Esquire, 22 East Third Street, Media, PA 19063.
RAYMOND J. FALZONER, JR., ATTY.
 Falsona & Wyler
 22 East Third Street
 Media, PA 19063

HAZEL HERSH, dec'd.
 Late of the Borough of Darby, Delaware County, PA.
 Admr.: Frank W. Daly, Esquire, 110 West Front Street, Media, PA 19063.
FRANK W. DALY, ATTY.
 110 West Front Street
 Media, PA 19063

Estate/Trust Order Form - William J. Mansfield, Inc. - Google Chrome

← → | (estate-order-form)

What is Legal Advertising?
About Mansfield Ads
Estate/Trust Order Form
Online Payment
Contact Info

Estate/Trust Order Form

Please upload Grant of Letters/Short Certificate/Death Certificate here (not required for publication):

No file chosen No file chosen

Name of Decedent: Including any a/k/a's:

Late Of: (ex. Twp./Borough): Municipal Type:

County: Type of Letters: Type of Executor:

Print Name and Address of (Executor, Trustee, i.e.): Name and Address of Attorney(s):

Case Study: Death of Spouse

Assets:

- Joint Checking
- Joint Savings
- IRA
- Life Insurance
- Joint Residence (Tenancy by the Entirety)
- Joint Tangibles

Debts:

- Joint Credit Card
- Mortgage

Case Study: Death of Spouse

Marshaling Assets

- Surviving spouse provides statements and most recent income tax return
 - Joint Checking and Savings
 - Spouse to report death to financial institution, provide death certificate
 - IRA
 - Spouse to notify custodian, provide death certificate and paperwork to transfer
 - Life Insurance
 - Spouse to notify insurance company, provide death certificate and complete claim forms
 - Joint Residence
 - No need to do anything
 - Joint Tangibles
 - No need to do anything

Case Study: Death of Spouse

Handling debts

- No probate, no revocable trust = no legal advertisement required
- Both debts of decedent were joint with surviving spouse, therefore surviving spouse still obligated
- Spouse to notify credit card company and mortgage company of death, provide death certificate

Case Study: Death of Spouse

- PA Inheritance Tax Return Will be Required
 - IRA will be only asset reported – will need date of death value
- Federal Estate Tax Return May be Warranted
 - To carry over decedent's unused exemption amount to surviving spouse's estate – will need to include all assets, but may use estimated values

Case Study: Death of Family Friend

Marshaling Assets

Step 1 - Identify

- Notify post office and have mail forwarded to executor
- Go through personal papers at residence to locate bank statements, bills, premium notices, insurance policies, tax returns, beneficiary designations
- If authorized, review computer or tablet for tax returns, financial summaries, account information
- Contact financial advisor, accountant and other third parties who may have information
 - If cannot locate tax returns and decedent didn't use an accountant, file IRS Form 4506 (Request for Copy of Tax Return)

Manage Mail for the Deceased | USPS - Google Chrome

Secure | https://www.usps.com/manage-mail-for-deceased.htm

English Customer Service Informed Delivery Register / Sign In

USPS.COM Quick Tools Mail & Ship Track & Manage Postal Store Business International Help

ALERT: UPDATES ON SERVICE DISRUPTIONS DUE TO HURRICANES JOSE AND MARIA. READ MORE >

Tracking

Informed Delivery

Intercept a Package

Schedule a Redelivery

Hold Mail

Forward Mail

Change of Address

Rent or Renew PO Box

Learn about...

Personalized Tracking

Redirecting a Package

PO Boxes

Mailbox Guidelines

Mail for the Deceased >

Manage Mail for the Deceased


Stopping or Redirecting Mail

After a loved one has passed away, accumulating mail can attract unwanted attention. To avoid this, as appointed executor or administrator, you can file a request at the Post Office™ to:

- Redirect their mail.
- Remove them from advertisers' mailing lists.

The Direct Marketing Association maintains a "Deceased Do Not Contact" list. Within 3 months of adding the deceased's name to this list, the amount of advertising mail received should decrease.

Register on [DMA.org](#)



If You Shared an Address

If you shared a mailing address with someone who has since died and would normally receive their mail, you don't need to do anything. You can open and manage their mail.

If You Had a Different Address

To forward the deceased's mail to a different address, you must file a request at your local Post Office. You will need to:

- Provide valid proof that you are the appointed executor or administrator and authorized to manage the deceased person's mail.
- Complete a change of address form at a Post Office location.

[Find a Post Office](#)

SCHEDULE B (Form 1040)		Interest and Ordinary Dividends		OMB No. 1545-0046
Department of the Treasury Internal Revenue Service (IRS)		Go to www.irs.gov/scheduleb for instructions and the latest information. Attach to Form 1040 or 1040-SR.		<div style="border: 1px solid black; padding: 2px; display: inline-block;"> 2020 <small>OMB Control Sequence No. 06</small> </div>
Name(s) shown on return			Your social security number	
Part I Interest	1 List name of payer. If any interest is from a seller-financed mortgage and the buyer used the property as a personal residence, see the instructions and list this interest first. Also, show that buyer's social security number and address.			Amount
(See instructions and the instructions for Forms 1040 and 1040-SR, line 2b.)				
Note: If you received a Form 1099-INT, Form 1099-OID, or substitute statement from a brokerage firm, list the firm's name as the payer and enter the total interest shown on that form.				
		1		
	2 Add the amounts on line 1		2	
	3 Excludable interest on series EE and I U.S. savings bonds issued after 1989. Attach Form 8815.		3	
	4 Subtract line 3 from line 2. Enter the result here and on Form 1040 or 1040-SR, line 2b.		4	
	Note: If line 4 is over \$1,500, you must complete Part III.			
				Amount
Part II Ordinary Dividends	5 List name of payer			
(See instructions and the instructions for Forms 1040 and 1040-SR, line 2c.)				
Note: If you received a Form 1099-DIV or substitute statement from a brokerage firm, list the firm's name as the payer and enter the ordinary dividends shown on that form.				
		5		
	6 Add the amounts on line 5. Enter the total here and on Form 1040 or 1040-SR, line 2c.		6	
	Note: If line 6 is over \$1,500, you must complete Part III.			
Part III Foreign Accounts and Trusts	7 You must complete this part if you (a) had over \$1,500 of taxable interest or ordinary dividends; (b) had a foreign account; or (c) received a distribution from, or were a grantor of, or a transferor to, a foreign trust.			Yes No
Caution: If required, future Form 114 may result in penalties. See instructions.	a At any time during 2020, did you have a financial interest in or signature authority over a financial account (such as a bank account, securities account, or brokerage account) located in a foreign country? See instructions.			
	b If "Yes," are you required to file FinCEN Form 114, Report of Foreign Bank and Financial Accounts (FBAR), to report that financial interest or signature authority? See FinCEN Form 114 and its instructions for filing requirements and exceptions to those requirements.			
	c If you are required to file FinCEN Form 114, enter the name of the foreign country where the financial account is located.			
	8 During 2020, did you receive a distribution from, or were you the grantor of, or transferor to, a foreign trust? If "Yes," you may have to file Form 3520. See instructions.			

For Paperwork Reduction Act Notice, see your tax return instructions. Doc. No. 17148 Schedule B (Form 1040) 2020

Case Study: Death of Family Friend

Marshaling Assets

Step 2 - Gather

- Bank of Bedrock Savings
- First Stone National MMA
- Limestone, Inc. Stock – Lost Certificates
- Safe deposit box
- Beach house in Lewes, Delaware
- Collections of china, artwork, antique furniture and rugs
- Rockwell Brokerage Account
- Died resident of Bedrock Assisted Living
- Open estate account to transfer proceeds from liquidated assets (interest or non-interest bearing)

Case Study: Death of Family Friend

Fred Flintstone
1 Quarry Road
Bedrock, PA 19000
(610) 123-4567

September 20, 2021

Bank of Bedrock, N.A.
100 Slate Road
Bedrock, PA 19000

Re: Estate of Barney Rubble
Date of Death: January 1, 2021
Social Security No.: 123-45-6789

To Whom It May Concern:

I am the Executor of the above-referenced Estate. In order to prepare an Inventory of the Estate's assets and the Pennsylvania Inheritance Tax Return, I will need your cooperation in obtaining information about the decedent's accounts.

Please send me the date-of-death values for any accounts that the decedent held with your bank, whether solely or jointly with any other person, and for any joint accounts, the date they were made joint. Please also let me know if the accounts had any beneficiary or transfer-on-death designation upon death. In addition, please list separately the amount of interest that had accrued as of the date of death and any interest that has accrued since the date of death.

Please indicate whether the decedent had any loans, and if so, the principal balance and amount of interest due as of the date of death.

It would also be helpful if you could tell me whether the decedent maintained any safe deposit boxes with your institution.

Thank you for your kind attention to this matter. Should you have any questions or require additional information, please do not hesitate to contact me.

Sincerely,

Fred Flintstone

Enclosures: Copy of Death Certificate
Copy of Short Certificate

Case Study: Death of Family Friend

- Limestone Inc. Stock
 - No certificates located
 - Website of Limestone Inc. identifies transfer agent
 - Submit to Transfer Agent: Short Certificate, Death Certificate, Declaration of Transmission, Power of Attorney (to be Medallion Guaranteed), Affidavit of Loss (there will be a fee to replace certificates, usually a percentage of value)

Case Study: Death of Family Friend

- Residence and Beach House
 - Hire company to inventory tangible personal property of value
 - Change locks
 - Secure/remove items of significant value
 - Dispose of medications
 - Contact insurance company to notify of death and obtain coverage for estate
 - Maintain necessary utilities (gas, electric) and property (grass cutting, gutters) to preserve value; discontinue others (cable, phone)
 - Assisted living – remove contents (usually within 30 days)
 - Ancillary probate required in Sussex County, DE

Case Study: Death of Family Friend

- Step 3 - Debts
 - Legal advertisement
 - Bedrock County Legal Journal
 - Bedrock Times
 - 3 consecutive weeks in each
 - Ensure estate ability to pay all debts and expenses before paying any; start at the top with funeral and probate
 - Determine if all tax liabilities have been satisfied
 - File Form 56 (Notice Concerning Fiduciary Relationship) to receive tax notices and put IRS on notice of death so any tax refunds can't be claimed by anyone else
 - Stop the bleeding
 - Contact all credit card companies to notify of death to stop interest accruing
 - Contact mortgage company to notify of death to suspend payments
 - Terminate recurring payments and expenses (subscriptions, unnecessary insurance, credit cards)

Case Study: Death of Family Friend

- Sell beach house
- Liquidate stock and brokerage investments
- Deposit all proceeds into estate account
- Pay final debts and expenses as able

Chapter Two
Section 2

Dealing with Estate Assets

Elaine T. Yandrisevits, J.D., LL.M.
Antheil Maslow & MacMinn, LLP
Doylestown

Dealing with Estate Assets
Elaine T. Yandrisevits, J.D., LL.M.

I. Marshalling and Valuing Estate Assets

- A. 20 Pa. C.S. § 3311. Possession of real and personal estate; exception.
 - (a) Personal representative.--A personal representative shall have the right to and shall take possession of, maintain and administer all the real and personal estate of the decedent, except real estate occupied at the time of death by an heir or devisee with the consent of the decedent. He shall collect the rents and income from each asset in his possession until it is sold or distributed, and, during the administration of the estate, shall have the right to maintain any action with respect to it and shall make all reasonable expenditures necessary to preserve it. The court may direct the personal representative to take possession of, administer and maintain real estate so occupied by an heir or a devisee if this is necessary to protect the rights of claimants or other parties. Nothing in this section shall affect the personal representative's power to sell real estate occupied by an heir or devisee.
- B. Both the Pennsylvania Inheritance Tax Return and Federal Estate Tax Return value assets as of the date of death.
- C. The personal representative is responsible for maintaining all assets as close as possible to the date of death values.
- D. Estate account
 - i. Should be established using an Employer Identification Number (EIN) for the estate.

1. EINs may be obtained online at www.irs.gov
2. Multiple accounts may be established for the estate, as long as they are all titled to the estate under the same EIN.
- ii. Generally recommended that a checking account be established for payment of expenses, debts, and taxes.
- iii. Typically, the personal representative is the signer on the account.
 1. Co-Executors or Co-Administrators may have difficulty setting up an estate account if the Will or intestacy laws require that they act jointly.
- iv. Personal representative must understand that he or she has a fiduciary duty to the estate – cannot use the estate account for personal use.

E. Real Property

- i. Personal representative must ensure that the real property is protected by homeowners' insurance.
- ii. Any individual who lives in the real property who is not a co-owner with the estate can be required to pay rent.
- iii. Value can be determined by sales price as determined by settlement sheet, licensed real estate appraisal, or the common level ratio for realty transfer tax.

F. Tangible Personal Property

- i. Valuable tangible personal property should be appraised.
- ii. Tangible personal property may be sold or distributed in kind.

G. Safe Deposit Boxes

1. 72 P.S. §§ 9191-96.
2. Pennsylvania law requires that all individually- or jointly-owned safe deposit boxes be inventoried before any contents can be removed (unless the joint owner is the decedent's surviving spouse).
3. At least seven (7) days before the safe deposit box inventory, the personal representative must provide notice to the Department of Revenue.
 - a. The notice must include the name of the estate and the person entering the box; the name and address of the financial institution where the box is located; and the date and time of entry.
 - b. The notice must be delivered to Revenue at the address below by the U.S. Postal Service with return receipt service, and a copy of the notice should be provided to the financial institution where the box is located.
4. A decedent's safe deposit box may be opened in the presence of a bank employee for purposes of determining if a Will is located in the box.
 - a. If a Will or Codicil is found, it may be removed.
 - b. No other items may be removed until the time of the safe deposit box inventory.

H. Bank Accounts

1. The personal representative should locate and close all bank accounts individually-owned by the decedent.
2. Funds should be deposited into the estate account.

I. Nonprobate Assets

1. Jointly-owned bank accounts

a. 20 Pa. C.S. § 6304. Right of survivorship.

(a) Joint account.--Any sum remaining on deposit at the death of a party to a joint account belongs to the surviving party or parties as against the estate of the decedent unless there is clear and convincing evidence of a different intent at the time the account is created. If there are two or more surviving parties, their respective ownerships during lifetime shall be in proportion to their previous ownership interests under section 6303 (relating to ownership during lifetime) augmented by an equal per capita share for each survivor of any interest the decedent may have owned in the account immediately before his death; and the right of survivorship continues between the surviving parties.

(b) Trust account.--At the death of the trustee or the survivor of two or more trustees, any sum remaining on deposit belongs to the person or persons named as beneficiaries, if surviving, or to the survivor or survivors of them if one or

more die before the trustee or last surviving trustee, unless there is clear and convincing evidence of a contrary intent; if two or more beneficiaries survive, there is no right of survivorship in event of death of any beneficiary thereafter unless the terms of the account or deposit agreement expressly provide for survivorship between them.

(c) Other cases.--In other cases, the death of any party to a multiple-party account has no effect on beneficial ownership of the account other than that the rights of the decedent become part of his estate.

(d) Change by will prohibited.--A right of survivorship arising from the express terms of an account or under this section, or a beneficiary designation in a trust account cannot be changed by will.

2. Accounts that Pass by Beneficiary Designation:

a. 20 Pa. C.S. § 6402. Registration in beneficiary form.

Only individuals whose registration of a security shows sole ownership by one individual or multiple ownership by two or more with right of survivorship, rather than as tenants in common, may obtain registration in beneficiary form.

Multiple owners of a security registered in beneficiary form hold as joint tenants with right of survivorship, as tenants by

the entireties or as owners of community property held in survivorship form and not as tenants in common.

b. 20 Pa. C.S. § 6403. Law applicable to registration.

A security may be registered in beneficiary form if the form is authorized by this or a similar statute of the state of organization of the issuer or registering entity, the location of the registering entity's principal office, the office of its transfer agent or its office making the registration or by this or a similar statute of the law of the state listed as the owner's address at the time of registration. A registration governed by the law of a jurisdiction in which this or similar legislation is not in force or was not in force when a registration in beneficiary form was made is nevertheless presumed to be valid and authorized as a matter of contract law.

c. 20 Pa. C.S. § 6404. Origination of registration in beneficiary form.

A security, whether evidenced by certificate or account, is registered in beneficiary form when the registration includes a designation of a beneficiary, which may include a trustee of a trust, to take the ownership at the death of the owner or the deaths of all multiple owners.

d. 20 Pa. C.S. § 6405. Form of registration in beneficiary form.

Registration in beneficiary form may be shown by the words "transfer on death" or the acronym "TOD," or by the words "pay on death" or the acronym "POD," after the name of the registered owner and before the name of a beneficiary.

e. 20 Pa. C.S. § 6406. Effect of registration in beneficiary form.

The designation of a TOD beneficiary on a registration in beneficiary form has no effect on ownership until the owner's death. A registration of a security in beneficiary form may be canceled or changed at any time by the sole owner or all then surviving owners, without the consent of the beneficiary.

f. 20 Pa. C.S. § 6407. Ownership on death of owner.

On death of a sole owner or the last to die of all multiple owners, ownership of securities registered in beneficiary form passes to the beneficiary or beneficiaries who survive all owners. On proof of death of all owners and compliance with any applicable requirements of the registering entity, a security registered in beneficiary form may be reregistered in the name of the beneficiary or beneficiaries who survived the death of all owners. Until division of the security after the death of all owners, multiple beneficiaries surviving the death of all owners hold their interests as tenants in common. If no

beneficiary survives the death of all owners, the security belongs to the estate of the deceased sole owner or the estate of the last to die of all multiple owners.

- g. 20 Pa. C.S. § 6409. Nontestamentary transfer on death.
 - (a) General rule.--A transfer on death resulting from a registration in beneficiary form is effective by reason of the contract regarding the registration between the owner and the registering entity and this chapter and is not testamentary.
 - (b) Creditors.--This chapter does not limit the rights of creditors of security owners against beneficiaries and other transferees under other laws of this Commonwealth.

II. Debts of the Estate

A. Payment of Creditor Claims

- i. 20 Pa. C.S. § 3162. Advertisement of grant of letters.
 - (a) Notice generally.--The personal representative, immediately after the grant of letters, shall cause notice thereof to be given in one newspaper of general circulation published at or near the place where the decedent resided or, in the case of a nonresident decedent, at or near the place where the letters were granted, and in the legal periodical, if any, designated by rule of court for the publication of legal notices, once a week for three successive weeks, together with his name and address; and in every such notice, he shall request all persons having claims against the estate

of the decedent to make known the same to him or his attorney, and all persons indebted to the decedent to make payment to him without delay.

- ii. 20 Pa. C.S. § 3381. Liens and charges existing at death not impaired.

Nothing in this title shall be construed as impairing any lien or charge on real or personal estate of the decedent which existed at his death.

- iii. 20 Pa. C.S. § 3383. Statutes of limitations; claims not barred at death.

The death of a person shall not stop the running of the statute of limitations applicable to any claim against him, but a claim which otherwise would be barred within one year after the death of the decedent shall not be barred until the expiration of one year after his death. Nothing in this section shall be construed to shorten the period which would have been allowed by any applicable statute of limitations if the decedent had continued to live.

- iv. 20 Pa. C.S. § 3384. Notice of claim.

(a) Written notice.--Written notice of any claim against a decedent given to the personal representative or his attorney of record before the claim is barred shall toll the statute of limitations.

(b) Acts equivalent to written notice.--Any of the following acts by a claimant shall be equivalent to the giving of written notice of a claim to the personal representative:

(1) Instituting proceedings to compel the filing of an account.

(2) Bringing an action against the personal representative in any court having jurisdiction of the claim and having the writ or pleading duly served on the personal representative.

(3) Substituting the personal representative as a defendant in an action pending against the decedent.

(4) Receiving a written acknowledgment by the personal representative or his attorney of record of the existence of the claim.

v. 20 Pa. C.S. § 3532. At risk of personal representative.

(a) Rights of claimants against personal representatives.--A personal representative, at his own risk and without the filing, audit or confirmation of his account, may distribute real or personal property and such distribution shall be without liability to any claimant against the decedent, unless the claim of such claimant is known to the personal representative within one year after the first complete advertisement of the grant of letters to such personal representative or thereafter but prior to such distribution.

(b) Rights of claimants against distributed property.--

(1) Personal property.--No claimant shall have any claim against personal property distributed by a personal representative at his own risk pursuant to subsection (a), unless the claim of such claimant is known to the personal representative within one year after the first complete advertisement of the grant of letters or thereafter but prior to such distribution.

(2) Real property.--No claimant shall have any claim against real property conveyed by a personal representative in distribution at his own risk pursuant to subsection (a) hereof, unless such claimant, within one year after the decedent's death, files a written notice of his claim with the clerk. Such claim against real property shall expire at the end of five years after the decedent's death, unless within that time the personal representative files an account or the claimant files a petition to compel an accounting.

(3) Liens and charges existing at death.--Nothing in this section shall be construed as affecting any lien or charge which existed at the time of the decedent's death on his real or personal property.

(b.1) Limitation on rights of claimants.--A personal representative may make written demand by mail or delivery to any person who may have a claim but who has not previously given written notice of his claim to the personal representative. If the personal

representative's demand requests the person to give written notice of his claim within 60 days from the mailing or delivery of the demand or within one year from the first complete advertisement of the grant of letters, whichever is later, and the person fails to do so, the person shall not have any rights with respect to such claim under subsection (a) or (b)(1) and shall not have any right on account of such claim to receive notice of the filing of the personal representative's account and of its call for audit or confirmation.

The personal representative shall not be liable to any such person or to any beneficiary, heir or next of kin or creditor of the estate for making or failing to make demand under this subsection.

(c) Record of risk distributions.--The personal representative may file with the clerk receipts, releases and refunding agreements which he may have received from persons to whom he has made a risk distribution, or from other parties in interest. Receipts, releases and refunding agreements so filed shall be indexed under the name of the estate. Their acceptance shall not be construed as court approval of any act of administration or distribution therein reflected.

B. Insolvent Estates

i. 20 Pa. C.S. § 3392. Classification and order of payment.

If the applicable assets of the estate are insufficient to pay all proper charges and claims in full, the personal representative,

subject to any preference given by law to claims due the United States, shall pay them in the following order, without priority as between claims of the same class:

(1) The costs of administration.

(2) The family exemption.

(3) The costs of the decedent's funeral and burial, and the costs of medicines furnished to him within six months of his death, of medical or nursing services performed for him within that time, of hospital services including maintenance provided him within that time, of services provided under the medical assistance program provided within that time and of services performed for him by any of his employees within that time.

(4) The cost of a gravemarker.

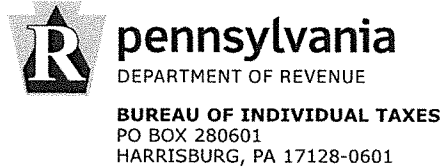
(5) Rents for the occupancy of the decedent's residence for six months immediately prior to his death.

(5.1) Claims by the Commonwealth and the political subdivisions of the Commonwealth.

(6) All other claims.

Chapter Two
Section 2

Attachment: PA REV-487: Entry Into Safe Deposit Box to
Remove a Will or Cemetery Deed



ENTRY INTO SAFE DEPOSIT BOX TO REMOVE A WILL OR CEMETERY DEED

Date of Entry		
Month	Day	Year

Please Print or Type

MUST BE COMPLETED BY REPRESENTATIVE OF FINANCIAL INSTITUTION WHERE SAFE DEPOSIT BOX IS LOCATED AND RETURNED TO ABOVE ADDRESS.

1 DECEDENT'S NAME (Last, First, Middle)	2 SOCIAL SECURITY NUMBER (Required)	3 DATE OF DEATH
4 ADDRESS OF DECEDENT Street Address _____ City _____ State _____ ZIP Code _____		
5 NAME AND ADDRESS OF PERSON REQUESTING THE OPENING OF THE SAFE DEPOSIT BOX Name _____ Street Address _____ City _____ State _____ ZIP Code _____		
6 NAME AND ADDRESS OF FINANCIAL INSTITUTION WHERE THE SAFE DEPOSIT BOX IS LOCATED Name of Financial Institution _____ Street Address _____ City _____ State _____ ZIP Code _____		
7 SAFE DEPOSIT BOX NUMBER	8 TITLE OR NAME(S) UNDER WHICH BOX IS REGISTERED	
9 WAS THERE A WILL IN THE BOX? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes Date of will: _____ <div style="text-align: right; margin-right: 100px;"> Month Day Year </div> <p>ARE THERE OTHER ITEMS IN THE BOX? <input type="checkbox"/> YES - An inventory will be completed at a later date in compliance with <input type="checkbox"/> NO Sec. 2193 of the Inheritance and Estate Tax Act, 72 P.S. §9193</p> <p>Name and address of personal representative(s), if named in the will: Name _____ Street Address _____ City _____ State _____ ZIP Code _____ Name _____ Street Address _____ City _____ State _____ ZIP Code _____</p> <p>Name and address of attorney, if any: Name _____ Street Address _____ City _____ State _____ ZIP Code _____ Name _____ Street Address _____ City _____ State _____ ZIP Code _____</p>		
I certify under penalty of perjury to the best of my knowledge and belief that the above record is correct, complete and that only a will and/or cemetery deed has been removed from the box at this time.		
Signature _____		Date _____
Print Name _____		Title _____

The department is authorized under federal law, 42 U.S.C. § 405 (c), to use the decedent's Social Security number in administering state tax laws. The department uses Social Security numbers to establish a decedent's identity and ensure proper credit for tax payments.

**SAFE DEPOSIT
BOX INVENTORY**

PLEASE USE ORIGINAL FORM ONLY

Social Security or Death Certificate Number	Date of Death	County Code	Year	File Number
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Decedent's Last Name	Suffix	Decedent's First Name	MI
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

2 ADDRESS OF DECEDENT STREET ADDRESS: CITY: STATE: ZIP CODE:

3 NAME AND ADDRESS OF PERSON REQUESTING THE OPENING OF THE SAFE DEPOSIT BOX
NAME:
STREET ADDRESS: CITY: STATE: ZIP CODE:

4 NAME, ADDRESS AND RELATIONSHIP (IF ANY) TO DECEDENT, OF PERSON(S) PRESENT AT THE BOX OPENING

a. NAME: RELATIONSHIP:
STREET ADDRESS: CITY: STATE: ZIP CODE:

b. NAME: RELATIONSHIP:
STREET ADDRESS: CITY: STATE: ZIP CODE:

c. NAME: RELATIONSHIP:
STREET ADDRESS: CITY: STATE: ZIP CODE:

5 NAME AND ADDRESS OF FINANCIAL INSTITUTION WHERE THE SAFE DEPOSIT BOX IS LOCATED
NAME:
STREET ADDRESS: CITY: STATE: ZIP CODE:

6 NAME OF PERSON MAKING LAST ENTRY **7 DATE AND TIME OF LAST ENTRY**

8 DATE OF CONTRACT TO RENT BOX **9 NUMBER OF BOX** **10 TITLE UNDER WHICH BOX IS REQUESTED**

11 NAME AND ADDRESS OF PERSON(S) HAVING ACCESS TO BOX

a. NAME: STREET ADDRESS: CITY: STATE: ZIP CODE:	b. NAME: STREET ADDRESS: CITY: STATE: ZIP CODE:
---	---

12 NAME AND TITLE OF EMPLOYEE TAKING THE INVENTORY

13 WAS A WILL IN THE BOX? YES NO If yes, a. Date of will: _____

b. Name and address of personal representative, if named in the will
NAME:
STREET ADDRESS: CITY: STATE: ZIP CODE:

c. Name and address of attorney, if any
NAME:
STREET ADDRESS: CITY: STATE: ZIP CODE:



Chapter Three

Tax Returns

Elaine T. Yandrisevits, J.D., LL.M.
Antheil Maslow & MacMinn, LLP
Doylestown

Tax Returns

Elaine T. Yandrisevits, J.D., LL.M.

A. Pennsylvania Inheritance Tax Return (REV-1500)

- a. Tax on the transfer of property from the decedent to the beneficiaries.
- b. Must be filed when the decedent is:
 - i. A resident of Pennsylvania with property subject to tax; or
 - ii. A nonresident with real or tangible personal property in Pennsylvania at death.
- c. Tax rates:
 - i. Spouse – 0%
 - ii. Lineal descendants/ascendants – 4.5%
 - 1. Includes stepchildren
 - 2. **NEW:** Beginning for decedents dying after January 1, 2020, the tax rate for assets passing to a child under 21 years from his or her parent, adoptive parent, or stepparent will be 0%.
 - a. **Note** – the statute specifically notes that it applies to children under the age of 21, not grandchildren.
 - iii. Siblings – 12%
 - 1. Does not include nieces/nephews
 - iv. All other individuals – 15%
 - v. Charities – exempt
- d. Due within nine (9) months of the date of death.

