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# **Wisconsin Probate System**

## **Forms and Procedures Handbook**

Fifth Edition

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# Summary of Developments

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## *Developments Reported in the 2020–21 Supplement*

The 2020–21 supplement of *Wisconsin Probate System: Forms and Procedures Handbook* reflects legal developments since publication of the 2018–19 revision. All forms in the book have been updated, as necessary. In addition, the hypothetical fact scenario and all related forms were updated. *See generally* chs. 3, 6. Exemption amounts and probate filing fees also were updated. *See* §§ 2.23, 3.43, 6.3, 6.4.

The 2020–21 supplement also includes information about the following:

An updated Transfer by Affidavit form, new forms related to that form (instructions, affidavit of heirship, and affidavit of service or waiver of notice), and commentary regarding the form, including a possible limitation of using this method of transfer. *See* §§ 2.14, 5.1–5.3; Forms 5.1A–5.1D.

A revised letter of representation. *See* Form 2.1.

A 2020 change by the Wisconsin Legislature regarding whether a death certificate must be filed with the termination of decedent’s interest form. *See* § 5.15, Form 5.23.

An updated address for submitting a federal estate tax return. *See* Form 6.6.

Tax regulations proposed in 2020, clarifying whether certain deductions are miscellaneous itemized deductions (and thus affected by the suspension of the deductibility of miscellaneous itemized deductions) and other issues. *See* § 6.14.

## *Developments Reported in the 2018–19 Revision*

The 2018–19 revision of *Wisconsin Probate System: Forms and Procedures Handbook* reflects legal developments since publication of the 2016–17 supplement. All forms in the book have been updated, as necessary. In addition, the hypothetical fact scenario and all related forms were updated. *See generally* chs. 3, 6. Because electronic filing is mandatory for most filers, efilings instructions were incorporated. *See* chs. 3 (intro.), 4 (intro.), 5 (intro.), 6 (intro.). Exemption amounts and probate filing fees also were updated. *See* §§ 2.23, 3.43, 6.4.

The revised edition also includes new information about the following:

The Tax Cuts and Jobs Act. *See* §§ 2.23, 6.3, 6.7, 6.14, 6.17.

The current status of domestic partners and same-sex couples, as well as how to determine the determination date of a married same-sex couple. *See* § 2.20.

Procedures to secure and protect assets. *See* §§ 3.16–19.

A reminder to cancel all the decedent’s accounts and to collect any refunds. *See* § 3.21.

Accurate reporting of the value of inventoried assets, including any liens or encumbrances. *See* §§ 3.21, 4.14.

A new section regarding contesting claims. *See* § 3.25.

The newly combined Termination of Decedent's Interest form. *See* § 5.14, Forms 3.52, 5.23.

An election to make if the decedent owned an interest in a partnership. *See* § 4.13.

A practice tip regarding how a personal representative can avoid breaching his or her fiduciary duty and incurring personal liability. *See* § 4.17.

Whether the limit to file claims applies to known creditors or to creditors that would have been known with reasonable diligence. *See* § 4.18.

An update regarding status of the Transfer by Affidavit form. *See* Form 5.1.

The applicability of a penalty if a taxpayer claims a deduction allowed under I.R.C. § 199A. *See* § 6.16.

Updated instructions on how to obtain a federal employer identification number. *See* Form 6.1.

A newly added form, Request for a Closing Certificate for Fiduciaries. *See* Form 6.14; *see also* §§ 3.28, 4.21 (instructions for using form).



# Foreword

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For more than 35 years, this book has been a mainstay for Wisconsin probate attorneys. During that time its detailed instructions for each step of the probate process, its forms, and its sample letters have helped thousands of Wisconsin attorneys handle probate matters more efficiently and effectively. For the less experienced probate attorney, it serves as a trusted adviser; for the experienced probate attorney, it provides an indispensable checklist and tickler.

So it is with pride that we publish this fifth edition of the *Wisconsin Probate System*, a work that would not be possible without the commitment and efforts of its current authors, Jennifer R. D’Amato, Jessica King, and Peter J. Wyant (who also worked on the 2017 supplement). Despite their own demanding practices, they were always available for questions and guidance. On behalf of the State Bar of Wisconsin and the many attorneys who will use this resource, we express our sincere appreciation.

We would, of course, be remiss if did not acknowledge the contributions of those who worked on earlier versions: Robert R. Lehman and Edward J. Reisner, authors of the original system; those who worked on the second edition, Timothy A. Nettesheim, Joseph Boucher, Debbie Garten, and William F. Mundt; and authors of the third and fourth editions, Dean T. Stange, Jennifer R. D’Amato, and Jessica King.

Finally, thanks are due to the concerted efforts of the State Bar of Wisconsin staff, including Attorney-Editors Rita Knauss and Melita Mullen, who worked with the authors to revise the book; Production Coordinator Jackie Johnson, who undertook the daunting task of finalizing the revision and attending to the minute details of a very detailed system book; and the attorney-editors who gave freely of their time and considerable talents when reviewing the text one final time for accuracy and clarity.

CAROL A. CHAPMAN, ESQ.  
BUSINESS AND CONTENT DEVELOPMENT MANAGER  
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# How to Cite This Book

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**Cite this book in briefs and legal memoranda as:**

Jennifer R. D’Amato et al., *Wisconsin Probate System: Forms and Procedures Handbook* (5th ed. 2019).

[See *The Bluebook: A Uniform System of Citation* R. 15, B15.1 (Columbia Law Review Ass’n et al. eds., 20th ed. 2015).]

**After the first full citation, you may cite this book as:**

*Wisconsin Probate System*, *supra*, at \_\_\_\_.

[See *The Bluebook: A Uniform System of Citation* R. 4.2(a), 15.10, B15.2 (Columbia Law Review Ass’n et al. eds., 20th ed. 2015).]

## About the Authors

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# How to Use This Book

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The *Wisconsin Probate System* is a practical guide to probate procedure in Wisconsin. The book describes how to effectively and ethically represent a client and how to select and use various judicial and administrative procedures to identify, collect, and distribute the decedent's assets and settle the decedent's estate. The book also provides practice aids such as forms, sample letters, and checklists to help attorneys become familiar with the documentation needed to probate the typical estate, including estate and income tax returns. Some of the more complex forms in the book have been prepared using data from a fact pattern about a hypothetical decedent, William O. Hart, and his estate, to demonstrate the procedures involved.

The book includes a master information list (MIL) for organizing client data. At first blush, the MIL may seem an anachronism for law offices that manage client databases with computers, but it remains a useful tool for structuring the initial client interview and an important adjunct to the client's file. The fact is that an attorney probating an estate must collect, accurately record, and preserve a great deal of information. The MIL in this book provides a means of doing so.

In addition, the field of probate practice has a vocabulary all its own—terms of law and terms of art. For that reason a glossary of probate terms follows this “How to Use” section.

Wis. Stat. § 879.47 has traditionally required that uniform forms be used in probate proceedings. These forms are generally available through the register in probate or form companies. They are also available online from the Wisconsin Court System Circuit Court Forms website: <https://www.wicourts.gov/forms1/circuit/index.htm>. The chart that follows this “How to Use” lists all the forms and letters in this book.

The book is divided into six chapters. As with earlier editions, and in recognition of the continually increasing use of informal probate in most counties in Wisconsin, this revised edition places heavy emphasis on informal probate, though it also extensively covers summary procedures and formal probate.

Chapter 1, “Probate Practice Aids,” provides the previously discussed and the following additional practice aids: a cash requirements worksheet, estate progress worksheets, and a critical date chart.

Chapter 2, “Planning the Representation,” spells out preliminary steps and how to identify the client, analyze the decedent's assets, choose the appropriate probate procedure, and proceed ethically during probate.

Chapter 3, “Informal Probate,” provides a comprehensive guide to probating an estate using informal probate procedures. In many cases an estate can be probated by mail, with no court appearances. Chapter 3 describes that procedure, but also describes what to do when a court appearance is necessary. Many letters in chapter 3 may be adapted for other probate situations.

Chapter 4, “Formal Probate and Special Administration,” describes the steps to be taken when an estate cannot be settled with informal probate or summary procedures. Formal probate was once considered “regular” probate because it was used to settle the majority of estates. While this is no longer the situation, some estates still require an initial hearing, a proof of will, or a hearing on the final account and petition.

Chapter 5, “Summary Procedures,” provides guidance on using summary procedures, either to completely settle smaller and uncomplicated estates or to transfer certain assets from the estate.

Chapter 6, “Estate and Income Taxes,” discusses the myriad issues that arise on both the federal and state levels involving the taxes that must be paid as a part of probate. The chapter includes a sample scenario, along with examples of, and clear instructions on, how to complete the forms involved.

The book concludes with a forms index and a subject index. In addition to a simple alphabetical list of forms and letters, the forms index also notes the latest revision date for court-approved and other miscellaneous forms.

The *Wisconsin Probate System* is not an exhaustive treatise on probate law and procedure, for at least two reasons. First, because each estate is different, attorneys are bound to encounter situations that require procedures not covered here. As these occur, any new materials developed to deal with new situations, and acceptable to the court, should be duplicated and placed in this binder.

Second, each county may impose its own requirements on the probate process in its jurisdiction. Consequently, the forms that must be prepared to be acceptable may differ slightly from the examples in this book. When attempting to probate an estate in a county in which an attorney is unfamiliar with local practice, he or she should contact the register in probate and attempt to confirm procedural requirements in advance.

To the best of our knowledge, the information and forms in the *Wisconsin Probate System* are current as of the date of publication. Nonetheless, attorneys should always be aware of changes in the statutes or regulations that might affect forms and procedures for probate and should always ensure that the most recent forms are used.

The *Wisconsin Probate System* also contains copies of forms and letters that, while not court-approved, have proved convenient to use when probating an estate. Sound practice requires that one not follow such forms slavishly. Some materials here must be revised and adjusted to suit the circumstances of the estate in question.

# Glossary

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The following definitions are for general use only. Because the statutes define many terms more precisely, check the statutes carefully. See particularly the statutory definitions in Wis. Stat. §§ 701.0103 and 701.1102 relating to trusts and Wis. Stat. §§ 851.01–.31 relating to probate.

**Ademption:** Either fulfillment of specific bequest by some gift to distributees during decedent's lifetime *or* sale or destruction of specifically bequeathed property before death (applies only to specific devise or bequest situations).

**Administration:** Any proceeding relating to a decedent's estate, whether testate or intestate.

**Adverse Possession:** A method of acquiring title to someone else's property by occupying it in a manner and for a time prescribed by statute. *See* Wis. Stat. ch. 893.

**Affiant:** A person who makes, swears to, and signs a notarized statement (affidavit) relating to certain facts.

**Alternate Valuation Date:** For federal estate tax purposes, a date for valuing property other than the date of death. The alternate valuation date for property not sold or transferred is six months after the date of death. The alternate valuation date for property sold or transferred within six months after death is usually the date of transfer.

**Ancillary Administration:** Administration in a jurisdiction other than where the decedent was domiciled. *See* Wis. Stat. ch. 868.

**Annuity:** A periodic payment of money to a person for life or for a specified number of years, usually made monthly. It is one method used to settle the payout of life insurance proceeds.

**Appraiser:** A professionally qualified person retained by the personal representative or appointed by the court to ascertain and report to the personal representative or the court the fair market value of personal and real property in an estate.

**Assignment:** A transfer of real or personal property, or of rights to some kind of property, of any estate or right to the estate.

**Attestation of a Will:** The act of witnessing the execution of a will by a testator. The witnesses also sign the will in the presence of each other.

**Augmented Marital Property:** *See* Wis. Stat. §§ 861.02(2), 861.03–.06.

**Beneficiary:** A person or organization named in a will to receive any interest in a decedent's estate. Technically, a beneficiary inherits from the testate estate and an heir inherits from the intestate estate, but the terms are sometimes used interchangeably in testate cases. *See* Wis. Stat. § 701.0103(3).

**Bequest:** A gift of personal property by will. Now that the legal distinction between real and personal property for certain probate purposes has been abolished, the term may be used generally.

**Bond:** In probate, may mean either a performance bond, which guarantees the performance of some duty (for example, a bond of a personal representative), or a liability bond, which protects the bonded person from liability for damages.

**Bondsman:** See *Surety*.

**Claim:** Cause of action; demand for money or property; right to payment. In probate, the amount allegedly owed by the decedent to a creditor or the documentation to support such a debt. See Wis. Stat. ch. 859.

**Codicil:** An amendment to a will, executed with the same formality.

**Creditor:** A person or entity to whom a debt or other liability is owed. Broadly, a person who has any legal liability upon a tort or a contract or who has the right to require the performance of any legal obligation, contract, or guaranty.

**CUSIP Number:** A number assigned to publicly traded securities for tax purposes. It should be included in the description of the security on tax returns and other documents.

**Decedent:** A deceased person, usually the person whose estate is subject to administration.

**Deferred Marital Property:** See Wis. Stat. § 851.055, ch. 766.

**Deposes:** The act of swearing under oath to a written statement.

**Descent:** The process of obtaining an interest in an estate by inheritance.

**Determination Date:** See Wis. Stat. § 766.01(5).

**Devisee:** A person to whom real property is given by will.

**Disbursement:** Money paid out of the estate by the personal representative for debts, expenses, and taxes.

**Disclaimer:** A technique by which a person irrevocably refuses to accept a transfer of an interest in property. I.R.C. § 2518 relates to federal disclaimer. Regarding Wisconsin disclaimer, Wis. Stat. § 854.13 involves the disclaimer of transfers under nontestamentary instruments and of transfers by will, intestacy, or appointment.

**Distributee:** Any person or beneficiary of an estate who actually receives as a distribution an interest in an estate.

**Distribution:** The process of apportioning and distributing the remainder of the estate of a deceased person to his or her beneficiaries (testate) or heirs (intestate) after all debts, claims, expenses of administration, and taxes have been paid.

**Domestic Partnership:** The legal relationship formed between two individuals under Wis. Stat. ch. 770 between August 1, 2009 and April 1, 2018.

**Domicile:** The place where a person has a true, fixed, and permanent home and an intention to remain there indefinitely. A domicile may or may not be the same as a *residence*. A person has only one domicile but may have several residences.

**Domiciliary Letters:** A document that establishes the personal representative's authority to represent an estate.

**Escheat:** A reversion of an estate or some part of it to the state when the decedent does not have any heirs and the decedent's will does not dispose of all of his or her property, or if the beneficiary cannot be located or does not claim his or her share of the estate.

**Estate:** All real and personal property left by a decedent in which the decedent had a right or interest.

**Ex Dividend:** Stock sold without any right to dividends previously declared but unpaid at the time of purchase.

**Federally Qualified Plan:** A retirement plan that has been qualified under I.R.C. §§ 401–409.

**General Bequest:** A bequest of property that need not be satisfied out of property that has been identified specifically in the will.

**Gift in Contemplation of Death:** A type of gift that is included in the decedent's estate for estate tax purposes. *See* I.R.C. § 2035.

**Guardian ad Litem:** An attorney appointed by the court to represent the interests of either a minor person, an incompetent person, or a person in the military who is an interested party in the administration of an estate.

**Guardian for the Estate (General Guardian):** A person appointed by the court who has continuing and general supervision over the financial affairs of a person who is not legally competent to manage them personally. *See* Wis. Stat. ch. 54.

**Heir:** Any person entitled to an interest in the estate of a decedent by reason of the laws of intestate succession (when there is no will). *See Beneficiary*.

**Individual Property:** *See* Wis. Stat. § 766.31(6), (7).

**Interested Party:** A person or entity (for example, a creditor) with the right to be given notice of probate proceedings. *See* Wis. Stat. § 851.21.

**Interpolated Terminal Reserve:** Gift or estate taxable value of a life insurance policy held on the life of a living person.

**Intestate:** May refer to either a decedent who dies without leaving a valid will or the condition of an estate when a person dies without leaving a valid will. Partial intestacy occurs when the will does not dispose of the entire estate. *See Testate*.

**Inventory:** A list of all the decedent's assets. The inventory is filed with the court by the personal representative.



**IRA:** Acronym for individual retirement account. A personal retirement plan that permits a certain amount of income to be saved or invested, with taxes on earnings deferred.

**Issue:** An individual's direct lineal descendants, for example, children, grandchildren, great grandchildren.

**Joint Tenancy:** Property held by two or more persons each holding an undivided interest in the property and having the right of survivorship.

**Judgment:** Court order allowing the final account and distributing the estate.

**Legacy:** Traditionally referred to a disposition of personalty by will. The word now means a devise or bequest of any testamentary gift.

**Letters of Trust:** A document that establishes a trustee's authority to represent a trust created by decedent's will.

**Lien:** A claim against real or personal property that secures an obligation.

**Life Estate:** An interest in property that continues during the life of a person and ends upon death.

**Life Tenant:** A person with the right to use or occupy property for the duration of his or her own or someone else's life.

**Liquidation:** The process of selling real or personal property to convert it to cash.

**Marital Property:** Property accumulated by spouses during marriage and after the determination date. Such accumulation can occur through a spouse's efforts, earning or accrual of income from a spouse's property during marriage but after the determination date, or reclassification of nonmarital to marital property by some means provided for in the Wisconsin Marital Property Act.

**Nonmarital Child:** A child who is neither conceived nor born while his or her parents are lawfully married, who is not adopted, and whose parents do not later marry.

**Notice:** The process of letting interested parties know about proceedings during probate. See generally Wis. Stat. ch. 985 for information about the publication of legal notices.

**Payable on Death (P.O.D.):** A designation that a life insurance policy or other assets in cash or other property will be paid to one person upon the death of another.

**Pecuniary Bequest:** Bequest of a stated amount of money instead of either a percentage or something other than money.

**Pension:** A regular payment to a person, usually during retirement, disability, or fulfillment of some other type of service, which may or may not terminate at the person's death.

**Personal Representative:** The person named in a decedent's will or determined by law, and then appointed by the court, to manage the decedent's estate during probate. The term *personal representative* is now used in place of executor, executrix, administrator, or administratrix.

**Petition:** A request to the court by an interested person to take certain action, accompanied by a statement of facts.

**Pour-Over Trust:** Generally, an inter vivos trust into which an estate's assets are distributed.

**Power of Appointment:** The authority given by one person to another to dispose of property. May be given to appoint property to a limited group of people (special power) or to anyone designated by the appointee of the power (general power).

**Predetermination Date Property:** *See* Wis. Stat. § 766.01(5).

**Pretermitted Heirs:** A child or other descendent omitted in the testator's will. If the omission is unintentional, or if the child is born or adopted after the will is made, there may be statutory remedies. *See* Wis. Stat. § 853.25.

**Recording:** The act of giving the register of deeds a document that is placed on the public records by making a copy and returning the original.

**Reformation of Property:** An equitable judicial remedy in cases of fraud or mistake whereby an instrument of title to property is reformed to reflect the manner in which title to the property was intended to be held.

**Registered Domestic Partner:** An individual who has signed and filed a declaration of domestic partnership between August 1, 2009 and April 1, 2018, in the office of the register of deeds of the county in which he or she resides. *See* Wis. Stat. § 770.01(1).

**Remainderman:** One who is entitled to the remainder of an estate after a preceding part of that estate has been disposed of.

**Residence:** Legally, a dwelling in a particular locality. May or may not be the same as a *domicile*.

**Residuary Bequest:** Any bequest of the balance of the estate that remains after all specific bequests have been made.

**Right of Representation:** Method of dividing an interest in a trust or estate in which the group of distributees take the share to which a decedent would have been entitled. Also known as *per stirpes*.

**Secured Debt:** The obligations and debts of a person who pledges or provides property to secure the repayment of a debt or obligation.

**SEP:** Simplified employee pension plan established pursuant to the Internal Revenue Code.

**Street Name:** A security registered in street name is registered in the name of the brokerage company, not the owner. This is how most shares are held when purchased through a brokerage company.

**Special Administrator:** A person appointed by the court, usually for a limited time and purpose, to manage special problems that may arise during probate.

**Specific Bequest:** Any bequest of a certain class or kind of property.

**Summary Procedures:** Any of the procedures set forth in Wis. Stat. ch. 867, which may be available if the value of the decedent's probate estate is less than \$50,000.

**Surety:** A person or corporation that undertakes to pay money if the personal representative or other fiduciary fails to live up to his or her obligations and duties (bond).

**Survivorship Marital Property:** Marital property held by the spouses in which title to all property passes to the survivor. It includes property held on the deed as survivorship marital property. Property given to spouses as joint tenants or acquired by spouses after the determination date is survivorship marital property, unless the donor provides otherwise. Survivorship marital property passes to the survivor as a nontestamentary disposition by operation of law.

**Testate:** The term used to describe an estate when the decedent has left a valid will, that is, one that disposes of all the decedent's property. See *Intestate*.

**Testator:** A designation given to a decedent who dies leaving a will.

**T.O.D. Beneficiary:** A person designated on a deed as a transfer on death beneficiary under section 705.15.

**Transfer Agent:** A person through whom certain types of a decedent's property, such as stocks, are sold or purchased.

**Trust:** A legal entity, created either during a person's lifetime (an inter vivos trust) or by will (a testamentary trust), that transfers property to someone (the trustee) for the benefit of persons designated as beneficiaries in the trust instrument. See Wis. Stat. § 701.0103(30).

**Uniform Fiduciaries Act:** See Wis. Stat. § 112.01.

**Unilateral Income Election:** A written election unilaterally made by a spouse pursuant to Wis. Stat. § 766.59 that characterizes income from that spouse's individual property as individual property rather than marital property. Without this election or a separate marital agreement, income from individual property earned during marriage is marital property.

**Valuation:** The process of arriving at the market value of assets in the estate of a decedent through the use of appraisers and other objective proof.

**Waiver:** The process of giving up some right, such as notice to probate proceedings or an interest in a decedent's estate. See Wis. Stat. §§ 879.09, 879.26.

**Will:** A document that directs the disposition of a testator's property, executed in accordance with statutory requirements. See Wis. Stat. ch. 853.

**Will-Substitute Agreement (Washington Will):** A marital property agreement that not only classifies spouses' property interests but also transfers property at death without probate by a nontestamentary disposition to a designated person, trust, or other entity. See Wis. Stat. § 766.58(3)(f).

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# Chapter 1

## Probate Practice Aids

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➤ *Note.* Very special thanks are extended to Reinhart attorney Brett Erdmann for his help in updating this book. Mr. Erdmann is with the Milwaukee office and is an attorney in the firm’s trusts and estates practice. He received his law degree (magna cum laude) from Marquette University and his undergraduate degree from the University of Wisconsin-Madison.

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## Introduction

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Chapter 1 provides practice aids for attorneys: the Master Information List (MIL), the Cash Requirements Worksheet, the Estate Progress Worksheets, and the Critical Date Chart. These forms provide templates for attorneys to create working spreadsheets, to be used in future probate administrations.<sup>1</sup>

Fundamentally, the MIL provides a data collection system that applies to virtually any estate in probate. Its organization prompts the lawyer or legal assistant to query clients, assemble

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by acts through 2021 Wis. Act 24; and all references to the Internal Revenue Code (I.R.C.) are current through Pub. L. No. 117-7 (Apr. 14, 2021).

working documents, and prepare important property schedules in order to settle the estate. The MIL collects general information in Part I, information on property passing through the probate estate in Part II, information on nonprobate property requiring administration in Part III, and information on preparing the final Estate Account in Part IV.

➤ **Note.** Before April 1, 2018, Wisconsin recognized *registered domestic partners*, a status available to couples of the same sex. After the U.S. Supreme Court held that all states must allow and recognize same-sex marriages in *Obergefell v. Hodges*, 576 U.S. 644 (2015), the legislature thought domestic partnerships duplicative and, as part of 2017 Wis. Act 59, eliminated Wisconsin’s domestic partnership registry. Act 59 did, however, allow previously registered domestic partners to retain some rights. Previously registered domestic partners are entitled to some, but not all, legal protections that the law affords to spouses. Domestic partnership does not include many of the core provisions of the legal relationship of marriage, including the intricate property system that applies to married couples under the marital property law.

Legal protections that the law does provide domestic partners include the following:

1. A surviving domestic partner will inherit under the laws of intestacy.
2. A surviving domestic partner has the same right to assignment of the deceased partner’s interest in the home as does a surviving spouse.
3. A surviving domestic partner may select certain personal and household items after the death of the other domestic partner.
4. Real estate titled in the names of both domestic partners is presumed to be held in joint tenancy, unless the deed indicates a contrary intent.

There are also certain automatic effects of a termination of a domestic partnership. For example, the termination of a domestic partnership automatically revokes the provisions in a will in favor of a former domestic partner.

➤ **Note.** The U.S. Supreme Court has held all states must allow and recognize same-sex marriages. *Obergefell v. Hodges*, 576 U.S. 644 (2015). Therefore, discussions and forms in this and the other chapters must be read as applying to, and occasionally be adapted for, same-sex couples.

Each bit of information on the MIL is identified by a number in decimal notation (for example, 1.00, 5.14, 11.12). If the MIL is used for all the firm’s estate proceedings, MIL Section 2.00 will always signify the name of the decedent, although the actual name obviously will be different. Given that no two estates are exactly alike, parts of the MIL system may not apply to a particular estate. For example, if the late Mrs. Roberts was married, then information about her spouse would be entered in the MIL. But if the late Mr. Wright had never been married, MIL entries relating to spouses would be left blank. These are simple examples, but they make the point.

In some instances, MIL numbers correspond to larger “bits” of information—data on worksheets and schedules. For example, MIL Section 4.07 records gifts and inheritances received by the decedent during marriage. Regardless of whether the MIL entry requires a relatively simple piece of data, such as a birthdate, or a packet of schedules that illustrate property ownership, the information should be confirmed, entered carefully, and updated or corrected when necessary.

MIL Sections 11–16 deal with assets that are usually included in the probate estate and listed in the inventory. Information about assets listed in Sections 17–21 is useful for tax preparation and for nonprobate administration, but these assets usually are not listed in the probate estate.

MIL Sections 22–38 collect information needed to prepare accountings for an estate.

The Cash Requirements Worksheet provides a way of estimating the estate’s cash needs in order to plan for the sales of assets. Often, family members are unaware of these needs. It is common to find that beneficiaries simply expect that assets will be turned over to them. The Cash Requirements Worksheet can help explain the probate process to the personal representative or beneficiary. Ordinarily, the Cash Requirements Worksheet will be prepared after the estate has been opened.

Sometimes an estate will have sufficient liquid assets to meet all cash needs, but interim investment decisions are necessary. The Cash Requirements Worksheet may provide some guidance for such investment decisions.

Because the chronology of payment may differ with the date of death or the fact situation of a particular estate, no attempt has been made to put the cash needs items into any chronological order. When working with clients, however, the attorney may wish to organize the schedule by payment dates.

Finally, the Estate Progress Worksheets provide a way of tracking the estate administration, and the Critical Date Chart provides a way of recording important dates and due dates.





## Summary of Master Information List

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## Master Information List (EST-0105, EST-0106)

### I. General

Part I of the Master Information List organizes information in the following sections:

General Information	Section 1
Decedent	Section 2
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Marital Property	Section 4
Heirs and Beneficiaries	Section 5
Will and Codicils	Section 6
Personal Representative	Section 7
Trusts	Section 8
Appraisers and Professional Advisors	Section 9
Safe Deposit Box	Section 10

#### ■ General Information Section 1

- 1.00 Attorney's Name \_\_\_\_\_
- 1.01 State Bar No. \_\_\_\_\_
- 1.02 Firm Name/Address \_\_\_\_\_
- 1.03 Firm Telephone No. \_\_\_\_\_
- 1.04 Legal Assistant's Name \_\_\_\_\_
- 1.05 Firm File No. \_\_\_\_\_
- 1.06 Circuit Court for \_\_\_\_\_ (County)
- 1.07 Court Address \_\_\_\_\_
- 1.08 Probate Judge \_\_\_\_\_  
(Do not enter this information if the county in which the estate is being administered has a rotation system)
- 1.09 Probate Commissioner/Registrar \_\_\_\_\_
- 1.10 Court Case (File) No. \_\_\_\_\_

■ Decedent Section 2

- 2.00 Name \_\_\_\_\_
- 2.01 Decedent Also Known As (a/k/a) \_\_\_\_\_
- 2.02 Social Security No. \_\_\_\_\_
- 2.03 Domicile at Death  
Street \_\_\_\_\_ City \_\_\_\_\_  
County \_\_\_\_\_ State, ZIP \_\_\_\_\_
- 2.04 Date Domicile Established \_\_\_\_\_
- 2.05 Residence at Death  
Street \_\_\_\_\_ City \_\_\_\_\_  
County \_\_\_\_\_ State, ZIP \_\_\_\_\_
- 2.06 Date Residence Established \_\_\_\_\_
- 2.07 Marital Status at Death: Single \_\_\_\_\_ Widowed \_\_\_\_\_ Married \_\_\_\_\_  
Legally Separated \_\_\_\_\_ Divorced \_\_\_\_\_
- 2.08 Date and Place of Birth \_\_\_\_\_
- 2.09 Date of Death \_\_\_\_\_
- 2.10 Cause of Death \_\_\_\_\_
- 2.11 Length of Last Illness \_\_\_\_\_
- 2.12 Age at Death \_\_\_\_\_ years \_\_\_\_\_ months \_\_\_\_\_ days
- 2.13 Place of Death \_\_\_\_\_
- 2.14 Cemetery Where Decedent Is Buried \_\_\_\_\_
- 2.15 Is perpetual care provided? (Wis. Stat. § 863.09) Yes \_\_\_\_\_ No \_\_\_\_\_
- 2.16 Employment/Occupational Status (Check applicable responses)  
Receiving Veterans' Benefits \_\_\_\_\_ Employed \_\_\_\_\_  
Retired \_\_\_\_\_ Receiving Social Security Benefits \_\_\_\_\_
- 2.17 Occupation and Employers (name, address, dates of employment)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 2.18 If the decedent was receiving veterans or Social Security benefits, state the nature of benefit and the approximate amount \_\_\_\_\_  
\_\_\_\_\_
- 2.19 Summarize all employee death benefits (see MIL Section 21) \_\_\_\_\_  
\_\_\_\_\_
- 2.20 Provide details if the decedent was ever confined to state or county hospital or institution or was liable for outstanding obligation to state or county for specified services (institutions, locations, dates, and amounts owed):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2.21 Provide details if the decedent ever received long-term community care or medical assistance (institutions, locations, dates, and amounts owed):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2.22 Provide details if the decedent's spouse ever received long-term community care or medical assistance (institutions, locations, dates, and amounts owed):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 2.23 Estate Employer Identification No. (EIN) \_\_\_\_\_

■ **Surviving Spouse Section 3**

- 3.00 Name \_\_\_\_\_
- 3.01 Social Security No. \_\_\_\_\_
- 3.02 Address  
Street \_\_\_\_\_ City \_\_\_\_\_  
County \_\_\_\_\_ State, ZIP \_\_\_\_\_
- 3.03 Telephone No. \_\_\_\_\_
- 3.04 Birthdate \_\_\_\_\_ Age \_\_\_\_\_
- 3.05 Date of Marriage to Decedent \_\_\_\_\_
- 3.06 Decedent's Domicile at Time of Marriage \_\_\_\_\_

- 3.07 Places and periods during which marital domicile was outside Wisconsin  
\_\_\_\_\_  
\_\_\_\_\_
- 3.08 Citizenship \_\_\_\_\_
- 3.09 Naturalization Date \_\_\_\_\_
- 3.10 In what country was the surviving spouse born? \_\_\_\_\_
- 3.11 Spouses Who Predeceased or Divorced Decedent During Lifetime  
Name of Prior Spouse \_\_\_\_\_  
Date Married \_\_\_\_\_ Date/Place Marriage Terminated \_\_\_\_\_  
How Terminated (divorce/death) \_\_\_\_\_  
Name of Prior Spouse \_\_\_\_\_  
Date Married \_\_\_\_\_ Date/Place Marriage Terminated \_\_\_\_\_  
How Terminated (divorce/death) \_\_\_\_\_

■ **Marital Property Section 4**

Check box if a copy of marital property agreement or will substitute agreement is attached to MIL

- 4.01 Date of any marital property agreement \_\_\_\_\_
- 4.02 Date of any will substitute agreement (Wis. Stat. § 766.58(3)(f)) \_\_\_\_\_
- 4.03 Date of any unilateral income election \_\_\_\_\_
- 4.04 Summarize property classification effects of marital property agreement or will substitute agreement: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 4.05 Determination date: Later of date of marriage, 12:01 a.m. on the date of establishment of Wisconsin domicile, or 12:01 a.m. on January 1, 1986  
\_\_\_\_\_
- 4.06 Date of surviving spouse's deferred marital property election \_\_\_\_\_

- 4.07 For assets titled in the decedent's name, the information collected below is useful for marital property tracing purposes in situations in which any property was acquired before the determination date or as inherited or gifted property and when a tracing analysis is required to complete the MIL or Federal Estate Tax Return schedules (IRS Form 706).

	<u>Description</u>	<u>Title</u> <sup>1</sup>	<u>Acquisition</u> <sup>2</sup> <u>and Date</u>	<u>Sources of</u> <u>Increases</u> <u>and Additions</u>
1.				
2.				
3.				
4.				
5.				

<sup>1</sup> Sole name, tenant in common, or joint tenant

<sup>2</sup> Inherited or predetermination date property

- 4.08 For assets titled in the surviving spouse's name, the information collected below is useful for marital property tracing purposes when any property was acquired before the determination date or as inherited or gifted property and when a tracing analysis is required to complete the MIL or Federal Estate Tax Return (IRS Form 706) schedules.

	<u>Description</u>	<u>Title</u> <sup>1</sup>	<u>Acquisition</u> <sup>2</sup> <u>and Date</u>	<u>Sources of</u> <u>Increases</u> <u>and Additions</u>
1.				
2.				
3.				

<sup>1</sup> Sole name, tenant in common, or joint tenant

<sup>2</sup> Inherited or predetermination date property



■ **Heirs and Beneficiaries Section 5**

- Check box if notice will be given by publication or mailing.
- Check box if waivers will be obtained from all interested persons.
- Check box next to each category of heir if person is entitled to notice (attorney should identify interested persons for this estate to simplify recording of data).

➤ *Note.* The adoption of any heir or beneficiary listed in the following sections may affect that person's status as an heir or beneficiary of the decedent's estate. See Wis. Stat. §§ 851.50, 854.20, 854.21.

5.00 Surviving Children

Name \_\_\_\_\_  
 Birthdate/Age \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Birthdate/Age \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Birthdate/Age \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

5.01 Are these children also children of the surviving spouse?

Yes \_\_\_\_\_ No \_\_\_\_\_

If not, give details: \_\_\_\_\_  
 \_\_\_\_\_

5.02 Issue of Surviving Children (data may be important if issue of surviving children are named as beneficiaries under decedent's will or if disclaimers are being considered)

Parent \_\_\_\_\_  
 Child's Name \_\_\_\_\_  
 Child's Address \_\_\_\_\_  
 Child's Birthdate/Age \_\_\_\_\_  
 Child's Social Security No. \_\_\_\_\_

Parent \_\_\_\_\_  
 Child's Name \_\_\_\_\_  
 Child's Address \_\_\_\_\_  
 Child's Birthdate/Age \_\_\_\_\_  
 Child's Social Security No. \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_  
Child's Birthdate/Age \_\_\_\_\_  
Child's Social Security No. \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_  
Child's Birthdate/Age \_\_\_\_\_  
Child's Social Security No. \_\_\_\_\_

5.03 Deceased Children

Name \_\_\_\_\_  
Date of Death \_\_\_\_\_

Name \_\_\_\_\_  
Date of Death \_\_\_\_\_

Name \_\_\_\_\_  
Date of Death \_\_\_\_\_

5.04 Issue of Deceased Children

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_  
Child's Birthdate/Age \_\_\_\_\_  
Child's Social Security No. \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_  
Child's Birthdate/Age \_\_\_\_\_  
Child's Social Security No. \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_  
Child's Birthdate/Age \_\_\_\_\_  
Child's Social Security No. \_\_\_\_\_

5.05 Living Parents (information required only if decedent is not survived by spouse, children, or issue of deceased children)

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Social Security No. \_\_\_\_\_

- 5.06 Living Brothers and Sisters (information required only if decedent is not survived by spouse, children, issue of deceased children, or parents)

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Social Security No. \_\_\_\_\_

- 5.07 Deceased Brothers and Sisters (information required only if decedent is not survived by spouse, children, issue of deceased children, or parents)

Name \_\_\_\_\_  
Date of Death/Age \_\_\_\_\_

Name \_\_\_\_\_  
Date of Death/Age \_\_\_\_\_

Name \_\_\_\_\_  
Date of Death/Age \_\_\_\_\_

- 5.08 Issue of Deceased Brothers and Sisters (information required only if decedent is not survived by spouse, children, issue of deceased children, or parents)

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_

Parent \_\_\_\_\_  
Child's Name \_\_\_\_\_  
Child's Address \_\_\_\_\_

- 5.09 Next of Kin (information required only if decedent is not survived by spouse, children, issue of deceased children, parents, brothers and sisters, or issue of brothers or sisters)

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Relationship \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Relationship \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Relationship \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

- 5.10 Persons Interested as Beneficiaries Under Decedent's Will (do not list persons listed in MIL §§ 5.00-.09)

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 Social Security No. \_\_\_\_\_

- 5.11 Are any heirs or beneficiaries listed above minors, incompetent persons, or persons in the military? (Indicate next to each person's name his or her legal disability: M = Minor I = Incompetent Person; MS = Person in Military Services). List below information regarding guardians ad litem, guardians for minors or incompetent persons, attorneys for persons in the military, and guardians of the estate (collectively, fiduciaries).