- i. One six (6) month extension may be requested – interest will accrue on any unpaid tax during the extension period.
 - ii. If a prepayment of estimated inheritance tax is made within three (3) months of the date of death, the estate will receive a 5% discount.
 - 1. 5% of the value of the prepayment is used as a credit applied toward the tax due.
- e. Property is valued as of the date of death.
 - i. Real property – Sale price, appraised value, or common-level ratio calculation
 - ii. Financial assets – Value obtained by contacting financial institution
- f. Property subject to inheritance tax includes: – 72 Pa. C.S. § 9107
 - i. All real and tangible property located in Pennsylvania
 - ii. Inter vivos transfers made within one year of the date of death
 - 1. \$3,000.00 exclusion per transferee
 - iii. Nonprobate property – IRAs, 401Ks, etc.
 - iv. Jointly-owned property is taxed on the proportion of the decedent's interest in the property.
 - 1. Example – If there are three joint owners, the decedent's interest in the property is one-third (1/3); as such, one-third of the date of death value of the property is subject to inheritance tax.

2. Exemption – Real property owned as tenants by the entireties is not subject to inheritance tax at the death of the first spouse.
- g. Property not subject to inheritance tax includes: – 72 Pa. C.S. § 9111
- i. Life insurance
 - ii. Property subject to a power of appointment
 - iii. 529 Plans
 - iv. Public school employee retirement benefits plans
 - v. Pennsylvania 529A accounts (PA ABLE Accounts)
- h. Deductions – 72 Pa. C.S. § 9126-30
- i. Examples:
 1. Reasonable administration expenses.
 2. Specific bequest to executor or attorney in lieu of fees.
 3. Family exemption.
 4. Funeral and burial expenses.
 5. Tombstones and gravemarkers.
 6. Outstanding debts of the decedent.
 7. Income taxes and property taxes.
 8. Liens to the Department of Human Services for Medical Assistance provided to the decedent.
 - i. A Supplemental REV-1500 may be filed for assets discovered after the original REV-1500 is filed.

j. Payment is submitted to the Register of Wills as Agent for the Department of Revenue.

k. 72 Pa. C.S. § 9101-88

B. Federal Estate Tax Return (IRS Form 706)

a. Tax on the gross value of the decedent's estate at the time of death.

b. Must be filed when:

i. The decedent is a citizen of the United States.

ii. The decedent is a foreign citizen owning property located in the United States.

c. Tax rate varies depending on value of the estate.

i. Minimum tax rate: 18%

ii. Maximum tax rate: 40%

d. Due within nine (9) months of the date of death.

i. One six (6) month extension may be requested

e. Property is valued as of the date of death.

i. Real property – Sale price, appraised value, or common-level ratio calculation

ii. Financial assets – Value obtained by contacting financial institution

f. Property subject to tax includes:

i. All worldwide property.

ii. Nonprobate property – IRAs, 401Ks, etc.

- iii. Jointly-owned property is taxed on the proportion of the decedent's interest in the property.
 - 1. Real property owned as tenants by the entireties is subject to federal estate tax at one-half (1/2) of the date of death value.
- iv. Life insurance.
- v. Property subject to a power of appointment.
- g. Federal Estate and Gift Tax Lifetime Exemption
 - i. If a decedent's taxable estate and lifetime gifts do not exceed the exclusion amount for the year of death, no federal estate tax will be due.
 - ii. 2021 Exemption – \$11.7 million
 - 1. The exemption is indexed for inflation and has increased every year since 2011.
 - 2. Tax Cuts and Jobs Act of 2017 – Increased the exemption from \$5.49 million in 2017 to \$11.18 million in 2018, but provides that the exemption will decrease to \$5 million on January 1, 2026 (adjusted for inflation).
 - iii. For tax year 2015, fewer than five thousand estates actually paid Federal Estate Tax – the approximately \$17 billion generated comprised less than 1% of all federal revenue.

1. More than a third of the revenue generated by the Federal Estate Tax in tax year 2015 was paid by less than three hundred estates valued at \$50 million or more.

h. Marital Deduction

- i. The value of assets passing to the surviving spouse at the first spouse's death is deducted from the gross taxable estate.
- ii. Unlimited in value – if the entire estate is left to the surviving spouse at the first death, no federal estate tax will be due.
- iii. Assets will be subject to tax at the surviving spouse's death.

i. Portability – 26 U.S. Code § 2010(c)(5)(A)

- i. Created by the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 and made permanent by the American Taxpayer Relief Act of 2013.
- ii. Deceased Spouse's Unused Exemption (DSUE) – Allows for a surviving spouse to preserve the "unused" portion of the deceased spouse's Lifetime Exemption.
- iii. To elect portability, the personal representative must timely file a Federal Estate Tax Return.

1. If the decedent was married at the time of death, portability is automatically applied on the Form 706 – if the surviving spouse does not want portability, the personal representative must affirmatively opt out.

iv. In cases of multiple marriages and remarriages, the surviving spouse may only use the DSUE of his or her most recently-deceased spouse.

j. 26 U.S. Code § 2001-58

C. Income Tax Returns

a. Decedent's Lifetime Income Tax Returns (IRS Form 1040/PA-40)

i. The personal representative must ensure that the decedent has filed all required lifetime income tax returns.

ii. Any income earned by the decedent during life is subject to personal income tax.

b. Fiduciary Income Tax Returns (IRS Form 1041/PA-41)

i. Any income earned by assets of the estate following the decedent's date of death is subject to fiduciary income tax.

ii. Due if the estate earns income in excess of the exemption amount.

iii. Federal exemption for estates – \$600.00

iv. Tax rate varies depending on the income earned.

v. The personal representative may choose to file on a fiscal year or calendar year deadline.

D. Inventory

a. Provides information to the Register of Wills concerning the types and values of the probate assets of the estate.

b. Due at the time the Formal Account is filed or nine (9) months from the date of death, whichever is earlier.

- i. A Supplemental Inventory must be filed after the discovery of new probate assets not on the original Inventory.
- c. Assets are valued as of the date of death.
- d. The Register of Wills uses the Inventory to calculate the probate fee due for the estate.

Chapter Three

Attachment A:
REV-1500 Inheritance Tax Return Resident Decedent

REV-1500

OFFICIAL USE ONLY

County Code Year File Number

09 05 9999

INHERITANCE TAX RETURN RESIDENT DECEDENT

ENTER DECEDENT INFORMATION BELOW

Social Security Number 123 45 6789 Date of Death 01 01 2021 Date of Birth 01 01 1925 Decedent's Last Name DOUGH (CASE 5) Decedent's First Name JOE

(If Applicable) Enter Surviving Spouse's Information Below Spouse's Last Name DOUGH Spouse's First Name JANE Last Four Digits of Spouse's SSN MI

THIS RETURN MUST BE FILED IN DUPLICATE WITH THE REGISTER OF WILLS

TYPE OF RETURN (select only one)

- Original Estate Return (checked), Supplemental Estate Return, Individual Transferee Return, Remainder Return

FILL IN ALL OVALS THAT APPLY

- Decedent Died Testate (checked), Spouse is Sole Beneficiary, Litigation Proceeds Received, Federal Estate Tax Return Required, Agricultural Exemption, Family-Owned Business Exemption, Business Assets, Decedent Maintained Living Trust, Future Interest Compromise, Deferral/Election of Spousal Trust, Total Number of Safe Deposit Boxes

CORRESPONDENT - THIS SECTION MUST BE COMPLETED. ALL CORRESPONDENCE AND CONFIDENTIAL TAX INFORMATION SHOULD BE DIRECTED TO:

Name ELAINE T YANDRISEVITS Daytime Telephone Number 215 230 7500

First Line of Address 131 W STATE STREET

Second Line of Address

PO BOX 50

City or Post Office DOYLESTOWN State PA Zip Code 18901

Correspondent's email address: Eyandrisevits@ammlaw.com

REGISTER OF WILLS USE ONLY DATE FILED STAMP

PLEASE USE ORIGINAL FORM ONLY

REGISTER OF WILLS USE ONLY DATE FILED MMDDYYYY



1505619124

1505619124

1505619224

REV-1500 (EX) MOD 03-19

Decedent's Social Security Number

Decedent's Name: **Dough (Case 5), Joe**

123 45 6789

RECAPITULATION

1. Real Estate (Schedule A).....	1.	2,600,000.00
2. Stocks and Bonds (Schedule B).....	2.	1,720,000.00
3. Closely Held Corporation, Partnership or Sole-Proprietorship (Schedule C).....	3.	
4. Mortgages and Notes Receivable (Schedule D).....	4.	
5. Cash, Bank Deposits and Miscellaneous Personal Property (Schedule E)	5.	1,139,000.00
6. Jointly Owned Property (Schedule F) <input type="checkbox"/> Separate Billing Requested.....	6.	250,000.00
7. Inter-Vivos Transfers & Miscellaneous Non-Probate Property (Schedule G) <input type="checkbox"/> Separate Billing Requested.....	7.	2,007,000.00
8. Total Gross Assets (total Lines 1 through 7).....	8.	7,716,000.00
<hr/>		
9. Funeral Expenses and Administrative Costs (Schedule H).....	9.	53,150.00
10. Debts of Decedent, Mortgage Liabilities and Liens (Schedule I).....	10.	480.00
11. Total Deductions (total Lines 9 and 10).....	11.	53,630.00
12. Net Value of Estate (Line 8 minus Line 11).....	12.	7,662,370.00
13. Charitable and Governmental Bequests/Sec 2113 Trusts for which an election to tax has not been made (Schedule J).....	13.	100,000.00
14. Net Value Subject to Tax (Line 12 minus Line 13).....	14.	7,562,370.00

TAX CALCULATION - SEE INSTRUCTIONS FOR APPLICABLE RATES

15. Amount of Line 14 taxable at the spousal tax rate, or transfers under Sec. 2116 (a)(1.2) or (1.4)	5,000,000.00	x .00	15.	0.00
16. Amount of Line 14 taxable at lineal rate	2,436,370.00	x .045	16.	109,636.65
17. Amount of Line 14 taxable at sibling rate	126,000.00	x .12	17.	15,120.00
18. Amount of Line 14 taxable at collateral rate	0.00	x .15	18.	0.00
19. TAX DUE			19.	124,756.65

Under penalties of perjury, I declare I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct and complete. Declaration of preparer other than the person responsible for filing the return is based on all information of which preparer has any knowledge.

SIGNATURE OF PERSON RESPONSIBLE FOR FILING RETURN **Mary Dough** DATE

ADDRESS

211 Broad Street, Doylestown, PA 18901

SIGNATURE OF PREPARER OTHER THAN PERSON RESPONSIBLE FOR FILING THE RETURN **Elaine W. Yandrisevits Esq.** DATE

ADDRESS

131 West State Street, Doylestown, PA 18901



1505619224

1505619224

DECEDENT'S COMPLETE ADDRESS

Decedent's Name

Dough (Case 5), Joe

Street Address

123 Elm Street

City

Doylestown

State

PA

ZIP Code

18901

TAX PAYMENTS AND CREDITS

1. Tax Due (Page 2, Line 19)	1.	<u>124,756.65</u>
2. Prior Payments - Enter total payment amount on Line 2. (List each receipt number for prior payments)		
Receipt 1 Receipt #		
Receipt 2		
Receipt 3		
Receipt 4		
Total Amount Paid 2.		<u>100,000.00</u>
<small>(If additional space is needed, attach a separate piece of paper)</small>		
3. Discount - Only if applicable (See Instructions)	3.	<u>5,263.16</u>
4. Interest	4.	
5. If Line 2 + Line 3 is greater than Line 1 + Line 4, enter the difference. This is the OVERPAYMENT. Complete the OVERPAYMENT Section below	5.	
6. If Line 1 + Line 4 is greater than Line 2 + Line 3, enter the difference. This is the TAX DUE	6.	<u>19,493.49</u>

OVERPAYMENT: (select one oval)

Leave overpayment on the account*

Make check payable to: REGISTER OF WILLS, AGENT.

Issue a refund of the entire overpayment

Issue a partial refund and leave the remaining amount on the account*

Refund Amount \$

Important: Estate refunds will be issued in the name of the estate and mailed to the correspondent on file at the time of issuance. If you are unable to cash a refund in the name of the estate or the refund should be mailed to another individual, a representative of the estate may request a change. See instructions for additional information.

*The department will maintain an overpayment for only 3 years.

MARK ALL OVALS THAT APPLY

- 1. Decedent made a transfer and:
 - a. retained the use or income of the property transferred;.....
 - b. retained the right to designate who shall use the property transferred or its income;.....
 - c. retained a reversionary interest.....
 - d. received the promise for life of either payments, benefits or care.....
- 2. If death occurred after Dec. 12, 1982: Decedent transferred property within one year of death without receiving adequate consideration.....
- 3. Decedent owned an "in trust for" or payable upon death bank account or security at his or her death.....
- 4. Decedent owned an individual retirement account, annuity, or other non-probate property which contains a beneficiary designation.....

IF ANY OVALS ARE MARKED, YOU MUST COMPLETE SCHEDULE G AND FILE IT AS PART OF THE RETURN.



1505619324

1505619324

pennsylvania
 DEPARTMENT OF REVENUE
 INHERITANCE TAX RETURN
 RESIDENT DECEDENT

SCHEDULE A
REAL ESTATE

ESTATE OF
Dough (Case 5), Joe

FILE NUMBER
09-05-9999

All real property owned solely or as a tenant in common must be reported at fair market value. Fair market value is defined as the price at which property would be exchanged between a willing buyer and a willing seller, neither being compelled to buy or sell, both having reasonable knowledge of the relevant facts. Real property that is jointly-owned with right of survivorship must be disclosed on schedule F.

ITEM NUMBER	DESCRIPTION <small>Attach a copy of the settlement sheet if the property has been sold Include a copy of the deed showing decedent's interest if owned as tenant in common.</small>	VALUE AT DATE OF DEATH
1	Residence situate at 123 Elm Street, Doylestown, PA 18901	2,600,000.00
TOTAL (Also enter on Line 1, Recapitulation)		2,600,000.00

(If more space is needed, additional pages of the same size)

pennsylvania
 DEPARTMENT OF REVENUE
 INHERITANCE TAX RETURN
 RESIDENT DECEDENT

SCHEDULE B
STOCKS & BONDS

ESTATE OF
Dough (Case 5), Joe

FILE NUMBER
09-05-9999

All property jointly-owned with right of survivorship must be disclosed on Schedule F.

ITEM NUMBER	CUSIP NUMBER	DESCRIPTION	UNIT VALUE	VALUE AT DATE OF DEATH
1		10,000 shares of Gillette Company	100	1,000,000.00
2		Gillette Company - Accrued dividend		5,000.00
3		4,000 shares of Johnson & Johnson	85	340,000.00
4		5,000 shares of Merck & Company	75	375,000.00
TOTAL (Also enter on Line 2, Recapitulation)				1,720,000.00

(If more space is needed, additional pages of the same size)

pennsylvania
 DEPARTMENT OF REVENUE
 INHERITANCE TAX RETURN
 RESIDENT DECEDENT

SCHEDULE E
CASH, BANK DEPOSITS, & MISC.
PERSONAL PROPERTY

ESTATE OF Dough (Case 5), Joe	FILE NUMBER 09-05-9999
---	----------------------------------

Include the proceeds of litigation and the date the proceeds were received by the estate.
 All property jointly-owned with the right of survivorship must be disclosed on schedule F.

ITEM NUMBER	DESCRIPTION	VALUE AT DATE OF DEATH
1	Big Bank Checking Account #4321	1,050,000.00
2	2017 Jaguar Automobile	69,000.00
3	Household Effects	20,000.00
TOTAL (Also enter on Line 5, Recapitulation)		1,139,000.00

(If more space is needed, additional pages of the same size)

SCHEDULE F
JOINTLY-OWNED PROPERTY

ESTATE OF Dough (Case 5), Joe	FILE NUMBER 09-05-9999
--	---

If an asset was made joint within one year of the decedent's date of death, it must be reported on schedule G.

SURVIVING JOINT TENANT(S) NAME(S)	ADDRESS	RELATIONSHIP OF DECEDENT
A. Joe Dough, Jr.	123 Elm Street Doylestown, PA	Son
B.		
C.		

JOINTLY OWNED PROPERTY:

ITEM NUMBER	LETTER FOR JOINT TENANT	LAST 4 DIGITS OF BANK ACCOUNT #	DATE MADE JOINT	DESCRIPTION OF PROPERTY <small>NAME OF FINANCIAL INSTITUTION ATTACH DEED FOR JOINTLY HELD REAL ESTATE</small>	DATE OF DEATH VALUE OF ASSET	% OF DECED'S INTEREST	DATE OF DEATH VALUE OF DECEDENT'S INTEREST
1	A			Big Bank Money Market Account	500,000.00	50.000%	250,000.00
TOTAL (Also enter on Line 6, Recapitulation)							250,000.00



SCHEDULE G
INTER-VIVOS TRANSFERS AND
MISC. NON-PROBATE PROPERTY

ESTATE OF	FILE NUMBER
Dough (Case 5), Joe	09-05-9999

ITEM NUMBER	LAST 4 DIGITS OF ACCOUNT ID	DESCRIPTION OF PROPERTY <small>INCLUDE THE NAME OF THE TRANSFEREE, THE RELATIONSHIP TO DECEDENT AND THE DATE OF TRANSFER. ATTACH A COPY OF THE DEED FOR REAL ESTATE.</small>	DATE OF DEATH VALUE OF ASSET	% OF DECED'S INTEREST	EXCLUSION (IF APPLICABLE)	TAXABLE VALUE
1		IRA Account First National Cust. Acct. #65478 - Joe Dough, Jr. and Mary Dough equal beneficiaires	2,000,000.00			2,000,000.00
2		Gift to Sister Dough within one year of death	10,000.00		3,000.00	7,000.00
TOTAL (Also enter on Line 7, Recapitulation)						2,007,000.00



pennsylvania
 DEPARTMENT OF REVENUE
 INHERITANCE TAX RETURN
 RESIDENT DECEDENT

SCHEDULE H
FUNERAL EXPENSES AND
ADMINISTRATIVE COSTS

ESTATE OF

Dough (Case 5), Joe

FILE NUMBER
09-05-9999

Decedent's debts must be reported on Schedule I.

ITEM NUMBER	DESCRIPTION	AMOUNT
A.	FUNERAL EXPENSES:	
	See continuation schedule(s) attached	6,500.00
B.	ADMINISTRATIVE COSTS:	
1.	Personal Representative's Commissions Name of Personal Representative(s) <u>Mary Dough</u> <hr/> Street Address <u>211 Broad Street</u> City <u>Doylestown</u> State <u>PA</u> Zip <u>18901</u> Year(s) Commission Paid <u>2019</u>	30,000.00
2.	Attorney's Fees ANTHEIL, MASLOW & MACMINN, LLP	15,000.00
3.	Family Exemption: (If decedent's address is not the same as claimant's, attach explanation) Claimant _____ Street Address _____ City _____ State _____ Zip _____ Relationship of Claimant to Decedent _____	
4.	Probate Fees	650.00
5.	Accountant's Fees	
6.	Tax Return Preparer's Fees	
7.	Other Administrative Costs See continuation schedule(s) attached	1,000.00
TOTAL (Also enter on line 9, Recapitulation)		53,150.00

SCHEDULE H
FUNERAL EXPENSES AND ADMINISTRATIVE COSTS
continued

ESTATE OF <p style="text-align: center;">Dough (Case 5), Joe</p>	FILE NUMBER <p style="text-align: center;">09-05-9999</p>
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ITEM NUMBER	DESCRIPTION	AMOUNT
	<u>Funeral Expenses</u>	
1	Funeral Home	6,500.00
	H-A	6,500.00
	<u>Other Administrative Costs</u>	
2	Cable Company	200.00
3	Cable Company	200.00
4	Cable Company	200.00
5	Cable Company	200.00
6	Cable Company	200.00
	H-B7	1,000.00

pennsylvania
 DEPARTMENT OF REVENUE
 INHERITANCE TAX RETURN
 RESIDENT DECEDENT

SCHEDULE I
DEBTS OF DECEDENT,
MORTGAGE LIABILITIES AND LIENS

ESTATE OF
 Dough (Case 5), Joe

FILE NUMBER
 09-05-9999

Report debts incurred by the decedent prior to death that remained unpaid at the date of death, including unreimbursed medical expenses.

ITEM NUMBER	DESCRIPTION	VALUE AT DATE OF DEATH
1	Credit Card	400.00
2	Medical Bills	80.00
TOTAL (Also enter on Line 10, Recapitulation)		480.00

(If more space is needed, additional pages of the same size)

SCHEDULE J
BENEFICIARIES
(Part I, Taxable Distributions)

ESTATE OF:
Joe Dough (Case 5) 01/01/2021 123-45-6789

Item Number	Name and Address of Person(s) Receiving Property	Relationship	Share of Estate (Words)	Amount of Estate (\$\$\$)
1	Brother Dough 131 West State Street Doylestown, PA 18901	Brother	Car	
2	Jane Dough 123 Elm Street Doylestown, PA 18901	Spouse	Specif Gift per prenuptial agreement	
3	Joe, Jr. Dough PA	Son	One-half residue, Joint Account Schedule F, item 1, IRA Schedule G, item 1	
4	Mary Dough 211 Broad Street Doylestown, PA 18901	Daughter	One-half residue, IRA Schedule G, item 1	
5	Sister Dough 24 Oak Avenue Doylestown, PA 18901	Sister	\$50,000 Specific Bequest, Schedule G, item 2	

Chapter Three

Attachment B:
Form 706 United States Estate (and Generation-Skipping
Transfer) Tax Return

United States Estate (and Generation-Skipping Transfer) Tax Return
 ▶ Estate of a citizen or resident of the United States (see instructions).
 To be filed for decedents dying after December 31, 2018.

OMB No. 1545-0015

Part 1. - Decedent and Executor	1a Decedent's first name and middle initial (and maiden name, if any) Joe	1b Decedent's last name Dough (Case 5)		2 Decedent's Social Security No. 123-45-6789
	3a City, town, or post office; county, state or province, country, and ZIP or foreign postal code. Doylestown, Pennsylvania	3b Year domicile established	4 Date of birth 01-01-1925	5 Date of death 01-01-2021
	6a Name of executor (see instructions) Mary Dough	6b Executor's address (number and street including apartment or suite no.; city, town, or post office; state or province; country; and ZIP or foreign postal code) and phone no. 211 Broad Street Doylestown, PA 18901		
	6c Executor's social security number (see instructions) 333-33-3333	Phone no.		
	6d If there are multiple executors, check here <input type="checkbox"/> and attach a list showing the names, addresses, telephone numbers, and SSNs of the additional executors.			
	7a Name and location of court where will was probated or estate administered Register of Wills Bucks County, PA, Bucks County Courthouse, Doylestown, PA 18901			7b Case number 09-2005-9999
	8 If decedent died testate, check here <input checked="" type="checkbox"/> and attach a certified copy of the will. 9 If you extended the time to file this Form 706, check here <input type="checkbox"/>			
10 If Schedule R-1 is attached, check here <input type="checkbox"/>		11 If estimating value of assets included in gross estate on line 1 pursuant to the special rule of Reg. section 20.2010-2(a) (7)(ii), check here <input type="checkbox"/>		

Part 2. - Tax Computation	1 Total gross estate less exclusion (from Part 5, Recapitulation, item 13).....	1	12,959,000.00
	2 Total allowable deductions (from Part 5, Recapitulation, item 24)).....	2	5,153,630.00
	3a Tentative taxable estate (subtract line 2 from line 1).....	3 a	7,805,370.00
	b Deduction for state death taxes.....	b	119,493.49
	c Taxable estate (subtract line 3b from line 3a).....	c	7,685,876.51
	4 Adjusted taxable gifts (see instructions).....	4	
	5 Add lines 3c and 4.....	5	7,685,876.51
	6 Tentative tax on the amount on line 5 from Table A in the instructions.....	6	3,020,150.60
	7 Total gift tax paid or payable (see instructions).....	7	
	8 Gross estate tax (subtract line 7 from line 6).....	8	3,020,150.60
	9a Basic exclusion amount.....	9a	11,700,000.00
	9b Deceased spousal unused exclusion (DSUE) amount from predeceased spouse(s), if any (from Section D, Part 6 - Portability of Deceased Spousal Unused Exclusion).....	9b	
	9c Restored exclusion amount (see instructions).....	9c	
	9d Applicable exclusion amount (add lines 9a, 9b, and 9c).....	9d	11,700,000.00
	9e Applicable credit amount (tentative tax on the amount in line 9d from Table A in the instructions).....	9e	4,625,800.00
	10 Adjustment to applicable credit amount (May not exceed \$6,000. See instructions.).....	10	
	11 Allowable unified credit (applicable credit amount) (subtract line 10 from line 9e).....	11	4,625,800.00
	12 Subtract line 11 from line 8 (but do not enter less than zero).....	12	0.00
	13 Credit for foreign death taxes (from Schedule(s) P). (Attach Form(s) 706-CE.).....	13	0.00
	14 Credit for tax on prior transfers (from Schedule Q).....	14	0.00
15 Total credits (add lines 13 and 14).....	15	0.00	
16 Net estate tax (subtract line 15 from line 12).....	16	0.00	
17 Generation-skipping transfer (GST) taxes (from Schedule R, Part 2, line 10).....	17	0.00	
18 Total transfer taxes (add lines 16 and 17).....	18	0.00	
19 Prior payments. Explain in an attached statement.....	19		
20 Balance due (or overpayment) (subtract line 19 from line 18).....	20	0.00	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer other than the executor is based on all information of which preparer has any knowledge.

Sign Here			
Paid Preparer Use Only	Print/Type preparer's name ELAINE T. YANDRISEVITS	Preparer's signature	Date
	Firm's name ▶ ANTHEIL, MASLOW & MACMINN, LLP	Check <input type="checkbox"/> if self-employed PTIN P02164976	
	Firm's address ▶ 131 W. STATE STREET, PO BOX 50, DOYLESTOWN, PA 18901	Firm's EIN ▶ 23-2679018	Phone no. 215-230-7500

Estate of: **Joe Dough (Case 5) 01/01/2021** Decedent's Social Security Number **123-45-6789**

Part 3 -- Elections by the Executor

Note. For information on electing portability of the decedent's DSUE amount, including how to opt out of the election, see Section A of Part 6-Portability of Deceased Spousal Unused Exclusion.

Note. Some of these elections may require the posting of bonds or liens.

	Yes	No
<i>Please check "Yes" or "No" box for each question. See instructions.</i>		
1 Do you elect alternate valuation?	1	
2 Do you elect special-use valuation? If "Yes," you must complete and attach Schedule A-1	2	
3 Do you elect to pay the taxes in installments as described in section 6166?..... If "Yes," you must attach the additional information described in the instructions. Note. By electing section 6166, you may be required to provide security for estate tax deferred under section 6166 and interest in the form of a surety bond or a section 6324A lien.	3	
4 Do you elect to postpone the part of the taxes attributable to a reversionary or remainder interest as described in section 6163?.....	4	

Part 4 -- General Information

Note. Please attach the necessary supplemental documents. You must attach the death certificate. See instructions.

Authorization to receive confidential tax information under Regs. sec. 601.504(b)(2)(i); to act as the estate's representative before the IRS; and to make written or oral presentations on behalf of the estate.

Name of representative (print or type) **ELAINE T. YANDRISEVITS** State **PA** Address (number, street, and room or suite no., city, state, and ZIP code) **131 W. STATE STREET, DOYLESTOWN, PA 18901**

I declare that I am the attorney/ certified public accountant/ enrolled agent (check the applicable box) for the executor. I am not under suspension or disbarment from practice before the Internal Revenue Service and am qualified to practice in the state shown above.

Signature _____ CAF number _____ Date _____ Telephone number **215-230-7500**

1 Death certificate number and issuing authority (attach a copy of the death certificate to this return).

55555-55 PA Dept. of Health

2 Decedent's business or occupation. If retired, check here and state decedent's former business or occupation.
Executive

3a Marital status of the decedent at time of death:

Married Widow/widower Single Legally separated Divorced

3b For all prior marriages, list the name and SSN of the former spouse, the date the marriage ended, and whether the marriage ended by annulment, divorce, or death. Attach additional statements of the same size if necessary.

4a Surviving spouse's name **Jane Dough** 4b Social security number _____ 4c Amount received (see instructions) **5,000,000.00**

5 Individuals (other than the surviving spouse), trusts, or other estates who receive benefits from the estate (do not include charitable beneficiaries shown in Schedule O) (see instructions).

Name of individual, trust, or estate receiving \$5,000 or more	Identifying number	Relationship to decedent	Amount (see instructions)
See attached schedule			7,805,370.00

All unascertainable beneficiaries and those who receive less than \$5,000.....
Total..... **7,805,370.00**

If you answer "Yes" to any of the following questions, you must attach additional information as described.

	Yes	No
6 Is the estate filing a protective claim for refund?		X
If "Yes," complete and attach two copies of Schedule PC for each claim.		
7 Does the gross estate contain any section 2044 property (qualified terminable interest property (QTIP) from a prior gift or estate)? See instructions		
8a Have federal gift tax returns ever been filed?		
If "Yes," attach copies of the returns, if available, and furnish the following information:		
b Period(s) covered	c Internal Revenue office(s) where filed	
9a Was there any insurance on the decedent's life that is not included on the return as part of the gross estate?		
b Did the decedent own any insurance on the life of another that is not included in the gross estate?		