Heir or Beneficiary Name \_\_\_\_\_  
 Type of Legal Disability \_\_\_\_\_  
 Fiduciary's Name \_\_\_\_\_  
 Fiduciary's Title \_\_\_\_\_  
 Fiduciary's Address \_\_\_\_\_

Heir or Beneficiary Name \_\_\_\_\_  
Type of Legal Disability \_\_\_\_\_  
Fiduciary's Name \_\_\_\_\_  
Fiduciary's Title \_\_\_\_\_  
Fiduciary's Address \_\_\_\_\_

Heir or Beneficiary Name \_\_\_\_\_  
Type of Legal Disability \_\_\_\_\_  
Fiduciary's Name \_\_\_\_\_  
Fiduciary's Title \_\_\_\_\_  
Fiduciary's Address \_\_\_\_\_

5.12 Provide details if any heirs died within 120 hours of the decedent's death: \_\_\_\_\_  
\_\_\_\_\_

5.13 Witness Who Will Testify as to Heirship  
Name \_\_\_\_\_ Address \_\_\_\_\_  
Relationship to Decedent \_\_\_\_\_ Telephone \_\_\_\_\_

5.14 Other Persons Interested or Entitled to Notice During Probate—Interested persons may be:  
(1) Beneficiaries of a testamentary trust or pour-over living trust or other persons designated by the court (Wis. Stat. § 851.21(1))  
(2) The state's attorney general if charitable trust as defined in Wis. Stat. § 701.0103(4), or if estate escheats under Wis. Stat. § 852.01(3) (Wis. Stat. § 879.03(2)(c))  
(3) The Wisconsin Department of Health Services or Department of Corrections (Wis. Stat. § 859.07(2))  
(4) Creditors in an insolvent estate (Wis. Stat. § 862.09)

If there are many interested persons, enter the information about them (names, addresses, etc.) on a separate sheet. Once a person is no longer interested, place an asterisk to the left of his or her name. Enter the following information about each interested person:

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Relationship or Interest \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Trust Employer Identification No. (EIN) \_\_\_\_\_  
Indicate nature of person's legal disability (e.g., minor) \_\_\_\_\_  
Fiduciary's Name \_\_\_\_\_  
Fiduciary's Title \_\_\_\_\_  
Fiduciary's Address \_\_\_\_\_

5.15 Newspaper Designated for Publication of Notice \_\_\_\_\_

■ **Will and Codicils Section 6**

Check box if a copy of original will/codicils is attached to MIL

6.00 Date/Place of Execution of Last Will \_\_\_\_\_

6.01 Date/Place of Execution of Codicils to Last Will (if none, so state) \_\_\_\_\_

6.02 Does will appear to comply with statutory conditions for validity?

Yes \_\_\_\_\_ No \_\_\_\_\_

6.03 Attesting Witnesses (designate with an asterisk witness who will prove will)—Note that no proof of will is required if will is executed in accordance with Wis. Stat. § 853.03 or 853.05 or is self-proved under Wis. Stat. § 853.04.

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

■ **Personal Representative Section 7**

7.00 Proposed Personal Representative(s)

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

7.01 If the proposed personal representative fails to qualify, is there an alternate?

Yes \_\_\_\_\_ No \_\_\_\_\_

Alternate's Name \_\_\_\_\_

Alternate's Address \_\_\_\_\_

Alternate's Telephone No. \_\_\_\_\_

Alternate's Name \_\_\_\_\_

Alternate's Address \_\_\_\_\_

Alternate's Telephone No. \_\_\_\_\_

7.02 State relationship of proposed personal representative to decedent \_\_\_\_\_

\_\_\_\_\_

7.03 If bond is required of personal representative, enter amount: \_\_\_\_\_

7.04 Surety(s) on Bond

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone No. \_\_\_\_\_

7.06 Date Domiciliary Letters Issued \_\_\_\_\_

■ **Trusts Section 8**

8.00 List the following information for any testamentary or pour-over trusts:

Trust Name \_\_\_\_\_

Trustee Name \_\_\_\_\_

Trustee Address \_\_\_\_\_

Trustee Telephone No. \_\_\_\_\_

Date of Creation \_\_\_\_\_

Trust Employer Identification No. (EIN) \_\_\_\_\_

Attach a copy of the trust agreement. List information about any trust beneficiary not already listed under MIL Section 5 in format provided by MIL Section 5.14.

8.01 List the following information for any lifetime trusts established by the decedent that are not testamentary or pour-over trusts:

Trust Name \_\_\_\_\_

Trustee Name \_\_\_\_\_

Trustee Address \_\_\_\_\_

Trustee Telephone No. \_\_\_\_\_

Date of Creation \_\_\_\_\_

Trust Employer Identification No. (EIN) \_\_\_\_\_

Attach a copy of the trust agreement. List information about any trust beneficiary not already listed under MIL Section 5 in format provided in MIL Section 5.14.

- 8.02 List the following information for any trusts established by the decedent's surviving spouse or a predeceased spouse:

Trust Name \_\_\_\_\_  
Trustee Name \_\_\_\_\_  
Trustee Address \_\_\_\_\_  
Trustee Telephone No. \_\_\_\_\_  
Date of Creation \_\_\_\_\_  
Trust Employer Identification No. (EIN) \_\_\_\_\_

Provide details if the decedent had a marital interest in such a trust: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attach a copy of the trust agreement. List information about any trust beneficiary not already listed under MIL Section 5 in format provided in MIL Section 5.14.

- 8.03 List the following information for any trusts not established by the decedent or the decedent's spouse of which the decedent was a beneficiary:

Trust Name \_\_\_\_\_  
Trustee Name \_\_\_\_\_  
Trustee Address \_\_\_\_\_  
Trustee Telephone No. \_\_\_\_\_  
Date of Creation \_\_\_\_\_  
Trust Employer Identification No. (EIN) \_\_\_\_\_

Attach a copy of the trust agreement. List information about any trust beneficiary not already listed under MIL Section 5 in format provided in MIL Section 5.14.

■ **Appraisers and Professional Advisors    Section 9**

9.00 Court-Appointed Appraisers

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_



9.01 Decedent's and Surviving Spouse's Stock Brokers and Investment Professionals

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

9.02 Decedent's and Surviving Spouse's Insurance Agents

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

9.03 Decedent's and Surviving Spouse's Accountants

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_

9.04 Decedent's Health-Care Providers (designate with an asterisk the physician who was treating the decedent at death)

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_  
Treating decedent at death? Yes \_\_\_\_\_ No \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_  
Treating decedent at death? Yes \_\_\_\_\_ No \_\_\_\_\_

Name \_\_\_\_\_  
Address \_\_\_\_\_  
Telephone No. \_\_\_\_\_  
Treating decedent at death? Yes \_\_\_\_\_ No \_\_\_\_\_

■ **Safe Deposit Box Section 10**

□ Attach copy of inventory of box contents

10.00 Institution Where Decedent's Box Located \_\_\_\_\_

10.01 Address \_\_\_\_\_

10.02 Box No. \_\_\_\_\_

10.03 Exact Designations of Box Owner(s) \_\_\_\_\_

10.04 Institution Where Surviving Spouse's Box Located \_\_\_\_\_

10.05 Address \_\_\_\_\_

10.06 Box No. \_\_\_\_\_

10.07 Exact Designations of Box Owner(s) \_\_\_\_\_

## II. Property Passing Through Probate Estate

Part II of the Master Information List organizes information in the following sections:

Solely Held Real Estate	Section 11
Held by Decedent	Schedule 11.1
Held by Surviving Spouse	Schedule 11.2
Solely Held Stocks	Section 12
Held by Decedent	Schedule 12.1
Held by Surviving Spouse	Schedule 12.2
Solely Held Bonds	Section 13
Held by Decedent	Schedule 13.1
Held by Surviving Spouse	Schedule 13.2
Solely Held Mortgages, Notes, Cash, and Land Contracts	Section 14
Held by Decedent	Schedule 14.1
Held by Surviving Spouse	Schedule 14.2
Other Miscellaneous Property	Section 15
Held by Decedent	Schedule 15.1
Held by Surviving Spouse	Schedule 15.2
Mortgages and Liens	Section 16
On Property Held by Decedent	Schedule 16.1
On Marital Property Held by Surviving Spouse	Schedule 16.2

The assets described in Sections 11–15 ordinarily pass through the probate estate. Separate schedules are provided for recording information about assets held in the decedent’s sole name or as tenancy in common and assets held in the surviving spouse’s sole name or as tenancy in common in which the decedent had a marital property interest. The obligations described in MIL Section 16 are listed in the Inventory.

### ■ Solely Held Real Estate Section 11

Note: Property listed in Section 11 is reported on Schedule A of the Federal Estate Tax Return (IRS Form 706).

Did the decedent have any real estate titled in his  
or her sole name in Wisconsin?

Yes \_\_\_\_\_ No \_\_\_\_\_

Outside Wisconsin?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, collect detailed information on MIL Schedule 11.1. Include in this schedule the decedent's interest as a vendee of a land contract or as a tenant in common, regular fee ownership, easements, and the value of any contract to purchase.

Did the surviving spouse have any marital property real estate titled in his or her sole name?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list real estate interests in which the decedent had a marital property interest but that are titled in the name of the surviving spouse in MIL Schedule 11.2.

1. Describe in MIL Schedules 11.1 and 11.2 the type of property (e.g., homestead, farm, vacant residential rental units, cottage).
2. Give in MIL Schedules 11.1 and 11.2 the exact name on the deed and describe how the property is held and, if decedent has less than a full interest, the decedent's fractional interest. Include only the value of the decedent's fractional interest.
3. Note mortgages and liens secured by solely held property interests on MIL Schedules 16.1 and 16.2 with full details of principal amount, date of instrument, full recording data, names of parties, principal balance due, and accrued interest as of the date of death. Also list mortgages when the decedent is personally liable in MIL Schedules 16.1 and 16.2. If the decedent is not personally liable, note the mortgagee information below the property information and subtract the mortgage amount, giving the net value.
4. Leasehold interests and easements (dominant or servient estates) are generally considered in valuation of the property. Other interests in real estate are listed in MIL Schedules 14.1 and 14.2 (solely held mortgages, notes, cash, and land contracts) and Schedules 18.1 and 18.4 (jointly held property).
5. Attach copies of all appraisals, deeds, land contracts, mortgages, affidavits, easements, leases, abstracts, title insurance policies, and other real estate documents.
6. Obtain real estate tax assessments and bills, and arrange to pay delinquent taxes or installments as they come due. (See MIL Schedules 11.1 and 11.2 and calendar the dates on the Estate Progress Worksheet.) Consider attaching the most recent municipal assessment to MIL Schedules 11.1 and 11.2 as an exhibit for valuation.
7. Obtain property insurance (fire and extended coverage) information for each parcel, and identify such information by the item number on the schedule to which it pertains. Instruct the insurance agent or insurance company to change the insured to "Estate of \_\_\_\_\_, c/o \_\_\_\_\_, Personal Representative" and change the property's status from "owner occupied" to "vacant," if applicable. If the property is titled in the surviving spouse's name and the estate has a marital property interest, consider adding the estate as an additional insured on the spouse's property to cover the time before titling the interest in the estate.

MIL  
SCHEDULE 11.1

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**REAL ESTATE HELD IN DECEDENT'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	PROPERTY DESCRIPTION <sup>2</sup>	FULL PROPERTY VALUE <sup>3</sup>			VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	1. Type of real estate: Exact name on deed: Street address/city: Recording data:  Appraised/Equalized value: Tax parcel identification no.:	\$		\$	\$
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	2. Type of real estate: Exact name on deed: Street address/city: Recording data:  Appraised/Equalized value: Tax parcel identification no.:				

<sup>1</sup> Check "M" if the real estate is marital property, "MI" if the real estate is mixed property, or "NM" if it is nonmarital property.

<sup>2</sup> Attach the property's legal description.

<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>4</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**REAL ESTATE HELD IN SURVIVING SPOUSE'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	PROPERTY DESCRIPTION <sup>2</sup>	FULL PROPERTY VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	1. Type of real estate: Exact name on deed: Street address/city: Recording data:  Appraised/Equalized value: Tax parcel identification no.:	\$		\$	\$
M <input type="checkbox"/> Mi <input type="checkbox"/>	2. Type of real estate: Exact name on deed: Street address/city: Recording data:  Appraised/Equalized value: Tax parcel identification no.:				

<sup>1</sup> By definition, will be marital or mixed property.  
<sup>2</sup> Attach the property's legal description.  
<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>4</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset should be valued.

■ **Solely Held Stocks Section 12**

Note: Property listed in Section 12 is reported on Schedule B of the Federal Estate Tax Return (IRS Form 706).

Did the decedent hold a sole interest, a tenancy in common interest, or a marital property interest in any stocks in any corporation, whether publicly held, listed or unlisted, or closely held?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the decedent did have such interest, list detailed information on MIL Schedule 12.1 for stocks held in the decedent's sole name or MIL Schedule 12.2 for stocks held in the surviving spouse's sole name. Remember to list only one-half of the decedent's interest in solely held stocks that are marital property. Attach worksheets if additional space is needed.

1. Valuation of publicly traded stocks
  - a. Open-end mutual funds: Bid price on valuation date.
  - b. New York Stock Exchange, American Stock Exchange, or other recognized exchange stocks: Valued at the mean between the high and low prices on the valuation date.
  - c. Over the counter, bid-and-asked stocks: Valued at the mean between the high and low prices on the valuation date.
  - d. If no sales occurred on the valuation date (Saturday, Sunday, holiday, or no trading day), take the mean value on each of the closest trading days before and after the valuation date and take the weighted average of the two mean prices.
  - e. If a stock is trading ex-dividend (but before record day), add the dividend to the ex-dividend market value (the dividend is not listed separately or shown as income with respect to a decedent).
2. List stock dividends declared but not paid separately in the schedule.
3. Appraise stock in closely held corporations after considering earnings, profits, dividends, and book value; recent sales; and other businesses in the industry of and size of the decedent's holdings.
4. Every stock certificate has an identification issue by the Committee on Uniform Identification Procedures—its CUSIP number, which may be obtained from any stockbroker and also appears on newer stock certificates. The CUSIP number enables the Internal Revenue Service to easily cross-check reported values of stock listed on exchanges with the values reported on the Federal Estate Tax Return (IRS Form 706).

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**STOCKS HELD IN DECEDENT'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	1. No. of shares: Company: Common/preferred: Par value: Certificate no.: CUSIP no.: Exchange where listed: <sup>4</sup> No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid:	\$		\$	\$
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	2. No. of shares: Company: Common/preferred: Par value: Certificate no.: CUSIP no.: Exchange where listed: <sup>4</sup> No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid:				

<sup>1</sup> Check "M" if the stock is marital property, "Mi" if it is mixed property, or "NM" if it is nonmarital property.

<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>3</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

<sup>4</sup> If unlisted, provide the corporation address.



MIL  
SCHEDULE 12.2

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Decedent's Date of Death \_\_\_\_\_

**STOCKS HELD IN SURVIVING SPOUSE'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
<input type="checkbox"/> M <input type="checkbox"/> MI	1. No. of shares: Company: Common/preferred: Par value: Certificate no.: CUSIP no.: Exchange where listed: <sup>4</sup> No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid:	\$		\$	\$
<input type="checkbox"/> M <input type="checkbox"/> MI	2. No. of shares: Company: Common/preferred: Par value: Certificate no.: CUSIP no.: Exchange where listed: <sup>4</sup> No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid:				

<sup>1</sup> By definition, will be marital or mixed property.

<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>3</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset should be valued.

<sup>4</sup> If unlisted, provide the corporation address.

**■ Solely Held Bonds Section 13**

Note: Property listed in Section 13 is reported on Schedule B of the Federal Estate Tax Return (IRS Form 706).

Did the decedent hold a sole interest, a tenancy in common interest, or a marital property interest in any bonds in any corporation or municipality, whether publicly held, listed or unlisted, or closely held?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list detailed information in MIL Schedule 13.1 for bonds held in the decedent's sole name or MIL Schedule 13.2 for bonds held in the surviving spouse's sole name. Remember to list only one-half of the decedent's interest in solely held bonds that are marital property. Attach worksheets if additional space is needed for computations or notes.

1. Value bonds on the basis of the mean between high and low for sale prices on the bid-and-ask-for quotations on the valuation date. If no sales occurred on the valuation date (Saturday, Sunday, holiday, or no trading day), take the average of the mean value on each of the closest trading days before and after the valuation date.
2. For valuation of bonds not traded publicly, compare the bond rate of interest to current interest rates, the soundness of any underlying security, the insurer's earnings records and future earning capacity, and other economic factors considered in valuing stock.
3. Interest must be accrued to date of death and listed separately below each bond item.
4. U.S. government bonds are valued at *redemption* value (e.g., Series EE) per Treasury Table on the last payment date, or *face or par value* (e.g., Series G, H, or K) or quoted price on the valuation date, whichever is higher, without any credit for accrued interest.
5. Indicate where bonds (either bearer or registered) are located for safekeeping.
6. Bonds or stocks payable on death (P.O.D.) to named persons other than the decedent are listed as transfers during the decedent's life (MIL Section 19) for estate tax purposes only (and are not included in the probate inventory).
7. List all transfer agents, including their addresses and phone numbers. List all worthless securities, but designate as "No Value."

MIL  
SCHEDULE 13.1

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**BONDS HELD IN DECEDENT'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	1. Face value: Name of issuer: Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest:	\$		\$	\$
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	2. Face value: Name of issuer: Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest:				

<sup>1</sup> Check "M" if the bond is marital property, "Mi" if it is mixed property, or "NM" if it is nonmarital property.  
<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>3</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**BONDS HELD IN SURVIVING SPOUSE'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> MI <input type="checkbox"/>	1. Face value: Name of issuer: Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest:	\$		\$	
M <input type="checkbox"/> MI <input type="checkbox"/>	2. Face value: Name of issuer: Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest:				

<sup>1</sup> By definition, will be marital or mixed property.  
<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>3</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset should be valued.

■ **Solely Held Mortgages, Notes, Land Contracts, and Cash**    **Section 14**

Note: Property listed in Section 14 is reported on Schedule C of the Federal Estate Tax Return (IRS Form 706).

Did the decedent hold a sole interest, any marital property interest, or any interest other than as a joint tenant in any mortgages, promissory notes, land contracts (vendor's interest), cash, or bank accounts?  
Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list detailed information on MIL Schedule 14.1 (held in decedent's sole name) or MIL Schedule 14.2 (held in surviving spouse's sole name).

1. If any mortgage, land contract, or promissory note has accrued and unpaid interest due (whether past due and unpaid or accrued since the last payment date), list the amount and the period covered under the subheading "Accrued interest from \_\_\_\_\_ to \_\_\_\_\_."
2. List bank balances as shown on passbooks, bank statements, or bank records, and include unpaid interest accrued to the date of death under that item's subheading.
3. Consider discounting the value of mortgages or notes when the interest rate is below prevailing rates for comparable obligations or when the value of the underlying security is inadequate.
4. Consider attaching copies of all documents and instruments and mark them as exhibits to MIL Schedule 14.1 or 14.2.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**MORTGAGES, NOTES, CASH, AND LAND CONTRACTS HELD IN DECEDENT'S SOLE NAME  
 (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>		VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/>	1. Mortgage/Promissory Note/Land Contract Name of maker/vendee: Face value: Interest rate and due dates: Date of instrument; recording data:  Due date of note: Unpaid balance: Accrued interest from _____ to _____;	\$		\$
M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/>	2. Bank Account Name of institution: Type of account: Account number: Balance as of date of death: Accrued interest from _____ to _____;			

<sup>1</sup> Check "M" if the asset is marital property, "Mi" if it is mixed property, or "NIM" if it is nonmarital property.  
<sup>2</sup> Attach the property's legal description and note value of any collateral.  
<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>4</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

MIL  
SCHEDULE 14.2

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Decedent's Date of Death \_\_\_\_\_

**MORTGAGES, NOTES, CASH, AND LAND CONTRACTS HELD IN SURVIVING SPOUSE'S SOLE NAME  
(OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	1. Mortgage/Promissory Note/Land Contract Name of maker/vendee: Face value: Interest rate and due dates: Date of instrument; recording data:  Due date of note: Unpaid balance: Accrued interest from _____ to _____	\$		\$	
M <input type="checkbox"/> Mi <input type="checkbox"/>	2. Bank Account Name of institution: Type of account: Account number: Balance as of date of death: Accrued interest from _____ to _____				

<sup>1</sup> By definition, will be marital or mixed property.  
<sup>2</sup> Attach the property's legal description and note the value of any collateral.  
<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>4</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset should be valued.

**■ Other Miscellaneous Property Section 15**

Note: Property listed in Section 15 is reported on Schedule F of the Federal Estate Tax Return (IRS Form 706).

Items that should be included in MIL Schedules 15.1 and 15.2 include rights to intellectual property; salary, wages, and commissions; death benefits; judgments; and so forth. Obtain copies of pertinent documents, mark or identify the item numbers and the type of property, and attach the copies to the MIL schedule. Use Schedule 15.1 for miscellaneous property held in the decedent's sole name, and use Schedule 15.2 to reflect the decedent's interest in miscellaneous marital property titled in the surviving spouse's sole name in which the decedent had a marital property interest.

General information on trusts is collected in MIL Section 8. Information on trusts created by the decedent or in which the decedent had a general power of appointment is handled in MIL Section 20. The only trusts that should be reported on MIL Schedule 15.1 are (1) trusts created by someone other than the decedent that make a payment to the decedent's estate at the decedent's death and (2) qualified terminable interest property (QTIP) trusts for the decedent's benefit created by a predeceased spouse.



Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**OTHER MISCELLANEOUS PROPERTY HELD IN DECEDENT'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>		VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>1. Insurance Owned by Decedent on the Life of Another.</b> Value the policy by either the cost of a comparable contract or, if none, the interpolated terminal reserve plus the proportionate, unexpired part of the last premium.  Insurance on the life of _____ Company name/address: _____ Policy no.: _____ Owner: _____ Contingent owner: _____ Interpolated terminal reserve/replacement cost: _____	\$		\$
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>2. Contract Rights Involving Decedent.</b>  Contract rights (describe): _____ Name and address of parties: _____ Date of contract: _____			
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>3. Salary, Wages, or Commissions.</b> Obtain information from decedent's employer(s) and list:  Earnings due from _____ Pay period of salary: _____ Net earnings for period: _____			
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>4. Partnership or Joint Venture Interest.</b> Obtain financial statements for the past five years, copies of the agreements, valuation information, and other facts, and list:  Partnership/Joint Venture Interest (name): _____ Names and addresses of each partner (for small partnership): _____ Address: _____ Valuation method: _____ Accrued income of partnership to date of death: _____			

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	<p><b>5. Death Benefits, Awards, or Bonuses.</b> Obtain information from decedent's employer(s) (or fraternal organization if a member) and list:</p> <p>Payor _____ Beneficiary _____ Did decedent have right to receive benefit before death? Yes ___ No ___</p> <p>(If death was accidental, consider accidental death and dismemberment coverage, personal injury survivorship action or wrongful death action, or worker's compensation.)</p>				
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	<p><b>6. Proprietorship.</b> Obtain financial information for past five years, consider the valuation factors in the decedent's closely held businesses, and list:</p> <p>Business _____ Description of type of business: _____ Valuation method: _____</p>				
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	<p><b>7. Accounts Receivable.</b> Obtain copies of invoices or other documents and list:</p> <p>Debts owed decedent (accounts receivable): _____ Debtors _____ Accrued interest: _____</p>				
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	<p><b>8. Leasehold Interest.</b> Obtain copy of leases to which the decedent was a party and list:</p> <p>Leasehold interest between _____ Dates of lease/term: _____ Lease payments per month/year: _____</p>				
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	<p><b>9. Judgments.</b> Obtain exact information from clerk of court where judgment owed to decedent is docketed and list:</p> <p>Judgment debtor _____ Date of judgment: _____ Docket no.: _____ Principal amount of judgment: _____ Accrued interest to date of death: _____</p>				

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>		VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
<p>M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/></p>	<p><b>10. Refunds.</b> Includes health insurance premiums, Medicare, etc. Indicate: Source of refund _____ Purpose: _____</p>			
<p>M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/></p>	<p><b>11. Deferred Compensation Contracts.</b> Obtain a copy of the contract and list: Deferred compensation contract with _____ Date of contract: _____ Beneficiary _____ Total amount of deferred compensation payable after death: _____ Method and amount of payment: _____ Amount of accrued, unpaid compensation at date of death: _____ Value of total unpaid deferred compensation: _____</p>			
<p>M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/></p>	<p><b>12. Vehicles.</b> Include the decedent's automobiles, watercraft, and aircraft. Obtain titles and registrations. Check the Blue Book or obtain an appraisal for value and list: Vehicle (type): _____ Year/make/body/model: _____ Vehicle identification no. (VIN): _____ Title no.: _____ Valuation method: _____</p>			
<p>M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/></p>	<p><b>13. Machinery and Equipment.</b> Obtain an appraisal of value and list: Machinery and equipment (type): _____ Identification no.: _____</p>			
<p>M <input type="checkbox"/> Mi <input type="checkbox"/> NIM <input type="checkbox"/></p>	<p><b>14. Interest in Trust.</b> (1) Trusts created by another person that make payment to decedent's estate or (2) QTIP trust payment. Obtain a copy of the instrument and list: Name of trust: _____ Type of beneficial interest: _____ Date of trust instrument: _____ Amounts payable from trust to decedent's estate: _____</p>			

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>15. Patents.</b> Obtain copies of all information relating to patents obtained by the decedent and list:  Patent on (describe): _____ Patent no./Date obtained: _____ Valuation method: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>16. Copyrights and Trademarks.</b> Obtain copies of all information relating to copyrights and trademarks and list:  Copyright/trademark on (describe): _____ Registration no.: _____ Valuation method: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>17. Royalties.</b> Obtain copies of contract and list:  Royalty on _____ Valuation method: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>18. Livestock.</b> Obtain an appraisal and list:  Livestock (number and type): _____ Valuation method: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>19. Growing Crops.</b> Obtain an appraisal and list:  Type: _____ Acreage: _____ Anticipated yield: _____ Date of anticipated harvest: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>20. Stock Option Plans.</b> Obtain a copy of documents describing plan and list:  Stock option plan _____ Date of plan: _____ Valuation method: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>21. Household Furnishings.</b> Obtain an appraisal (in most cases) and list:  Furniture/household goods _____ Location: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>22. Art Objects.</b> Obtain an appraisal and list:  Description _____ Artist: _____				

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>23. Personal Effects.</b> If any item is of substantial value, such as a fur coat, list separately; otherwise, group items and list.  Decedent's personal effects and clothing:				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>24. Jewelry.</b> Obtain an appraisal and list:  Description of jewelry piece: Valuation method:				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>25. Digital Property.</b> Obtain appraisal if has real value.				
M <input type="checkbox"/> Mi <input type="checkbox"/> NM <input type="checkbox"/>	<b>26. Other Miscellaneous Property.</b> Describe property not reported on any other schedule as clearly as possible.				

<sup>1</sup> Check "M" if the asset is marital property, "Mi" if it is mixed property, or "NM" if it is nonmarital property.

<sup>2</sup> Attach copies of all pertinent documents.

<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>4</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**OTHER MISCELLANEOUS PROPERTY HELD IN SURVIVING SPOUSE'S SOLE NAME (OR TENANCY IN COMMON)**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>1. Insurance Owned by Surviving Spouse on the Life of Another.</b> Value the policy by either the cost of a comparable contract or, if none, the interpolated terminal reserve plus the proportionate, unexpired part of the last premium.  Insurance on the life of _____ Company name/address: _____ Policy no.: _____ Owner: _____ Contingent owner: _____ Interpolated terminal reserve/replacement cost: _____	\$		\$	\$
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>2. Contract Rights Involving Surviving Spouse.</b>  Contract rights (describe): _____ Name and address of parties: _____ Date of contract: _____				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>3. Salary, Wages, or Commissions.</b> Obtain information from surviving spouse's employer(s) and list:  Earnings due from _____ Pay period of salary: _____ Net earnings for period: _____				

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>		VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>4. Partnership or Joint Venture Interest.</b> Obtain financial statements for the past five years, copies of the agreements, valuation information, and other facts, and list:  Partnership/Joint Venture Interest (name): Names and addresses of each partner (for small partnership): Address: Valuation method: Accrued income of partnership to date of death:			
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>5. Death Benefits, Awards, or Bonuses.</b> Obtain information from surviving spouse's employer(s) (or fraternal organization if a member) and list:  Payor _____ Beneficiary: _____ Did surviving spouse have right to receive benefit before death? Yes <input type="checkbox"/> No <input type="checkbox"/>			
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>6. Proprietorship.</b> Obtain financial information for past five years, consider the valuation factors in the surviving spouse's closely held businesses, and list:  Business _____ Description of type of business: _____ Valuation method: _____			
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>7. Accounts Receivable.</b> Obtain copies of invoices or other documents and list:  Debts owed surviving spouse (accounts receivable): Debtors _____ Accrued interest: _____			
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>8. Leasehold Interest.</b> Obtain copy of leases to which the surviving spouse was a party and list:  Leasehold interest between _____ Dates of lease/term: _____ Lease payments per month/year: _____			

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	<p><b>9. Judgments.</b> Obtain exact information from clerk of court where judgment owed to surviving spouse is docketed and list:</p> <p>Judgment debtor _____</p> <p>Date of judgment: _____</p> <p>Docket no.: _____</p> <p>Principal amount of judgment: _____</p> <p>Accrued interest to date of death: _____</p>				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<p><b>10. Refunds.</b> Includes health insurance premiums, Medicare, etc. Indicate:</p> <p>Source of refund _____</p> <p>Purpose: _____</p>				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<p><b>11. Deferred Compensation Contracts.</b> Obtain a copy of the contract and list:</p> <p>Deferred compensation contract with _____</p> <p>Date of contract: _____</p> <p>Beneficiary: _____</p> <p>Total amount of deferred compensation payable after death: _____</p> <p>Method and amount of payment: _____</p> <p>Amount of accrued, unpaid compensation at date of death: _____</p> <p>Value of total unpaid deferred compensation: _____</p>				



CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>12. Vehicles.</b> Include the surviving spouse's automobiles, watercraft, and aircraft. Obtain titles and registrations. Check the Blue Book or obtain an appraisal for value and list:  Vehicle (type): Year/make/body/model: Vehicle Identification No.: Title no.: Valuation method:				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>13. Machinery and Equipment.</b> Obtain an appraisal of value and list:  Machinery and equipment (type): Identification no.:				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>14. Patents.</b> Obtain copies of all information relating to patents obtained by the surviving spouse and list:  Patent on (describe): Patent no./Date obtained: Valuation method:				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>15. Copyrights and Trademarks.</b> Obtain copies of all information relating to copyrights and trademarks and list:  Copyright/trademark on (describe): Registration no.: Valuation method:				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>16. Royalties.</b> Obtain copies of contract and list:  Royalty on (describe): Valuation method:				
M <input type="checkbox"/> Mi <input type="checkbox"/>	<b>17. Livestock.</b> Obtain an appraisal and list:  Livestock (number and type): Valuation method:				

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION <sup>2</sup>	FULL ASSET VALUE <sup>3</sup>			VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
M <input type="checkbox"/> Mi <input type="checkbox"/>	<p><b>18. Growing Crops.</b> Obtain an appraisal and list:</p> <p>Type: _____                      Acreage: _____                      Anticipated yield: _____                      Date of anticipated harvest: _____</p> <p><b>19. Stock Option Plans.</b> Obtain a copy of documents describing plan and list:</p> <p>Stock option plan _____                      Date of plan: _____                      Valuation method: _____</p> <p><b>20. Household Furnishings.</b> Obtain an appraisal (in most cases) and list:</p> <p>Furniture/household goods _____                      Location: _____</p> <p><b>21. Art Objects.</b> Obtain an appraisal and list:</p> <p>Description _____                      Artist: _____</p> <p><b>22. Personal Effects.</b> If any item is of substantial value, such as a fur coat, list separately; otherwise, group items and list:</p> <p>Surviving spouse's personal effects and clothing: _____</p> <p><b>23. Jewelry.</b> Obtain an appraisal and list:</p> <p>Description _____                      Valuation method: _____</p> <p><b>24. Other Miscellaneous Property.</b> Describe property not reported on any other schedule as clearly as possible.</p>				
M <input type="checkbox"/> Mi <input type="checkbox"/>					
M <input type="checkbox"/> Mi <input type="checkbox"/>					
M <input type="checkbox"/> Mi <input type="checkbox"/>					
M <input type="checkbox"/> Mi <input type="checkbox"/>					
M <input type="checkbox"/> Mi <input type="checkbox"/>					

<sup>1</sup> By definition, will be marital or mixed property.  
<sup>2</sup> Attach copies of all pertinent documents.  
<sup>3</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>4</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset should be valued.

■ **Mortgages and Liens Section 16**

List on MIL Schedule 16.1 all pertinent information about mortgages and liens on property in the decedent's sole name. List on MIL Schedule 16.2 all pertinent information about mortgages and liens on property in the surviving spouse's sole name if it is marital property. Be aware that real estate taxes, including both the full amount of unpaid taxes for the years before death and the amount of current year tax prorated until the date of death, are "liens" to be listed in Section 16.

Note: Debts listed in Section 16 are the only liabilities reported on the probate Inventory. Liabilities listed in Section 16 are reported on Schedule K of the Federal Estate Tax Return (IRS Form 706). Other liabilities are recorded in the MIL and reported on the Federal Estate Tax Return (IRS Form 706) as follows:

1. Any unsecured debts chargeable to the probate estate are listed as claims (if allowed) on the estate's accounts (see Part IV of the MIL) and on Schedule K (Part 1) of the Federal Estate Tax Return (IRS Form 706).
2. Debts secured by nonprobate property are listed in the MIL section dealing with that property and on Schedule K (Part 2) of the Federal Estate Tax Return (IRS Form 706). For example, a mortgage secured by survivorship marital property is listed in Section 18. A lien on property held in a revocable trust is listed in Section 19 (under that section, the information would be gathered in the form set out under this section).
3. Estate administration expenses are listed on the estate's accounts (see Part IV of the MIL) and on Schedule J (Part B) of the Federal Estate Tax Return (IRS Form 706).
4. Expenses of administering nonprobate property are listed in the accounting for that property (for example, a living trust accounting) and on Schedule L (Part 2) of the Federal Estate Tax Return (IRS Form 706).