Form U.S. 706
BENEFICIARIES
 (Page 2, Part 4, Line 5)

ESTATE OF: Joe Dough (Case 5) 01/01/2021 123-45-6789			
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Name of individual, trust, or estate receiving \$5,000 or more	Identifying number	Relationship to decedent	Amount (see instructions)
1 Joe, Jr. Dough	unknown	Son	4,093,185.00
2 Brother Dough	654-23-7856	Brother	69,000.00
3 Mary Dough	333-33-3333	Daughter	3,593,185.00
4 Sister Dough	762-12-1005	Sister	50,000.00
Total			<u>7,805,370.00</u>

Estate of: **Joe Dough (Case 5) 01/01/2021** Decedent's Social Security Number **123-45-6789**

Part 4 - General Information (continued)

If you answer "Yes" to any of the following questions, you must attach additional information as described in the instructions.		Yes	No
10	Did the decedent at the time of death own any property as a joint tenant with right of survivorship in which (a) one or more of the other joint tenants was someone other than the decedent's spouse, and (b) less than the full value of the property is included on the return as part of the gross estate? If "Yes," you must complete and attach Schedule E		
11a	Did the decedent, at the time of death, own any interest in a partnership (for example, a family limited partnership), an unincorporated business, or a limited liability company; or own any stock in an inactive or closely held corporation?.....		
	b If "Yes," was the value of any interest owned (from above) discounted on this estate tax return? If "Yes," see the instructions on reporting the total accumulated or effective discounts taken on Schedule F or G		
12	Did the decedent make any transfer described in section 2035, 2036, 2037, or 2038? See instructions. If "Yes," you must complete and attach Schedule G.....		
13a	Were there in existence at the time of the decedent's death any trusts created by the decedent during his or her lifetime?		
	b Were there in existence at the time of the decedent's death any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship?		
	c Was the decedent receiving income from a trust created after October 22, 1986 by a parent or grandparent?		
	If "Yes," was there a GST taxable termination (under section 2612) on the death of the decedent?		
	d If there was a GST taxable termination (under section 2612), attach a statement to explain. Provide a copy of the trust or will creating the trust, and give the name, address, and phone number of the current trustee(s).		
	e Did decedent at any time during his or her lifetime transfer or sell an interest in a partnership, limited liability company, or closely held corporation to a trust described in line 13a or 13b?		
	If "Yes," provide the EIN number for this transferred/sold item. ▶		
14	Did the decedent ever possess, exercise, or release any general power of appointment? If "Yes," you must complete and attach Schedule H		
15	Did the decedent have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account?		
16	Was the decedent, immediately before death, receiving an annuity described in the "General" paragraph of the instructions for Schedule I or a private annuity? If "Yes," you must complete and attach Schedule I		
17	Was the decedent ever the beneficiary of a trust for which a deduction was claimed by the estate of a pre-deceased spouse under section 2056(b)(7) and which is not reported on this return? If "Yes," attach an explanation		

Part 5 - Recapitulation Note. If estimating the value of one or more assets pursuant to the special rule of Reg. sec. 20.2010-2T(a)(7)(ii), enter on both lines 10 and 23 the amount noted in the instructions for the corresponding range of values. (See instructions for details.)

Item no.	Gross estate	Alternate value	Value at date of death
1	Schedule A — Real Estate.....	1	5,600,000.00
2	Schedule B — Stocks and Bonds	2	1,720,000.00
3	Schedule C — Mortgages, Notes, and Cash	3	1,050,000.00
4	Schedule D — Insurance on the Decedent's Life (attach Form(s) 712)	4	2,000,000.00
5	Schedule E — Jointly Owned Property (attach Form(s) 712 for life insurance)	5	500,000.00
6	Schedule F — Other Miscellaneous Property (attach Form(s) 712 for life insurance)	6	89,000.00
7	Schedule G — Transfers During Decedent's Life (attach Form(s) 712 for life insurance)	7	0.00
8	Schedule H — Powers of Appointment	8	0.00
9	Schedule I — Annuities	9	2,000,000.00
10	Estimated value of assets subject to the special rule of Reg. section 20.2010-2T(a)(7)(ii)	10	
11	Total gross estate (add items 1 through 10)	11	12,959,000.00
12	Schedule U — Qualified Conservation Easement Exclusion	12	
13	Total gross estate less exclusion (subtract item 12 from item 11). Enter here and on line 1 of Part 2 - Tax Computation	13	12,959,000.00
Item no.	Deductions		Amount
14	Schedule J — Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims	14	53,150.00
15	Schedule K — Debts of the Decedent	15	480.00
16	Schedule K — Mortgages and Liens	16	0.00
17	Total of items 14 through 16	17	53,630.00
18	Allowable amount of deductions from item 17 (see the instructions for item 18 of the Recapitulation)	18	53,630.00
19	Schedule L — Net Losses During Administration	19	0.00
20	Schedule L — Expenses Incurred in Administering Property Not Subject to Claims	20	0.00
21	Schedule M — Bequests, etc., to Surviving Spouse	21	5,000,000.00
22	Schedule O — Charitable, Public, and Similar Gifts and Bequests	22	100,000.00
23	Estimated value of assets subject to the special rule of Reg. section 20.2010-2T(a)(7)(ii)	23	
24	Tentative total allowable deductions (add items 18 through 23). Enter here and on line 2 of the Tax Computation	24	5,153,630.00

Estate of: **Joe Dough (Case 5) 01/01/2021** Decedent's Social Security Number **123-45-6789**

Part 6—Portability of Deceased Spousal Unused Exclusion (DSUE)

Portability Election

A decedent with a surviving spouse elects portability of the deceased spousal unused exclusion (DSUE) amount, if any, by completing and timely-filing this return. No further action is required to elect portability of the DSUE amount to allow the surviving spouse to use the decedent's DSUE amount.

Section A. Opting Out of Portability

The estate of a decedent with a surviving spouse may opt out of electing portability of the DSUE amount. Check here and do not complete Sections B and C of Part 6 only if the estate opts NOT to elect portability of the DSUE amount.

Section B. Qualified Domestic Trust (QDOT)

Are any assets of the estate being transferred to a QDOT?

Yes	No
<input type="checkbox"/>	<input checked="" type="checkbox"/>

If "Yes," the DSUE amount portable to a surviving spouse (calculated in Section C, below) is preliminary and shall be redetermined at the time of the final distribution or other taxable event imposing estate tax under section 2056A. See instructions for more details.

Section C. DSUE Amount Portable to the Surviving Spouse (To be completed by the estate of a decedent making a portability election.)

Complete the following calculation to determine the DSUE amount that can be transferred to the surviving spouse.

1	Enter the amount from line 9d, Part 2 - Tax Computation.....	1	11,700,000.00
2	Reserved.....	2	
3	Enter the value of the cumulative lifetime gifts on which tax was paid or payable (see instructions).....	3	
4	Add lines 1 and 3.....	4	11,700,000.00
5	Enter amount from line 10, Part 2 - Tax Computation.....	5	
6	Divide amount on line 5 by 40% (0.40) (do not enter less than zero).....	6	0.00
7	Subtract line 6 from line 4.....	7	11,700,000.00
8	Enter amount from line 5, Part 2 - Tax Computation.....	8	7,685,876.51
9	Subtract line 8 from line 7 (do not enter less than zero).....	9	4,014,123.49
10	DSUE amount portable to the surviving spouse (Enter the lesser of line 9 or line 9a, Part 2-Tax Computation)	10	4,014,123.49

Section D. DSUE Amount Received From Predeceased Spouse(s) (To be completed by the estate of a deceased surviving spouse with DSUE amount from predeceased spouse(s))

Provide the following information to determine the DSUE amount received from deceased spouses.

A Name of Deceased Spouse (dates of death after December 31, 2010, only)	B Date of Death (enter as mm/dd/yy)	C Portability Election Made?		D If "Yes," DSUE Amount Received from Spouse	E DSUE Amount Applied by Decedent to Lifetime Gifts	F Year of Form 709 Reporting Use of DSUE Amount Listed in col E	G Remaining DSUE Amount, if any (subtract col. E from col. D)
		Yes	No				
Part 1 — DSUE RECEIVED FROM LAST DECEASED SPOUSE							
		<input checked="" type="checkbox"/>	<input type="checkbox"/>				
Part 2 — DSUE RECEIVED FROM OTHER PREDECEASED SPOUSE(S) AND USED BY DECEDENT							
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
		<input type="checkbox"/>	<input type="checkbox"/>				
Total (for all DSUE amounts from predeceased spouse(s) applied).....							

Add the amount from Part 1, column D and the total from Part 2, column E. Enter the result on line 9b, Part 2 - Tax Computation.....

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE A - Real Estate

- For jointly owned property that must be disclosed on Schedule E, see instructions.
- Real estate that is part of a sole proprietorship should be shown on Schedule F.
- Real estate that is included in the gross estate under section 2035, 2036, 2037, or 2038 should be shown on Schedule G.
- Real estate that is included in the gross estate under section 2041 should be shown on Schedule H.
- If you elect section 2032A valuation, you must complete Schedule A and Schedule A-1.

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

Item Number	Description	Alternate valuation date	Alternate Value	Value at date of death
1	Beach House 1313 Beach Lane, Stone Harbor, NJ			3,000,000.00
2	Residence situate at 123 Elm Street, Doylestown, PA 18901			2,600,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....				
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 1.)				5,600,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE B - Stocks and Bonds

(For jointly owned property that must be disclosed on Schedule E, see instructions.)

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last four columns.

Item Number	Description including face amount of bonds or number of shares and par value for identification. Give CUSIP number. If trust, partnership, or closely held entity, give EIN	Unit Value	Alternate valuation date	Alternate Value	Value at date of death
1	10,000 shares of Gillette Company	100			1,000,000.00
2	Gillette Company - Accrued dividend				5,000.00
3	4,000 shares of Johnson & Johnson	85			340,000.00
4	5,000 shares of Merck & Company	75			375,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....					
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 2.)					1,720,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE C - Mortgages, Notes, and Cash
 (For jointly owned property that must be disclosed on Schedule E, see instructions.)

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

Item Number	Description	Alternate valuation date	Alternate Value	Value at date of death
1	Big Bank Checking Account #4321			1,050,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....				
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 3.)				1,050,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE D - Insurance on the Decedent's Life

You must list all policies on the life of the decedent and attach a Form 712 for each policy.

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

Item Number	Description	Alternate valuation date	Alternate Value	Value at date of death
1	Bethere Life Insurance Company Policy #424567			2,000,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....				
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 4.)				2,000,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of: **Joe Dough (Case 5) 01/01/2021** Decedent's Social Security Number **123-45-6789**

SCHEDULE E - Jointly Owned Property

(If you elect section 2032A valuation, you must complete Schedule E and Schedule A-1.)

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

PART 1. - Qualified Joint Interests - Interests Held by the Decedent and His or Her Spouse as the Only Joint Tenants (Section 2040(b)(2))

Item Number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate Value	Value at date of death
	None			
Total from continuation schedules (or additional sheets) attached to this schedule.....				
1a	Totals.....	1a		
1b	Amounts included in gross estate (one-half of line 1a).....	1b		

PART 2. - All Other Joint Interests

2a State the name and address of each surviving co-tenant. If there are more than three surviving co-tenants, list the additional co-tenants on an attached sheet.

Name	Address (number and street, city, state, and ZIP code)
A. Joe Dough, Jr.	123 Elm Street Doylestown, PA
B.	
C.	

Item Number	Enter letter for co-tenant	Description (including alternate valuation date, if any). For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Percentage includible	Includible Alternate Value	Includible value at date of death
		See continuation schedule(s) attached			
Total from continuation schedules (or additional sheets) attached to this schedule.....					See attached page (s)
2b		Total other joint interests.....	2b		500,000.00
3		Total includible joint interests (add lines 1b and 2b). Also enter on Part 5, Recapitulation, page 3, at item 5.....	3		500,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

**SCHEDULE E, Part 2 - Jointly Owned Property/Other
 (continued)**

Item Number	Enter letter for co-tenant	Description (including alternate valuation date, if any). For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	CUSIP # or EIN, where applicable	Percentage includible	Includible Alternate Value	Includible value at date of death
1	A	Big Bank Money Market Account				500,000.00
Total						500,000.00

Estate of: Joe Dough (Case 5) 01/01/2021	Decedent's Social Security Number 123-45-6789
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SCHEDULE F - Other Miscellaneous Property Not Reportable Under Any Other Schedule

(For jointly owned property that must be disclosed on Schedule E, see instructions.)
(If you elect section 2032A valuation, you must complete Schedule F and Schedule A-1.)

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

1 Did the decedent own any works of art, items, or any collections whose artistic or collectible value at date of death exceeded \$3,000?..... If "Yes," submit full details on this schedule and attach appraisals.	Yes	No
2 Has the decedent's estate, spouse, or any other person, received (or will receive) any bonus or award as a result of the decedent's employment or death?..... If "Yes," submit full details on this schedule.		
3 Did the decedent at the time of death have, or have access to, a safe deposit box?..... If "Yes," state location, and if held in joint names of decedent and another, state name and relationship of joint depositor.		

If any of the contents of the safe deposit box are omitted from the schedules in this return, explain fully why omitted.

Item Number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Alternate valuation date	Alternate Value	Value at date of death
1	2017 Jaguar Automobile			69,000.00
2	Household Effects			20,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....				
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 6.)				89,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)
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Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE I - Annuities

Note: Generally, no exclusion is allowed for the estates of decedents dying after December 31, 1984. See instructions.

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

A Are you excluding from the decedent's gross estate the value of a lump-sum distribution described in section 2039(f)(2) (as in effect before its repeal by the Deficit Reduction Act of 1984)?.....

Yes	No

If "Yes," you must attach the information required by the instructions.

Item Number	Description Show the entire value of the annuity before any exclusions	Unit Value	Alternate valuation date	Includible alternate value	Includible Value at date of death
1	IRA Account First National Cust. Acct. #65478 - Joe Dough, Jr. and Mary Dough equal beneficiaries				2,000,000.00
Total from continuation schedules or (additional sheets) attached to this schedule.....					
TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 9.)					2,000,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Estate of: Joe Dough (Case 5) 01/01/2021	Decedent's Social Security Number 123-45-6789
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SCHEDULE J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims

▶ Use Schedule PC to make a protective claim for refund due to an expense not currently deductible. For such a claim, report the expense on Schedule J but without a value in the last column.

Note: Do not list expenses of administering property not subject to claims on this schedule. To report those expenses, see instructions.

If executors' commissions, attorney fees, etc., are claimed and allowed as a deduction for estate tax purposes, they are not allowable as a deduction in computing the taxable income of the estate for Federal income tax purposes. They are allowable as an income tax deduction on Form 1041, U.S. Income Tax Return for Estates and Trusts, if a waiver is filed to waive the deduction on Form 706. See the Instructions for Form 1041.

Are you aware of any actual or potential reimbursement to the estate for any expense claimed as a deduction on this schedule?.....	Yes	No
		X

If "Yes," attach a statement describing the expense(s) subject to potential reimbursement. See instructions.

Item Number	Description	Expense amount	Total amount
A. Funeral expenses:			
See continuation schedule(s) attached			
Total funeral expenses.....▶			6,500.00
B. Administration expenses:			
1	Executors' commissions: amount XXXXXXXXXXXXXXXXX paid (Strike out the words that do not apply.) ... See continuation schedule(s) attached		30,000.00
2	Attorney fees: amount XXXXXXXXXXXXXXXXX paid (Strike out the words that do not apply.) ... See continuation schedule(s) attached		15,000.00
3	Accountant fees: amount XXXXXXXXXXXXXXXXX paid (Strike out the words that do not apply.)		
4 Miscellaneous expenses:			
See continuation schedule(s) attached			
Total miscellaneous expenses from continuation schedules (or additional sheets) attached to this schedule.....			
Total miscellaneous expenses.....▶			1,650.00
TOTAL. (Also enter on Part 5--Recapitulation, page 3, at item 14.) ▶			53,150.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)
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Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE JA - Funeral Expenses
(continued)

Item Number	Description	Expense amount
1	Funeral Home	6,500.00
Total		6,500.00

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE JB1 - Executors' Commissions
(continued)

Item Number	Description	Expense amount
1	Mary Dough	30,000.00
Total		30,000.00

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE JB2 - Attorney Fees
(continued)

Item Number	Description	Expense amount
1	Antheil Maslow & MacMinn, LLP	15,000.00
Total		15,000.00

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

**SCHEDULE JB4 - Miscellaneous Expenses
 (continued)**

Item Number	Description	Expense amount
1	Cable Company	200.00
2	Cable Company	200.00
3	Cable Company	200.00
4	Cable Company	200.00
5	Cable Company	200.00
6	Register of Wills	650.00
Total		1,650.00

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE K - Debts of the Decedent, and Mortgages and Liens

► Use Schedule PC to make a protective claim for refund due to an expense not currently deductible. For such a claim, report the expense on Schedule K but without a value in the last column.

	Yes	No
Are you aware of any actual or potential reimbursement to the estate for any debt of the decedent, mortgage, or lien claimed as a deduction on this schedule?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "Yes," attach a statement describing the items subject to potential reimbursement. See instructions.		
Are any of the items on this schedule deductible under Reg. section 20.2053-4(b) and Reg. section 20.2053-4(c)?.....	<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "Yes," attach a statement indicating the applicable provision and documenting the value of the claim.		

Item Number	Debts of the Decedent - Creditor and nature of claim, and allowable death taxes	Amount
	See continuation schedule(s) attached	

Total from continuation schedules (or additional sheets) attached to this schedule.....

TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 15)..... **480.00**

Item Number	Mortgages and Liens - Description	Amount
	None	

Total from continuation schedules (or additional sheets) attached to this schedule.....

TOTAL. (Also enter on Part 5, Recapitulation, page 3, at item 16).....

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

**SCHEDULE K1 - Debts of the Decedent
 (continued)**

Item Number	Debts of the Decedent - Creditor and nature of claims, and allowable death taxes	Amount
1	Credit Card	400.00
2	Medical Bills	80.00
<p align="right">Total</p>		480.00

Estate of:
Joe Dough (Case 5) 01/01/2021

Decedent's Social Security Number
123-45-6789

SCHEDULE M - Bequests, etc., to Surviving Spouse

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last column.

	Yes	No
1 Did any property pass to the surviving spouse as a qualified disclaimer?..... <i>If "Yes," attach a copy of the written disclaimer required by section 2518(b).</i>		X
2a In what country was the surviving spouse born? _____		
b What is the surviving spouse's date of birth? _____		
c Is the surviving spouse a U.S. citizen?.....	X	
d If the surviving spouse is a naturalized citizen, when and where did the surviving spouse acquire citizenship? _____		
e If the surviving spouse is not a U.S. citizen, of what country is the surviving spouse a citizen? _____		
3 Election Out of QTIP Treatment of Annuities. - Do you elect under section 2056(b)(7)(C)(ii) not to treat as qualified terminable interest property any joint and survivor annuities that are included in the gross estate and would otherwise be treated as qualified terminable interest property under section 2056(b)(7)(C)? See instructions.....		

Item Number	Description of property interests passing to surviving spouse. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Amount
A	QTIP property:	
B	See continuation schedule(s) attached	5,000,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....		
4	Total amount of property interests listed on Schedule M.....	5,000,000.00
5a	Federal estate taxes payable out of property interests listed on Schedule M.....	
5b	Other death taxes payable out of property interests listed on Schedule M.....	
5c	Federal and state GST taxes payable out of property interests listed on Schedule M.....	
d	Add items 5a, 5b, and 5c.....	5d
6	Net amount of property interests listed on Schedule M (subtract item 5d from item 4). Also enter on Part 5--Recapitulation, page 3, at item 21.).....	5,000,000.00

Estate of: Joe Dough (Case 5) 01/01/2021	Decedent's Social Security Number 123-45-6789
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SCHEDULE M - Bequests, etc., to Surviving Spouse - (B) All Other Property
(continued)

Item Number	Description of property interests passing to surviving spouse. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	Amount
B 1	Spousal Bequest per PreNup	5,000,000.00
Total		5,000,000.00

Estate of: Joe Dough (Case 5) 01/01/2021	Decedent's Social Security Number 123-45-6789
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SCHEDULE O - Charitable, Public, and Similar Gifts and Bequests

Note: If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and the Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last column.

1 a If the transfer was made by will, has any action been instituted to contest or have interpreted any of its provisions affecting the charitable deductions claimed in this schedule? If "Yes," full details must be submitted with this schedule.	Yes	No
b According to the information and belief of the person or persons filing this return, is any such action planned? If "Yes," full details must be submitted with this schedule.		
2 Did any property pass to charity as the result of a qualified disclaimer? If "Yes," attach a copy of the written disclaimer required by section 2518(b).		

Item Number	Name and address of beneficiary	Character of institution	Amount
1	Church 789 Main Street Doylestown, PA 18901		100,000.00
Total from continuation schedules (or additional sheets) attached to this schedule.....			

3 Total.....	3	100,000.00
4 a Federal estate tax payable out of property interests listed above.....	4 a	
b Other death taxes payable out of property interests listed above	4 b	
c Federal and state GST taxes payable out of property interests listed above	4 c	
d Add items 4a, b, and c	4 d	
5 Net amount of property interests listed on Schedule O (subtract item 4d from item 3). Also enter on Part 5-- Recapitulation, page 3, at item 22.).....	5	100,000.00

(If more space is needed, attach the continuation schedule from the end of this package or additional sheets of the same size)

Chapter Three

Attachment C:
Internal Revenue Bulletin: 2017-26



Internal Revenue Bulletin: 2017-26

June 26, 2017

Rev. Proc. 2017-34

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SECTION 1. PURPOSE

This revenue procedure provides a simplified method for certain taxpayers to obtain an extension of time under § 301.9100-3 of the Procedure and Administration Regulations to make a "portability" election under § 2010(c)(5)(A) of the Internal Revenue Code (Code). For purposes of the Federal estate and gift taxes, a portability election allows a decedent's unused exclusion amount (deceased spousal unused exclusion amount, or DSUE amount) to become available for application to the surviving spouse's subsequent transfers during life or at death. The simplified method provided in this revenue procedure is to be used in lieu of the letter ruling process. No user fee is required for submissions filed under this revenue procedure.

SECTION 2. BACKGROUND

.01 Rules for Portability

(1) Section 303(a) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA), Pub. L. No. 111-312, 124 Stat. 3296, 3302 (2010), amended § 2010(c) of the Code to allow the estate of a decedent who is survived by a spouse to make a portability election. For purposes of the Federal estate and gift taxes, a portability election allows the surviving spouse to apply the decedent's DSUE amount to the surviving spouse's own transfers during life and at death. The portability election applies to estates of decedents dying after December 31, 2010, if such decedent is survived by a spouse. The portability provisions under § 2010(c) of the Code were scheduled to expire on January 1, 2013, pursuant to §§ 101(a)(1) and 304 of TRUIRJCA. However, § 101(a) of the American Taxpayer Relief Act of 2012 (ATRA), Pub. L. No. 112-240, 126 Stat. 2313 (2013), made the ability to elect portability permanent.

(2) Section 2010(c)(2) of the Code defines the applicable exclusion amount used to determine the applicable credit amount as the sum of the basic exclusion amount and, in the case of a surviving spouse, the DSUE amount. Section 2010(c)(3) of the Code defines the basic exclusion amount as \$5,000,000, as adjusted for inflation in each year after calendar year 2011. Section 2010(c)(4) of the Code, as amended pursuant to a technical correction in § 101(c) of ATRA, defines the DSUE amount as the lesser of (A) the basic exclusion amount, or (B) the excess of the applicable exclusion amount of the last deceased spouse of the surviving spouse over the amount with respect to which the tentative tax is determined under § 2001(b)(1) of the Code on the estate of such deceased spouse.

(3) Section 2010(c)(5)(A) provides certain requirements that the executor of the estate of a deceased spouse must satisfy to elect portability and thereby make the decedent's DSUE amount available to the decedent's surviving spouse. In particular, the executor of the estate of the deceased spouse must elect portability of the DSUE amount on an estate tax return, which must include a computation of the DSUE amount. Under § 2010(c)(5)(A), a portability election is effective only if made on an estate tax return that is filed within the time prescribed by law (including extensions) for filing such return.

(4) On June 18, 2012, the Department of the Treasury (Treasury) and the Internal Revenue Service (the Service) published in the Federal Register (77 FR 36150) temporary regulations under §§ 2010 and 2505 (T.D. 9593, 2012-28 I.R.B. 17). The portability provisions of the temporary regulations have retroactive effect, applying to estates of decedents dying on or after January 1, 2011. On the same day, a notice of proposed rulemaking (REG-141832-11) containing regulations proposed by cross-reference to the temporary regulations was published in the Federal Register (77 FR 36229). Treasury and the Service published final regulations (80 FR 34279) under §§ 2010 and 2505 on June 16, 2015 (T.D. 9725, 2015-26 I.R.B. 1122), which generally adopt the rules in the temporary and proposed regulations and apply to estates of decedents dying on or after June 12, 2015.

(5) Section 20.2010-2(a)(1) of the Estate Tax Regulations provides that an estate that elects portability will be considered, for purposes of subtitle B and subtitle F of the Code, to be required to file a return under § 6018(a). Accordingly, the due date of an estate tax return required to elect portability is 9 months after the decedent's date of death or the last day of the period covered by an extension (if an extension of time for filing has been obtained). Section 20.2010-2(a)(1) further provides that an extension of time to elect portability will not be granted under § 301.9100-3 to an estate that is required to file an estate tax return under § 6018(a), as determined based on the value of the gross estate and adjusted taxable gifts and without regard to the need to file for portability election purposes. Such an extension, however, may be available to an estate that is not required to file an estate tax return under § 6018(a), as determined based on the value of the gross estate and adjusted taxable gifts and without regard to the need to file for portability election purposes.

(6) Section 20.2010-2(a)(2) provides that, upon the timely filing of a complete and properly prepared estate tax return, an executor of an estate of a decedent survived by a spouse will have elected portability of the decedent's DSUE amount unless the executor chooses not to elect portability and satisfies the requirements in § 20.2010-2(a)(3)(i) for the portability election not to apply.

.02 Extensions Granted to Elect Portability under § 301.9100-3

(1) Section 301.9100-3 provides the standards that the Service is to apply to determine whether to grant an extension of time to make an election whose due date is prescribed by a regulation or other administrative guidance (and not by statute). The due date for electing portability for those estates not required by § 6018(a) to file an estate tax return is prescribed by § 20.2010-2(a), and not by statute. Therefore, the executor of such an estate may seek an extension of time under § 301.9100-3 to elect portability under § 2010(c)(5)(A).

(2) In general, under § 301.9100-3, relief will be granted if the taxpayer establishes to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith and that the grant of relief will not prejudice the interests of the government.

(3) On February 10, 2014, the Service published Rev. Proc. 2014–18, 2014–7 I.R.B. 513, which provided a simplified method for obtaining an extension of time under § 301.9100–3 to make a portability election under § 2010(c)(5)(A) that was available to the estates of decedents dying after December 31, 2010, if such an estate was not required by § 6018(a) to file an estate tax return and if such a decedent was survived by a spouse. However, this simplified method was available only on or before December 31, 2014. The revenue procedure stated that, through that same date, the Service would not issue letter rulings to such estates granting an extension of time under § 301.9100–3 to make a portability election under § 2010(c)(5)(A).

(4) Since December 31, 2014, the Service has issued numerous letter rulings under § 301.9100–3 granting an extension of time to elect portability under § 2010(c)(5)(A) in situations in which the decedent's estate was not required by § 6018(a) to file an estate tax return. Many of these ruling requests have involved estates of decedents that discovered the failure to elect portability not long after the due date set forth in § 20.2010–2(a)(1) for filing an estate tax return to elect portability. Other ruling requests have involved estates of decedents with a date of death in the first years after the enactment of the portability election provisions, where the executor did not know about the need to file a return to elect portability, or did not discover the failure to elect portability, until many years later, often after the death of the surviving spouse.

(5) Treasury and the Service have determined that the considerable number of ruling requests for an extension of time to elect portability received since December 31, 2014, indicates a need for continuing relief for the estates of decedents having no filing requirement under § 6018(a). Further, the considerable number of ruling requests received has placed a significant burden on the Service. Accordingly, this revenue procedure provides a simplified method to the estates of decedents having no filing requirement under § 6018(a) to obtain an extension of time under § 301.9100–3 to elect portability, provided that certain requirements (set forth in sections 3.01 and 4.01 of this revenue procedure) are met.

(6) In providing this relief, Treasury and the Service have considered requests received for a permanent and unlimited extension, but also have considered both the statutory requirement of a timely filed return and the prejudice to the government from a lack of available records and current appraisals resulting from a long delay between a decedent's death and the filing of an estate tax return for that decedent's estate. Accordingly, this revenue procedure provides a simplified method to obtain an extension of time to elect portability that is available to the estates of decedents having no filing requirement under § 6018(a) for a period the last day of which is the later of January 2, 2018, or the second anniversary of the decedent's date of death. A taxpayer seeking relief to elect portability after the second anniversary of a decedent's death may do so by requesting a letter ruling in accordance with the requirements of § 301.9100–3 and Rev. Proc. 2017–1, 2017–1 I.R.B. 1 (or any successor revenue procedure).

(7) Making the simplified method of this revenue procedure available for all eligible estates through January 2, 2018, provides additional relief to the estates of decedents with a date of death in the first years after the enactment of the portability election provisions because the executors of those estates and their advisors may not have been aware of the opportunity and need to file an estate tax return to elect portability. Making the simplified method of this revenue procedure available after January 2, 2018, to estates during the two-year period immediately following the decedent's date of death should not unduly compromise the ability of the taxpayer or the Service to compute and verify the DSUE amount because the necessary records are likely to be available during that period. In addition, limiting the availability of this simplified method to that two-year period could be beneficial to the surviving spouse or the surviving spouse's estate in two ways. First, it increases the likelihood that the portability election will be made before the surviving spouse or the executor of the surviving spouse's estate is required to file a gift or estate tax return, thus eliminating the need to file such a return without claiming any DSUE amount and then, after the portability election has been made, having to either file a supplemental return or file a claim for a credit or refund. Second, if the allowance of the portability election made pursuant to this revenue procedure and the corresponding revised computation of the surviving spouse's applicable credit amount would result in a credit or refund of the surviving spouse's gift or estate tax, the availability of the simplified method during the two-year period may reduce the risk that the period under § 6511 for filing a claim for that credit or refund (generally, extending three years from the date of filing or, if later, two years from the date of payment) would expire before the portability election could be made pursuant to this revenue procedure.

SECTION 3. SCOPE

.01 *In General.* The simplified method of this revenue procedure is available to the executor (either an appointed executor or, if none, a non-appointed executor, as provided in § 20.2010–2(a)(6)) of the estate of a decedent if:

(1) The decedent:

(a) was survived by a spouse;

(b) died after December 31, 2010; and

(c) was a citizen or resident of the United States on the date of death.

(2) The executor is not required to file an estate tax return under § 6018(a) as determined based on the value of the gross estate and adjusted taxable gifts and without regard to the need to file for portability purposes;

(3) The executor did not file an estate tax return within the time required by § 20.2010–2(a)(1) for filing an estate tax return; and

(4) The executor satisfies all requirements of section 4.01 of this revenue procedure.

.02 *Executors that Timely Filed an Estate Tax Return.* The simplified method of this revenue procedure is not available to the estate of a decedent whose executor filed an estate tax return within the time prescribed by § 20.2010–2(a)(1). Such an executor either will have elected portability of the DSUE amount by timely filing that estate tax return or will have affirmatively opted out of portability in accordance with § 20.2010–2(a)(3)(i).

.03 *Failure to Qualify for Relief under this Revenue Procedure.* The executor of an estate not within the scope described in section 3.01 of this revenue procedure only because the executor does not satisfy the requirements of section 4.01 of this revenue procedure may request an extension of time to make the portability election under § 2010(c)(5)(A) by requesting a letter ruling under the provisions of § 301.9100–3. The requirements for requesting a letter ruling are described in Rev. Proc. 2017–1 (or any successor revenue procedure).

SECTION 4. RELIEF FOR CERTAIN LATE PORTABILITY ELECTIONS

.01 *Requirements for Relief.* The requirements for relief under this revenue procedure are as follows:

(1) A person permitted to make the election on behalf of the estate of a decedent—that is, an executor described in § 20.2010–2(a)(6)—must file a complete and properly prepared Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, on or before the later of January 2, 2018, or the second annual anniversary of the decedent's date of death. The Form 706 will be considered complete and properly prepared if it is prepared in accordance with § 20.2010–2(a)(7).

(2) The executor filing the Form 706 on behalf of the decedent's estate must state at the top of the Form 706 that the return is "FILED PURSUANT TO REV. PROC. 2017–34 TO ELECT PORTABILITY UNDER § 2010(c)(5)(A)."

.02 *Extent of Relief.* Satisfaction of the requirements for relief, as provided in section 4.01 of this revenue procedure, by an executor for whom the relief is available pursuant to section 3.01 of this revenue procedure, is deemed to satisfy the requirements for relief under § 301.9100–3 and, upon that satisfaction, relief is granted under the provisions of § 301.9100–3 to extend the time to elect portability under § 2010(c)(5)(A). Accordingly, for purposes of electing portability, the Form 706 of the decedent's estate will be considered to have been filed timely in accordance with § 20.2010–2(a)(1).

.03 *Subsequent Determination that Executor Is Required to File a Return under § 6018(a)*. If, subsequent to the grant of relief pursuant to this revenue procedure, it is determined that, based on the value of the gross estate and taking into account any taxable gifts, the executor was required to file an estate tax return under § 6018(a), the grant of an extension as provided in section 4.02 of this revenue procedure is deemed null and void *ab initio*.

SECTION 5. IMPACT OF RELIEF ON SURVIVING SPOUSE

.01 *Application of DSUE Amount*. If the decedent's estate is granted relief under this revenue procedure so that the estate tax return is considered to have been timely filed for purposes of electing portability, the DSUE amount of that decedent is available to the decedent's surviving spouse or the estate of the surviving spouse for application to the surviving spouse's transfers made on or after the decedent's date of death in accordance with the rules prescribed under § 20.2010-3 of the Estate Tax Regulations and § 25.2505-2 of the Gift Tax Regulations. However, if the increase in the surviving spouse's applicable exclusion amount attributable to the addition of the decedent's DSUE amount as of the decedent's date of death results in an overpayment of gift or estate tax by the surviving spouse or his or her estate, no claim for credit or refund may be made if the period of limitations under § 6511(a) for filing a claim for credit or refund of an overpayment of tax with respect to such transfer has expired. That is, an extension of time to elect portability granted under this revenue procedure does not extend the period during which the surviving spouse or the surviving spouse's estate may make a claim for credit or refund under § 6511(a).

.02 *Protective Claim for Credit or Refund of Tax in Anticipation of Relief under this Revenue Procedure*. Because a surviving spouse has no DSUE amount from a deceased spouse to apply to such surviving spouse's transfers until the portability election has been made by the deceased spouse's executor (see §§ 20.2010-3(a)(2) and 25.2505-2(a)(2)), a claim for credit or refund of tax filed within the time prescribed in § 6511(a) by the surviving spouse or the estate of the surviving spouse in anticipation of a Form 706 being filed to elect portability pursuant to this revenue procedure will be considered a protective claim for credit or refund of tax.

.03 *Examples*.

(1) *Example 1*.

(a) Predeceasing Spouse (S1) dies on January 1, 2014, survived by Surviving Spouse (S2). The assets includible in S1's gross estate consist of cash on deposit in bank accounts held jointly with S2 with rights of survivorship in the amount of \$2,000,000. S1 made no taxable gifts during life. S1's executor is not required to file an estate tax return under § 6018(a), and does not file such a return.

(b) S2 dies on January 30, 2014. S2's taxable estate is \$8,000,000 and S2 made no taxable gifts during life. S2's executor files a Form 706 on behalf of S2's estate on October 30, 2014, claiming an applicable exclusion amount of \$5,340,000. S2's executor includes payment of the estate tax with the Form 706.

(c) Pursuant to this revenue procedure, S1's executor files a complete and properly prepared Form 706 on behalf of S1's estate on December 1, 2017, reporting a DSUE amount of \$5,340,000. The executor includes at the top of the Form 706 the statement required by section 4.01(2) of this revenue procedure. The filing of the return satisfies the requirements for a grant of relief under this revenue procedure and S1's estate is deemed to have made a valid portability election. The Service accepts S1's return with no changes.

(d) To recover the estate tax paid, S2's executor must file a claim for credit or refund of tax by October 30, 2017 (the end of the period of limitations prescribed in § 6511(a)), even though a Form 706 to elect portability has not been filed on behalf of S1's estate by that date. Such a claim filed on Form 843, Claim for Refund and Request for Abatement, in anticipation of the filing of the Form 706 by S1's executor will be considered a protective claim for credit or refund of tax. Accordingly, as long as the Form 843 is filed on or before October 30, 2017, the Service can consider and process that claim for credit or refund of tax once S1's estate is deemed to have made a valid portability election and S2's estate notifies the Service that the claim for credit or refund is ready for consideration.

(2) *Example 2*.

(a) The facts relating to S1 and S1's estate are the same as in *Example 1*. S2 makes a gift to Child of \$6,000,000 on December 1, 2014. S2 has made no prior taxable gifts. On April 15, 2015, S2 files a Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, claiming an applicable exclusion amount of \$5,340,000. S2 tenders payment of the gift tax with the Form 709.

(b) To recover the gift tax paid, S2 must file a claim for credit or refund of tax (protective or otherwise) within the time prescribed in § 6511(a) for filing a claim for credit or refund.

(3) *Example 3*.

(a) The facts are the same as in *Example 2* except that S2's Form 709 claims an applicable exclusion amount of \$10,680,000 including a DSUE amount of \$5,340,000 from S1's estate. As a result, the Form 709 reports no tax due and S2 tenders no gift tax.

(b) Although the portability election, once made, makes S1's DSUE amount available to S2 retroactively to S1's date of death, that DSUE amount is not available until the election is made. Because S2 files the Form 709 before S1's estate makes the portability election, S2's claimed application of the DSUE amount will be denied and gift tax on the transfer will be assessed. To recover that gift tax once the portability election has been made by S1's estate, S2 must file a claim for credit or refund of tax (protective or otherwise) within the time prescribed in § 6511(a) for filing a claim for credit or refund.

SECTION 6. EFFECT ON OTHER DOCUMENTS

Rev. Proc. 2017-3, 2017-1 I.R.B. 130, is amplified.

SECTION 7. EFFECTIVE DATE

.01 *In General*. This revenue procedure is effective June 9, 2017.

.02 *Letter Rulings Will Not Be Issued*. Through the later of January 2, 2018, or the second anniversary of a decedent's date of death, the exclusive procedure for obtaining an extension of time under § 301.9100-3 to make a portability election under § 2010(c)(5)(A) for the estate of a decedent, if the decedent and executor meet the requirements of section 3.01(1)-(3) of this revenue procedure, is the procedure described in section 4.01 of this revenue procedure. If an executor of such an estate has filed a request for a letter ruling seeking an extension of time under § 301.9100-3 to make a portability election under § 2010(c)(5)(A) and that letter ruling is pending in the National Office on June 9, 2017, the Office of the Associate Chief Counsel (Passthroughs & Special Industries) will close its file on the ruling request and refund the user fee, and the estate may obtain the relief granted by this revenue procedure only by complying with section 4.01 of this revenue procedure.

SECTION 8. DRAFTING INFORMATION

The principal author of this revenue procedure is Juli Ro Kim of the Office of Associate Chief Counsel (Passthroughs & Special Industries). For further information regarding this revenue procedure contact Ms. Kim at (202) 317-6859 (not a toll-free number).

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Chapter Three

Attachment D:
Inventory Forms

INVENTORY

REGISTER OF WILLS OF BUCKS COUNTY, PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF **Bucks** } SS

File Number 09-2005-9999

DATE OF DEATH 01/01/2021	LAST RESIDENCE 123 Elm Street Doylestown, PA 18901	DECEDENT'S SOC. SEC. NO.
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Cash

Big Bank Checking Account #4321	1,050,000.00
Total Cash	1,050,000.00

Personal Property

2017 Jaguar Automobile	69,000.00
Household Effects	20,000.00
Total Personal Property	89,000.00

Stocks/Listed

10,000.0000 shares Gillette Company	1,000,000.00
Gillette Company - Accrued dividend	5,000.00
4,000.0000 shares Johnson & Johnson	340,000.00
5,000.0000 shares Merck & Company	375,000.00
Total Stocks/Listed	1,720,000.00

Real Estate

Residence situate at 123 Elm Street, Doylestown, PA 18901	2,600,000.00
Total Real Estate	2,600,000.00

(Attach additional sheets if necessary)	Total Personal Property and Real Estate	5,459,000.00
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INVENTORY

REGISTER OF WILLS OF BUCKS COUNTY, PENNSYLVANIA

Memorandum of Out-of-State Real Estate

COMMONWEALTH OF PENNSYLVANIA }
COUNTY OF **Bucks** } SS

File Number 09-2005-9999

DATE OF DEATH	LAST RESIDENCE	DECEDENT'S SOC. SEC. NO.
01/01/2021	123 Elm Street Doylestown, PA 18901	

Beach House 1313 Beach Lane, Stone Harbor, NJ

3,000,000.00

Total Out-of-State Real Estate **3,000,000.00**

Chapter Three

Attachment E:
Prior Payments and Discount Computation

Joe Dough (Case 5)

Prior Payments and Discount Computation

Date of Death
 3 Months After DOD
 9 Months After DOD

Prior Payments

	Click here if Paid at Discount	Date Paid	Total Tax Paid	Paid at Discount	Not Paid at Discount
1	<input checked="" type="checkbox"/>	Sat, Feb 20, 2021	100,000.00	100,000.00	
2	<input type="checkbox"/>				
3	<input type="checkbox"/>				
4	<input type="checkbox"/>				
5	<input type="checkbox"/>				
6	<input type="checkbox"/>				
7	<input type="checkbox"/>				
8	<input type="checkbox"/>				
9	<input type="checkbox"/>				
10	<input type="checkbox"/>				

Discount

		Tax		Discount
A. Tax Paid at Discount (per above)		100,000.00	x 5 / 95 =	5,263.16
B. <input type="checkbox"/> Tax Due if Entire Balance paid on/before <u>Thu, Apr 1, 2021</u>			x 5 / 95 =	
C. Total NET Tax Paid/To be Paid at Discount		100,000.00	x 5 / 95 =	5,263.16
D. Discount	C. <input type="text" value="100,000.00"/>	x 5 / 95 =	<input type="text" value="5,263.16"/>	(1)*
	F. <input type="text" value="124,756.65"/>	x 5% =	<input type="text" value="6,237.83"/>	(2)*
		Lesser of (1) or (2) above	<input type="text" value="5,263.16"/>	
E. Tax Credit (C + D)			<input type="text" value="105,263.16"/>	
F. GROSS Tax Due (Page 1, Line 19)			<input type="text" value="124,756.65"/>	
G. Balance of Tax Due			<input type="text" value="19,493.49"/>	

* The calculations in (1) and (2) are intentionally different. Item (1) computes the amount of discount based upon an assumed NET payment. Item (2) computes the maximum potential discount based upon an actual GROSS principal tax due. Thus, a discount always equals the NET payment x 5 / 95, or the GROSS tax x 5%.

Chapter Three

Attachment F:
Joe Dough Hypothetical

Joe Dough Hypothetical:

Elaine T. Yandrisevits, J.D., LL.M. (Taxation)¹

Joe Dough, 80 years old, passed away in 2021 survived by his wife, Jane; his children, Joe Jr. and Mary, and his siblings, Sister and Brother. Since this was a second marriage, Joe and Jane had a prenuptial agreement, and Joe's Will provided that Jane received a specific gift of \$5,000,000. The Will also left Joe's car to Brother, \$50,000 to Sister, and \$100,000 to his Church. The rest was left in equal shares to his children. His daughter, Mary, was designated Executor under the Will. Also, 10 months prior to his death, Joe gave \$10,000 to his sister. Finally, Joe jointly owned a money market account with his son.

Joe's assets were as follows:

	<u>Date of Death Value</u>
Primary Residence	\$2,600,000
Gillette Co. Stock	\$1,000,000
Johnson & Johnson Stock	\$340,000
Merck Stock	\$375,000
Checking Account	\$1,050,000
Life Insurance Policy	\$2,000,000
NJ Beach House	\$3,000,000
Money Market Account	\$500,000
Jaquar Auto	\$69,000
Household Effects	\$20,000
Individual Retirement Account	\$2,000,000

Joe's Will contains the typical tax payment clause, such that the "residue" of the estate pays all death taxes.

¹ The author would like to thank paralegal Sheila E. Kyle for her assistance preparing this hypothetical and its accompanying attachments

Chapter Four

Fiduciary Litigation

Amanda K. DiChello, Esq.
Saul Ewing, LLP
Philadelphia

Fiduciary Litigation¹

I. Recognizing the Standard of Care for Fiduciaries:

A. Prudent Person Standard:

The standard of care to which a fiduciary is held in Pennsylvania is generally that of “common skill, prudence and caution as a prudent man, under similar circumstances, would exercise in the management of his own estate.” In re Estate of Denlinger, 449 Pa. 393, 396, 297 A.2d 478, 480 (1972); In re Musser’s Estate, 341 Pa. 1, 9-10, 17 A2d 411, 415 (1941); In re Estate of Lohm, 440 Pa 268, 269 A.2d 451 (1970); In re Estate of Lerch, 399 Pa. 59, 159 A.2d 506 (1960).

B. Specialized Skill or Expertise:

i. When a fiduciary has greater skill than that of a man of ordinary prudence the fiduciary is generally required to exercise that greater skill as a fiduciary. In re Estate of Killey, 457 Pa. 474, 326 A.2d 372 (1974); In re Mendenhall, 484 Pa. 77, 398 A.2d 951 (1979); Estate of Pew, 440 Pa. Super. 195, 236, 655 A.2d 521, 542 (1994).

ii. A fiduciary who represents that he or she possesses specialized skill or knowledge will be held to that standard of care even if the representation was a falsehood. Killey Trust, 457 Pa. 474, 477, 326 A.2d 372, 375 (1974).

C. Standard of Care Set Forth in Governing Instrument:

i. Where there is a governing instrument that defines the standard of care to which the fiduciary shall be held, that standard of care prevails. 20 Pa.C.S. §7319(a).

ii. There are However Exceptions: The fiduciary will not be held to the standard of care as defined in the governing instrument when:

a. If the standard is a restriction on the fiduciary’s investment powers such that adhering strictly to the standard of care is impractical or deprives the

¹ Materials originally prepared by Amanda K. DiChello, Esquire and Elaine T. Yandrisevits, Esquire and revised in 2014 and in 2017 by Amanda K. DiChello, Esquire of Saul Ewing, LLP .

beneficiaries of the full benefits of the trust property because of changed economic conditions. 20 Pa. C.S. §7319(b).

b. If adherence to the standard of care would cause the fiduciary to act in bad faith. Gouley v. Land Title Bank & Trust Co., 329 Pa. 465, 471, 198 A. 7, 9 (1938).

D. Standard of Care for Trustees:

i. Duty of Care:

a. **20 Pa.C.S. §7771:** “The trustee shall administer the trust in good faith, in accordance with its provisions and purposes in the interests of the beneficiaries and in accordance with applicable law.”

b. **20 Pa.C.S. §7774:** “The trustee shall administer the trust as a prudent person would, by considering the purposes, provisions, distributional requirements and other circumstances of the trust and by exercising reasonable care, skill and caution.”

c. **20 Pa.C.S. §7776:** “A trustee who has special skills or expertise relevant to a trust or who is named trustee in reliance upon the trustee’s representation that the trustee has special skills or expertise relevant to a trust shall use those special skills or expertise in the administration of the trust.”

ii. Specific Duties and Responsibilities:

a. **Preservation of Trust Property:** 20 Pa.C.S. §7779: “The trustee shall take reasonable steps to take control of and protect the trust property.”

b. **Duty to Keep Records/Not Commingle Assets:** 20 Pa.C.S. §7780: “A trustee must keep adequate records of the administration of the trust, must not commingle funds, and must designate trust property so that the interest of the trust appears in trust records.”

c. **Duty of Loyalty:** A trustee is under a duty to the beneficiary to “administer the trust solely in the interest of the beneficiary.” Flagg Estate, 365 Pa. 82, 87, 73 A.2d 411, 414 (1950). The fiduciary duty of loyalty “prohibits both self-dealing and conflicts of interest. Therefore, the trustee may not (1) deal with trust property for the benefit of himself or third parties, . . . nor (2) place himself or herself in a

position that is inconsistent with the interests of the trust.” See Estate of McCredy, 323 Pa. Super. 268, 290-91, 470 A.2d 585, 597 (1983).

d. The Prudent Investor Act: The Prudent Investor Act applies to trustees and guardians. The Act sets forth the degree of care that a trustee or guardian must possess when making investment and management decisions. Prior to the adoption of the Act a fiduciary was held to the common law standards of care in making investment decisions. Pursuant to 20 Pa.C.S. §7303(a), a fiduciary is held to the prudent person standard with respect to investment decisions: “A fiduciary shall invest and manage property held in a trust as a prudent investor would, by considering the purposes, terms, and other circumstances of the trust and by pursuing an overall investment strategy reasonably suited to the trust.” Under 20 Pa. C.S. §7203(b), a fiduciary must consider the following factors all investment and management decisions:

1. The size of the trust;
2. The nature and estimated duration of the fiduciary relationship;
3. The liquidity and distribution requirements of the trust;
4. The expected tax consequences of investment decisions or strategies and of distributions of income and principal;
5. The role that each investment or course of action plays in the overall investment strategy;
6. An asset’s special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries, including, in the case of a charitable trust, the special relationship of the asset and its economic impact as a principal business enterprise on the community in which the beneficiary of the trust is located and the special value of the integration of the beneficiary’s activity with the community where that asset is located;
7. To the extent reasonably known to the fiduciary, the needs of the beneficiaries for present and future distributions authorized or required by the governing instrument; and

8. To the extent reasonably known to the fiduciary, the income and resources of the beneficiaries and related trusts.

Duty to Diversify: Under 20 Pa. C.S. §7204, a fiduciary must “reasonably” diversify such investments, “unless the fiduciary reasonably determines that it is in the interests of the beneficiaries not to diversify, taking in account the purposes, terms, and other circumstances of the trust”

Duty of Impartiality: A fiduciary has a duty to deal impartially with all beneficiaries, whether current or successor, income or principal. A fiduciary "is under a duty to the [life income] beneficiary to take care not merely to preserve the trust property but to make it productive so that a reasonable income will be available for [the life income beneficiary]. He is under a duty to the [successive] beneficiary to take care to preserve the principal of the trust property for [the successive beneficiary]. He is not under a duty to the beneficiary entitled to the income to risk the safety of the principal in order to produce a larger income, but he is under a duty to him not to sacrifice income for the purpose of increasing the value of the principal." Estate of Hamill, 487 Pa. 592, 599, 410 A.2d 770, 773 (1980) (quoting III Scott, Law of Trusts 1895, §232 (3d ed. 1967)).

Investment Loss: A fiduciary is not liable for an investment that causes a loss in trust property or fails to make a profit if the fiduciary acted in good faith. See McFadden Trusts, 2 Fiduc. Rep. 3d 41 (2011).

- In re Dentler Family Trust, 873 A.2d 738, 746 (Pa. Super. 2005). But ““if the trustee commits a breach of trust, he is chargeable with (a) any loss or depreciation in value of the trust estate resulting from the breach of trust; or (b) any profit made by him through the breach of trust; or (c) any profit which would have accrued to the trust estate if there had been no breach of trust.” Id.
 - Significantly, however, the Pennsylvania Supreme Court has cautioned that “a trustee will not be held liable for the result of an intervening world calamity, beyond his power to foresee or prevent.” Saeger’s Estate, 240 Pa. at 75, 16 A.3d at 21. The propriety of the investment decision must be evaluated based on

“as it appeared at the time it was made and not viewed in light of subsequent events.” *Id.*, 340 Pa. at 76, 16 A.3d at 21.

Delegation: Under 20 Pa. C.S. §7204(a), “a fiduciary may delegate investment and management functions that a prudent investor of comparable skills might delegate under the circumstances.”

1. **Decisions of the Investment Advisor:** “A fiduciary shall not be responsible for the investment decisions or actions of the investment agent to which the investment functions are delegated if the fiduciary exercises reasonable care, skill, and caution in selecting the investment agent, in establishing the scope and specific terms of the delegation, and in reviewing periodically the investment agent’s actions in order to monitor the investment agent’s performance and compliance with the scope and specific terms of the delegation.” 20 Pa. C.S. §7206(b).

2. **Delegation to a Co-Fiduciary:**

“A co-fiduciary may delegate investment and management functions to another co-fiduciary if the delegating co-fiduciary reasonably believes that the other co-fiduciary has greater investment skills than the delegating co-fiduciary with respect to those functions.” 20 Pa. C.S. §7206(e). The delegating co-fiduciary is not responsible for the investment decisions or actions of the other co-fiduciary, as long as the delegating co-fiduciary complies with 20 Pa. C.S. §7206(b).

E. Principal and Income Act:

The Principal and Income Act applies to all Pennsylvania trusts and estates of decedents who died on or after July 15, 2002 unless the governing instrument specifically excludes its application. Prior to the adoption of the Principal and Income Act Pennsylvania law required a trustee to strictly adhere to the categorization of assets, receipts, and distributions as either income or principal. The Act now allows a trustee to adjust between principal and income out of fairness to both income and principal beneficiaries, except in certain situations. The Act also permits a trustee to convert the trust to a unitrust that allows for annual payments to the income beneficiaries of a fixed 4 % of the trust's net fair market value.

i. Purpose:

The purpose of the Principal and Income Act's power to adjust is to allow a trustee to compensate for the unfairness that could result under the strict categorization of principal and income. The power to adjust should not be used to increase or decrease the beneficiary's entitled benefits from the trust. A fiduciary could be liable to a beneficiary if the power to adjust is used improperly, so trustees should be careful when utilizing this power.

ii. Discretionary Power:

“In exercising a discretionary power of administration regarding a matter within the scope of [the Principal and Income Act], whether granted by the governing instrument or [the Principal and Income Act] . . . a fiduciary shall administer a trust or estate impartially based on what is fair and reasonable to all of the beneficiaries, except to the extent that the governing instrument clearly manifests an intention that the fiduciary shall or may favor one or more of the beneficiaries. A determination in accordance with [the Principal and Income Act] is presumed to be fair and reasonable to all of the beneficiaries.” 20 Pa. C.S. §8103(b).

iii. Power to Adjust:

Pursuant to 20 Pa. C.S. §8104(a), “a trustee may adjust between principal and income by allocating an amount of income to principal or an amount of principal to income to the extent the trustee considers appropriate if: (1) the governing instrument describes what may or must be distributed to a beneficiary by referring to the trust's income; and (2) the trustee determines, after applying the rules in section 8103(a), that the trustee is unable to comply with section 8103(b).” Some adjustments are prohibited under 20 Pa. C.S. §8104(c). The power to adjust provides investment flexibility for the fiduciary because the fiduciary may invest on a total return basis rather than being concerned with the strict categorization of investments as either income or principal. A fiduciary must consider the following when deciding whether to adjust:

- (1) The size of the trust.
- (2) The nature and estimated duration of the trust.
- (3) The liquidity and distribution requirements of the trust.
- (4) The needs for regular distributions and preservation and

appreciation of capital.

(5) The expected tax consequences of an adjustment.

(6) The net amount allocated to income under the other sections of this chapter and the increase or decrease in the value of the principal assets, which the trustee may estimate as to assets for which market values are not readily available.

(7) The assets held in the trust; the extent to which they consist of financial assets, interests in closely held enterprises, tangible and intangible personal property or real property; the extent to which an asset is used by a beneficiary; and whether an asset was purchased by the trustee or received from the settlor or testator.

(8) To the extent reasonably known to the trustee, the needs of the beneficiaries for present and future distributions authorized or required by the governing instrument.

(9) Whether and to what extent the governing instrument gives the trustee the power to invade principal or accumulate income or prohibits the trustee from invading principal or accumulating income and the extent to which the trustee has exercised a power from time to time to invade principal or accumulate income.

(10) The intent of the settlor or testator.

(11) The actual and anticipated effect of economic conditions on principal and income and effects of inflation and deflation.

iv. How to Adjust and Abuse of Discretion:

The Principal and Income Act explains the adjustment powers of fiduciaries, but does not direct how to exercise this adjustment power. As such, fiduciaries have a great deal of discretion in determining how to exercise this power. Despite this discretion, a fiduciary's actions in allocating between income and principal are still subject to review by the Orphans' Court to determine if the fiduciary has breached a fiduciary duty and abused his, her, or its discretion.