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Date of Death \_\_\_\_\_

**MORTGAGES AND LIENS ON PROPERTY  
HELD IN DECEDENT’S SOLE NAME (OR TENANCY IN COMMON)**

Item No.	Description	Amount
-------------	-------------	--------

**Mortgages and Liens**

1. Creditor:  
 Schedule and item no. of secured property:  
 Describe instrument:  
 Recording data:  
 Face value:  
 Unpaid balance at date of death:  
 Rate of interest:  
 Accrued interest to date of death:  
 Attach copy of mortgage and mortgage note
  
2. Creditor:  
 Schedule and item no. of secured property:  
 Describe instrument:  
 Recording data:  
 Face value:  
 Unpaid balance at date of death:  
 Rate of interest:  
 Accrued interest to date of death:  
 Attach copy of mortgage and mortgage note

**Real Estate Taxes**

3. Schedule and item no. of property subject to tax:  
 Payment dates:  
 Amounts due for prior years:  
 Prorated amount for current year:  
 Tax key no.:  
 Attach copies of relevant tax bills

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Date of Death \_\_\_\_\_

**MORTGAGES AND LIENS ON PROPERTY HELD IN SURVIVING SPOUSE'S  
 SOLE NAME (OR TENANCY IN COMMON) THAT IS MARITAL PROPERTY**

Item No.	Description	Amount
-------------	-------------	--------

**Mortgages and Liens**

1. Creditor:  
 Schedule and item no. of secured property:  
 Describe instrument:  
 Recording data:  
 Face value:  
 Unpaid balance at date of death:  
 Rate of interest:  
 Accrued interest to date of death:  
 Attach copy of mortgage and mortgage note
  
2. Creditor:  
 Schedule and item no. of secured property:  
 Describe instrument:  
 Recording data:  
 Face value:  
 Unpaid balance at date of death:  
 Rate of interest:  
 Accrued interest to date of death:  
 Attach copy of mortgage and mortgage note

**Real Estate Taxes**

3. Schedule and item no. of property subject to tax:  
 Payment dates:  
 Amounts due for prior years:  
 Prorated amount for current year:  
 Tax key no.:  
 Attach copies of relevant tax bills

### III. Nonprobate Property Requiring Administration

Part III of the Master Information List organizes information into the following sections:

Insurance on Decedent's Life	Section 17 Schedule 17.1
Jointly Held Property	Section 18
Real Estate	Schedule 18.1
Stocks	Schedule 18.2
Bonds	Schedule 18.3
Mortgages, Notes, Cash, and Land Contracts	Schedule 18.4
Miscellaneous Property	Schedule 18.5
Transfers During Decedent's Life Made by Decedent (Not Living Trusts)	Section 19 Schedule 19.1
Powers of Appointment	Section 20 Schedule 20.1
Annuities and Employee Death Benefits	Section 21
Held by Decedent	Schedules 21.1 & 21.3
Held by Surviving Spouse	Schedules 21.2 & 21.4

The assets described in Sections 17–21 do not ordinarily pass through the probate estate, but they must be considered for tax purposes. Additionally, such property often requires administration (e.g., administering a living trust, terminating a joint tenancy, or collecting death benefits). Separate schedules are provided in sections 18, 19, and 21 for recording information about assets held in the decedent's sole name or as tenancy in common or held in the surviving spouse's sole name or as tenancy in common in which the decedent held a marital property interest.

The assets included in Section 19 do not include living trusts. The typical assets of a living trust consist of property that does not otherwise pass at death by operation of law or beneficiary designation. In other words, living trust assets are those that would otherwise be subject to probate if they were not in the living trust. Even though the transfers to be listed in Section 19 are typically reported on Schedule G of the Federal Estate Tax Return (IRS Form 706) along with living trust assets, rather than collecting living trust assets in Section 19, use a separate set of the schedules provided in Sections 11–16.

■ **Insurance on Decedent's Life Section 17**

Note: Policies listed in Section 17 are reported on Schedule D of the Federal Estate Tax Return (IRS Form 706).

Did the decedent own any interest in any insurance on the life of another person, including the surviving spouse (including the decedent's marital property interest)?

Yes \_\_\_\_\_ No \_\_\_\_\_ Report and list any such insurance owned by the decedent *on the life of another person* on MIL Schedule 15.1.

Was there any insurance on the decedent's life? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, list detailed information required for each policy on MIL Schedule 17.1.

1. Ask each insurance company to send the Life Insurance Statement (IRS Form 712) to the personal representative. Form 712 will provide the necessary policy details required for Schedule D of the Federal Estate Tax Return (IRS Form 706): names of the owner, insured, and beneficiaries; amount of proceeds; and any adjustments such as postmortem dividends, paid-up additions, premium refunds, and loan principal and interest.
2. Submit Form 712 for each policy as an attachment to Schedule D of the Federal Estate Tax Return.
3. List policies on the decedent's life, even if the decedent did not possess any legal incidents of ownership and even if none of the proceeds are includible in the gross estate. Attach an explanation of why the policy is not includible, together with copies of relevant documents (e.g., an assignment).
4. For any policy(s) being used as collateral (assigned or pledged for a nonpolicy loan), make a notation such as: "This policy is pledged as collateral on a loan form \_\_\_\_\_ on which there was a balance due of \$\_\_\_\_\_ on the date of death." A nonpolicy loan for which the policy is collateral will be reported on MIL Schedule 28 (if the policy is payable to the decedent's estate, the lien is on probate property and should be reported on MIL Schedule 16).
5. Segregate insurance payable to or for the estate's benefit from other insurance not subject to probate, but includible for tax purposes, on the Inventory and Federal Estate Tax Return (IRS Form 706).
6. Carefully determine the amount of proceeds includible in the estate, if any, and whether any portion of the proceeds or premiums were gifts in contemplation of death and reportable. See MIL Schedule 19.1.

MIL  
SCHEDULE 17.1

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**INSURANCE ON DECEDENT'S LIFE**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>		VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	1. Company name: Policy no.: Type of policy: Beneficiary: Face amount: Paid-up additions: Returned premium: Postmortem div.: Minus policy loans: Minus policy loan interest accrued to D.O.D.: Net proceeds paid:	\$         (      )	\$         )	\$
<input type="checkbox"/> M <input type="checkbox"/> Mi <input type="checkbox"/> NM	2. Company name: Policy no.: Type of policy: Beneficiary: Face amount: Paid-up additions: Returned premium: Postmortem div.: Minus policy loans: Minus policy loan interest accrued to D.O.D.: Net proceeds paid:	(      )	)	

<sup>1</sup> Check "M" if the life insurance is marital property, "Mi" if it is mixed property, or "NM" if it is nonmarital property.

<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>3</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.



■ **Jointly Held Property Section 18**

Note: Property listed in Section 18 is reported on Schedule E of the Federal Estate Tax Return (IRS Form 706).

Did the decedent hold any property either as survivorship marital property or joint tenant or tenant by the entirety with a right of survivorship? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, collect detailed information on the following schedules:

Jointly Held Real Estate	18.1
Jointly Held Stocks	18.2
Jointly Held Bonds	18.3
Jointly Held Mortgages, Notes, Cash, and Land Contracts	18.4
Jointly Held Miscellaneous Property (automobiles, etc.)	18.5

For jointly held property, collect the same information that is required in MIL Sections 11–16 for solely held property or tenancy in common (assets held in more than one name without the survivorship feature). Also include the name and address of the surviving joint holder(s).

1. Under the heading “Full Property Value,” list the property’s full value. Under the heading “Value of Decedent’s Interest,” list 50% of the property’s value if the surviving tenant is the surviving spouse. If the surviving tenant is not the surviving spouse, list 100% of the property’s value unless there is proof that the surviving tenant contributed to the property’s value.
2. Attach supporting affidavits and data to prove any contribution made by a surviving joint tenant other than a spouse and provide a full explanation.
3. Subtract the value of mortgages and liens or other encumbrances against the property to arrive at a net figure for the Inventory; collect the information in a format similar to that shown on Schedule 16.1. For federal estate tax purposes, the value of mortgages, liens, or other encumbrances on jointly held property is shown separately on Schedule K, Part 2 of the Federal Estate Tax Return (IRS Form 706).

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**JOINT TENANCY REAL ESTATE WITH RIGHTS OF SURVIVORSHIP  
 OR SURVIVORSHIP MARITAL PROPERTY**

CLASSIFICATION <sup>1</sup>	PROPERTY DESCRIPTION <sup>2</sup>	FULL PROPERTY VALUE <sup>3</sup>			VALUE OF DECEDENT'S INTEREST <sup>4</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
SMP <input type="checkbox"/> NM <input type="checkbox"/>	1. Type of real estate: Exact name on deed: Name & address of surviv. jt. tenant:  Street address/city:  Recording data: Appraised/Equalized value: Tax parcel identification no.:  Mortgages and liens:	\$		\$	\$
SMP <input type="checkbox"/> NM <input type="checkbox"/>	2. Type of real estate: Exact name on deed: Name & address of surviv. jt. tenant:  Street address/city:  Recording data: Appraised/Equalized value: Tax parcel identification no.:  Mortgages and liens:				

<sup>1</sup> Check the "SMP" box if the decedent had a survivorship marital property interest or the "NM" box if the item is nonmarital joint property.  
<sup>2</sup> Attach the property's legal description.  
<sup>3</sup> Alternate valuation date used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>4</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset or percentage interest in nonmarital joint property should be valued.

MIL  
SCHEDULE 18.2

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Decedent's Date of Death \_\_\_\_\_

**JOINT TENANCY STOCKS WITH RIGHTS OF SURVIVORSHIP  
OR SURVIVORSHIP MARITAL PROPERTY**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>		VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
SMP <input type="checkbox"/> NM <input type="checkbox"/>	1. No. of shares: Company name: Name and address of surviv. jt. owner: Common/preferred (series): Par value: Certificate no.: CUSIP no.: Exchange where listed: If unlisted, corporation address: No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid: Encumbrances:	\$		\$
SMP <input type="checkbox"/> NM <input type="checkbox"/>	2. No. of shares: Company name: Name and address of surviv. jt. owner: Common/preferred (series): Par value: Certificate no.: CUSIP no.: Exchange where listed: If unlisted, corporation address: No. sold w/in 6 mos./date(s) sold: Dividend declared but not paid: Encumbrances:			

<sup>1</sup> Check the "SMP" box if decedent had a survivorship marital property interest or the "NM" box if the item is nonmarital joint property.  
<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>3</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset or percentage interest in nonmarital joint property should be valued.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**JOINT TENANCY BONDS WITH RIGHTS OF SURVIVORSHIP  
 OR SURVIVORSHIP MARITAL PROPERTY**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>		VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	
SMP <input type="checkbox"/> NM <input type="checkbox"/>	1. Face value: Name of issuer: Name & address of surviv. jt. owner:  Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest: Encumbrances:	\$		\$
SMP <input type="checkbox"/> NM <input type="checkbox"/>	2. Face value: Name of issuer: Name & address of surviv. jt. owner:  Type of bond: Certificate or Serial no.: CUSIP no.: Interest rate: Date of bond: Due date: Interest/last coupon due dates: Accrued interest: Encumbrances:			

<sup>1</sup> Check "SMP" if decedent had a survivorship marital property interest or "NM" if the item is nonmarital joint property.  
<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.  
<sup>3</sup> When recording the value of the decedent's interest, only decedent's 50% interest in the marital property component of the asset or percentage interest in nonmarital joint property should be valued.

MIL  
SCHEDULE 18.4

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Decedent's Date of Death \_\_\_\_\_

**JOINT TENANCY MORTGAGES, NOTES, CASH, AND LAND CONTRACTS  
WITH RIGHTS OF SURVIVORSHIP OR SURVIVORSHIP MARITAL PROPERTY**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL.	
SMP <input type="checkbox"/> NM <input type="checkbox"/>	1. Mortgage/Promissory Note/Land Contract Name of maker/vendee: Face value: Interest rate and due dates: Date of instrument, recording data: Due date of note: Description of property/collateral: Unpaid balance: Accrued interest from _____ to _____; Encumbrances:	\$		\$	
SMP <input type="checkbox"/> NM <input type="checkbox"/>	2. Mortgage/Promissory Note/Land Contract Name of maker/vendee: Face value: Interest rate and due dates: Date of instrument, recording data: Due date of note: Description of property/collateral: Unpaid balance: Accrued interest from _____ to _____; Encumbrances:				

<sup>1</sup> Check "SMP" if decedent had a survivorship marital property interest or "NM" if the item is nonmarital joint property.

<sup>2</sup> Alternate valuation dates used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>3</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset or percentage interest in nonmarital joint property should be valued.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**JOINT TENANCY MISCELLANEOUS PROPERTY WITH RIGHTS OF SURVIVORSHIP  
 OR SURVIVORSHIP MARITAL PROPERTY**

CLASSIFICATION <sup>1</sup>	ASSET DESCRIPTION	FULL ASSET VALUE <sup>2</sup>			VALUE OF DECEDENT'S INTEREST <sup>3</sup>
		D.O.D. VALUE	ALT. VAL. DATE	ALT. VAL. VAL.	
SMP NM <input type="checkbox"/> <input type="checkbox"/>	1. Asset	\$		\$	
	2. Encumbrance				
SMP NM <input type="checkbox"/> <input type="checkbox"/>	1. Asset				
	2. Encumbrance				
SMP NM <input type="checkbox"/> <input type="checkbox"/>	1. Asset				
	2. Encumbrance				
SMP NM <input type="checkbox"/> <input type="checkbox"/>	1. Asset				
	2. Encumbrance				
SMP NM <input type="checkbox"/> <input type="checkbox"/>	1. Asset				
	2. Encumbrance				

<sup>1</sup> Check "SMP" if decedent had a survivorship marital property interest or "NM" if the item is nonmarital joint property.

<sup>2</sup> Alternate valuation date used for Federal Estate Tax Return (IRS Form 706) purposes only.

<sup>3</sup> When recording the value of the decedent's interest, only the decedent's 50% interest in the marital property component of the asset or percentage interest in nonmarital joint property should be valued.

■ **Transfers During Decedent's Life Made by Decedent (Not Living Trusts)**  
**Section 19**

Note: The transfers listed in Section 19 are reported on Schedule G of the Federal Estate Tax Return (IRS Form 706).

Collect information on any incomplete gifts (without regard to when they were made), any gifts that had the effect of making an incomplete transfer complete that occurred within three years of the decedent's death, and any gift taxes payable with regard to a gift (whether complete or incomplete) that occurred within three years of the decedent's death and report them on MIL Schedule 19.1. Also answer the questions set forth in MIL Section 20 relating to powers of appointment. If no federal estate tax return is to be filed, write in "Not Applicable." List the total amount of gift tax paid by the decedent or payable by the decedent's estate on any gift made by the decedent or the decedent's spouse during the three-year period ending on the decedent's death.

1. Attach copies of previously filed gift tax returns, trust documents, and all other documents pertaining to any gift. Some information collected may not be relevant here but will be relevant for the computation of adjusted taxable gifts for federal estate tax purposes.
2. Consider different classifications of taxable lifetime transfers or releases:
  - a. Transfers with a retained life estate
  - b. Transfers in contemplation of death
  - c. Certain transfers taking effect at death
3. Transfers in contemplation of death occur when the decedent died within three years of the transfer date and the transfer was
  - a. a transfer or release of a previously retained life estate, or
  - b. a transfer or release of a right to revoke life estate.
4. For living trusts, collect the same information as is requested in MIL Sections 11–16. For other transfers that will be reported on MIL Section 19, complete MIL Schedule 19.1.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**TRANSFERS DURING DECEDENT'S LIFE MADE BY DECEDENT  
 (INCOMPLETE TRANSFERS, GIFTS IN CONTEMPLATION OF DEATH, AND CERTAIN GIFT TAXES)**

DATE OF GIFT	DONEE'S NAME AND RELATIONSHIP TO DONOR	DESCRIPTION OF PROPERTY ORIGINALLY TRANSFERRED	METHOD OF TRANSFER	INTEREST RETAINED OR RELEASED THAT CAUSED ESTATE INCLUSION	DATES OF GIFT TAX RETURNS/IRS OFFICE WHERE FILED <sup>1</sup>
					Gift tax paid:
					Gift tax paid:
					Gift tax paid:
					Gift tax paid:
					Gift tax paid:
					Gift tax paid:

<sup>1</sup> If federal gift tax returns have ever been filed, attach copies of the returns if available.

Note: For living trusts, use schedules that accompany Sections 11-16.



■ Powers of Appointment Section 20

Note: The powers listed in Section 20 are reported on Schedule H of the Federal Estate Tax Return (IRS Form 706).

1. Obtain certified or verified copies of all documents that relate to the creation and disposition of the powers, in order to report on the estate tax return. List information regardless of whether the power is determined to be taxable or nontaxable.
2. Include information for any power of appointment for which the decedent
  - a. exercised the power,
  - b. failed to exercise the power,
  - c. released the power, or
  - d. created another power.

If no federal estate tax return is to be filed, write "Not Applicable."

3. Determine whether the power is "special" or "general." The federal definition of *general* or taxable power under I.R.C. § 2041(b)(1) is a power exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the estate.
4. At death, did the decedent possess a general power of appointment created after October 21, 1942?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
  
On or before October 21, 1942? Yes \_\_\_\_\_ No \_\_\_\_\_
5. At any time, did the decedent by will or otherwise exercise or release (to any extent) a general power of appointment created after October 21, 1942?  
Yes \_\_\_\_\_ No \_\_\_\_\_  
  
On or before October 21, 1942? Yes \_\_\_\_\_ No \_\_\_\_\_
6. At death, were there any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship?  
Yes \_\_\_\_\_ No \_\_\_\_\_

MIL  
SCHEDULE 20.1

Estate of \_\_\_\_\_  
Social Security No. \_\_\_\_\_  
Decedent's Date of Death \_\_\_\_\_

**POWERS OF APPOINTMENT**

POWER OF APPOINTMENT	GENERAL OR SPECIAL?	DESCRIPTION OF INSTRUMENT CREATING POWER	DATE POWER CREATED	PROPERTY SUBJECT TO POWER	INDICATE WHETHER POWER HAS BEEN EXERCISED OR RELEASED OR IS UNEXERCISED

■ **Annuities and Employee Death Benefits Section 21**

Immediately before death, was the decedent receiving any annuity?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, was that annuity paid pursuant to a federally qualified plan?

Yes \_\_\_\_\_ No \_\_\_\_\_

If the decedent was employed at the time of death, did an annuity, employee benefit plan, or other payment become payable to any beneficiary by reason of the beneficiary surviving the decedent?

Yes \_\_\_\_\_ No \_\_\_\_\_

Did an annuity under an individual retirement account or annuity become payable to any beneficiary by reason of the beneficiary surviving the decedent?

Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, state the ratio of the amount paid for an individual retirement account, annuity, or bond that was not allowable as an income tax deduction under I.R.C. § 219 (other than a rollover contribution) to the total amount paid for the account, annuity, or bond.

1. I.R.C. § 2039 defines *annuity* for federal estate tax purposes. Only when some portion of the benefits is payable to the estate are the benefits considered subject to probate.
2. Obtain copies of instruments creating the annuity (contract) or employee benefit (plan document). Determine the type of annuity (i.e., straight life, joint and survivor, refund, and term-certain annuities) or benefit options. Report employer annuities, both qualified and nonqualified plan (including pension and profit-sharing plans), on MIL Schedules 21.1 and 21.3. Request that the annuity payor or trustee supply a statement relating to the proceeds, the decedent's contributions, etc. Use actuarial tables to compute the value of the beneficiary's interest.
3. If the decedent's interest in the annuity is marital property, only one-half the value is included in the estate.
4. Did the surviving spouse possess an interest in any annuity, employee benefit plan, or other payment as of the date of the decedent's death? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, describe the decedent's marital property interest in MIL Schedules 21.2 and 21.4, including all information listed above with respect to such property held by the decedent. Note that operation of the terminable marital property rule may cause the decedent's interest in the surviving spouse's deferred employment benefit plan to terminate.