F. Additional Fiduciary Duties and Responsibilities:

i. Investment:

Pursuant to 20 Pa. C.S. §3316, "the personal representative [of an estate] may invest the funds of the estate but shall have no duty to do so." If an executor decides to

invest estate funds, the types of investments the executor may make are limited. *See* 20 Pa.C.S. §3316. In McCullough Trust the court reasoned that to succeed in a surcharge action against a trustee based on poor investment performance a beneficiary must prove actual losses and not mere failure to keep pace with inflation. McCullough Trust, 21 Fiduc. Rep. 2d 135 (Allegh. 2001).

ii. Taxes and Patent Errors:

Certain breaches of fiduciary duty that concern tax issues are viewed as patent errors. In re Estate of Campbell, 692 A.2d 1098, 1104 (Pa. Super. 1997), In re Estate of Geniviva, 450 Pa. Super. 54, 675 A.2d 306, 311 alloc. den., 546 Pa. 666, 685 A.2d 545 (1996). A patent error is one that is obvious on its face. In an action for surcharge, when patent errors are made, the burden of proof shifts to the fiduciary and attorney to demonstrate the prudence of the action. In re Estate of Ellis, 460 Pa. 281, 333 A.2d 728 (1975). For example, where a large overpayment in taxes was shown the burden then shifted to the fiduciary to present, if possible, exculpatory evidence to avoid the surcharge” In re Estate of Lohm 440 Pa. 268, 274, 269 A.2d 451, 455 (1970), citing Maurice Estate, 433 Pa. 103, 108, 249 A. 2d 334, 336 (1969).

iii. Debts Due to the Decedent:

It is the duty of the personal representative to use “diligent efforts” to collect debts due to the decedent and the personal representative “is responsible for the want of ordinary diligence” and will be surcharged if “he has suffered years to pass by without an effort to collect such a debt or offering any excuse for his failure to proceed.” Neff’s Appeal, 57 Pa. 91, 97 (1868).

iv. Record Keeping:

A fiduciary must provide proof of his or her entitlement to all credits he or she claims in his or her account in the form of vouchers or receipts of payment. Strickler Estate, 354 Pa. 276, 47 A.2d 134 (1946). Unsupported testimony regarding such payments is insufficient to establish entitlement to reimbursement. Estate of Salus, 421 Pa. Super. 87, 617 A.2d 737 (1992). Further, “a trustee must keep adequate records of the administration of the trust, must not commingle funds, and must designate trust property so that the interest of the trust appears in trust records.” 20 Pa.C.S. §7780. Where an accountant must incur attorney’s fees to restate an account due to the defectiveness or

insufficiency of prior accountings, “any cost...must be borne by [the executor] rather than the estate” Marcella Estate, 12 Fiduc. Rep. 2d 224, 228 (Phila. 1992).

v. **Preservation of Assets:**

20 Pa.C.S. §3311 requires a personal representative to make “all reasonable expenditures necessary to preserve the real and personal estate of the decedent.” Similarly, 20 Pa.C.S. §7779 provides that “The trustee shall take reasonable steps to take control of and protect the trust property.” See Inter Estate, 17 Fiduc. Rep. 2d 75 (Warren 1996).

vi. **Claims Against The Decedent’s Estate or Trust:**

A fiduciary owes the same general responsibilities and duties of care to creditors that he owes to beneficiaries and should always ensure that he or she complies with the provisions of the Pennsylvania Probate, Estates, and Fiduciaries Code when dealing with creditors.

a. A personal representative is required to advertise the grant of letters per 20 Pa.C.S. §3162. Prompt advertising is important because it serves to place creditors on notice of the administration. The personal representative is not liable to any claimant who has not given notice of his or her claim within one year after the first complete advertisement of the grant of letters. See 20 Pa.C.S. §3532(a). Similar rules apply to trustees of revocable trusts under 20 Pa.C.S. §7755.

b. In order to preserve a claim a claimant must give notice of his or her claim to the personal representative or to the personal representative’s attorney. 20 Pa.C.S. §3384. The following qualify as written notice under 20 Pa.C.S. §3384: (1) Instituting a proceeding to compel the filing of an account; (2) Bringing an action against the personal representative to compel payment; and (3) Receiving written acknowledgment from the personal representative or from his attorney acknowledging existence of the claim.

c. Where an estate is solvent proper claims may be paid from the estate when funds are available. If an estate is insolvent, there is an order of preference in which claims must be paid pursuant to 20 Pa.C.S. §3392.

d. A personal representative is required to address all valid claims against a decedent’s estate. If the personal representative questions the validity of

a claim, he or she should file his or her account with the Orphans' Court and provide notice to all known claimants under 20 Pa.C.S. §3532. The claimant is then required to prove the claim at audit per 20 Pa.C.S. §3521.

e. As previously mentioned, the personal representative has no personal liability toward a creditor of a decedent's estate if the creditor fails to provide notice within the one-year post-advertising period. If a personal representative makes distribution without addressing the claim of a known creditor, the personal representative is personally liable for such claim. Ray's Estate, 345 Pa. 210, 214, 25 A.2d 803, 805 (1942). However, a fiduciary is protected from liability if he makes distribution knowing that a creditor may have a claim, but that creditor does not bring formal notice of that claim within the one-year period. *See* Doster Estate, 346 Pa. 455, 458, 31 A.2d 142, 144 (1943).

vii. Duty to Monitor Actions of Co-Fiduciary:

Each co-fiduciary is obligated to use diligence in protecting the estate against the careless or improper conduct of another co-fiduciary. Irvine's Estate, 203 Pa. 602, 53 A. 502 (1902). 20 Pa.C.S. §3317 directs that "where one of two or more personal representatives shall be individually liable to the estate, the other or others shall take any legal action against him necessary to protect the estate."

II. Discharging the Fiduciary of Liability and Responsibility:

A fiduciary remains at risk for future claims and actions by beneficiaries, interested parties, and creditors if he or she fails to obtain a proper discharge. A fiduciary may complete his or her administration and may be discharged of liability in one of two ways:

A. Court Accounting and Adjudication:

Pursuant to 20 Pa.C.S. §3501.1 a fiduciary may file his or her accounting at any time after four (4) months from the first complete advertisement of the original grant of letter but shall not file it earlier unless directed to do so by the court." When filing an accounting a fiduciary should ensure that he or she complies with the notice requirements set forth Section 3503 of the Probate, Estates and Fiduciaries Code and Pennsylvania Supreme Court Orphans' Court Rule 6.3 to ensure that all interested parties are notified

of the filing. Under 20 Pa.C.S. §3514 “no account shall be confirmed, or statement of proposed distribution approved, until an adjudication or a decree of distribution is filed in conformity with local rules by the court or by the clerk of the court, expressly confirming the account or approving the statement of proposed distribution and specifying or indicating by reference to the statement of proposed distribution the names of the persons to whom the balance available for distribution is awarded and the amount or share awarded to each.”

B. Settlement Agreement:

The Settlement agreement is recognized as a valid means of ending estate administration and to release a fiduciary of liability. *See* 20 Pa.C.S. §3532(c).

III. Breach of Fiduciary Duty and Surcharge Actions:

In instances of a breach of fiduciary duty it may also be possible to initiate a surcharge action against the fiduciary for damages sustained by the fiduciary’s breach of duty. A surcharge is viewed as a penalty for failure to exercise common prudence, common skill and common caution in the performance of fiduciary duties. In re Estate of Dobson, 490 Pa. 476, 484 A.2d 138 (1980).

A. Burden of Proof:

i. The objector in a surcharge action bears the burden of proof and must establish the following by a preponderance of the evidence: (1) a breach of fiduciary duty; and (2) related loss. In re Estate of Geniviva, 450 Pa. Super 54, 675 A.2d 306 (1996 Pa. Super.); Wade’s Estate, 343 Pa. 520, 23 A.3d 493 (1942). Once the objector proves breach of fiduciary duty and related loss, the burden then shifts to the respondent to prove no connection between the breach and the loss. In re Nola’s Estate, 333 Pa. 106, 3A.2d 326 (1939).

ii. Where a fiduciary commits a patent error the burden of proof shifts to the fiduciary to demonstrate prudence in his or her actions. If he or she fails to demonstrate the prudence of his or her actions, he or she will be found to have breached his or her duties. In re Estate of Ellis, 460 Pa. 281, 333 A.2d 728 (1975).

B. **Defense to Surcharge:**

i. **Reliance Upon Counsel:**

In awarding executor's fees, courts look at the reasonableness of the initial choice of counsel upon whom the executor relied, but must also look to whether "the subsequent decision to continue to rely upon counsel's advice [was] a reasonably wise and prudent choice" In re Estate of Geniviva, 450 Pa. Super 54, 64. In Geniviva, the executor blamed his attorney for his [the executor's] failure to pay the estate taxes; however, the court held that his continued reliance on counsel was not reasonable in light of the circumstances. *Id.* at 65. In another case, the court found that the defense of reliance of counsel was unsuccessful where the executrix permitted counsel to take inappropriate actions which the executrix had the experience or intelligence to question (such as the late filing of tax returns). Izzard Estate, 29 Fiduc. Rep. 2d 66 (Phila. 2007).

The Smyrl case is another example of a surcharge case in which the defense of reliance upon counsel was unsuccessful. Smyrl Estate, 23 Fiduc. Rep. 2d 85 (Phila. 2001). In Smyrl, the accountant negligently overpaid the Federal estate tax by \$41,871.00 and failed to file the Federal estate tax return when due, resulting in interest and penalties in the amount of \$33,930.11. The accountant also negligently overpaid the Pennsylvania inheritance tax in the amount of \$4,548.38. The objectors were forced to compel the accountant to restate his account due to inaccuracies. The accountant failed to explain adjustments from his prior account. The accountant failed to timely file fiduciary income tax returns for the estate resulting in interest and penalties and causing the objectors to file amended personal tax returns. The accountant failed to make timely distribution to the beneficiaries under the decedent's will. The accountant took over two years to file the inventory for the estate and the accountant did not take appropriate initiative to determine whether the appropriate tax filings were made. The accountant in Smyrl employed the defense of reliance upon counsel for all actions which he failed to take or negligently took as fiduciary of the estate; however, the court did not find the defense a reasonable excuse, stating "in short, the accountant abrogated his entire responsibility in the execution of the matter in favor of the attorney. At best, he chose to stick his head in the sand and play ostrich." *Id.* at 89.

Similarly in Lohm the fiduciary overpaid the Federal estate tax and subsequently paid the tax late. The fiduciary argued that he relied upon the advice of his attorney; however the court did not find the defense to be reasonable for reasons similar to those set forth in Smyrl. See In re Estate of Lohm, 440 Pa. 268, 269 A.2d 451 (1970).

ii. Consent or Acquiescence:

In some cases if a beneficiary approves of a fiduciaries actions or fails to object to specific actions of a fiduciary that are made known to the beneficiary he or she may be deemed to have acquiesced to the act and may be barred from instituting an action against the fiduciary. In re: Jones, 442 Pa. Super 463, 660 A.2d 76 (1995); Ward Estate, 350 Pa. 144, 38 A.3d 50 (1944); In re Clabby's Estate, 338 Pa. 305, 12 A.2d 71 (1940).

IV. Surcharge in the Context of Fees:

It is not uncommon for a surcharge action to be instituted with a challenge to the reasonableness of the fiduciary's fees and the fees of the fiduciary's counsel. Even in instances in which a surcharge action is not instituted against a fiduciary, it is still important for the fiduciary to be cognizant of the rules and limitations of the law concerning the reasonableness of fiduciary fees and counsel fees.

A. Reasonableness of Trustee Fees:

The burden of claiming that a trustee's commission and fees are unreasonable is upon the objecting party. Estate of Stephenson, 469 Pa. 128, 364 A.2d 1301 (Pa. Sup. Ct. 1976). Once the initial burden is met the fiduciary have the burden of proving both the value of its services and the reasonableness of its fees. In re Estate of Rees, 425 Pa. Super 490, 625 A.2d 1203 (1993 Pa. Super); Feise Estate, 21 Fid. Rep. 2d 317 (O.C. Mont. Co. 2001); Broadwater Estate, 12 Fiduc. Rep. 2d 287 (O.C. Bucks); aff'd 433 Pa. Super. 640 (1993); appeal denied Estate of Broadwater v. Heins, 538 Pa. 670 (1994).

B. Reduction, Elimination, and Surcharge of Trustee Fees:

In Pennsylvania courts generally view a fiduciary's compensation as "the reward of faithful execution of the trust confided." Hermanson Estate, 12 Fid. Rep. 2d 407, at 414 (O.C. Bucks 1992). Commissions will be reduced or eliminated if the fiduciary was negligent and caused loss to the estate. Card's Estate, 337 Pa. 82 (1939); Brennan Estate,

15 Fiduc. Rep. 2d 425 (Bucks 1995); Birely Estate, 30 Fiduc. Rep. 522 (Chester 1980). The Orphans' Court has denied a trustee his or her fee entirely in situations where the trustee failed to fulfill his or her duties. For example, in Cantelmi Trust, the Montgomery County Orphans' Court denied compensation to a trustee who failed to keep records and commingled funds, thereby failing to fulfill the essential duties of a trustee. Cantelmi Trust, 7 Fiduc. Rep. 2d 76 (Mont. 1986).

C. Reasonableness of Executor Fees:

i. General Overview:

Pursuant to 20 Pa. C.S. § 3537, “the Court shall allow such compensation to the personal representative as shall in the circumstances be reasonable and just, and may calculate such compensation on a graduated basis.” 20 Pa. C.S. §3537. While as a matter of convenience, the compensation of a fiduciary may be determined by way of percentage, the true test is always the value of the services rendered. In re Williamson’s Estate, 368 Pa. 343, 349, 82 A.2d 49, 52 (1951); In re Estate of Rees, 425 Pa. Super 490, 625 A.2d 1203 (1993 Pa. Super.); In re Estate of Geniviva, 450 Pa. Super 54, 675 A.2d 306 (1996 Pa. Super.).

In order to determine the value of the services rendered, the courts look to the “responsibility incurred and the service and labor performed.” Gardner’s Estate, 323 Pa. 229, 238, 185 A. 804, 808 (Pa Sup. Ct. 1936). Compensation shall be “fair and just” based “upon the extent and character of the labor and responsibilities involved.” Reed Estate, 462 Pa. 336, 339, 241 A.2d 108, 110 (Pa Sup. Ct. 1975). The determination of whether an executor’s fees are reasonable is left to the sound discretion of the Orphans’ Court. In re Estate of Rees, 425 Pa. Super. 490, 625 A.2d 1203 (Pa. Super. 1993).

D. Burden of Proof:

The burden of claiming that commissions and fees are unreasonable is upon the objecting party. Estate of Stephenson, 469 Pa. 128, 364 A.2d 1301 (Pa. Sup. Ct. 1976). Once the objector meets this initial burden, the burden of proof shifts to the executor(s) to prove both the value of their services and the reasonableness of their fees. In re Estate of Rees, 425 Pa. Super 490, 625 A.2d 1203 (1993 Pa. Super.); Feise Estate, 21 Fiduc. Rep. 2d 317 (O.C. Mont. Co. 2001); Broadwater Estate, 12 Fiduc. Rep. 2d 287 (O.C. Bucks); aff’d 433 Pa. Super. 640 (1993); appeal denied Estate of Broadwater v. Heins, 538 Pa.

670 (1994). In doing so, the executors have the burden of establishing facts that show their entitlement to the compensation claimed. In re Estate of Rees, 425 Pa. Super 490, 65 A.2d 306 (1996 Pa. Super).

E. Reduction, Elimination, and Surcharge of Executor Fees:

Ultimately, the courts have the authority and power to reduce or eliminate a fiduciary's commission if the fiduciary was negligent and caused loss to the estate. *See generally* In Re Estate of Geniviva, 450 Pa. Super 54; 675 A.2d 306 (1996 Pa. Super); *See also* Cord's Estate, 337 Pa. 82; 9 A.2d 557 (1939). The court may disallow any commission for a fiduciary guilty of, but not limited to, supine negligence, faithlessness, mismanagement, repeated failures to perform duties, and general negligence. Jones Estate, 400 Pa. 545, 162 A.2d 408 (1960); Lewis Estate, 349 Pa. 455, A.2d 559 (1944).

The court also has the power to completely deny the executor any compensation. When there is fraud, dishonesty, faithlessness, or gross negligence, commissions are "always denied". Valentine Estate, 16 Leh. 282. For example, in D'Alessio Estate, the court issued a surcharge against an executrix and denied her any commission based upon the executrix's complete failure to perform or understand her duties as executrix. D'Alessio Estate, 26 Fiduc. Rep. 2d 236 (Phila. 2004).

For example, in In re Estate of Geniviva, an executor who mismanaged the estate, including filing an inventory and death tax returns more than three years late, was surcharged and his commission was reduced from \$20,000.00 to \$5,000.00 despite the executor's contention that he relied on the advice of counsel. In re Estate of Geniviva, 450 Pa. Super 54, 675 A.2d 306 (1996 Pa. Super.) Similarly in Janiga Estate, the court surcharged an Executrix where she had no credible explanation for paying taxes late and delaying distributions to charitable beneficiaries. Janiga Estate, 28 Fiduc. Rep. 2d 219 (Phila. 2007), annot. *Fiduc. Rev.*, July 2008, p. 1, *aff'd*, 970 A.2d 487 (Pa. Super. 2009). In another case, the court reduced the Executrix's commission because the administration of the estate was "unnecessarily drawn out". McGough Estate, 29 Fiduc. Rep. 207 (Phila. 1979).

F. Reasonableness of Counsel Fees:

Pennsylvania Rule of Professional Conduct 1.5(a) states that a lawyer's fee cannot be "...an illegal or clearly excessive fee". In Pennsylvania the responsibility for

determining the reasonableness of counsel fees rests primarily with the auditing judge. Thompson Estate, 426 Pa. 270, 232 A.2d 625 (1967); McClatchy Estate, 492 Pa. 352, 424 A.2d 1227 (1981); Bruner Estate, 456 Pa. Super. 705, 691 A.2d 530 (1997); Canjar Estate, 20 Fiduc. Rep. 2d 175 (Allegh. 2000); Ciaffoni Estate, 20 Fiduc. Rep. 2d 21 (Wash. 1999); Abdoe Estate, 45 Pa. D & C 4th 564 (1999).

In determining the reasonableness of counsel fees, the courts may use as a means of "guidance" the "schedule of fees approved by the Attorney General." Johnson Estate, 4 Fiduc. Rep. 2d 6, 7 (Chester County O.C. 1983). The problem with the Johnson schedule is that it assumes that the work performed by the attorney was performed correctly, efficiently, and appropriately. Johnson Estate, 4 Fiduc. Rep. 2d 6 (Chester County O.C. 1983); Feise Estate, 21 Fiduc. Rep. 2d 317 (Montg. 2001); Carr Estate, 22 Fiduc. Rep. 2d 364 (Montg. 2002); Gutner Estate, 7 Fiduc. Rep. 2d 192 (Montg. 1987), annot. *Fiduc. Rev.*, June 1987, p. 4; Novotny Estate, 24 Fiduc. Rep. 2d 214 (Montg. 2004). Therefore, it is important to look to cases other than Johnson to determine if a fee is reasonable. LaRocca case sets forth specific factors to be considered in determining the reasonableness of counsel fees. LaRocca evaluates the following factors in ultimately determining whether counsel fees are reasonable:

1. the amount of work;
2. character of services;
3. difficulty of problems involved;
4. importance of the litigation;
5. the amount of money or value of the property in question;
6. the degree of responsibility incurred;
7. whether the fund was created by the attorney;
8. the professional skill and standing of the attorney;
9. the results the attorney was able to obtain; and
10. the ability of the client to pay a reasonable fee for services rendered.

In re Trust Estate of LaRocca, 431 Pa. 542, 546 (Pa. 1968).

In determining whether counsel fees are reasonable, the courts look primarily to the factors of LaRocca, which include the amount and the character of the services rendered, the extent of the work and the time involved, the novelty and difficulty of the questions presented, the character and importance of the litigation, the responsibility assumed by counsel, the value of the property affected, the professional skill and experience called for, the standing of the attorney in his profession, the ability of the

client to pay, the benefit derived from the services, and the advantage accruing to the estate. Freeman Estate, 26 Leh. 34, 1 D. & C. 2d 178 (1954); Grier Estate, (No. 2), 31 D. & C. 2d 66 (1963).

G. Burden of Proof:

As stated previously, the burden of claiming that commissions and fees are unreasonable within the account is upon the objecting party. Estate of Stephenson, 469 Pa. 128, 364 A.2d 1301 (Pa. Sup. Ct. 1976). Once this initial burden is met, an attorney seeking compensation from an estate has the burden of establishing facts that demonstrate that he is entitled to such commission. See Estate of Sonovick, 373 Pa. Super 396, 541 A. 2d 374 (1988).

H. Reduction, Elimination, and Surcharge of Attorney's Fees:

In situations where the court determines that the counsel fees were not reasonable in light of the circumstances the Orphans' Court may impose a surcharge by reducing or eliminating the counsel fees where counsel fails to exercise the required degree of skill, knowledge, and diligence, resulting in loss to the estate. Albright Estate, 376 Pa. Super. 201, 545 A.2d 896 (1988).

The Orphans' Court has denied a fee altogether to an attorney. For example, in Smyrl the court denied the estate attorney his counsel fees and surcharged him for neglect in handling the estate. Smyrl Estate, 23 Fiduc. Rep. 2d 85 (Phila. 2001). Similarly, where the court found that the executor's law firm breached its fiduciary duty, the court also denied the firm any counsel fees, surcharged the law firm for the estate's losses, and ordered the firm to pay counsel fees incurred by the beneficiaries. Albright Estate, 6 Fiduc. Rep. 2d 235 (Allegh. 1986).

In other cases, the Orphans' Court substantially reduced the counsel fees. For example, the court reduced an executor/attorney's fees because of his delays in performing duties and due to duplication of services of the executor and attorney. Shillito Estate, 8 Fiduc. Rep. 2d 365 (Allegheny County O.C. 1988). As another example, the courts also substantially reduced counsel fees where a simple estate was delayed and grossly mishandled and there was no proof of the lawyer's time and the nature and value of his services. Marcella Estate, 12 Fiduc. Rep. 2d 224 (Phila. 1992). Attorney's fees have

also been substantially reduced for failure of counsel to prove the services which he rendered to the estate. Karbiwnyk Estate, 24 Fiduc. Rep. 2d 28 (Phila. 2002).

I. Duplication of Services: The Role of Fiduciary and Attorney:

It is important that a person serving in the capacity as an attorney and as an executor distinguish between the time he or she spends in both capacities. Taylor Estate, 3 Fiduc. Rep. 2d 410 (O.C. Montg. 1983); Phillips' Estate, 21 D. & C. 464 (1934); Heltzel's Estate, 52 D. & C. 337 (1945); Schooley's Estate, 56 Dauph. 328 (1945). Any commission paid in both capacities must not be based upon duplication of time. Taylor Estate, 3 Fiduc. Rep. 2d 410. As such, when a lawyer serves as both counsel and in a fiduciary capacity, it is important to maintain records that demonstrate the services rendered in each capacity. Taylor Estate, 3 Fiduc. Rep. 2d 410 (Montg. 1983), annot. *Fiduc. Rev.*, Feb. 1984, p. 1. Rice Estate, 10 Fiduc. Rep. 2d 59 (Bucks 1990). The court sua sponte may reduce an executor's commission and the attorney's fees where the same person occupied both positions. Perry Estate, 27 Chester 379 (O.C. Chest. 1979); Gutner Estate, 7 Fiduc. Rep 2d 192 O.C. Mont. 1987). Where an attorney-executor kept no time records and was unable to allocate time between the services he performed as executor and as attorney, the court reduced the fees that the attorney received in half. *See Perry Estate*, 27 Chester 379 (O.C. Chest. 1979).

V. Fiduciary Removal Actions:

Generally: The Orphans' Court has exclusive jurisdiction over the removal of all fiduciaries of estates and trusts in Pennsylvania. 20 Pa.C.S §711(12). It is important to note that breach of fiduciary duty or failure to perform a duty imposed by law is cause for the removal of a fiduciary pursuant to 20 Pa.C.S. §3182(1); *See also DiMarco Estate*, 435 Pa. 428, 437, 257 A.2d 849, 853 (1969); Beichner Estate, 432 Pa. 150, 247 A.2d 779 (1968). The standard of proof necessary to justify the removal of a fiduciary is "clear and convincing". Scientific Living, Inc. v. Hohensee, 440 Pa. 280, 270 A.2d 216 (1970), cert. denied, 402 U.S. 1012, reh'g denied, 404 U.S. 874 (1971).

As to trusts: 20 Pa.C.S. §7766(b)(4) directs that the court may remove a trustee if: (a) it find that the removal best serves the interest of the beneficiaries of the

trust; (b) it is not inconsistent with a material purpose of the trust; (c) a suitable co-trustee or successor trustee is available; and:

(1) the trustee has committed a serious breach of trust;

(2) lack of cooperation among cotrustees substantially impairs the administration of the trust;

(3) the trustee has not effectively administered the trust because of the trustee's unfitness, unwillingness, or persistent failures;

(4) there has been a substantial change of circumstances. A corporate reorganization of an institutional trustee, including a plan of merger or consolidation, is not itself a substantial change of circumstances.

- **Consider this in the context of the Pennsylvania Superior Court's interpretation of 20 Pa.C.S. §7766(b)(4) in In Re Donald L. McKinney, Deceased and Jane D. McKinney Descendants' Trust, 2013 Pa. Super. 123; 2013 Pa. Super. LEXIS 736 (May 21, 2013).**

Chapter Five

Ethics

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Ethics

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I. Representing the Personal Representative

A. Rule 1.1 Competence

A lawyer shall provide competent representation to a client.

Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

B. Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

(e) A lawyer may counsel or assist a client regarding conduct expressly permitted by Pennsylvania law, provided that the lawyer counsels the client about the legal consequences, under other applicable law, of the client's proposed course of conduct.

C. Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

D. Rule 1.4 Communication

(a) A lawyer shall:

- (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
- (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
- (3) keep the client reasonably informed about the status of the matter, promptly comply with reasonable requests for information; and

(4) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) A lawyer in private practice shall inform a new client in writing if the lawyer does not have professional liability insurance of at least \$100,000 per occurrence and \$300,000 in the aggregate per year, subject to commercially reasonable deductibles, retention or co-insurance, and shall inform existing clients in writing at any time the lawyer's professional liability insurance drops below either of those amounts or the lawyer's professional liability insurance is terminated. A lawyer shall maintain a record of these disclosures for six years after the termination of the representation of a client.

1. The attorney must have a clearly defined scope of representation through a written fee agreement with the client.

E. Hypotheticals

i. Michael is an attorney with his own family law practice, where he typically represents spouses in divorce matters. He has never handled an estate administration case, although he did take Trusts and Estates in law school. Sean, an old friend from high school,

calls Michael to tell him that his father recently passed away and Sean has been named the Executor of the estate. Sean wants Michael to represent him as the Executor. Can Michael represent Sean in this matter?

- ii. Alyssa is an attorney who has a solo practice, where she often handles estate administration matters. She receives a call from Brian, the Executor of his sister's estate. Brian tells Alyssa that he has completed the "easy" steps of the estate administration, but recently found out about the Pennsylvania Inheritance Tax Return and has no idea how to complete it. Brian only wants to hire Alyssa to prepare the Inheritance Tax Return; he does not want to retain her for any other aspects of the estate administration. Can Alyssa represent Brian in this matter?
- iii. Ashley is an attorney representing the Executor of an estate. One of the estate assets is a piece of real estate that has been on the market for sale for over a year. There has been very little interest in the property, and the Executor and all beneficiaries are eager to sell the property so the estate administration can be wrapped up. The Executor has recently departed for a month-long wellness retreat, advising Ashley that she will be out of communication for the entire duration of her trip. One week after the Executor leaves, Ashley receives a call from a real estate agent, who says she represents an interested buyer. The real estate agent advises Ashley

that the buyers' offer for the property must be accepted within 48 hours, or it will be withdrawn. Ashley attempts to contact the Executor, but is unsuccessful. Can Ashley accept the buyer's offer?

II. Legal Fees

A. Rule 1.5 Fees

(a) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee. The factors to be considered in determining the propriety of a fee include the following:

(1) whether the fee is fixed or contingent;

(2) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(3) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(4) the fee customarily charged in the locality for similar legal services;

(5) the amount involved and the results obtained;

(6) the time limitations imposed by the client or by the circumstances, the nature and length of the professional relationship with the client; and

(7) the experience, reputation, and ability of the lawyer or lawyers performing the services.

(b) When the lawyer has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, in writing, before or within a reasonable time after commencing the representation.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A lawyer shall not divide a fee for legal services with another lawyer who is not in the same firm unless:

(1) the client is advised of and does not object to the participation of all the lawyers involved, and

(2) the total fee of the lawyers is not illegal or clearly excessive for all legal services they rendered the client.

B. Johnson Estate, 4 Fiduc. Rep. 2d 6, (O.C. Del. 1983)

i. In 1983, the Orphans' Court of Delaware County promulgated a schedule of fees for attorneys and personal representatives that the Court considered reasonable.

ii. This schedule has become widely accepted as the basis for fees, although deviations are permissible.

C. LaRocca Estate, 246 A.2d 337 (Pa. 1968)

i. The factors that may be considered in determining if a fee paid to an attorney is reasonable are:

1. The amount of work performed;
2. The character of the services rendered;
3. The difficulty of the problems involved;
4. The importance of the litigation;
5. The amount of money or value of the property in question;
6. The degree of responsibility incurred;
7. Whether the fund involved was "created" by the attorney;

8. The professional skill and standing of the attorney is his profession;
9. The results the attorney was able to obtain; and
10. The ability of the client to pay a reasonable fee for the services rendered.

D. Hypotheticals:

- i. Ron is an attorney who has represented the Executor of a \$4 million estate for the last three years. Ron routinely handles complex estate matters. This particular estate administration was extremely difficult, and required several hearings before the Orphans' Court to resolve issues concerning the estate property with the beneficiaries. Now, the estate is finally ready to be concluded. Ron's legal fees and costs for the entire length of the representation are \$250,000.00. Ron's engagement letter with the Executor provides that he would bill hourly for his work, and his hourly rate is \$250.00/hour. The Executor balks at Ron's fee and argues that it is unreasonable because it exceeds 5% of the estate value. Is the fee unreasonable?
- ii. Carlos is an attorney who represented Jessica as the Executor of her mother's estate ten years ago. After the conclusion of the estate administration, Carlos and Jessica did not have any further business dealings with each other, although they did see each other socially. Jessica has now retained Carlos to represent her as the

Executor of her father's estate. Because Carlos represented Jessica in her mother's estate, he does not send her a new engagement letter for her father's estate. The estate is now ready to be concluded; however, Jessica objects to the legal fee charged by Carlos. Ten years ago, Carlos based his fees for estate administration cases on a percentage of the estate value; however, he changed his practice four years ago and now charges at the hourly rate of \$300.00/hour for all estate matters. What could Carlos have done differently?

III. Dealing with Beneficiaries

A. Rule 4.1 Truthfulness in Statements to Others

In the course of representing a client a lawyer shall not knowingly:

- (a) make a false statement of material fact or law to a third person; or
- (b) fail to disclose a material fact to a third person when disclosure is necessary to avoid aiding and abetting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.

B. Rule 4.2 Communication with Person Represented by Counsel

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

C. Rule 4.3 Dealing with Unrepresented Person

(a) In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested.

(b) During the course of a lawyer's representation of a client, a lawyer shall not give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the lawyer knows or reasonably should know the interests of such person are or have a reasonable possibility of being in conflict with the interests of the lawyer's client.

(c) When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer should make reasonable efforts to correct the misunderstanding.

D. Rule 1.2 – Comment 11

Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

E. Hypotheticals:

- i. Anthony is an attorney who represents the Executor of an estate. The Executor is a beneficiary of the estate, as are his two siblings. One day, one of the siblings calls Anthony to complain about the Executor's actions. The sibling tells Anthony that "since he represents the beneficiaries," he needs to get the Executor to change his actions. What, if anything, can Anthony tell the sibling?

- ii. Jen is an attorney who represents the Executor of an estate. The Executor and her six siblings are all equal beneficiaries of the estate. The Executor is estranged from her siblings, and instructs Jen not to discuss the estate with any of the other beneficiaries. One day, one of the siblings calls Jen and asks for a copy of the Inheritance Tax Return. What, if anything, can Jen do?

IV. Confidentiality

A. Rule 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information relating to representation of a client unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation, and except as stated in paragraphs (b) and (c).

(b) A lawyer shall reveal such information if necessary to comply with the duties stated in Rule 3.3.

(c) A lawyer may reveal such information to the extent that the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a criminal act that the lawyer believes is likely to result in substantial injury to the financial interests or property of another;

(3) to prevent, mitigate or rectify the consequences of a client's criminal or fraudulent act in the commission of which the lawyer's services are being or had been used; or

(4) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim or disciplinary proceeding against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(5) to secure legal advice about the lawyer's compliance with these Rules; or

(6) to effectuate the sale of a law practice consistent with Rule 1.17; or

(7) to detect and resolve conflicts of interest from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.

(d) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

(e) The duty not to reveal information relating to representation of a client continues after the client-lawyer relationship has terminated.

B. Hypotheticals:

- i. Shannon is an attorney who prepared a Last Will and Testament for Dave four years ago. One day, she receives a call from Liane, Dave's daughter. Liane tells Shannon that, in the years since Shannon prepared Dave's Will, Dave got remarried (to a woman thirty years younger than him) and executed a new Will leaving his entire estate to his new wife. Liane wants to know if Shannon retained a copy of Dave's prior Will, and asks Shannon to provide it to her. Can Shannon comply with this request?
- ii. Melissa is an attorney who prepared a Last Will and Testament for Amber five years ago. Amber had three children: Lauren, Jim, and Tom. Amber told Melissa that she wanted to leave her entire estate to Jim, because Lauren and Tom had good jobs, and she felt that Jim needed the money more. Amber named Lauren as the Executor under her Will. Now, Melissa represents Lauren as the Executor of the estate. Lauren tells Melissa that she is surprised that Amber did not leave her estate to her children equally, and asks if Melissa can tell her why the Will was drafted in this manner. What, if anything, can Melissa tell Lauren?

Chapter Five

Exhibit A: Sample Commissions

Exhibit A
Johnson Estate, 4 Fid.Rep.2d 6, 8 (O.C. Del. Co. 1983)

COMMISSIONS

		<i>Per Col.</i>	<i>Per Total</i>
	\$ 00.01 to \$ 100,000.00	5%	5,000.00 5,000.00
	\$ 100,000.01 to \$ 200,000.00	4%	4,000.00 9,000.00
Executor or	\$ 200,000.01 to \$ 1,000,000.00	3%	24,000.00 33,000.00
Administrator	\$ 1,000,000.01 to \$ 2,000,000.00	2%	20,000.00 53,000.00
	\$ 2,000,000.01 to \$ 3,000,000.00	1½%	15,000.00 68,000.00
	\$ 3,000,000.01 to \$ 4,000,000.00	1%	10,000.00 78,000.00
	\$ 4,000,000.01 to \$ 5,000,000.00	½%	5,000.00 83,000.00
1% Joint Accounts	1% P.O.D. Bonds		1% Trust Funds
3% Real Estate Converted with Aid of Broker	5% Real Estate: Non-Converted		1% Real Estate: Specific Devise
	\$ 00.01 to \$ 25,000.00	7%	1,750.00 1,750.00
	\$ 25,000.01 to \$ 50,000.00	6%	1,500.00 3,250.00
	\$ 50,000.01 to \$ 100,000.00	5%	2,500.00 5,750.00
Attorney	\$ 100,000.01 to \$ 200,000.00	4%	4,000.00 9,750.00
	\$ 200,000.01 to \$ 1,000,000.00	3%	24,000.00 33,750.00
	\$ 1,000,000.01 to \$ 2,000,000.00	2%	20,000.00 53,750.00
	\$ 2,000,000.01 to \$ 3,000,000.00	1½%	15,000.00 68,750.00
	\$ 3,000,000.01 to \$ 4,000,000.00	1%	10,000.00 78,750.00
	\$ 4,000,000.01 to \$ 5,000,000.00	½%	5,000.00 83,750.00
½% Regular Commission P.O.D. Bonds and Trust Funds	3½% Transfer Joint Accounts		3½% Assets Which Are Taxable at One Half Value
1% Non-Probate Assets up to \$1,000,000	1% Non-Probate Assets		Joint Accounts Fully Taxable: Full Commission

Chapter Six

Complicated Issues

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Doylestown

Complicated Issues

Elaine T. Yandrisevits, J.D., LL.M.

I. Ancillary Probate

A. The Register of Wills only has jurisdiction over the decedent's property located in Pennsylvania.

i. 20 Pa. C.S. § § 3131. Place of probate.

The will of a decedent domiciled in the Commonwealth at the time of his death shall be probated only before the register of the county where the decedent had his last family or principal residence. If the decedent had no domicile in the Commonwealth, his will may be probated before the register of any county where any of his property is located.

B. If the decedent had probate property in another state (usually real property), the personal representative must open ancillary probate in that state after opening probate in Pennsylvania.

C. Property in another state may be subject to the procedures, taxes, and fees of that jurisdiction.

D. Real property located in another state is not subject to Pennsylvania Inheritance Tax

II. Divorce

A. If a decedent dies in the process of divorce proceedings, it is very important to determine the exact stage of the proceedings.

B. Share of the surviving spouse:

i. Testate estates:

1. 20 Pa. C.S. § § 2507. Modification by circumstances.

Wills shall be modified upon the occurrence of any of the following circumstances, among others: . . .

(2) Divorce or pending divorce.--Any provision in a testator's will in favor of or relating to the testator's spouse shall become ineffective for all purposes unless it appears from the will that the provision was intended to survive a divorce, if the testator:

(i) is divorced from such spouse after making the will; or

(ii) dies domiciled in this Commonwealth during the course of divorce proceedings, no decree of divorce has been entered pursuant to 23 Pa.C.S. § 3323 (relating to decree of court) and grounds have been established as provided in 23 Pa.C.S. § 3323(g).

ii. Intestate estates:

1. 20 Pa. C.S. § § 2106. Forfeiture.

(a) Spouse's share.--

(1) A spouse who, for one year or upwards previous to the death of the other spouse, has willfully neglected or refused to perform the duty to support the other spouse, or who for one year or upwards has willfully and maliciously deserted the other spouse, shall have no right or interest under this chapter in the real or personal estate of the other spouse.

(2) A spouse shall have no right or interest under this chapter in the real or personal estate of the other spouse if:

(i) the other spouse dies domiciled in this Commonwealth during the course of divorce proceedings;

(ii) no decree of divorce has been entered pursuant to 23 Pa.C.S. § 3323 (relating to decree of court); and

(iii) grounds have been established as provided in 23 Pa.C.S. § 3323(g).

iii. Nonprobate assets:

1. 20 Pa. C.S. § 6111.2. Effect of divorce or pending divorce on designation of beneficiaries.

(a) Applicability.--This section is applicable if an individual:

(1) is domiciled in this Commonwealth;

(2) designates the individual's spouse as beneficiary of the individual's life insurance policy, annuity contract, pension or profit-sharing plan or other contractual arrangement providing for payments to the spouse; and

(3) either:

(i) at the time of the individual's death is divorced from the spouse; or

(ii) dies during the course of divorce proceedings, no decree of divorce has been entered pursuant to 23 Pa.C.S. § 3323 (relating to decree of court) and grounds have been established as provided in 23 Pa.C.S. § 3323(g).

(b) General rule.--Any designation described in subsection (a)(2) in favor of the individual's spouse or former spouse that was revocable by the individual at the individual's death shall become ineffective for all purposes and shall be construed as if the spouse or former spouse had predeceased the individual, unless it appears the designation was intended to survive the divorce based on:

(1) the wording of the designation;

(2) a court order;

(3) a written contract between the individual and the spouse or former spouse; or

(4) a designation of a former spouse as a beneficiary after the divorce decree has been issued.

(c) Liability.--

(1) Unless restrained by court order, no insurance company, pension or profit-sharing plan trustee or other obligor shall be liable for making payments to a spouse or

former spouse which would have been proper in the absence of this section.

(2) Any spouse or former spouse to whom payment is made shall be answerable to anyone prejudiced by the payment.

C. The Pennsylvania Domestic Relations Code provides the grounds for divorce.

i. 23 Pa. C.S. § 3301. Grounds for divorce.

(a) Fault.--The court may grant a divorce to the innocent and injured spouse whenever it is judged that the other spouse has:

(1) Committed willful and malicious desertion, and absence from the habitation of the injured and innocent spouse, without a reasonable cause, for the period of one or more years.

(2) Committed adultery.

(3) By cruel and barbarous treatment, endangered the life or health of the injured and innocent spouse.

(4) Knowingly entered into a bigamous marriage while a former marriage is still subsisting.

(5) Been sentenced to imprisonment for a term of two or more years upon conviction of having committed a crime.

(6) Offered such indignities to the innocent and injured spouse as to render that spouse's condition intolerable and life burdensome.

(b) Institutionalization.--The court may grant a divorce from a spouse upon the ground that insanity or serious mental disorder has resulted in confinement in a mental institution for at least 18 months immediately before the commencement of an action under this part and where there is no reasonable prospect that the spouse will be discharged from inpatient care during the 18 months subsequent to the commencement of the action. A presumption that no prospect of discharge exists shall be established by a certificate of the superintendent of the institution to that effect and which includes a supporting statement of a treating physician.

(c) Mutual consent.--

(1) The court may grant a divorce where it is alleged that the marriage is irretrievably broken and 90 days have elapsed from the date of commencement of an action under this part and an affidavit has been filed by each of the parties evidencing that each of the parties consents to the divorce.

(2) The consent of a party shall be presumed where that party has been convicted of committing a personal injury crime against the other party.

(d) Irretrievable breakdown.--

(1) The court may grant a divorce where a complaint has been filed alleging that the marriage is irretrievably broken and an affidavit has been filed alleging that the parties have lived separate

and apart for a period of at least two years and that the marriage is irretrievably broken and the defendant either:

(i) Does not deny the allegations set forth in the affidavit.

(ii) Denies one or more of the allegations set forth in the affidavit but, after notice and hearing, the court determines that the parties have lived separate and apart for a period of at least two years and that the marriage is irretrievably broken.

(2) If a hearing has been held pursuant to paragraph (1)(ii) and the court determines that there is a reasonable prospect of reconciliation, then the court shall continue the matter for a period not less than 90 days nor more than 120 days unless the parties agree to a period in excess of 120 days. During this period, the court shall require counseling as provided in section 3302 (relating to counseling). If the parties have not reconciled at the expiration of the time period and one party states under oath that the marriage is irretrievably broken, the court shall determine whether the marriage is irretrievably broken. If the court determines that the marriage is irretrievably broken, the court shall grant the divorce. Otherwise, the court shall deny the divorce.

(e) No hearing required in certain cases.--If grounds for divorce alleged in the complaint or counterclaim are established under

subsection (c) or (d), the court shall grant a divorce without requiring a hearing on any other grounds.

D. Grounds for divorce must be both met and established as part of a divorce proceeding.

i. 23 Pa. C.S. § 3323. Decree of Court.

(g) Grounds established.--For purposes of subsections (c.1) and (d.1), grounds are established as follows:

(1) In the case of an action for divorce under section 3301(a) or (b) (relating to grounds for divorce), the court adopts a report of the master or makes its own findings that grounds for divorce exist.

(2) In the case of an action for divorce under section 3301(c), both parties have filed affidavits of consent or, if the presumption in section 3301(c)(2) is established, one party has filed an affidavit of consent.

(3) In the case of an action for divorce under section 3301(d), an affidavit has been filed and no counter-affidavit has been filed or, if a counter-affidavit has been filed denying the affidavit's averments, the court determines that the marriage is irretrievably broken and the parties have lived separate and apart for at least two years at the time of the filing of the affidavit.

III. Unmarried Couples

A. 23 Pa. C.S. § 1103. Common-law marriage.

No common-law marriage contracted after January 1, 2005, shall be valid. Nothing in this part shall be deemed or taken to render any common-law marriage otherwise lawful and contracted on or before January 1, 2005, invalid.

B. Prior to January 1, 2005, Pennsylvania recognized two kinds of marriage: ceremonial marriage and common law marriage.

i. Ceremonial marriage – “a wedding or marriage performed by a religious or civil authority with the usual or customary ceremony or formalities.”

ii. Common law marriage – “can only be created by an exchange of words in the present tense, spoken with the specific purpose that the legal relationship of husband and wife is created by that.”

1. The words in the present tense are referred to as *verba in praesenti*.

iii. *Straudenmayer v. Staudenmayer*, 714 A.2d 1016, 1019 (Pa. 1998),

C. The burden of proof to demonstrate a common law marriage exists is on the party alleging that a common law marriage exists. – Clear and convincing evidence standard

D. Proving the existence of *verba in praesenti*:

i. If one party of the purported common law marriage is deceased, the Dead Man’s Rule prohibits the surviving party from testifying to the exchange of *verba in praesenti* that is necessary to prove the existence of a common law marriage.

- ii. In these cases, the Pennsylvania Supreme Court has recognized a rebuttable presumption in favor of common law marriage. This rebuttable presumption exists where the surviving party proves, by clear and convincing evidence, that the relationship involved “(1) constant cohabitation; and (2) a reputation of marriage which is not partial or divided but is broad and general.” *Straudenmayer*, 714 A.2d at 1020-21.

IV. Disabled Beneficiaries

- A. An adult individual is considered disabled by the Social Security Administration if he or she is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months.
- B. Resource- and income-dependent public benefits:
 - i. Examples:
 - 1. Supplemental Security Income (SSI)
 - 2. Medicaid/Medical Assistance/Waiver programs
 - 3. Food Stamps
 - ii. Each program has a resource and income test to determine if the recipient is financially eligible.
 - 1. SSI – Resource limit of \$2,000.00 per individual or \$3,000.00 per married couple.

2. Medical Assistance – Varies by program.

- iii. If a recipient exceeds the resource and income limits for the program, he or she will be rendered financially ineligible and will lose public benefits.

C. Special Needs Trusts

- i. Any funds held in a Special Needs Trust do not count as resources for purposes of determining eligibility for public benefits.
- ii. Trust is designed to supplement, not supplant, the beneficiary's public benefits.
- iii. Trustee has the unfettered discretion in making all distributions from the Trust.

iv. Types:

1. Third Party Funded

- a. Holds funds that belonged to anyone except the beneficiary.
- b. Typically created as part of an estate plan.
- c. The Will must include a specific intent by the testator for the funds to be held in a Special Needs Trust.

- i. Example: "I leave the entire residue of my estate to the Third Party Funded Special Needs Trust for the benefit of my daughter, Jane Smith."

d. No payback to state Medicaid agency.

2. Self-Funded

a. Holds funds that belonged to the beneficiary.

b. Used in estate administration in cases where the disabled individual will receive funds directly from the estate.

i. Intestacy.

ii. Testate estates that leave a bequest directly to the individual with disabilities.

1. Example – “I leave the residue of my estate to my daughter, Jane Smith.”

c. Contains a payback to the state Medicaid agency.

d. Can only be created by:

i. Competent adult beneficiary

ii. Beneficiary’s parent

iii. Beneficiary’s grandparent

iv. Beneficiary’s legal guardian

v. If none of the above are available to create the Trust, the Orphans’ Court can approve and establish the Trust.

e. 42 U.S.C. § 1396p(d)(4)(A)

V. Minor Beneficiaries

A. When the bequest is \$25,000.00 or less:

- i. The personal representative may distribute a sum of less than \$25,000.00 directly to a minor beneficiary or to the minor beneficiary's parent without the appointment of a guardian of the estate of the minor when authorized by the Orphans' Court.
- ii. The personal representative may also nominate a custodian for the minor and authorize the transfer of funds to an Uniform Transfer to Minors Act (UTMA) account, even if no express provision exists in the Will or the estate is intestate.

B. When the bequest is more than \$25,000.00:

- i. A guardian of the estate of the minor should be appointed.
- ii. If no guardian is appointed, the funds may be deposited in a bank account for the minor's benefit, with the express provision that no funds may be withdrawn from the account until the minor attains the age of majority unless there is a Court order authorizing such.
- iii. The personal representative may transfer the funds to an UTMA only if authorized by the Will.

VI. Wrongful Death and Survival Action Litigation

A. Wrongful Death action

- i. The cause of action brought by the decedent's family to compensate them for their loss.
- ii. 42 Pa. C.S. § 8301. Death action.
 - (a) General rule.--An action may be brought, under procedures prescribed by general rules, to recover damages for the death of an

individual caused by the wrongful act or neglect or unlawful violence or negligence of another if no recovery for the same damages claimed in the wrongful death action was obtained by the injured individual during his lifetime and any prior actions for the same injuries are consolidated with the wrongful death claim so as to avoid a duplicate recovery.

(b) Beneficiaries.--Except as provided in subsection (d), the right of action created by this section shall exist only for the benefit of the spouse, children or parents of the deceased, whether or not citizens or residents of this Commonwealth or elsewhere. The damages recovered shall be distributed to the beneficiaries in the proportion they would take the personal estate of the decedent in the case of intestacy and without liability to creditors of the deceased person under the statutes of this Commonwealth.

(c) Special damages.--In an action brought under subsection (a), the plaintiff shall be entitled to recover, in addition to other damages, damages for reasonable hospital, nursing, medical, funeral expenses and expenses of administration necessitated by reason of injuries causing death.

(d) Action by personal representative.--If no person is eligible to recover damages under subsection (b), the personal representative of the deceased may bring an action to recover damages for reasonable hospital, nursing, medical, funeral expenses and

expenses of administration necessitated by reason of injuries causing death.

- iii. Does not become part of the decedent's estate.
- iv. Not subject to inheritance, estate, or income taxes.

B. Survival Action

- i. The cause of action the decedent would have been able to bring if he or she survived the incident that caused death.
- ii. 42 Pa. C.S. § 8302. Survival action.

All causes of action or proceedings, real or personal, shall survive the death of the plaintiff or of the defendant, or the death of one or more joint plaintiffs or defendants.

- iii. Becomes part of the decedent's estate.
- iv. Subject to inheritance, estate, and fiduciary income taxes.

C. Beneficiaries:

- i. Wrongful death:
 - 1. Spouse, children, and parents of the decedent.
 - 2. Beneficiaries take in the proportions they would receive under the intestacy statute.
- ii. Survival:
 - 1. Passes through the estate, so first available to creditors.
 - 2. Beneficiaries are the beneficiaries of the estate – either named in the Will or determined by the intestacy laws.

- D. Court approval is necessary for the allocation of funds between wrongful death action and survival action. – Must also obtain input from the Department of Revenue.
- E. Survival action funds must be included on the Inheritance Tax Return and Inventory.

Chapter Seven

Closing the Estate

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Doylestown

Closing the Estate

Elaine T. Yandrisevits, J.D., LL.M.

I. Formal Accounting and Petition for Allowance

A. 20 Pa. C.S. § 3501.1. Accounting by personal representative.

A personal representative may file his account at any time after four months from the first complete advertisement of the original grant of letters, but shall not file it earlier unless directed to do so by the court. A personal representative may be cited to file an account at any time after the expiration of six months from the first complete advertisement of the original grant of letters. A personal representative may be directed by the court to file an account of his administration at any time.

B. 20 Pa. C.S. § 3503. Notice to parties in interest.

The personal representative shall give written notice of the filing of his account and of its call for audit or confirmation to every person known to the personal representative to have or assert an interest in the estate as beneficiary, heir, next of kin or claimant, unless the interest of such person has been satisfied or unless such person fails to respond to a demand under section 3532(b.1) (relating to at risk of personal representative).

C. 20 Pa. C.S. § 3513. Statement of proposed distribution.

A personal representative filing an account shall file a statement of proposed distribution or a request that distribution be determined by the court or by an auditor, as local rules may prescribe. The statement of proposed distribution shall be in such form, and such notice thereof shall

be given by advertisement or otherwise, and objections thereto may be made, as local rules prescribe.

D. The form of an Account is determined by Chapter II of the Orphans' Court Rules.

- i. New rules effective September 1, 2016 made significant changes to the procedure and format for filing an Account.
- ii. O.C. Rule 2.4 – A Petition for Adjudication must be filed at the same time as the Account.
- iii. O.C. Rule 2.5(a) – Written notice of the filing of the Account must be provided to:
 1. Every unpaid claimant who has given written notice of his or her claim.
 2. Any other claimant with a claim not listed on the Account as paid in full or to be paid in full.
 3. Any individual or entity that has an interest in the estate as a beneficiary, heir, or next of kin.
- iv. O.C. Rule 2.5(d) – Written notice must be provided at least twenty (20) days prior to the Audit.
- v. O.C. Rule 2.7 – Objections may be filed in writing to any Account on or before the date of the Audit.
- vi. O.C. Rule 2.8 – Pleadings are allowed after Objections are filed.

- vii. O.C. Rule 2.9 – The Orphans’ Court may confirm and approve a Petition for Adjudication by entering an Order specifying the approved distribution.

II. Informal Accounting and Receipts and Releases

- A. Instead of settling the estate formally, the personal representative may prepare an Informal Account for the interested parties.
- B. The Informal Account lists all receipts and distributions from the estate during the personal representative’s appointment.
- C. The Informal Account should be accompanied by Receipts and Releases, whereby each beneficiary can agree to accept the Informal Account and release the personal representative from liability for his or her actions.
- D. Upon receipt of signed Receipts and Releases from all beneficiaries, the personal representative can make distribution.
- E. If one or more of the beneficiaries will not sign a Receipt and Release, the personal representative may need to file a Formal Account and Petition for Adjudication.

III. Status Report

- A. O.C. Rule 10.6. Status Report by Personal Representative
 - (a) Report of Uncompleted Administration. If administration of an estate has not been completed within two years of the decedent’s death, the personal representative or counsel shall file at such time, and annually thereafter until the administration is completed, a report with the Register

showing the date by which the personal representative or his, her, or its counsel reasonably believes administration will be completed.

(b) Report of Completed Administration. Upon completion of the administration of an estate, the personal representative or his, her or its counsel shall file with the Register a report showing:

(1) completion of administration of the estate;

(2) whether a formal Account was filed with the Orphans' Court;

(3) whether a complete Account was informally stated to all parties in interest;

(4) whether final distribution has been completed; and

(5) whether approvals of the Account, receipts, joinders and releases have been filed with the clerk.

(c) Form of Status Report. The report required by this Rule shall be in the form approved by the Supreme Court.

(d) Copy of Rule. Upon the grant of letters, the Register shall give a copy of Rule 10.6 to each personal representative not represented by counsel.

(e) Failure to File a Status Report. After at least ten (10) days subsequent to providing written notice to a delinquent personal representative and counsel, the Register shall inform the court of the failure to file the report required by this Rule with a request that the court conduct a hearing to determine what sanctions, if any, should be imposed.

IV. Distributions

A. Liability of Personal Representative

i. 20 Pa. C.S. § 3532. At risk of personal representative.

(a) Rights of claimants against personal representatives.--A personal representative, at his own risk and without the filing, audit or confirmation of his account, may distribute real or personal property and such distribution shall be without liability to any claimant against the decedent, unless the claim of such claimant is known to the personal representative within one year after the first complete advertisement of the grant of letters to such personal representative or thereafter but prior to such distribution.

(b) Rights of claimants against distributed property.--

(1) Personal property.--No claimant shall have any claim against personal property distributed by a personal representative at his own risk pursuant to subsection (a), unless the claim of such claimant is known to the personal representative within one year after the first complete advertisement of the grant of letters or thereafter but prior to such distribution.

(2) Real property.--No claimant shall have any claim against real property conveyed by a personal representative in distribution at his own risk pursuant to subsection (a) hereof, unless such claimant, within one year after the decedent's death, files a written notice of his claim with the clerk. Such claim against

real property shall expire at the end of five years after the decedent's death, unless within that time the personal representative files an account or the claimant files a petition to compel an accounting.

(3) Liens and charges existing at death.--Nothing in this section shall be construed as affecting any lien or charge which existed at the time of the decedent's death on his real or personal property.

(b.1) Limitation on rights of claimants.--A personal representative may make written demand by mail or delivery to any person who may have a claim but who has not previously given written notice of his claim to the personal representative. If the personal representative's demand requests the person to give written notice of his claim within 60 days from the mailing or delivery of the demand or within one year from the first complete advertisement of the grant of letters, whichever is later, and the person fails to do so, the person shall not have any rights with respect to such claim under subsection (a) or (b)(1) and shall not have any right on account of such claim to receive notice of the filing of the personal representative's account and of its call for audit or confirmation. The personal representative shall not be liable to any such person or to any beneficiary, heir or next of kin or creditor of the estate for making or failing to make demand under this subsection.

(c) Record of risk distributions.--The personal representative may file with the clerk receipts, releases and refunding agreements which he may have received from persons to whom he has made a risk distribution, or from other parties in interest. Receipts, releases and refunding agreements so filed shall be indexed under the name of the estate. Their acceptance shall not be construed as court approval of any act of administration or distribution therein reflected.

B. Commission to the Personal Representative

i. 20 Pa. C.S. § 3537. Compensation.

The court shall allow such compensation to the personal representative as shall in the circumstances be reasonable and just, and may calculate such compensation on a graduated percentage.

ii. *Johnson Estate*, 4 Fiduc. Rep. 2d 6, (O.C. Del. 1983)

1. A schedule of fees for attorneys and personal representatives that most Orphans' Courts consider reasonable.

2. This schedule has become widely accepted as the basis for fees, although deviations are permissible.

iii. Any commission paid is taxable as income to the personal representative in the year in which it is received.

C. Distributions to Beneficiaries

- i. 20 Pa. C.S. § 3533. Award upon final confirmation of account.

A personal representative shall be relieved of liability with respect to all real and personal estate distributed in conformity with a decree of court or in accordance with rule of court after confirmation of an account. In making any such distribution, the personal representative shall not be entitled to demand refunding bonds from the distributees, except as provided by this title or as directed by the court.

- ii. 20 Pa. C.S. § 3534. Distribution in kind.

The court, for cause shown, may order the estate to be distributed in kind to the parties in interest, including fiduciaries. In such case, when there are two or more distributees, distribution may be made of undivided interests in real or personal estate or the personal representative or a distributee may request the court to divide, partition and allot the property, or to direct the sale of the property. If such a request is made, the court, after such notice as it shall direct, shall fairly divide, partition and allot the property among the distributees in proportion to their respective interests, or the court may direct the personal representative to sell at a sale confined to the distributees, or at a private or public sale not so confined, any property which cannot be so divided, partitioned or allotted.

iii. 20 Pa. C.S. § 3534.1. Cost of distribution of tangible personal property.