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**ANNUITIES HELD IN DECEDENT'S SOLE NAME**

SOURCE/ PAYOR	PERIOD <sup>1</sup>	PAYABLE TO WHOM <sup>2</sup> AND BENEFICIARY	DECEDENT'S CONTRIBUTION AND RATIO TO TOTAL PURCHASE PRICE	AMOUNT INCLUDABLE IN ESTATE	ALTERNATE VALUATION DATE AND ALTERNATE VALUE

<sup>1</sup> Include the number of years and date.  
<sup>2</sup> Include the payee's date of birth.

Estate of \_\_\_\_\_ MIL  
 Social Security No. \_\_\_\_\_ SCHEDULE 21.2  
 Decedent's Date of Death \_\_\_\_\_

**ANNUITIES HELD IN SURVIVING SPOUSE'S SOLE NAME**

SOURCE/ PAYOR	PERIOD <sup>1</sup>	PAYABLE TO WHOM <sup>2</sup> AND BENEFICIARY	SURVIVING SPOUSE'S CONTRIBUTION AND RATIO TO TOTAL PURCHASE PRICE	VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>3</sup>	ALTERNATE VALUATION DATE AND ALTERNATE VALUE

<sup>1</sup> Include the number of years and date.  
<sup>2</sup> Include the payee's date of birth.  
<sup>3</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

MIL  
SCHEDULE 21.3

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Decedent's Date of Death \_\_\_\_\_

**EMPLOYEE BENEFIT PLANS HELD IN DECEDENT'S SOLE NAME**

PLAN NAME AND BENEFICIARY	TOTAL PROCEEDS	DECEDENT'S CONTRIBUTION	EMPLOYER'S CONTRIBUTION	AMOUNT INCLUDABLE IN DECEDENT'S ESTATE	ALTERNATE VALUATION DATE AND ALTERNATE VALUATION

Estate of \_\_\_\_\_ MIL  
 Social Security No. \_\_\_\_\_ SCHEDULE 21.4  
 Decedent's Date of Death \_\_\_\_\_

**EMPLOYEE BENEFIT PLANS HELD IN SURVIVING SPOUSE'S SOLE NAME**

PLAN NAME AND BENEFICIARY	TOTAL PROCEEDS	SURVIVING SPOUSE'S CONTRIBUTION	EMPLOYER'S CONTRIBUTION	VALUE OF DECEDENT'S MARITAL PROPERTY INTEREST <sup>1</sup>	ALTERNATE VALUATION DATE AND ALTERNATE VALUATION

<sup>1</sup> When recording the value of the decedent's interest, consider the marital property classification of the property in question. Only the decedent's 50% interest in the marital property component of the asset should be valued.

#### IV. Preparing the Estate Account

Part IV of the Master Information List organizes information in the following sections:

Receipts for Added Property	Section 22
Receipts for Dividends	Section 23
Receipts for Interest	Section 24
Receipts for Capital Gains or Losses	Section 25
Stocks and Bonds	Schedule 25.1
Real Estate	Schedule 25.2
Other Receipts	Section 26
Disbursements for Funeral Expenses	Section 27
Decedent's Debts	Section 28
Claims by Judgment	Section 29
Taxes Paid	Section 30
Interest Paid	Section 31
Administration Expenses Other Than Fees	Section 32
Other Payments	Section 33
Distributions	Section 34
Assets on Hand	Section 35
Fees	Section 36
Proposed Distribution	Section 37
Miscellaneous Estate Tax Information	Section 38

All estates should have an ongoing account that will be used to prepare income tax returns and to ultimately distribute the estate assets pursuant to the terms of the will. In addition, much of the information reported under the disbursements schedules will be reported on the Federal Estate Tax Return (IRS Form 706). The Estate Account (see [Forms 3.65](#) and [4.36, \*infra\*](#)) (if used) will be filed (or exhibited) with the probate court. Funded trusts should also prepare an accounting and may do so following the format laid out for probate estates.

The account reports the inventory value of the estate as a starting point and then reports all receipts and disbursements during administration. This information results in "assets on hand," from which requested attorney and fiduciary fees are subtracted, which finally results in the balance available for distribution.



■ **Receipts for Added Property Section 22**

Schedule A of the final Estate Account lists any probate property discovered after the Inventory was filed at its date of death value. Any such property should be listed in MIL Sections 11–15 and included on the Federal Estate Tax Return (IRS Form 706).

■ **Receipts for Dividends Section 23**

Schedule B of the final Estate Account reports dividends received during administration. (The Inventory includes declared dividends after the record dividend date.) The dividends should be grouped by asset and then chronologically. Each entry should include the name of the company, dividend per share, and total dividend. This information will be used in preparing the estate's (or trust's) fiduciary income tax return.

■ **Receipts for Interest Section 24**

Schedule C of the final Estate Account reports income received during administration. (The Inventory includes accrued, but unpaid, interest.) The income should be grouped by assets and then chronologically. Each entry should include the nature of the payment, date of receipt, name of interest payor, and total amount. This information will be used in preparing the estate's (or trust's) fiduciary income tax return.

■ **Receipts for Capital Gains (Capital Losses) Section 25**

Schedule D of the final Estate Account is used to report any sales that occurred during estate administration. Each sale should be reported chronologically. Each entry should include the date sold or redeemed and a description of the property sold:

1. *Stocks and Bonds*: Specifically, if stocks or bonds are sold, the numbers of shares or face amount, certificate numbers, type of bond or stock, and name of company should be provided.
2. *Real Estate*: If real estate is sold, the type of land, street address, city, brief legal description, and acreage should be provided.

The amount of gain or loss will be the sale price minus the inventory value. This information will also be used to prepare the estate's (or trust's) income tax return. Note: Net proceeds are determined by subtracting selling expenses from gross proceeds. If selling expenses are substantial, consider listing separately.

■ **Other Receipts Section 26**

Schedule E of the final Estate Account reports any other receipts received during administration. Any receipt must be allocated between income and principal.

**■ Disbursements for Funeral Expenses Section 27**

Schedule F of the final Estate Account reports funeral expenses. You may list the funeral expenses as the “net after subtracting the Social Security death benefit payment of \$ \_\_\_\_\_.” Note: All funeral expenses are attributable to principal. Such expenses include

1. Funeral home services;
2. Cost of perpetual care;
3. Cost of monument, engraving;
4. Flowers;
5. Funeral meal;
6. Clergy, soloist; and
7. Newspaper notice.

Note: Funeral expenses are also reported on Schedule J (Part A) of the Federal Estate Tax Return (IRS Form 706).

**■ Decedent’s Debts Section 28**

Schedule G of the final Estate Account reports debts of the decedent. Mortgages and liens against solely owned property are already listed on the Inventory, but indicate those that have been paid, and designate allocation between income and principal. Medical and last-illness expenses taken for income tax purposes should be designated as expenses against income and should not be deducted on IRS Form 706.

Describe the decedent’s debts, including medical and other expenses of the last illness, unsecured debts, and accrued unpaid debts. Accrued unpaid debts include such items as utility bills, balances on charge accounts, and income taxes and property taxes for the year of death. Subtract those debts that are deductible for income and estate tax purposes. For any accrued unpaid debts that are deductible for income and estate tax purposes, place an asterisk next to the item number (e.g., state income taxes).

Note: Decedent’s debts are also reported on Schedule K (Part 1) of the Federal Estate Tax Return (IRS Form 706).

**■ Claims by Judgment Section 29**

Schedule H of the final Estate Account reports claims by judgment. List the dates claims were paid, the name of the claimant, the nature of the claim, and the amount allowed and paid (includes *only* claims filed with the court and no other debts).

Note: Claims by judgment are also reported on Schedule K (Part 1) of the Federal Estate Tax Return (IRS Form 706) as a debt of the decedent.

■ **Taxes Paid Section 30**

Schedule I of the final Estate Account reports taxes paid. List all taxes paid by the estate, including property taxes, estate taxes, and fiduciary income taxes. All income tax payments are listed under income, and all other taxes are listed under principal.

Note: Property taxes are reported on Schedule K (Part 2) of the Federal Estate Tax Return (IRS Form 706) as a lien. Income taxes on predeath income are reported on Schedule K (Part 1) of the Federal Estate Tax Return (IRS Form 706).

■ **Interest Paid Section 31**

Schedule J of the final Estate Account reports interest paid by the estate. List the date of payment, name of payee, nature of payment (relating to ...) and amount. All interest payments are attributable to income.

Note: Interest paid may be an administrative expense and reported on Schedule J (Part B) or Schedule L of the Federal Estate Tax Return (IRS Form 706).

■ **Administration Expenses Other Than Fees Section 32**

Schedule K of the final Estate Account reports administrative expenses, including expenses of administering assets not subject to probate, other than fees. Attorney fees, personal representative's fees, and other fiduciary fees are separately stated on the cover page of the final Estate Account. See *infra* [MIL § 36](#).

1. Appraisal fees
2. Accountant/tax preparer fees
3. Probate filing fees
4. Recording fees
5. Property maintenance costs
6. Real estate commissions and recording fees
7. Publication fees
8. Stock transfer fee
9. Witness fee
10. Inventory filing fee
11. Certified copies
12. Abstract continuation or title issuance
13. Car title transfer
14. Necessary out-of-pocket expenses incurred
  - Mileage: \_\_\_\_\_ miles x \$ \_\_\_\_\_
  - Postage
  - Telephone, long distance
  - Other
15. Other
16. Reserve for closing

Note: Probate administration expenses are listed on Schedule J (Part B) of the Federal Estate Tax Return (IRS Form 706); administrative expenses relating to nonprobate property are listed on Schedule L of Form 706.

■ **Other Payments Section 33**

Schedule L of the final Estate Account reports “other payments.” Any payments not described in any other schedule should be reported here. Include the date of payment, name of payee, nature of payment, and whether the amounts were attributable to income or principal.

Note: Other payments may be deductible as a debt on Schedule K (or as an administration expense on Schedule J) of the Federal Estate Tax Return (IRS Form 706).

■ **Distributions Section 34**

Schedule M of the final Estate Account reports distributions paid to date. If any distributions have been made, report them here, along with the date the receipt was signed, the name of the beneficiary, the description of the property, whether it was a specific bequest or in full or partial payment of a residual bequest, and the amount. Indicate whether amounts are allocable to income or principal.

■ **Assets on Hand Section 35**

Schedule N of the final Estate Account reports assets on hand. Summarize inventory descriptions and use date of death values. List taxes paid on behalf of beneficiaries as an asset on hand and indicate the amount of taxes on receipts signed by each beneficiary.

■ **Fees Section 36**

Requested attorney fees, personal representative fees, and guardian ad litem fees are separately stated on the front page of the final Estate Account.

1. Attorney Fees
2. Personal Representative Fees

(a) Personal representative's commission	
Inventory and added property value	\$ _____
Minus mortgages and liens	_____
Net	_____
Plus net principal gain	_____
Total (base for computation)	_____
2% of base	_____
Subtotal commissions	\$ _____
(b) Personal representative's extraordinary services (list)	
_____	\$ _____
_____	_____
_____	_____
Subtotal extraordinary services	\$ _____
Total allowances to personal representative	\$ _____

3. Guardian ad Litem Fees

Note: Fees are reported on Schedule J (Part B) of the Federal Estate Tax Return (IRS Form 706).

■ **Proposed Distribution Section 37**

A breakdown of the proposed distribution should be attached to the final Estate Account as Schedule O.

■ **Miscellaneous Estate Tax Information Section 38**

Did the decedent's will provide for charitable gifts?

If yes, review Schedule O of the Federal Estate Tax Return (IRS Form 706).

Must the decedent pay death taxes to any foreign country?

If yes, review Schedule P of the Federal Estate Tax Return (IRS Form 706).

Did the decedent receive property from someone within the last 10 years on which a federal estate tax was paid?

If yes, review Schedule Q of the Federal Estate Tax Return (IRS Form 706).

Did the decedent leave any property that may be subject to generation-skipping transfer tax (including bequests) for which the generation-skipping transfer tax exemption may be available? If so, review Schedule R of the Federal Estate Tax Return (IRS Form 706).

## Cash Requirements Worksheet (EST-0107)

Estate of \_\_\_\_\_  
 Social Security No. \_\_\_\_\_  
 Date of Death \_\_\_\_\_

<u>Cash Requirements</u>	<u>Estimated Payment Date or Comments</u>	<u>Amount</u>
1. Federal Estate Tax	_____	_____
2. Inheritance Tax, State of _____	_____	_____
3. Estate Tax, State of _____	_____	_____
4. Federal Income Tax	_____	_____
5. Wisconsin Income Tax	_____	_____
6. Intangible Personal Property Tax	_____	_____
7. Tangible Personal Property Tax	_____	_____
8. Real Estate Taxes	_____	_____
9. Personal Representative's Commission	_____	_____
10. Allowance for Year's Support	_____	_____
11. Net Cash Legacies	_____	_____
12. Unpaid Claim	_____	_____
13. Attorney Fees	_____	_____
14. Court Costs	_____	_____
15. Debts	_____	_____
16. Funeral Expenses	_____	_____
17. Medical Expenses	_____	_____

18. Miscellaneous Administration \_\_\_\_\_  
Expenses \_\_\_\_\_  
\_\_\_\_\_

19. Total Cash Requirements \$ \_\_\_\_\_

Available Reserves

20. Principal Cash Balance as of: \_\_\_\_\_ \$ \_\_\_\_\_

21. Insurance Proceeds \_\_\_\_\_

22. Marketable Securities \_\_\_\_\_

23. Other Sources of Funds \_\_\_\_\_

24. Total Available \$ \_\_\_\_\_

Net Cash Surplus (Deficit) \$ \_\_\_\_\_  
(Subtract Line 19 from Line 24)

25. Recommendations  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## Estate Progress Worksheets (EST-0108)

Days Prior for Tickler	Form	Date Due	Date Completed/ Filed
<b>FORMAL PROBATE</b>			
<b>Opening the Estate</b>			
<input type="checkbox"/>	_____ Meet with Clients and Prepare Representation Letter	2.1	_____
<input type="checkbox"/>	_____ Inventory Safe Deposit Box		_____
<input type="checkbox"/>	_____ File Petition for Formal Administration with Court	4.1	_____
<input type="checkbox"/>	_____ Appoint Guardian ad Litem	4.2	_____
<input type="checkbox"/>	_____ Order Setting Time to Hear Petition for Administration and Heirship and Notice to Creditors, or	4.5	_____
<input type="checkbox"/>	_____ Waiver, Consent and Approval;	4.6	_____
<input type="checkbox"/>	_____ Order for Hearing on Waiver; and		_____
<input type="checkbox"/>	_____ Order Limiting Time for Filing Claims and Determination of Heirship	4.7	_____
<input type="checkbox"/>	_____ Mail First Notice (and Will)	4.10, 4.11	_____
<input type="checkbox"/>	_____ File Affidavit of Service	4.9	_____
<input type="checkbox"/>	_____ Send Notice and Affidavit of Service by Registered Mail to County Clerk and DHS/Dep't of Corrections	3.7, 4.9	_____
<input type="checkbox"/>	_____ Apply for Employer Identification No.	6.1	_____
<input type="checkbox"/>	_____ Give Notice Concerning Fiduciary Relationship	6.3	_____
<input type="checkbox"/>	_____ Obtain Beneficiaries' Taxpayer Identification Numbers	3.2	_____
<b>Initial Hearing</b>			
<input type="checkbox"/>	_____ Prove Publication	3.19, 3.20	_____
<input type="checkbox"/>	_____ Prove Heirship	4.12	_____
<input type="checkbox"/>	_____ Prove Will (if required)	4.14	_____
<input type="checkbox"/>	_____ Order for Formal Administration	4.15	_____
<input type="checkbox"/>	_____ File Petition for Allowance	4.55	_____



<input type="checkbox"/>	_____	Order(s) for Allowance	4.56	_____	_____
<input type="checkbox"/>	_____	Order Appointing Appraisers	4.20	_____	_____
<input type="checkbox"/>	_____	Appoint Resident Agent	4.22	_____	_____
<input type="checkbox"/>	_____	Prepare Signature Bond	4.17, 4.18	_____	_____
<input type="checkbox"/>	_____	Prepare Domiciliary Letters	4.16	_____	_____
<input type="checkbox"/>	_____	Prepare Letters of Trust	4.19	_____	_____
<input type="checkbox"/>	_____	Waive Personal Representative's Fees	3.25	_____	_____

**Claims and Inventory**

<input type="checkbox"/>	_____	Prepare Letters Concerning Information for Inventory	3.23, 3.24, 3.28, 3.29, 3.30, 3.31	_____	_____
<input type="checkbox"/>	_____	Prepare Cash Requirements Worksheet	Ch. 1	_____	_____
<input type="checkbox"/>	_____	Prepare Inventory	4.26	_____	_____
<input type="checkbox"/>	_____	Request Confirmation of Inventory Information	3.41	_____	_____
<input type="checkbox"/>	_____	Send Copy to Appraisers	4.21	_____	_____
<input type="checkbox"/>	_____	File Inventory (within 6 months after issuing letters)	4.26	_____	_____
<input type="checkbox"/>	_____	Send Notice of Inventory to Heirs, and File Affidavit of Mailing Inventory (Notice), or	4.27 4.10	_____	_____
<input type="checkbox"/>	_____	File Waiver of Right to Receive Inventory and Accounts	4.28	_____	_____
<input type="checkbox"/>	_____	Hold Family Conference on Inventory and Income Tax		_____	_____
<input type="checkbox"/>	_____	File Decedent's Final Income Tax Returns (IRS Form 1040 and Wis. Form 1)		_____	_____
<input type="checkbox"/>	_____	Request Prompt Assessment for Income and Gift Tax	6.12	_____	_____
<input type="checkbox"/>	_____	Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905 (IRS Form 5495)	6.13	_____	_____
<input type="checkbox"/>	_____	Check Court File for Claims (after last date for filing claims)	4.23	_____	_____
<input type="checkbox"/>	_____	Advise Heirs of Claims Filed		_____	_____
<input type="checkbox"/>	_____	File Objections to Claims	4.24	_____	_____
<input type="checkbox"/>	_____	File Affidavit of Service (Proof of Service)	4.9	_____	_____
<input type="checkbox"/>	_____	Have Spouse Select Personal Property	4.57	_____	_____