Except as otherwise provided in the will, if any, the personal representative shall pay as an expense of administration the reasonable expenses of storage, insurance, packing and delivery of tangible personal property to a beneficiary.

iv. 20 Pa. C.S. § 3541. Order of abatement.

(a) General rules.--Except as otherwise provided by the will, if the assets are insufficient to pay all claimants and distributees in full, the shares of distributees, without distinction between real and personal estate, shall have priority of distribution in the following order:

(1) Property specifically devised or bequeathed to or for the benefit of the surviving spouse.

(2) Property specifically devised or bequeathed to or for the benefit of the decedent's issue.

(3) Property specifically devised or bequeathed to or for the benefit of other distributees.

(4) Property disposed of by will in the form of a general bequest of cash, stocks or bonds.

(5) Property disposed of by general devise or bequest and not included in a residuary clause.

(6) Property devised or bequeathed in a residuary clause.

(7) Property not disposed of by the will.

(b) Demonstrative legacies.--Property out of which a demonstrative legacy is primarily to be paid shall be deemed to be specifically devised or bequeathed to the extent of such demonstrative legacy.

Chapter Seven

Attachment: Closing the Estate Exhibits

[This is an entirely new chapter.]

CHAPTER II. ACCOUNTS, OBJECTIONS AND DISTRIBUTIONS

Rule 2.1. Form of Account

(a) Except where otherwise provided by an order of the court in a particular matter, Accounts shall be prepared and filed with the clerk in conformity with the form of the Model Accounts set forth in the Appendix or in conformity with any other form adopted by the Supreme Court subsequent to the date of adoption of these Rules.

(b) As illustrated in the Model Accounts, Accounts shall conform to the following rules:

(1) The dates of all receipts, disbursements and distributions, the sources of the receipts, and the persons to whom disbursements and distributions are made and the purpose thereof shall be stated. When a number of payments have been received from the same source or disbursed or distributed to the same recipient for the same purpose over a period of time, such receipts, disbursements or distributions need not be itemized, but may be stated in total amounts only, with beginning and ending dates within the period covered.

(2) Except where otherwise provided by an order of the court in a particular matter, principal and income shall be accounted for separately within the Account.

(3) Assets held by the accountant on the closing date of the Account shall be separately itemized.

(4) Every Account shall contain:

(i) a cover page;

(ii) a summary page with page references;

(iii) separate schedules, as needed, which set forth receipts, gains or losses on sales or other dispositions, disbursements, distributions, investments made, changes in holdings, and other schedules as appropriate; and

(iv) signature and verification pages signed by all the accountants stating the Account and verified by at least one of the accountants. The verification of a personal representative's Account shall contain a statement that the Grant of Letters and the first complete advertisement thereof occurred more than four months before the filing of the Account, unless the personal representative has been directed by the court to file an Account prior to that time.

(c) The Uniform Fiduciary Accounting Principles with accompanying commentaries and illustrations, recommended by the Committee on National Fiduciary Accounting Standards in collaboration with the National Center for State Courts, shall serve as an elaboration of the requirements of this Rule.

(d) When a non-profit corporation incorporated for charitable purposes or a cemetery company is required to file an Account, such corporation or company may file its financial statements for its three most recent fiscal years in lieu of filing an Account in the form required by this Rule. Financial statements shall be verified to be true and correct by a representative of the non-profit corporation or cemetery company.

(1) The court may require the corporation or company to submit its financial information in some other form or for some longer period.

(2) The court may require more or less financial information as it deems appropriate, including some or all of the following:

(i) the statute or other authority under which the corporation or company was incorporated and the date of its incorporation;

(ii) the names and addresses of the trustees or directors of the corporation or company;

(iii) a concise statement of the general purpose of the corporation or company; and

(iv) a copy of the corporation's or company's charter or articles of incorporation and bylaws.

Note: Rule 2.1 is substantively similar to former Rule 6.1 and Rule 12.15, except that certain subparagraphs have been reordered and Rule 12.15 and its Official Note have become subparagraph (d).

Explanatory Comment: Piggy-backed Accounts and limited Accounts are permitted pursuant to 20 Pa.C.S. §§ 762, 3501.2, and 7799.1.

Rule 2.2. Form; Assets Transferred by the Exercise of a Power of Appointment

Assets that are appointed pursuant to the exercise of a power of appointment shall be accounted for separately, and testamentary assets shall be segregated from appointive assets.

Note: Rule 2.2 has been revised but remains substantively similar to subparagraph (d) of former Rule 6.1.

Rule 2.3. Form; Separate Accounts for Minors

Unless the court for cause shown directs otherwise, the estate of each minor or the custodial account of each minor shall be accounted for separately.

Note: Rule 2.3 is substantively similar to former Rule 6.2, except that Rule 2.3 now also expressly encompasses the Account of a minor's custodial account.

Rule 2.4. Petition for Adjudication/Statement of Proposed Distribution; Virtual Representation

(a) A petition for adjudication/statement of proposed distribution shall be filed with the clerk at the time of filing an Account.

(b) In addition to other information required by the form, the petition for adjudication/statement of proposed distribution shall set forth the name of each interested party (whether *sui juris* or not) who is not receiving notice of the filing of the Account and the filing of the petition for adjudication/statement of proposed distribution because another individual or entity is proposed to represent such interested party pursuant to 20 Pa.C.S. § 751(6) or §§ 7721 – 7726, and shall set forth additional facts as to the following:

(1) a statement of the interested party's interest in the property; and

(2) for representation being proposed pursuant to 20 Pa.C.S. § 751(6),

(i) a statement that the interested party is not *sui juris* or is unborn, unknown or unascertained; and

(ii) one of the following:

(A) a statement that the proposed representative has an interest in the property similar to that of the interested party who is not *sui juris* or is unborn, unknown or unascertained; or

(B) a statement that the proposed representative is the *sui juris* living ancestor of the interested party who is not *sui juris* or is unborn, unknown or unascertained and that such living *sui juris* ancestor has an interest in the property that is not adverse to that of the interested party who is not *sui juris* or is unborn, unknown or unascertained; and

(3) for representation in trust matters being proposed pursuant to 20 Pa.C.S. §§ 7721 – 7726,

(i) an explanation about how the interested party's interest in the property can be adequately represented by the proposed representative pursuant to 20 Pa.C.S. § 7723,

(ii) a statement that with respect to the matter at issue there is no conflict of interest between the proposed representative and the interested party to be represented that will or might affect the impartiality of the proposed representative (except as provided pursuant to 20 Pa.C.S. § 7723(7)); and

(iii) one of the following:

(A) either a statement that the proposed representative has been informed of the right to decline such representation pursuant to 20 Pa.C.S. § 7725 within the time period set forth therein and has failed to inform the trustee in writing that he or she declines to be the proposed representative; or

(B) that the proposed representative's signed consent to serve is attached as an exhibit to the petition for adjudication/statement of proposed distribution.

(c) The petition for adjudication/statement of proposed distribution shall be accompanied by such legal paper as is required by the form.

(d) At least one of the accountants stating the Account shall sign and verify the petition for adjudication/statement of proposed distribution in accordance with Rules 3.12 and 3.13.

(e) Counsel for the accountant shall sign the petition for adjudication/statement of proposed distribution in accordance with and pursuant to Rule 3.12.

Note: Although substantially modified, Rule 2.4 is derived from former Rule 6.9. One modification is to require averments for virtual representation under 20 Pa.C.S. § 751(6) generally and representation in "trust matters" pursuant to 20 Pa.C.S. § 7721 *et seq.* Another substantial modification is the addition of subparagraph (e) that requires counsel to sign the petition for adjudication/statement of distribution attesting that the submitted petition for adjudication/statement of distribution accurately replicates the Model Form and subjects counsel to rules and sanctions as provided in Pa.R.C.P. Nos. 1023.1 through 1023.4. (See Rule 3.12.)

Explanatory Comment: The Supreme Court has adopted form petitions for adjudication/statements of proposed distribution of a decedent's estate, trust, guardian of an incapacitated person's estate, guardian of a minor's estate, and the estate of a principal stated by an agent under a power of attorney. These form petitions for adjudication/statements of proposed

distribution are the exclusive forms for adjudicating an Account, and consequently, the local court and clerk must accept these statewide forms and may not accept or allow any other forms previously permitted under local rules. The exclusive statewide form petitions for adjudication/statements of proposed distribution appear in the Appendix and are available electronically at www.pacourts.us/forms under the For-the-Public category.

Cover sheets or checklists may be required by local rule as permitted by Rule 1.8(c).

Rule 2.5. Notice of Account Filing

(a) No Account shall be confirmed or statement of proposed distribution approved unless the accountant has given written notice of the filing of the Account as provided in subparagraph (d) of this Rule to the following, as applicable:

(1) every unpaid claimant who has given written notice of his or her claim to the accountant or who has performed any action that is the equivalent of giving written notice as provided in 20 Pa.C.S. §§ 3384 or 7755;

(2) any other individual or entity with an asserted claim known to the accountant that is not shown in either the Account or the petition for adjudication/statement of proposed distribution as being either paid in full or to be paid in full;

(3) any other individual or entity known to the accountant to have or claim an interest in the estate or trust as a beneficiary, heir, or next of kin, except for those legatees or claimants whose legacies or claims have been satisfied in full as reflected in the Account or will be satisfied in full as proposed in the petition for adjudication/statement of proposed distribution; and

(4) For an Account where a charitable interest is involved, refer to Rule 4.4.

(b) Notice to an individual or entity shall be given in accordance with Rule 4.2; provided, however, that if the individual or entity is represented by counsel who has entered his or her appearance in accordance with Rule 1.7(a), notice shall be given to counsel and the individual or entity.

(c) If the proposed distribution is to an estate or trust and a charity is a “qualified beneficiary,” as defined in 20 Pa.C.S. § 7703, of that recipient estate or trust, then notice shall be given to the Attorney General on behalf of the charitable beneficiary. If the proposed distribution is to an estate or trust and any one of the accountants stating the Account is a personal representative or a trustee of the recipient estate or trust, then notice shall also be given to the beneficiaries of the estate or trust, to the extent known.

(d) Written notice, as provided in subparagraph (a) of this Rule, shall be mailed at least 20 days prior to the audit in those counties having a separate Orphans' Court Division or 20 days prior to the date by which objections must be filed in all other counties, and the written notice shall state the date of the audit or the date by which objections must be filed, and the time and place of the audit, if one is to be held, to the extent then known. If an audit is to be held and the time and place of the audit is not known at the time the notice is mailed, the notice shall state that the time and place of the audit will be provided upon request. A copy of the Account, petition for adjudication/statement of proposed distribution, and any legal paper filed therewith shall be sent with the notice, unless the recipient of the notice is a trust beneficiary who is not a "qualified beneficiary" as defined in 20 Pa.C.S. § 7703, or unless the court orders otherwise in a particular matter.

(e) If the audit of an Account is continued or the date for filing written objections is extended, additional notice shall be mailed at least 20 days prior to the date of the continued audit or the new date for filing written objections to all of those who initially received notice of the Account's filing. The additional notice shall state the date of the continued audit or the date by which objections must be filed, and the time and place of the continued audit, if one is to be held, to the extent then known. If the time and place of the continued audit is not known at the time the additional notice is mailed, the additional notice shall state that the time and place of the continued audit will be provided upon request.

(f) All notices and additional notices shall be sent by first-class United States mail, postage prepaid. Service by mail is complete upon mailing.

(g) A certificate of service and a copy of the notice shall be appended to the petition for adjudication/statement of proposed distribution or filed with the clerk prior to the audit or continued audit date, in those counties having a separate Orphans' Court Division, or by the date when objections must be filed in all other counties.

(h) The notice shall contain the information provided in subparagraphs (1), (2), and (3), as applicable, and, in all cases, shall contain a statement as provided in subparagraph (4):

(1) the accountant's position on any known dispute or interpretation question, together with a copy of any instrument or material parts thereof containing any provision which forms the basis of the dispute or question;

(2) the accountant's understanding of the nature of each contested or unpaid claim, a detailed explanation that specifically identifies the claim, whether the claim is admitted or contested, and if admitted, why the claim is not being paid in full;

(3) if the Account and petition for adjudication/statement of proposed distribution is not sent with the notice pursuant to subparagraph (d) of this Rule, the notice shall state the amount of all compensation paid or payable to the accountant, all attorneys' fees paid or payable, and that copies of the Account and petition for adjudication/statement of proposed distribution are available upon request; and

(4) that any recipient of the notice who objects to any transaction shown in the Account, any interpretation or position taken by the accountant, or to any payment, failure to pay, distribution proposed, or any other aspect of the petition for adjudication/statement of proposed distribution must file written objections in accordance with Rule 2.7 with the clerk on or before the audit date in those counties holding an audit and by a specified date in all other counties, and if there is no such objection, then no action need be taken as such recipient will be deemed to have approved the Account, as stated, and agreed with the accountant's position on any dispute or question as set forth in the petition for adjudication/statement of proposed distribution, if any, and with the accountant's proposed disbursements and distribution.

Note: Although substantially modified, Rule 2.5 is derived from former Rule 6.3.

Explanatory Comment: Pursuant to the cross-references to 20 Pa.C.S. §§ 3384 and 7755, notice of the claim given to accountant's counsel of record is notice to the accountant. See 20 Pa.C.S. § 3384(b)(4). If the court is inclined not to agree with accountant's position, interpretation or proposed disbursements and distribution, best practice would be for the court to direct the accountant to notify the interested parties of the court's position and what additional action must be taken by any interested party who objects to the court's position.

Rule 2.6. Filing with the Clerk

All Accounts shall be filed with the clerk.

Note: Rule 2.6 is derived from what was formerly Rule 6.6. Former Rule 6.4 regarding the time for filing the first Account of the personal representative has been deleted as it is codified in 20 Pa.C.S. § 3501.1.

Rule 2.7. Objections to Accounts or Petitions for Adjudication/Statements of Proposed Distribution

(a) Objections to an Account and/or a petition for adjudication/statement of proposed distribution shall be filed with the clerk on or before the time and date of the audit in those counties holding an audit, and by a specified date in all other counties, with a copy sent by first-class United States mail, postage prepaid, to the accountant or

the accountant's counsel, if represented, and to each interested party and claimant who received the notice pursuant to Rule 2.5, to the extent known.

(b) Objections shall be in writing, with consecutively numbered paragraphs, signed by counsel, or if not represented by counsel, then by all the objectors in accordance with Rule 3.12. Objections shall be verified by at least one of the objectors in accordance with Rule 3.13.

(c) Each objection shall:

(1) be specific as to description and amount;

(2) raise one issue of law or fact, but if there are several objections relating to the same issue, all such objections shall be included in the same paragraph as subparts; and

(3) briefly set forth the reason or reasons in support thereof.

(d) The court may extend the time for filing objections.

Note: Although substantially modified, Rule 2.7 is derived from former Rule 6.10.

Explanatory Comment: If the notice received by the objector has a service list appended to it setting forth the name and address of each interested party who received the notice under Rule 2.5, the objector must mail his or her objections to every name and address appearing on the service list.

Rule 2.8. Pleadings Allowed After Objections are Filed

(a) Answers to objections, preliminary objections to objections, and answers to preliminary objections are permitted, but a party does not waive any rights by failing to file any of the foregoing. If an answer to objections is filed, no responsive pleading to the answer is permitted.

(b) Preliminary objections to objections shall be limited to lack of jurisdiction over the subject matter and lack of standing.

(c) If filed, answers to objections, preliminary objections to objections, and answers to preliminary objections must be filed within 20 days after service of the applicable preceding pleading, with a copy served upon the accountant, if applicable, and to each interested party and claimant who received the notice pursuant to Rule 2.5, or to his or her counsel, if represented.

(d) The court may summarily decide preliminary objections to objections and may do so prior to the filing of an answer to the preliminary objections.

Note: Rule 2.8 has no counterpart in former Orphans' Court Rules.

Explanatory Comment: Preliminary objections to objections are limited in the grounds that may be raised. Insufficient specificity, failure to conform to law, and the inclusion of scandalous or impertinent matter, *inter alia*, are not properly raised as preliminary objections to objections. (Cf. Rule 3.9 and Pa.R.C.P. No. 1028).

Rule 2.9. Confirmation of Accounts; Awards

(a) An Account shall be confirmed or petition for adjudication/statement of proposed distribution approved when an adjudication or a decree of distribution is issued by the court and docketed by the clerk, expressly confirming the Account or approving the petition for adjudication/statement of proposed distribution and specifying, or indicating by reference to the petition for adjudication/statement of proposed distribution, the names of those to whom the balance available for distribution is awarded and the amount or share awarded to each.

(b) An adjudication confirming an Account discharges the fiduciaries as to those transactions set forth in the Account.

(c) The practice related to Schedules of Distribution shall be prescribed by local rule.

Note: Rule 2.9 is substantively similar to former Rule 6.11(a). Former Rule 6.11(b) has been deleted.

Rule 2.10. Foreign Heirs and Unknown Distributees

(a) If it appears that the decedent may have heirs in a foreign country but their location, existence or identity is unknown, the accountant or his or her counsel shall notify the consulate of the country, prior to audit, of the facts indicating that the decedent may have had heirs in that country.

(b) Whenever the existence, identity or whereabouts of a distributee is unknown, or it appears that a distributee may not have the actual benefit, use, enjoyment or control of the money or other property if awarded to him or her, or the court is requested to withhold distribution or to make an award other than to the distributee or his or her nominee, the accountant or his or her counsel shall submit to the court or auditor, as the case may be, a written report outlining the investigation made and the facts relevant

thereto. The report shall be in such form and may be filed at such place and time as shall be prescribed by local rule or order of the court.

Note: With only minor modifications, Rule 2.10 is substantively similar to former Rules 13.2 and 13.3. Former Rule 13.1 has been deleted.

Rule 2.11. Appointment of Official Examiners

The court, by local rule or order in a particular matter, may appoint an official examiner who shall examine the assets held by or the transactions of any fiduciary.

Note: Rule 2.11 is substantively identical to former Rule 9.1. The appointment and conduct of Auditors and Masters is provided for in Chapter IX.

DECEDENT'S ESTATE

COURT OF COMMON PLEAS OF

ORPHANS' COURT DIVISION

ESTATE OF _____, DECEASED

No. _____

**PETITION FOR ADJUDICATION /
STATEMENT OF PROPOSED DISTRIBUTION
PURSUANT TO Pa. O.C. Rule 2.4**

This form shall be used in all cases involving the Audit or Confirmation of the Account of a Decedent's Estate. If space is insufficient, riders may be attached. Attach the papers required under items 1, 2, 4, 8, 10, 16-19, as applicable, and any instrument pertinent to the adjudication.

INCLUDE ATTACHMENTS AT THE BACK OF THIS FORM.

Name of Counsel: _____

Supreme Court I.D. No.: _____

Name of Law Firm: _____

Address: _____

Telephone: _____

Fax: _____

Email: _____

Estate of _____, Deceased

1. Name(s) and address(es) of Petitioner(s):

Petitioner:

Petitioner:

Name: _____

Address: _____

Identify any Executors or Administrators who have not joined in the Petition for Adjudication/Statement of Proposed Distribution and/or the Account and state reason:

Is this the first accounting for this estate? Yes No

If not, identify prior accountings, the accounting periods covered, and the dates of adjudication of the prior accountings.

Pursuant to 20 Pa.C.S. § 3501.2, if property from a trustee, guardian, or agent acting under a power of attorney is being received into the estate, an Account of the administration of such trust, guardianship, or principal's estate may be annexed to the Estate Account. Is any such Account annexed to this Estate Account? Yes No

If so, the annexed Account and the appropriate fully completed Petition for Adjudication/Statement of Proposed Distribution for the annexed matter should be filed as Exhibits to this Petition.

2. Decedent died on _____.

Letters Testamentary or Letters of Administration were granted to Petitioner(s) on _____.

Date of Will (if applicable): _____

Date(s) of Codicil(s) (if applicable): _____

Date of probate (if different from date Letters granted): _____

Was a bond required? Yes No If yes, state amount: _____

Are proofs of advertising of the grant of Letters attached? Yes No

Dates of advertising of the grant of Letters:

Estate of _____, Deceased

3. Was decedent survived by a spouse? Yes No

If yes, name of the surviving spouse: _____

4. Has the surviving spouse filed to take an elective share? Yes No N/A
(see 20 Pa.C.S. § 2201 et seq.)

If yes, attach a copy of the election and state date of election: _____

5. In the case of an intestacy, state the names of the decedent's surviving children or surviving issue of deceased children (if none, so state):

6. Did decedent marry after execution of Will or Codicil(s)? Yes No N/A

Were any children born to decedent after execution of Will or Codicil(s)? Yes No N/A

If yes, give names and dates of birth:

<i>Name:</i>	<i>Date of Birth:</i>
_____	_____
_____	_____
_____	_____
_____	_____

7. Was a request for a statement of claim, as required by the Medical Assistance Estate Recovery Act, 62 P.S. § 1412, sent to the Department of Human Services? Yes No N/A

Estate of _____, Deceased

8. Written notice of the Account's filing as required by Pa. O.C. Rule 2.5 has been or will be given to all interested parties listed in item 9 below, all unpaid creditors and all claimants listed in item 10 below. In addition, notice of any questions requiring adjudication as discussed in item 15 below has been or will be given to all persons affected thereby. If one of the beneficiaries is a trust or another estate and any of the accountants is also a fiduciary of the receiving trust or estate, provide written notice of the Account's filing to the beneficiaries of the trust or receiving estate, as applicable, if known.
- A. If Notice has been given, attach a copy of the Notice as well as a list of the names and addresses of the parties receiving such Notice.
 - B. If Notice is yet to be given, a copy of the Notice as well as a list of the names and addresses of the parties receiving such Notice shall be submitted at the Audit or filed before the date of the last day for filing objections in counties without separate Orphans' Court Divisions together with a statement executed by a Petitioner or counsel certifying that such Notice has been given.
 - C. If any such interested person is not *sui juris* (e.g., minors or incapacitated persons), Notice has been or will be given to the appropriate representative on such party's behalf as required by Pa. O.C. Rule 4.2.
 - D. If any charitable interest is involved, Notice has been or will also be given to the Attorney General as required under Pa. O.C. Rule 4.4. In addition, the Attorney General's clearance certificate (or proof of service of Notice and a copy of such Notice) must be submitted herewith or at the Audit or filed before the date of the last day for filing objections in counties without separate Orphans' Court Divisions.
9. List all parties (charitable and non-charitable) of whom Petitioner(s) has/have notice or knowledge, having or claiming any interest in the estate as beneficiaries under the Will (if beneficiary is a trust, name the trust and trustee as the Interested Party) or Codicil(s) or as intestate heirs if there is a complete or partial intestacy. This list shall:

- A. State each party's relationship to the decedent and the nature of each party's interest(s):

<i>Name and Address of Each Interested Party</i>	<i>Relationship and Comments, if any</i>	<i>Interest</i>

Estate of _____, Deceased

<i>Name and Address of Each Interested Party</i>	<i>Relationship and Comments, if any</i>	<i>Interest</i>

B. Identify each party who is not *sui juris* (e.g., minors or incapacitated persons). For each such party, give date of birth, the name of each Guardian and how each Guardian was appointed. If no Guardian has been appointed, identify the next of kin of such party, giving the name, address and relationship of each.

C. State why a Petition for Guardian/Trustee *Ad Litem* has or has not been filed (see Pa. O.C. Rule 5.5).

Estate of _____, Deceased

D. If distribution is to be made to the personal representative of a deceased party, state date of death, date and place of grant of Letters and type of Letters granted.

10. Other than the claim for the family exemption, list the names of all known claimants and the amount of their claims and state whether each claim is admitted.

<i>Name and Address of Each Claimant</i>	<i>Amount of Claim</i>	<i>Claim Admitted?</i>	<i>Will Claim Be Paid In Full?</i>
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No
		<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No

If the estate is insolvent, attach a schedule setting forth the order of preference under 20 Pa.C.S. § 3392 and the proposed payments.

Estate of _____, Deceased

11. Was family exemption claimed? Yes No

Was family exemption allowed? Yes No

Family exemption claimant's name and relationship:

Name: _____ Relationship: _____

12. The amount of Pennsylvania Transfer Inheritance Tax paid, the date(s) of payment(s), and the interest(s) upon which paid, are as follows:

<i>Date</i>	<i>Payment</i>	<i>Interest</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

13. On the date of death, was the decedent a fiduciary (personal representative, trustee, guardian, agent under power of attorney) or surety on the bond of a fiduciary? Yes No

If yes, provide the name of the estate, indicate whether an Account has been filed and confirmed and all awards performed, or, in the alternative, how the decedent's estate will be discharged for the decedent's fiduciary administration of the estate.

Estate of _____, Deceased

14. On the date of death, was the decedent a party (as a plaintiff or defendant) in any litigation? Yes No

If yes, provide the caption of the litigation, docket number, where the matter is currently pending, and its status.

15. A. Describe in detail any questions requiring adjudication and state the position of the Petitioner(s) as to each question:

- B. Has notice of the question requiring adjudication been given to the parties identified in Paragraph 9 above? Yes No

16. If Petitioner(s) has/have knowledge that a share has been assigned, renounced, disclaimed or attached, provide a copy of the assignment, renunciation, disclaimer or attachment, together with any relevant supporting documentation.

Estate of _____, Deceased

17. Had the decedent been adjudicated an incapacitated person? Yes No

If yes, attach a copy of the Order if available; otherwise state the Court, docket number, date, and name of Hearing Judge.

18. A. List or attach a separate list of additional receipts and disbursements since the closing date of the Account.

B. Has notice of the additional receipts and disbursements been given to the parties identified in Paragraph 9 above? Yes No

19. If a reserve is requested, state amount and purpose.

Amount:

Purpose:

If a reserve is requested for counsel fees, has notice of the amount of fees to be paid from the reserve been given to the interested parties ? Yes No

If so, attach a copy of the notice.

Estate of _____, Deceased

20. If prescribed by local rule as permitted by Pa. O.C. Rule 2.9, is the Court being asked to direct the filing of a Schedule of Distribution? Yes No

As to real estate only? Yes No

Wherefore, your Petitioner(s) ask(s) that distribution be awarded to the parties entitled and suggest(s) that the distributive shares of income and principal (residuary shares being stated in proportions, not amounts) are as follows:

A. Income:

<i>Proposed Distributee(s)</i>	<i>Amount/Proportion</i>
_____	_____
_____	_____
_____	_____

B. Principal:

<i>Proposed Distributee(s)</i>	<i>Amount/Proportion</i>
_____	_____
_____	_____
_____	_____

Submitted By:
(All petitioners must sign. Place additional signatures on attachment if necessary):

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Petitioner

Name of Representative and Title

Signature of Petitioner

Signature of Officer/Representative

Name of Petitioner

Signature of Petitioner

Estate of _____, Deceased

(Verification must be by **at least one** petitioner.)

Verification for Individual Petitioner

The undersigned hereby verifies that the averment of facts set forth in the foregoing Petition for Adjudication/Statement of Proposed Distribution which are within the personal knowledge of the Petitioner are true, and as to facts based on the information of others, the Petitioner, after diligent inquiry, believes them to be true; and that any false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date

Signature of Petitioner

Verification for Corporate Petitioner

The undersigned hereby verifies that *he/she* _____ *is title* _____ of the above-named *name of corporation* _____ and that the averment of facts set forth in the foregoing Petition for Adjudication/Statement of Proposed Distribution which are within the personal knowledge of the Petitioner are true, and as to facts based on the information of others, the Petitioner, after diligent inquiry, believes them to be true; and that any false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date

Signature of Representative for Corporate Petitioner

Certification of Counsel

The undersigned counsel hereby certifies that the foregoing Petition for Adjudication/Statement of Proposed Distribution is a true and accurate reproduction of the form Petition authorized by the Supreme Court, and that no changes to the form have been made beyond the responses herein.

Date

Signature of Counsel for Petitioner

Model Estate Account

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, PA.
ORPHANS' COURT DIVISION
FILE NO. 98765

FIRST AND FINAL ACCOUNT OF
William C. Doe, Executor
For
ESTATE OF JOHN DOE, DECEASED

Date of Death: 11/14/05
Date of Incapacity, if any: None
Date of Executor's Appointment: 11/24/05
Date of First Complete Advertisement: 11/27/05
Accounting for the period: 11/24/05 to
11/30/06

Purpose of Account: The Executor offers this Account
to acquaint interested parties with the transactions
that have occurred during the Administration.

It is important that the Account be carefully examined.
Requests for additional information, questions or
objections can be discussed with:

[Name of Counsel]
[Address]
[Address]
[Phone Number]
Supreme Court I.D. No. _____

SUMMARY OF ACCOUNT

	<u>PAGES</u>		
<u>PRINCIPAL</u>			
Receipts	3-4	\$	160,488.76
Net Gain on Sales or Disposition	5		<u>2,662.00</u>
		\$	163,150.76
Less Disbursements:			
Debts of Decedent	6	\$	485.82
Funeral Expenses	6		1,375.00
Administration Expenses	6		194.25
Family Exemption	6		3,500.00
Federal, State & Local Taxes	7		5,856.83
Fees and Commissions	7		<u>11,689.64</u>
			<u>-23,101.54</u>
Balance before Distributions		\$	140,049.22
Distributions to Beneficiaries	8		<u>-52,630.00</u>
Principal Balance on Hand	9	\$	87,419.22
For Information:			
Investments Made	10		
Changes in Holdings	11		
<u>INCOME</u>			
Receipts	12	\$	2,513.40
Less Disbursements	13		<u>-178.67</u>
Balance before Distributions		\$	2,334.73
Distributions to Beneficiaries	14		<u>-2,334.73</u>
Income Balance on Hand		\$.00
COMBINED BALANCE ON HAND			<u>\$ 87,419.22</u> =====
Verification	15		

PRINCIPAL RECEIPTS

Assets Listed in Inventory
(Valued as of Date of Death)

Real Estate

Residence 86 Norwood Road Philadelphia, PA	\$ 50,000.00
--	--------------

Common Stocks

50 Shs. Best Oil Co.	5,000.00
1,000 Shs. Central Trust Co.	50,850.00
151 Shs. Electric Data Corp.	1,887.50
200 Shs. Home Telephone & Telegraph Co.	25,000.00
200 Shs. XYZ Corporation	6,000.00

Personal Effects

Furniture - 1 antique chair	55.00
Furniture - 1 antique highboy	2,000.00
Furniture - 1 antique side table	60.00
Jewelry - 1 pearl necklace	515.00

Mutual Funds

50 Shs. Fabulous Mutual Fund	1,833.33
------------------------------	----------

\$ 143,200.83

Cash in possession of decedent	42.54
--------------------------------	-------

FORWARD

\$ 143,243.37

PRINCIPAL RECEIPTS (cont'd)

FORWARD	\$	143,243.37
First National Bank - checking account		516.93
Prudent Savings Fund Society - savings account		2,518.16
		<hr/>
	\$	146,278.46

ADJUSTMENTS TO INVENTORY

Increased value of common stock upon
audit of Federal Estate Tax Return

RECEIVED AS:			
200 Shs. XYZ Corporation	\$	6,000.00	
SHOULD BE:			
200 Shs. XYZ Corporation		<u>10,000.00</u>	4,000.00

SUBSEQUENT RECEIPTS

02/22/06	Proceeds of Sale - Best Oil Co. rights to subscribe received 02/15/06		50.00
03/12/06	Fabulous Mutual Fund, capital gains dividend received in cash		32.50
05/11/06	Refund of overpayment of 2005 U.S. individual income tax		127.80
09/25/06	From Richard Rose, Ancillary Administrator, net proceeds on sale of oil and gas leases in Jefferson Parish, Louisiana		10,000.00
	TOTAL PRINCIPAL RECEIPTS	<hr/>	\$ 160,488.76
			=====

PRINCIPAL GAINS OR LOSSES ON SALES OR OTHER DISPOSITIONS

		<u>GAIN</u>	<u>LOSS</u>
02/07/06 100 Shs. Home Telephone & Telegraph Co.			
Net Proceeds	14,025.00		
Acquisition Value	<u>12,500.00</u>	\$ 1,525.00	
03/15/06 1,000 Shs. Central Trust Co.			
Net Proceeds	27,467.00		
Acquisition Value	<u>25,425.00</u>	2,042.00	
03/15/06 200 Shs. XYZ Corporation			
Net Proceeds	9,000.00		
Acquisition Value	<u>10,000.00</u>		\$ 1,000.00
05/21/06 35 Shs. Electric Data Corp.			
Net Proceeds	530.00		
Acquisition Value	<u>437.50</u>	92.50	
07/20/06 \$10,000 U.S. Treasury Bonds, 3% due 07/01/2009			
Net Proceeds	10,000.00		
Acquisition Value	<u>9,997.50</u>	2.50	
		<u> </u>	<u> </u>
TOTALS		\$ 3,662.00	\$ 1,000.00
		=====	=====
NET GAIN TRANSFERRED TO SUMMARY			\$ 2,662.00
			=====

DISBURSEMENTS OF PRINCIPAL

DEBTS OF DECEDENT

01/25/06	John T, Hill, M.D. Professional services	\$	250.00	
01/25/06	Thomas Pharmacy Prescriptions		23.82	
02/01/06	Sanders Hardware Purchases per bill dated 12/15/05		56.00	
04/12/06	PA Department of Revenue Balance Final Life Period Income Tax		<u>156.00</u>	\$ 485.82

FUNERAL EXPENSES

01/10/06	Smith Funeral Home Services	\$	1,200.00	
02/15/06	Jones Memorials Grave marker		<u>175.00</u>	1,375.00

ADMINISTRATION EXPENSES

11/14/05	Register of Wills Probate fees	\$	72.00	
02/22/06	Henry Smith Appraisal of jewelry and antiques		50.00	
11/16/06	Arden, Miles & Solomon Disbursements	\$	56.00	
	Various miscellaneous affidavits, registered mail, toll telephone charges and other costs		<u>16.25</u>	<u>72.25</u> 194.25

FAMILY EXEMPTION

05/15/04	Janet Doe			3,500.00
	FORWARD			<u>\$ 5,555.07</u>

DISBURSEMENTS OF PRINCIPAL (cont'd)

FORWARD \$ 5,555.07

FEDERAL, STATE & LOCAL TAXES

02/12/06 Register of Wills, Agent PA inheritance tax, payment on account	\$ 2,105.26		
Less 5% discount	<u>-105.26</u>	\$ 2,000.00	
08/13/06 Register of Wills, Agent PA inheritance tax	\$ 2,501.33		
Less payment on account 02/12/06	<u>-2,105.26</u>	396.07	
08/13/06 Internal Revenue Service Federal estate tax		2,663.29	
11/15/06 Internal Revenue Service U.S. fiduciary income tax for fiscal year ending 07/31/06 (allocable to capital gains)		283.84	
11/23/06 Internal Revenue Service Deficiency in Federal Estate Tax	\$ 505.24		
Interest 08/14/06 to 11/24/06	<u>8.39</u>	<u>513.63</u>	5,856.83

FEEES AND COMMISSIONS

11/16/06 Albert Schryver, Esq. Fee as Guardian ad litem	\$ 375.00		
11/16/06 William C. Doe Executor's compensation		6,314.64	
11/16/06 Arden, Miles & Solomon Attorney's fees		<u>5,000.00</u>	11,689.64

TOTAL DISBURSEMENTS OF PRINCIPAL \$ 23,101.54
=====

DISTRIBUTIONS OF PRINCIPAL TO BENEFICIARIES

TO: Janet Doe, in satisfaction of gift
under Article FIRST of Will

12/01/05 Jewelry - 1 pearl necklace	\$	515.00	
12/01/05 Furniture - 1 antique highboy		2,000.00	
12/01/05 Furniture - 1 antique side table		60.00	
12/01/05 Furniture - 1 antique chair		<u>55.00</u>	\$ 2,630.00

TO: Janet Doe, in satisfaction of gift
under Article SECOND of Will

12/01/05 Residence			
86 Norwood Road			
Philadelphia, PA		<u>50,000.00</u>	

TOTAL DISTRIBUTIONS OF PRINCIPAL TO BENEFICIARIES	\$	52,630.00	=====
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PRINCIPAL BALANCE ON HAND

	VALUE AT 11/30/2006	FIDUCIARY ACQUISITION VALUE
<u>Bonds</u>		
\$40,000 U.S. Treasury Bills due 12/14/2006	\$ 39,300.00	\$ 39,300.00
<u>Common Stocks</u>		
50 Shs. Best Oil Co.	4,500.00	5,000.00
1,000 Shs. Central Trust Co.	32,168.76	25,425.00
116 Shs. Electric Data Corp.	1,684.00	1,450.00
200 Shs. Home Telephone & Telegraph Co.	16,000.00	12,500.00
<u>Mutual Funds</u>		
50 Shs. Fabulous Mutual Fund	4,016.17	1,833.33
	\$ 97,668.93	\$ 85,508.33
CASH (AUTOMATICALLY INVESTED)	1,910.89	1,910.89
	\$ 99,579.82	\$ 87,419.22
TOTAL PRINCIPAL BALANCE ON HAND	\$ 99,579.82	\$ 87,419.22

PRINCIPAL INVESTMENTS MADE

02/01/06	\$10,000 U.S. Treasury Bonds, 3% due 07/01/2009	\$	9,997.50
09/14/06	\$40,000 U.S. Treasury Bills due 12/14/2006		<u>39,300.00</u>
	TOTAL PRINCIPAL INVESTMENTS MADE	\$	<u>49,297.50</u> =====

CHANGES IN PRINCIPAL HOLDINGS

			<u>ACCOUNT VALUE</u>
<u>Central Trust Co.</u>			
	1,000 Shs. Inventoried at	\$	50,850.00
01/15/06	1,000 Shs. additional received in 2-1 split - par reduced to \$2.50		<u>0.00</u>
	2,000 Shs.	\$	50,850.00
03/15/06	1,000 Shs. Sold		<u>-25,425.00</u>
	1,000 Shs.	\$	25,425.00
=====			
<u>Electric Data Corp.</u>			
	151 Shs. Inventoried at	\$	1,887.50
05/21/06	35 Shs. Sold		<u>-437.50</u>
	116 Shs.	\$	1,450.00
=====			
<u>Home Telephone & Telegraph Co.</u>			
	200 Shs. Inventoried at	\$	25,000.00
02/07/06	100 Shs. Sold		<u>-12,500.00</u>
	100 Shs.	\$	12,500.00
03/30/06	100 Shs. additional received in 2-1 split - par reduced to \$5		<u>0.00</u>
	200 Shs.	\$	12,500.00
=====			

RECEIPTS OF INCOME

Best Oil Co.

Dividend 50 Shs. 01/02/06 to 10/02/06	\$	20.00
--	----	-------

Central Trust Co.

01/15/06 - Dividend 2,000 Shs.	\$	600.00	
Dividend 1,000 Shs. 04/13/06 to 10/15/06		<u>900.00</u>	1,500.00

Electric Data Corp.

Dividend 151 Shs. 12/29/05 to 03/30/06	\$	30.20	
Dividend 116 Shs. 06/29/06 to 09/28/06		<u>23.20</u>	53.40

Fabulous Mutual Fund

Dividend 50 Shs. 03/14/06 to 09/12/06			140.00
--	--	--	--------

Home Telephone & Telegraph Co.

02/01/06 - Dividend 200 Shs. Dividend 200 Shs. 05/01/06 to 11/01/06 (after stock split)	\$	225.00	
		<u>450.00</u>	675.00

U.S. Treasury Bonds, 3% due 07/01/2009

06/29/06 - Interest \$10,000	\$	150.00	
Less: accrued interest paid on purchase 02/1/06		<u>-25.00</u>	<u>125.00</u>

TOTAL RECEIPTS OF INCOME	\$	2,513.40	=====
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DISBURSEMENTS OF INCOME

11/15/06 Internal Revenue Service	
U.S. fiduciary income tax for fiscal	
year ending 07/31/06	
(allocable to income)	\$ 53.00
 To be paid:	
William C. Doe	
Executor's income commission	
5% on \$2,513.40	<u>125.67</u>
 TOTAL DISBURSEMENTS OF INCOME	 \$ 178.67 =====

DISTRIBUTIONS OF INCOME TO BENEFICIARIES

<u>TO: Sharon Doe</u>	
11/16/06 Cash	\$ 1,167.36
 <u>TO: William C. Doe, Trustee under</u> <u>Article FOURTH (A) for Walter Doe</u>	
11/16/06 Cash	<u>1,167.37</u>
TOTAL DISTRIBUTIONS OF INCOME TO BENEFICIARIES	\$ 2,334.73 =====

William C. Doe, Executor of the
Will of John Doe, Deceased

VERIFICATION

WILLIAM C. DOE, Executor of the Will of JOHN DOE, Deceased, hereby declares under oath that he has fully and faithfully discharged the duties of his office; that the foregoing First and Final Account is true and correct and fully discloses all significant transactions occurring during the accounting period; that all known claims against the Estate have been paid in full; that, to his knowledge, there are no claims outstanding against the Estate; that all taxes presently due from the Estate have been paid; and that the grant of Letters Testamentary and the first complete advertisement thereof occurred more than four months before the filing of the foregoing First and Final Account.

This statement is made subject to penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

WILLIAM C. DOE

Dated: _____

Informal Statement of Account

Estate of _____

Date: _____

Deposits:

Initial Deposit to open account	\$100.00
401K Proceeds	\$27.37
Sale of Car	\$668.90
Personal Injury Settlement – Survival Action Funds	\$147,711.99
<u>TOTAL DEPOSITS</u>	<u>\$148,508.26</u>

Withdrawals:

Check #99	\$2,227.72
Check #102	\$1,110.00
Check #103	\$20,521.88
Check #104	\$21,099.05
Check #105	\$232.25
Check #107	\$421.49
Check #109	\$595.02
Check #110	\$25.88
Check #111	\$170.30
Check #113	\$261.25
Check #114	\$140.20
Check #115	\$195.00

Check # 116	\$325.63
Check #118	\$266.00
Monthly maintenance fees for account	\$72.00
<u>TOTAL WITHDRAWALS</u>	<u>\$47,663.67</u>
<u>Balance Available on Hand:</u>	<u>\$100,844.59</u>
<u>Final Distribution:</u>	
Reimbursement to _____	\$10,511.07
Reimbursement to _____	\$1,050.00
Outstanding Attorneys' fees	\$6,295.28
_____	\$41,494.12
_____	\$41,494.12

APPROVAL OF ADMINISTRATION
RECEIPT, RELEASE AND INDEMNIFICATION AGREEMENT

Estate of _____, Deceased

_____, Co-Administrators

I, _____, the undersigned, am an intestate heir of the Estate of _____, Deceased (hereinafter referred to as the "Estate"). In order to receive the final distribution from the Co-Administrators without the expense and delay of a formal Court accounting, I do hereby:

1. Affirm that I am an adult competent individual who possesses the legal authority to enter into this Agreement;
2. Affirm that I am of sound mind and legally capable to execute this document;
3. Acknowledge that I am satisfied with the administration of the Estate to date;
4. Acknowledge that the Co-Administrators offered to provide me with copies of all documents rendered during the administration of the Estate;
5. Waive the filing of a formal Account with the Orphans' Court and agree that my approval of the informal Statement of Account shall have the same effect as if a formal Account had been filed with the Court, and audited and confirmed absolutely by the Court;
6. Acknowledge receipt of the final share of the residuary Estate as the final distribution from the Estate effective upon delivery to me;
7. Release and discharge the Co-Administrators and McAndrews Law Offices, P.C., from any and all claims, actions, causes of action, demands, and/or liabilities whatsoever in connection with the administration of the Estate, which I may have had, may now have or which might hereafter arise as a consequence of any act or omission of the Co-Administrators and/or McAndrews Law Offices, P.C., up to and including the date of this Release;
8. Agree to refund any part or all of any distribution to me if it is later found to have been made in error, even if due to negligence, and that the payment should have been made to others, or for taxes or other claims and/or expenses;
9. Agree to indemnify the Co-Administrators and McAndrews Law Offices, P.C., to the extent of all distributions to me, against any and all claims, actions, causes of action, demands, liabilities, losses and/or expenses which may be incurred as a result of said distribution to me without court approval;

10. Declare that this Agreement shall be governed by the laws of Pennsylvania and shall be legally binding upon me and upon my heirs, assigns and/or personal representatives. Any disputes hereunder shall be heard in the Orphans' Court of _____ County; and

11. Acknowledge that I have fully read and understood this Agreement and I have voluntarily accepted it. This Agreement supercedes all negotiations, whether oral or written, and statements made before or after its acceptance. This Agreement is the entire agreement of the parties, and no promise, agreement, statement or representation not herein expressed has been relied upon by the parties.

IN WITNESS WHEREOF, I have signed this Agreement this _____ day of _____, 2015.

BY: _____ (SEAL)

Witness:

Pa. O.C. Rule 10.6 STATUS REPORT

REGISTER OF WILLS OF PHILADELPHIA COUNTY, PENNSYLVANIA

Name of Decedent: John Sample

Date of Death: 01/01/2016 File Number: 51

Pursuant to Pa. O.C. Rule 10.6, I report the following with respect to completion of the administration of the above-captioned estate:

1. State whether administration of the estate is complete: Yes No

2. If the answer is No, state when the personal representative reasonably believes that the administration will be complete:

3. If the answer to No. 1 is YES, state the following:

a. Did the personal representative file a final account with the Court? Yes No

b. The separate Orphans' Court No. (if any) for the personal representative's account is:

c. Did the personal representative state an account informally to the parties in interest? Yes No

d. Copies of receipts, releases, joinders and approvals of formal or informal accounts may be filed with the Clerk of Orphans' Court and may be attached to this report.

Date _____

Corporate Fiduciary (if applicable)

Name of Corporate Fiduciary

Name of Representative and Title

Address

City, State, Zip

Telephone

Email

Capacity: Personal Representative Counsel

Name of Person

Address

City, State, Zip

Telephone

Email

Signature of Officer/Representative

Signature of Person

Exhibit A
Johnson Estate, 4 Fid.Rep.2d 6, 8 (O.C. Del. Co. 1983)

COMMISSIONS

		<i>Per Col.</i>	<i>Per Total</i>
	\$ 00.01 to \$ 100,000.00	5%	5,000.00 5,000.00
	\$ 100,000.01 to \$ 200,000.00	4%	4,000.00 9,000.00
Executor or	\$ 200,000.01 to \$ 1,000,000.00	3%	24,000.00 33,000.00
Administrator	\$ 1,000,000.01 to \$ 2,000,000.00	2%	20,000.00 53,000.00
	\$ 2,000,000.01 to \$ 3,000,000.00	1½%	15,000.00 68,000.00
	\$ 3,000,000.01 to \$ 4,000,000.00	1%	10,000.00 78,000.00
	\$ 4,000,000.01 to \$ 5,000,000.00	½%	5,000.00 83,000.00
1% Joint Accounts	1% P.O.D. Bonds		1% Trust Funds
3% Real Estate Converted with Aid of Broker	5% Real Estate: Non-Converted		1% Real Estate: Specific Devise
	\$ 00.01 to \$ 25,000.00	7%	1,750.00 1,750.00
	\$ 25,000.01 to \$ 50,000.00	6%	1,500.00 3,250.00
	\$ 50,000.01 to \$ 100,000.00	5%	2,500.00 5,750.00
Attorney	\$ 100,000.01 to \$ 200,000.00	4%	4,000.00 9,750.00
	\$ 200,000.01 to \$ 1,000,000.00	3%	24,000.00 33,750.00
	\$ 1,000,000.01 to \$ 2,000,000.00	2%	20,000.00 53,750.00
	\$ 2,000,000.01 to \$ 3,000,000.00	1½%	15,000.00 68,750.00
	\$ 3,000,000.01 to \$ 4,000,000.00	1%	10,000.00 78,750.00
	\$ 4,000,000.01 to \$ 5,000,000.00	½%	5,000.00 83,750.00
½% Regular Commission P.O.D. Bonds and Trust Funds	3½% Transfer Joint Accounts		3½% Assets Which Are Taxable at One Half Value
1% Non-Probate Assets up to \$1,000,000	1% Non-Probate Assets		Joint Accounts Fully Taxable: Full Commission

PBI Urges You to Join PBA!





The Pennsylvania Bar Institute is the continuing legal education arm of the Pennsylvania Bar Association. Together, the two organizations work to serve you, the practicing Pennsylvania lawyer. By joining PBA, you'll get great discounts on PBI publications and courses—not to mention other member benefits such as malpractice insurance and discounts on magazines, office equipment, and Casemaker.

You'll want to also join one of PBA's 18 Sections on nearly every area of the law to stay current on changing rules and to network with other attorneys who practice in the same area as you do. So don't delay. Join PBA today and start receiving your benefits right away. For a complete packet of information on PBA, call 1-800-932-0311, or 717-238-6715.

To join, complete the following application (see the reverse for information on dues and Sections) and mail to:

PBA Member Records
P.O. Box 186, Harrisburg, PA 17108

Full Name of Applicant _____	Supreme Court I.D. # _____
Firm or Office Address _____	State _____ Zip _____
Firm or Office Telephone _____	FAX # _____ E-mail _____
Home Address _____	City _____
State _____ Zip _____	County _____ Date of Birth _____
<input type="checkbox"/> I am an attorney employed full time by a local, state, or federal government agency or a nonprofit legal services office, as opposed to an independent contractor. Your Signature _____	
Type of Practice	<input type="checkbox"/> Private <input type="checkbox"/> Government <input type="checkbox"/> Corporate
Area(s) of Specialization _____	
Date Admitted to Supreme Court of Pennsylvania _____	
(or) Date Admitted _____ in County of _____	
Earliest Date Admitted in Any State _____ State _____	
Have you ever been a member of this association? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Other State or Local Bar Memberships _____	

Please enroll me in the Association and any Sections checked on the reverse!	
Applicant's signature _____	
<input type="checkbox"/> Payment Enclosed (Make checks payable to the PA Bar Association)	
Charge my: <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/>  <input type="checkbox"/> 	
Card # _____ Exp. Date _____	
Billing Address _____ City _____ State _____ Zip _____	
Please send all PBA mailings to my: <input type="checkbox"/> Home <input type="checkbox"/> Office	
<input type="checkbox"/> Check here if you do NOT want your FAX number to appear in PBA publications. <i>PBI Book—Rev. 1/18</i>	

For More Information Call PBA:
800-932-0311 or 717-238-6715



2020 Schedule of Dues

EARLIEST ADMIT DATE TO ANY STATE BAR

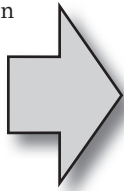
	PRORATED SCHEDULE	DUES	GOV'T ATTY.*
On or before 9/19/16	Nov.–March	\$335.00	\$268.00
	April–June	252.00	201.00
	July–Sept.	168.00	134.00
	Oct.–Dec.	84.00	67.00
9/20/16 thru 9/19/17	Nov.–March	\$268.00	\$215.00
	April–June	201.00	162.00
	July–Sept.	134.00	108.00
	Oct.–Dec.	67.00	54.00
9/20/17 thru 9/19/18	Nov.–March	\$201.00	\$161.00
	April–June	151.00	121.00
	July–Sept.	101.00	81.00
	Oct.–Dec.	51.00	41.00
9/20/18 thru 9/19/19	Nov.–March	\$134.00	\$108.00
	April–June	101.00	81.00
	July–Sept.	67.00	54.00
	Oct.–Dec.	34.00	27.00
On or after 9/20/19	FREE		

LAWYERS NOT ADMITTED TO PRACTICE IN PA (ASSOCIATE MEMBERSHIP)

Not Admitted to PA Bar	Nov.–May	\$175.00	N/A
	June–Dec.	88.00	N/A

*A government attorney is defined as an attorney who is employed full time by a local, state, or federal government agency or a nonprofit legal services agency, as opposed to an independent contractor.

If you are a private practitioner in one of the counties listed, you must first be a member of a local bar assn. before joining the PBA. If you have any questions or need a referral to a local bar assn., please call 800-932-0311 or 717-238-6715.



Adams, Armstrong, Beaver, Bedford, Berks, Blair, Bradford, Butler, Cambria, Cameron, Carbon, Centre, Clarion, Clearfield, Clinton, Crawford, Cumberland, Dauphin, Elk, Erie, Fayette, Franklin, Fulton, Greene, Huntingdon, Jefferson, Juniata, Lackawanna, Lancaster, Lawrence, Lebanon, Lehigh, Lycoming, Mercer, Mifflin, Montgomery, Northampton, Northumberland, Pike, Potter, Schuylkill, Somerset, Susquehanna, Tioga, Union/Snyder, Venango, Wayne, Westmoreland, Wyoming/Sullivan, York.

Important Tax Information—Your dues payment will not be deductible as a charitable contribution but will, in general, be deductible for most members as a business expense, except to the extent provided in the next sentence. Pursuant to the Revenue Reconciliation Act of 1993, PBA estimates that 4% of your dues payment will not be deductible as an ordinary and necessary business expense because of PBA's lobbying activities on behalf of its members.

Section Registration Request Form*

- | | |
|--|---|
| <input type="checkbox"/> Administrative Law..... \$25.00 | <input type="checkbox"/> Intellectual Property Law \$45.00 |
| <input type="checkbox"/> Aeronautical & Space Law \$20.00 | <input type="checkbox"/> International & Comparative Law..... \$15.00 |
| <input type="checkbox"/> Business Law \$40.00 | <input type="checkbox"/> Labor & Employment Law \$40.00 |
| <input type="checkbox"/> Civil Litigation..... \$45.00 | <input type="checkbox"/> Municipal Law \$15.00 |
| <input type="checkbox"/> Criminal Justice \$35.00 | <input type="checkbox"/> Public Utility Law \$35.00 |
| <input type="checkbox"/> Education Law \$15.00 | <input type="checkbox"/> Real Property, Probate & Trust Law. \$35.00 |
| <input type="checkbox"/> Elder Law..... \$45.00 | <input type="checkbox"/> Solo & Small Firm Practice \$40.00 |
| <input type="checkbox"/> Environmental & Energy Law..... \$25.00 | <input type="checkbox"/> Tax Law \$15.00 |
| <input type="checkbox"/> Family Law \$65.00 | <input type="checkbox"/> Workers' Compensation Law \$30.00 |

Check here if you are a new section member or you have not belonged to the selected section for five years or longer. You will receive a free, one-year section membership! (Limited to one free section membership.)

*Current as of Jan. 1, 2020; dues fees in effect until Dec. 31, 2020. Call PBA at 800-932-0311 or 717-238-6715 for current information.

Join The Real Property, Probate & Trust Law Section

of
The Pennsylvania Bar Association

The Real Property, Probate & Trust Law Section concentrates on landlord/tenant relations, environmental issues, eminent domain, and probate matters. Members are also active in improving the relationship between realtors and lawyers.

The *Real Property, Probate & Trust Law Newsletter*, published twice a year, keeps members up to date by recapping section activities and highlighting recent developments in the field.

An annual retreat is open to all section members. Networking with colleagues from around the state and attending educational workshops are other important advantages of section membership.

Any member of the Pennsylvania Bar Association is eligible to join the section, for just \$35 dues per year. Simply fill out and return this form with your check.

Note: You must be a member of the Pennsylvania Bar Association to join.

Full Name of Applicant _____ Supreme Court I.D. # _____

Firm or Office Address _____

City _____ State _____ Zip _____

Phone ____ / ____ - ____ FAX # ____ / ____ - ____ E-mail _____

Home Address _____

City _____ State _____ Zip _____



County _____ Please send all PBA mailings to my: Home Office

Applicant's signature _____

Check here if you are a new section member or you have not belonged to the selected section for five years or longer.

You will receive a free, one-year section membership! **(Limited to one free section membership.)**

Payment Enclosed (Make checks payable to the PA Bar Association)

Charge my:     Card # _____ Exp. Date _____

Billing Address _____ City _____ State _____ Zip _____

Complete and return to: Pennsylvania Bar Association
Committee & Section Dept.
100 South St., P.O. Box 186
Harrisburg, PA 17108

For More Information Call PBA:
800-932-0311 (toll free in U.S.) or 717-238-6715



PBA Working Rules of Professionalism



The practice of law is a profession, a genuine calling inspired with service to the system of justice, not a common business enterprise. The quality of the profession is only as worthy as the character of the people who practice it.

Self-esteem, shared respect for each other, the clients we serve, the judges and the officers with whom we work, are essential to it.

Civility is a virtue, not a shortcoming. Willingness to temper zeal with respect for society's interest in preserving responsible judicial process will help to preserve it.

Unwritten rules of professional courtesy have long sustained us. Since they are sometimes forgotten, we should set them down again and conscientiously observe them.

1 Treat with civility the lawyers, clients, opposing parties, the Court, and all the officials with whom we work. Professional courtesy is compatible with vigorous advocacy and zealous representation.

2 Communications are lifelines. Keep the lines open. Telephone calls and correspondence are a two-way channel; respond to them promptly.

3 Respect other lawyers' schedules as your own. Seek agreement on meetings, depositions, hearings and trial dates. A reasonable request for a scheduling accommodation should never be unreasonably refused.

4 Be punctual in appointments, communications and in honoring scheduled appearances. Neglect and tardiness are demeaning to others and the judicial system.

5 Procedural rules are necessary to judicial order and decorum. Be mindful that pleadings, discovery processes and motions cost time and money. They should not be heedlessly used. If an adversary is entitled to something, provide it without unnecessary formalities.

6 Grant extensions of time when they are reasonable and when they will not have a material, adverse effect on your client's interest.

7 Resolve differences through negotiation, expeditiously and without needless expense.

8 Enjoy what you are doing and the company you keep. You and the world will be better for it.

Beyond all this, the respect of our peers and the society which we serve is the ultimate measure of responsible professional conduct.