<input type="checkbox"/>	_____	Judgment on Claims	4.25	_____	_____
<input type="checkbox"/>	_____	Receipts for Claims Paid	3.37	_____	_____
<input type="checkbox"/>	_____	Pay Guardian ad Litem/Witness		_____	_____
<b>Estate Account</b>					
<input type="checkbox"/>	_____	Request final Estate Account Information		_____	_____
<input type="checkbox"/>	_____	File Federal Estate Tax Return (Copy to Court)	6.5	_____	_____
<input type="checkbox"/>	_____	Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905 (IRS Form 5495)	6.13	_____	_____
<input type="checkbox"/>	_____	Receipt for Tax Paid		_____	_____
<input type="checkbox"/>	_____	Send Estate Tax Closing Letter	6.19	_____	_____
<input type="checkbox"/>	_____	File Affidavit of Service	4.9	_____	_____
<input type="checkbox"/>	_____	File Federal and Wis. Fiduciary Returns (IRS Form 1041, Wis. Form 2)	6.10, 6.11	_____	_____
<input type="checkbox"/>	_____	File Closing Certificate for Fiduciaries with Court	6.15	_____	_____
<input type="checkbox"/>	_____	File Estate Account	4.36	_____	_____
<input type="checkbox"/>	_____	File Petition for Approval of Estate Account and Final Judgment	4.37	_____	_____
<input type="checkbox"/>	_____	Order and Notice for Hearing Estate Account and Final Judgment, and	4.38	_____	_____
<input type="checkbox"/>	_____	Affidavits of Service Final Estate Account and Order for Hearing, or	4.9	_____	_____
<input type="checkbox"/>	_____	Waiver, Consent and Approval (in lieu of Order for Hearing and Affidavits)	4.6	_____	_____
<input type="checkbox"/>	_____	Hold Family Conference on Final Estate Account and Distributions		_____	_____
<input type="checkbox"/>	_____	Hearing on Final Estate Account		_____	_____
<input type="checkbox"/>	_____	File Supplemental Estate Account	4.39	_____	_____
<input type="checkbox"/>	_____	File Final Judgment (within 18 months after filing petition)	4.40	_____	_____
<input type="checkbox"/>	_____	File Abridgment of Final Judgment	4.41	_____	_____
<input type="checkbox"/>	_____	File Notice of Distribution to Ward	4.42	_____	_____
<input type="checkbox"/>	_____	File Proof of Recording	4.43	_____	_____
<input type="checkbox"/>	_____	Prepare and File All Receipts (within 4 months after final judgment)	3.66, 3.67	_____	_____
<input type="checkbox"/>	_____	Discharge Personal Representative	4.45	_____	_____
<input type="checkbox"/>	_____	Discharge Guardian ad Litem	4.44	_____	_____
<input type="checkbox"/>	_____	Cancel Surety Bond		_____	_____

Date Days Prior for Ticker	Form	Date Due	Completed/ Filed
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**INFORMAL PROBATE**

**Opening the Estate on Waiver**

<input type="checkbox"/>	_____	Meet with Clients and Prepare Representation Letter	2.1	_____	_____
<input type="checkbox"/>	_____	Inventory Safe Deposit Box		_____	_____
<input type="checkbox"/>	_____	File Application for Informal Administration with Court	3.1	_____	_____
<input type="checkbox"/>	_____	File Waiver and Consent and Notice to Creditors	3.3, 3.8	_____	_____
<input type="checkbox"/>	_____ or _____	[if notice required] File Notice to Interested Persons and Time Limit for Filing Claims	3.22	_____	_____
<input type="checkbox"/>	_____	File Petition to Dispense with Guardian ad Litem and Order Dispensing with Guardian ad Litem	3.11 3.12	_____	_____
<input type="checkbox"/>	_____	Send Notice and Affidavit of Service by Registered Mail to County Clerk and DHS/ Dep't of Corrections	3.7, 4.8	_____	_____
<input type="checkbox"/>	_____	Apply for Employer Identification No.	6.1	_____	_____
<input type="checkbox"/>	_____	Give Notice Concerning Fiduciary Relationship	6.3	_____	_____
<input type="checkbox"/>	_____	Obtain Beneficiaries' Taxpayer Identification Numbers	3.2	_____	_____
<input type="checkbox"/>	_____	Prove Publication	3.19	_____	_____
<input type="checkbox"/>	_____	Prove Heirship	3.4	_____	_____
<input type="checkbox"/>	_____	Statement of Informal Administration	3.15	_____	_____
<input type="checkbox"/>	_____	Consent to Serve (as Personal Representative)	3.13	_____	_____
<input type="checkbox"/>	_____	Prepare Domiciliary Letters	3.16	_____	_____
<input type="checkbox"/>	_____	Waive Personal Representative's Fees	3.25	_____	_____

**Claims and Inventory**

<input type="checkbox"/>	_____	Prepare Letters Concerning Information for Inventory	3.23, 3.24, 3.28, 3.29, 3.30, 3.31	_____	_____
<input type="checkbox"/>	_____	Prepare Cash Requirements Worksheet	Ch. 1	_____	_____
<input type="checkbox"/>	_____	Prepare Inventory	3.42	_____	_____
<input type="checkbox"/>	_____	Request Confirmation of Inventory Information	3.41	_____	_____
<input type="checkbox"/>	_____	Forward Inventory to Probate Registrar and Beneficiaries (within 6 months after issuing letters)	3.44, 3.45	_____	_____
<input type="checkbox"/>	_____	File Decedent's Final Income Tax Returns (IRS Form 1040 and Wis. Form 1)		_____	_____
<input type="checkbox"/>	_____	Request Prompt Assessment for Income and Gift Tax	6.12	_____	_____
<input type="checkbox"/>	_____	Request for Discharge from Personal Liability Under Internal Revenue Code Section 2204 or 6905 (IRS Form 5495)	6.13	_____	_____
<input type="checkbox"/>	_____	Receipts for Claims Paid	3.37	_____	_____

**Estate Account**

<input type="checkbox"/>	_____	File Federal Estate Tax Return (Copy to Court)	6.5	_____	_____
<input type="checkbox"/>	_____	Request for Discharge from Personal Liability Under Internal Revenue Code Section 2204 or 6905 (IRS Form 5495)	6.13	_____	_____
<input type="checkbox"/>	_____	Send Estate Tax Closing Letter	6.19	_____	_____
<input type="checkbox"/>	_____	File Federal and Wis. Fiduciary Returns (IRS Form 1041, Wis. Form 2)	6.10, 6.11	_____	_____
<input type="checkbox"/>	_____	File (or exhibit) final Estate Account (if used)	3.65	_____	_____
<input type="checkbox"/>	_____	File All Receipts	3.66, 3.67	_____	_____
<input type="checkbox"/>	_____	Statement of Personal Representative to Close Estate (within 18 months after filing application)	3.70	_____	_____

<input type="checkbox"/>	_____	Statement of Termination or Confirmation of Interest(s) in Property	3.50	_____	_____
<input type="checkbox"/>	_____	Termination of Decedent's Property Interest	3.52	_____	_____
<input type="checkbox"/>	_____	Transfer of Interest in Property	3.51	_____	_____

## Critical Date Chart (EST-0104)

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Date of Death (D.O.D.) \_\_\_\_\_

Date of Execution of Will \_\_\_\_\_

Date of Execution of Marital Property Agreement \_\_\_\_\_

Date of Filing Petition \_\_\_\_\_

Date Personal Representative Appointed \_\_\_\_\_

Time Limit for Filing Claims \_\_\_\_\_

Hearing on Claims \_\_\_\_\_

Objection to Claims Due \_\_\_\_\_

Inventory Due \_\_\_\_\_ (6 mos. after PR appointed)

Inventory Filed with Court \_\_\_\_\_

Election Against Will \_\_\_\_\_ (6 mos. after D.O.D.)

Disclaimer of Interest \_\_\_\_\_ (9 mos. after D.O.D.)

Federal Estate Tax Return Due \_\_\_\_\_ (9 mos. after D.O.D.)

Decedent's Final Income Tax Return Due \_\_\_\_\_ (9 mos. after D.O.D.)

Fiduciary Income Tax Returns Due \_\_\_\_\_

Wisconsin Estate Tax Return Due \_\_\_\_\_ (9 mos. after D.O.D.)

End of Fiscal Year \_\_\_\_\_

Final Judgment Due \_\_\_\_\_ (18 mos. after filing petition)

Petition to Extend Probate Beyond 18 Months \_\_\_\_\_

Hearing on Final Estate Account \_\_\_\_\_

# Chapter 2

## Planning the Representation

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➤ *Note.* Very special thanks are extended to Reinhart attorney Brett Erdmann for his help in updating this book. Mr. Erdmann is with the Milwaukee office and is an attorney in the firm’s trusts and estates practice. He received his law degree (magna cum laude) from Marquette University and his undergraduate degree from the University of Wisconsin-Madison.

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### Introduction

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This chapter covers the first steps an attorney should take to assist the decedent’s family or personal representative, including (1) how to analyze and choose the probate procedures most beneficial to the client, (2) how to identify and classify the decedent’s assets and determine the beneficiary’s interest in the estate, and (3) how to analyze the ethical aspects of the representation.<sup>1</sup>

➤ *Note.* Before 2017, Wisconsin recognized *registered domestic partners*, a status available to couples of the same sex. After the U.S. Supreme Court held that all states must allow and recognize same-sex marriages in *Obergefell v. Hodges*, 576 U.S. 644 (2015), the legislature thought domestic partnerships duplicative and enacted 2017 Wis. Act 59, eliminating Wisconsin’s domestic partnership registry. Act 59 did, however, allow previously registered domestic partners to retain some rights. Previously registered domestic partners are entitled to some, but not all, legal protections that the law affords to spouses. Domestic partnership does not include many of the core provisions of the legal relationship of marriage, including the intricate property system that applies to married couples under marital property law.

Legal protections that the law does provide domestic partners include the following:

1. A surviving domestic partner will inherit under the laws of intestacy.

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by acts through 2021 Wis. Act 24; all references to the Internal Revenue Code (I.R.C.) are current through Pub. L. No. 117-7 (Apr. 14, 2021); all references to the Treasury regulations (Treas. Reg.) are current through 86 Fed. Reg. 19,787 (Apr. 15, 2021); all references to SCR ch. 20 are to the rules as amended by supreme court orders issued through Mar. 9, 2021; and all references to American Jurisprudence 2d (Am. Jur. 2d) are current through the February 2021 update on Westlaw.

2. A surviving domestic partner has the same right to assignment of the deceased partner's interest in the home as does a surviving spouse.
3. A surviving domestic partner may select certain personal and household items after the death of the other domestic partner.
4. Real estate titled in the names of both domestic partners is presumed to be held in joint tenancy, unless the deed indicates a contrary intent.

There are also certain automatic effects of a termination of a domestic partnership. For example, the termination of domestic partnership will automatically revoke the provisions in a will in favor of a former domestic partner.

The first task in representing a client is to help the decedent's family or close friends with mortuary arrangements, if asked to do so, and ensure that family members have the financial assistance they will need until the decedent's estate is settled. The second task is to determine who is being represented—the surviving spouse or registered domestic partner, the estate, the personal representative, or a beneficiary. The third task is to analyze the decedent's estate in its entirety to determine the correct probate procedures to dispose of assets and settle the estate.

The personal representative is a fiduciary who has a duty to (1) collect income from the estate property in his or her possession; (2) pay all debts, claims, and expenses of administration; and (3) preserve, manage, settle, and distribute the estate in accordance with the terms of the decedent's will and Wisconsin's Probate Code or the laws of intestate succession. These responsibilities must be discharged as expeditiously and with as little sacrifice of value as is reasonable under the circumstances. The personal representative may be liable to interested persons if improper conduct results in loss or damage to the estate.

In addition to the general duties of collecting and managing the estate property, the personal representative is responsible for filing all necessary estate and income tax returns and reports. He or she must see that taxes are paid when due.

In many estates, the attorney and the personal representative will divide certain responsibilities. But unless the estate has a professional fiduciary, the attorney will, as a practical matter, do most of the work in the probate. Because of the importance of keeping good records, especially for tax purposes, many attorneys find it most effective for the personal representative to agree to let the attorney keep records and write checks. The attorney must remember that if the personal representative is the decedent's spouse, registered domestic partner, child, or close relative, the personal representative may struggle with the legal complexities and tax issues involved in the probate because his or her primary focus, at least at the outset, may be emotional.

Probate proceedings are held in a court with the jurisdiction to determine the rights in a decedent's property. Probate usually involves the following three stages: (1) inventory and collection of assets owned by or owed to the decedent; (2) payment of the decedent's debts and taxes and the costs of estate administration from the decedent's assets; and (3) distribution of the balance of the decedent's property in accordance with the decedent's will or, if there is no will, in accordance with the statutes of intestate succession.

Probate proceedings can be classified by the degree to which they are supervised by the court. *Formal probate* requires a personal representative and close court supervision, and it tends to involve hearings. *Informal probate* also requires a personal representative but is usually conducted without constant court supervision; nevertheless, it may involve judicial proceedings before the



court. *Summary proceedings*, which do not require a personal representative, generally are used to settle small estates by assignment and administrative transfer of the property.

If the decedent left a will (died *testate*), probate is started by filing the will and petitioning the probate court to admit the will to probate and to appoint a personal representative. If the decedent did not leave a will (died *intestate*), a petition is filed to appoint a personal representative and determine the estate's heirs. Normally, the petitioner is the decedent's surviving spouse or registered domestic partner, some other family member, or the person or institution named in the will as the personal representative. However, any interested person (e.g., a creditor) may file the initial petition for administration. The probate court will then appoint a personal representative, set the amount of his or her bond, and admit the decedent's estate and any will to probate. In some circumstances, the court may not require a bond for the personal representative. When required, the bond must be approved by the court. The court will then issue domiciliary letters certifying the personal representative's appointment. The personal representative's duties and powers begin upon issuance of domiciliary letters.

[Chapter 3, \*infra\*](#), describes informal probate procedures in detail. [Chapter 4, \*infra\*](#), describes formal probate procedures in detail. [Chapter 5, \*infra\*](#), covers summary proceedings in detail. In addition, the probate practice aids in [chapter 1, \*supra\*](#), will prove a useful adjunct to working with the client to plan the representation. [Chapter 6, \*infra\*](#), addresses estate and income tax issues.

[Wis. Stat.](#) chs. 851–882 constitute the state's Probate Code. Pertinent information on guardianships may be found in [Wis. Stat.](#) ch. 54 and [Wis. Stat.](#) § 48.9795. Wisconsin's marital property law is codified in [Wis. Stat.](#) ch. 766. Practical guidance on the administration of estates containing marital property can be found in Christine Rew Barden et al., [Marital Property Law & Practice in Wisconsin](#) ch. 13 (State Bar of Wis. 5th ed. 2019) [hereinafter *Marital Property Law & Practice in Wisconsin*]. Finally, attorneys who may need information about their clients' estate planning instruments can consult [Eckhardt's Workbook for Wisconsin Estate Planners](#) (State Bar of Wis. 7th ed. 2019 & Supp.).

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## Outline of Planning the Representation

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- I. [First Professional Steps](#) [§ 2.1]
  - A. [Overview](#) [§ 2.2]
  - B. [Assist with Mortuary Arrangements](#) [§ 2.3]
  - C. [Meet with Family or Personal Representative](#) [§ 2.4]
  - D. [Define Scope of Representation](#) [§ 2.5]
  - E. [Discuss Family's Financial Needs](#) [§ 2.6]
  - F. [Establish Estate File](#) [§ 2.7]
  - G. [Assess Personal Representative's Conflicts of Interest](#) [§ 2.8]
  - H. [Review Attorney's Ethical Considerations](#) [§ 2.9]
  
- II. [Choice of Procedure for Transfer of Decedent's Property](#) [§ 2.10]
  - A. [Nonprobate Transfers](#) [§ 2.11]
  - B. [Overview of Probate Procedures](#) [§ 2.12]
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  - D. [Summary Probate Procedures](#) [§ 2.14]
  - E. [Formal or Informal Probate](#) [§ 2.15]
  - F. [Special Probate Procedures](#) [§ 2.16]
  - G. [Jurisdiction and Venue](#) [§ 2.17]
  
- III. [Determining and Handling Estate Assets](#) [§ 2.18]
  - A. [Overview](#) [§ 2.19]
  - B. [Classification of Assets](#) [§ 2.20]
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  - D. [Investment Considerations](#) [§ 2.22]
  - E. [Estate and Income Taxes](#) [§ 2.23]
  - F. [Inventory and Accounts](#) [§ 2.24]
  
- IV. [Determining Beneficiary's Interest in Estate](#) [§ 2.25]
  - A. [Overview](#) [§ 2.26]
  - B. [Revocation or Revival of Prior Will or Codicil](#) [§ 2.27]
  - C. [Postmortem Adjustments to Disposition of Estate](#) [§ 2.28]
  - D. [Advancement, Ademption, Exoneration, Abatement, Pretermitted Heirs, and Equitable Election](#) [§ 2.29]
  - E. [Will Contests](#) [§ 2.30]
  - F. [Petition to Compromise](#) [§ 2.31]

## I. First Professional Steps [§ 2.1]

### A. Overview [§ 2.2]

1. Attorney should offer to assist family with mortuary arrangements, *see infra* § [2.3](#), and immediate financial problems, *see infra* § [2.6](#), if necessary.
2. Attorney should evaluate potential for conflicts of interest for firm and attorney as well as for personal representative. *See infra* §§ [2.8–9](#).
3. Attorney should begin estate file by collecting essential information, *see supra* [chapter 1](#), Master Information List (MIL).

### B. Assist with Mortuary Arrangements [§ 2.3]

1. Examine will to determine whether it provides for specific burial wishes.
2. Assist family in disposition of body or donation for medical use, funeral arrangements, notification of friends and relatives, and so forth.

### C. Meet with Family or Personal Representative [§ 2.4]

1. Describe probate procedure and gather information sufficient to initiate probate.
2. Review family's immediate financial and practical needs, *see infra* § [2.6](#), and consider special allowances, *see infra* [ch. 4](#).
3. Explain possible conflict if spouse or registered domestic partner is personal representative. *See infra* § [2.8](#).
4. Clarify attorney-client relationship—that is, who the attorney represents. *See* SCR 20:1.7(b); *infra* § [2.5](#).
5. Discuss basis for attorney fees. SCR 20:1.5(b).
6. Determine decedent's assets, their values, and how held. *See infra* §§ [2.19–20](#).
7. Stress importance of keeping good records.

➤ **Note.** If a corporate fiduciary is appointed as the sole personal representative, the person(s) receiving the majority interest from the estate may select the personal representative's attorney, but it may be difficult to determine who will receive the majority interest before the assets have been classified according to marital property law. [Wis. Stat.](#) § 856.31.

## D. Define Scope of Representation [§ 2.5]

1. Evaluate family's understanding of estate administration and required level of assistance.
2. Determine capability of personal representative and personal representative's advisers.

➤ **Note.** Define the scope of representation by explaining to the family and the personal representative that the attorney will be representing the personal representative in his or her capacity as a representative for decedent's estate, and not in his or her individual capacity. Explain that the personal representative's ultimate duty is to administer the estate for the benefit of all beneficiaries, and that the attorney will not represent those beneficiaries.

The personal representative should also be informed that his or her duties as personal representative may conflict with the personal representative's individual interests in the estate and that if such a conflict occurs, he or she may need to hire an attorney to represent his or her individual interests.

➤ **Practice Tip.** SCR 20:1.2(c) has allowed Wisconsin lawyers to provide limited scope or "unbundled" legal services to clients. This rule allows a lawyer to "limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent." Limited scope arrangements could be relevant in a probate administration if the personal representative can handle the majority of the administration but wishes to hire the attorney to complete specific tasks. In such a situation, the attorney should be careful to comply with the provisions of the rule so that he or she is not liable for any portions of the probate that the personal representative handled without the attorney.

➤ **Note.** When a corporate fiduciary is involved, the attorney or personal representative will be less involved in record keeping and preparation of tax documents.

3. Come to agreement with client (family or personal representative) concerning division of responsibilities for settling estate (terms should be reflected in subsequent letter of representation).

➤ **Note.** If there is any question about the personal representative's ability to comprehend and carry out record-keeping duties, the attorney should encourage the personal representative to allow an accountant or the attorney to keep the estate's records. Too many personal representatives attempt to save legal fees by keeping their own records, only to incur high legal costs to recreate the records late in the estate administration.

### **E. Discuss Family's Financial Needs [§ 2.6]**

See Cash Requirements Worksheet, *supra* [ch. 1](#).

1. Discuss with surviving spouse or registered domestic partner his or her access to accounts and appropriate disposition of funds, which short-term estate resources are available to him or her (joint accounts available to surviving spouse or registered domestic partner should not be used for estate expenses), etc.
2. Estimate federal and state income tax payments.
3. Determine whether insurance (life, disability, property) premiums are paid and if outgoing payments are forthcoming.
4. Insure automobile for use by family.
5. Continue health insurance for surviving spouse or registered domestic partner and minor children.
6. Make appointment to examine safe deposit box, if applicable. See *infra* [Form 3.24](#) and instructions.
7. If necessary, determine arrangements for continued operation of decedent's business and pay business taxes if owed.

### **F. Establish Estate File [§ 2.7]**

1. Review all of decedent's closed files for copy of will and other pertinent information.
2. Comply with statutes regarding delivery of will to court. [Wis. Stat.](#) § 856.05.
3. Request that client provide information necessary for preparing initial court papers (consult MIL sections 1–10).
4. Prepare letter of representation. [Form 2.1](#).

### **G. Assess Personal Representative's Conflicts of Interest [§ 2.8]**

1. When personal representative is also surviving spouse or registered domestic partner, conflicts often arise; similar issues may arise when personal representative is a beneficiary but not a spouse or a registered domestic partner.
  - a. Assertion of individual or marital property interests could reduce value of estate (used to calculate filing fees, personal representative's fee, and attorney fees). [Wis. Stat.](#) § 857.01.

- b. Personal representative's recovery and classification of assets, including marital property assets, for benefit of estate may not produce greatest benefit for personal representative in capacity as surviving spouse or registered domestic partner.
  - c. Will may cause personal representative to consider equitable election, which can affect assets held in estate. [Wis. Stat. § 853.15](#); *infra* § 2.29.
  - d. In capacity as surviving spouse or registered domestic partner, personal representative may be entitled to spousal allowance, which may prejudice other beneficiaries' rights. [Wis. Stat. § 861.35](#).
2. Marital property considerations. [Wis. Stat. §§ 766.15, 766.55, 766.70](#); *Baskin v. Bogan*, 766 F.3d 648 (7th Cir. 2014).
- a. Note that Wisconsin's Marital Property Act (MPA) applies to married same-sex couples. *See infra* § 2.20.
  - b. Under the MPA, spouses have good-faith obligation to each other with respect to management and control of property, and one spouse may pursue claim against other spouse for breach of duty.
  - c. Personal representative may be required to rebut presumption that all assets are marital property or deferred marital property if doing so would be advantageous to estate, even if disadvantageous to personal representative in capacity as surviving spouse. [Wis. Stat. § 766.31\(1\), \(2\)](#).
  - d. Personal representative may be required to take position if spouse makes claim against third-party recipients of augmented marital property. [Wis. Stat. §§ 861.03, 861.11](#).
  - e. Personal representative may be forced to recover gifts of marital property made by surviving spouse during decedent's lifetime. [Wis. Stat. § 766.53](#).
  - f. Personal representative may be required to object to his or her own deferred-marital-property elections made in capacity as surviving spouse. [Wis. Stat. § 861.02](#).
  - g. Personal representative must classify and pay debts and expenses, including determination of expenses payable from elected deferred marital property, which may benefit spouse at expense of other beneficiaries. [Wis. Stat. § 857.04](#).
3. Other considerations
- a. Whether decedent could have foreseen conflict,
  - b. Whether will directs appointment of surviving spouse as personal representative regardless of potential conflicts,

- c. Whether will was drafted before enactment of MPA, and
- d. Register in probate or probate registrar may refuse to appoint named personal representative under certain circumstances.
  - (1) If conflict of interest is evident, if surviving spouse is named personal representative and (a) files augmented-deferred-marital-property election, or (b) if there are obvious marital property problems (e.g., validity and effect of marital property agreements, unilateral statements, consents, and waivers executed by decedent). [Wis. Stat.](#) §§ 766.58, 766.59, 766.61(3)(e), 861.02, 861.03.
  - (2) If named personal representative does not meet statutory provisions for appointment (disqualification of “person whom the court deems unsuitable for good cause shown”). [Wis. Stat.](#) §§ 856.21, 856.23; 31 Am. Jur. 2d *Executors and Administrators* §§ 338–388; 15 Katherine W. Lambert, *Wisconsin Practice Series: Death in Wisconsin* § 6:2 (9th ed. 2008 & Supp. 2020) [hereinafter *Death in Wisconsin*].

Under Wisconsin law, courts have very limited discretion to substitute their judgment for that of testator, as to qualifications of person to serve as executor. *Klauser v. Schmitz (In re Estate of Schmitz)*, 2003 WI App 157, 265 Wis. 2d 860, 667 N.W.2d 862.

## H. Review Attorney’s Ethical Considerations [§ 2.9]

- 1. Overview
  - a. Identity of client and scope of representation should be clear at outset of representation. SCR 20:1.2.
  - b. The basis or rate of the fee and expenses must be communicated to the client in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate as in the past. If the total cost of representation is likely to be \$1,000 or less, the communication may be oral. Any changes must also be communicated to the client in writing. SCR 20:1.5(b).
  - c. Rule of imputed disqualification means that if attorney is disqualified from representing client under Rules of Professional Conduct, other members of attorney’s firm are similarly disqualified, with certain exceptions. Client may waive disqualification. SCR 20:1.10.
- 2. Rules of Professional Conduct for Attorneys require attorney to maintain and promptly deposit client funds in trust account. [Wis. Stat.](#) § 757.293; SCR 20:1.15.
  - a. Consider interest-bearing savings account for each estate in which there may be substantial sums of cash, not necessary for expenses, that can be deposited and earn interest; because account is for only one client’s estate, prorating interest not a problem.

- b. Better practice may be for personal representative to open estate checking or savings account.
3. Dual representation of personal representative and beneficiary
- a. Generally possible to represent personal representative and beneficiary if there are no *material* conflicts or both parties consent in writing after consultation; attorney must carry out duties to both clients. SCR 20:1.7; *see also* [Marital Property Law & Practice in Wisconsin](#), *supra* Introduction, ch. 13.
  - b. Pursuant to SCR 20:1.7, generally no conflict and no consent required if:
    - (1) Attorney represents personal representative and surviving spouse when surviving spouse is sole beneficiary or if only pecuniary bequests are made to others; or
    - (2) Attorney represents personal representative and surviving spouse when surviving spouse is not sole beneficiary, but no problems arise concerning marital or deferred marital property, [Marital Property Law & Practice in Wisconsin](#), *supra* Introduction, ch. 7.
  - c. If material conflict develops but attorney's representation of one or more clients is not adversely affected, attorney may, in most cases, continue representation after obtaining clients' written consent after consultation. SCR 20:1.7(b). Common situations include
    - (1) When beneficiary wants to purchase estate assets,
    - (2) When surviving spouse and estate dispute asset classification, and
    - (3) When beneficiary claims estate assets.
  - d. If clients become adverse (i.e., commence litigation), attorney should either withdraw from representing both clients or withdraw from representing one client (consent of both clients still needed for latter). SCR 20:1.7.
  - e. If impossible from the outset to represent both clients, attorney must determine which party to represent; considerations include
    - (1) Attorney's prior representation of either party, particularly if attorney represented surviving spouse during decedent's lifetime and marital property issues are involved,
    - (2) Attorney's obligation to advise surviving spouse of marital property rights if surviving spouse does not have separate counsel,
    - (3) Attorney's possession of confidential information, and
    - (4) Will's provision that personal representative retain named attorney, *see Schmeling v. Devroy (In re Estate of Devroy)*, 109 Wis. 2d 154, 325 N.W.2d 345 (1982).



4. Exclusive representation of personal representative. *See [Marital Property Law & Practice in Wisconsin](#), supra Introduction, ch. 7.*
  - a. Ethical issues may arise for attorney when personal representative's individual interests as beneficiary conflict with his or her duties as personal representative; considerations include
    - (1) Monetary and nonmonetary significance of matter, considering parties' current and prospective wealth;
    - (2) Cost of separate representation (compare with monetary and nonmonetary significance of matter);
    - (3) Attorney's prior representation of parties;
    - (4) Overall fairness to parties;
    - (5) Presence of clear ethical proscriptions;
    - (6) Whether parties have given informed consent, and whether it will resolve any ethical problems; and
    - (7) Other complications (e.g., children by prior marriage).
  - b. When representing personal representative, attorney should consider duties to nonclient heirs or nonclient beneficiaries, which are mostly proscriptive and are derived from personal representative's duty to beneficiaries; therefore
    - (1) Attorney must not disobey personal representative's instruction to take action that will harm beneficiary;
    - (2) Attorney must not participate in breach of duty;
    - (3) Attorney must not deal with estate assets;
    - (4) Attorney must not prepare misleading accounts;
    - (5) Attorney must not prepare fraudulent tax returns or reports to court; and
    - (6) Attorney must disclose complete and accurate information.
  - c. Common situations that pose problems vis-à-vis attorney's duties to nonclient heirs or nonclient beneficiaries include
    - (1) Non-pro rata distributions,
    - (2) In-kind distributions,
    - (3) Spousal elections, and

- (4) Tax elections (e.g., *qualified terminable interest property* (QTIP)) and deductions of administrative expenses).

➤ **Note.** If it appears that a nonclient beneficiary presumes the attorney will provide representation in the estate and the attorney does not intend to do so, the attorney should clarify the scope of representation. SCR 20:1.2(c), 20:1.7(b), 20:4.3.

5. Exclusive representation of personal representative when beneficiary is current or former client on matters not connected with estate
  - a. If beneficiary is current client in nonestate matter, attorney may have to obtain written consent from beneficiary if attorney also represents personal representative and that representation materially limits attorney's representation of beneficiary.
  - b. If beneficiary is former client, attorney should obtain written consent after consultation if work for former client is substantially related to attorney's representation of personal representative. SCR 20:1.9(a). Common situations include
    - (1) Attorney represented both spouses for estate planning before decedent's death.
    - (2) Attorney represented personal representative of first spouse to die, or
    - (3) Attorney has some duty to advise surviving spouse as to elections.

➤ **Note.** It is advisable to prepare exit letters that confirm that the representation has concluded.

6. Attorney as beneficiary of client's will
  - a. Pursuant to SCR 20:1.8(c), attorney may draft will in which attorney is beneficiary if all the following circumstances exist:
    - (1) Testator and attorney are related,
    - (2) Attorney is "natural object" of testator's bounty,
    - (3) Proceedings to contest will provision benefiting attorney are unlikely, and
    - (4) Amount of gift or bequest is "reasonable and natural."
  - b. Before a 1991 change in supreme court rule, attorney could not draft a will for his or her own benefit if the share he or she received exceeded his or her intestate share. Even under former rule, attorney could draft will for own spouse and be named sole beneficiary if attorney and spouse had no children or if all children were from same marriage; attorney would not be receiving more than intestate share. [Wis. Stat.](#) § 852.01; SCR 20:1.8(c).

## II. Choice of Procedure for Transfer of Decedent's Property [§ 2.10]

➤ *Note.* The decedent's property may be transferred by informal or formal probate proceedings, summary probate proceedings, administrative procedures, nonprobate procedures, or a combination of the above methods.

### A. Nonprobate Transfers [§ 2.11]

1. Funded revocable trusts: Assets transferred to revocable trust during lifetime are transferred pursuant to terms of trust and are not subject to probate. [Wis. Stat. § 705.10](#).
2. Beneficiary designations: Life insurance, annuities, individual retirement accounts, and retirement plans are transferred pursuant to their beneficiary designations and are not subject to probate unless payable to estate. [Wis. Stat. §§ 705.10, 854.03\(4\)](#).
3. Property titled jointly: Property that is titled jointly with right to survivorship is transferred pursuant to right of survivorship and is not subject to probate (however, as to real property, administrative procedure will be necessary to remove decedent's name from deed, *see infra* § [2.13](#)). [Wis. Stat. §§ 705.04\(1\), 854.03\(2\)](#).
4. *Payable on death* (P.O.D.) accounts: Accounts that are payable on death to named beneficiary are directly transferred to that beneficiary without probate. [Wis. Stat. §§ 705.04\(2\), 854.03\(1\)](#).

### B. Overview of Probate Procedures [§ 2.12]

1. Choice of procedure is made by considering following factors
  - a. Type of property
    - (1) Jointly held real estate, *see infra* § [2.13](#)
    - (2) Marital property, *see infra* § [2.13](#)
    - (3) Motor vehicles, *see infra* § [2.13](#)
    - (4) Miscellaneous, *see infra* § [2.13](#)
  - b. Size of probate estate
    - (1) Estates valued at \$50,000 or less (or estates that consist of no more than \$50,000 of property subject to probate) can be transferred by affidavit, *see infra* § [2.14](#).
    - (2) Slightly larger estates subject to probate may be transferred via summary settlement or summary assignment, *see infra* § [2.14](#).

- c. If above procedures are unavailable because of nature of assets or size of estate, use formal or informal probate, *see infra* § [2.15](#).
- d. Even if special procedures and summary procedures are available, in certain instances, lack of cooperation among heirs or beneficiaries and other family issues may call for judicial supervision and use of formal or informal probate, *see infra* § [2.15](#).

### C. Transfers of Specific Assets [§ 2.13]

1. Jointly held real estate
  - a. Most jointly held property is transferred without any probate processing. [Wis. Stat.](#) §§ 705.04, 854.03(2).
  - b. Termination of joint tenancy or life estate on real estate may be combined with any other summary proceedings. [Wis. Stat.](#) §§ 867.01(3)(f), 867.02(2)(g).
  - c. Administrative or judicial termination of joint tenancy and life estate. [Wis. Stat.](#) §§ 867.04, 867.045.
    - (1) Use administrative transfer through register of deeds if property consists solely of an interest in real property. [Wis. Stat.](#) §§ 867.04, 867.045; *see infra* [ch. 5](#).
    - (2) Use judicial transfer if administrative transfer cannot be used. [Wis. Stat.](#) §§ 865.20, 867.04; *see infra* [ch. 5](#).
2. Marital property interests can be transferred in several ways; procedures apply to both survivorship marital property and transfers under will-substitute agreements providing for nontestamentary distribution of property (Washington Will).
  - a. Summary confirmation of interest in marital property (covers interests in decedent's survivorship marital property in decedent's spouse or interests in any marital property passing under marital property agreement). [Wis. Stat.](#) § 867.046.
    - (1) Generally used alone—not in conjunction with other summary procedures.
    - (2) Summary confirmation as judicial procedure is similar to procedure for judicial termination of joint tenancies and life estates. [Wis. Stat.](#) §§ 867.046(1m), 867.04.
    - (3) Summary confirmation as administrative procedure requires filing with register of deeds application for transfer of joint property to surviving spouse. [Wis. Stat.](#) §§ 867.046(2), 867.045.

- (4) Summary confirmation can be used to transfer savings or checking accounts, securities, and various interests in real estate. [Wis. Stat. § 867.046\(2\)](#).
- b. Confirmation of interest in marital property. [Wis. Stat. § 865.201](#).
  - (1) Alternate method to summary confirmation under [Wis. Stat. § 867.046](#), *see supra* para. a.
  - (2) Use in conjunction with formal or informal probate.
- c. Will-substitute agreement (Washington Will). [Wis. Stat. § 766.58\(3\)\(f\)](#); [Marital Property Law & Practice in Wisconsin](#), *supra* Introduction, ch. 5.
  - (1) May be used to transfer property without probate on death of both spouses, not just on death of first spouse.
  - (2) May be used to transfer any property regardless of classification before death, including property classified as individual property.
- 3. Decedent's motor vehicles can be transferred without probate proceedings, *see infra* [ch. 5](#).
  - a. To surviving spouse or registered domestic partner via petition for transfer, [Wis. Stat. § 867.01](#); or
  - b. To heir, guardian, or trustee when decedent's property subject to administration does not exceed \$50,000 in gross value, [Wis. Stat. § 867.03\(1g\)\(intro\)](#).
- 4. Miscellaneous
  - a. Pay decedent's wages to dependents. *See* [Wis. Stat. § 109.03\(3\)](#); *infra* [ch. 5](#).
  - b. Pay decedent's cash bond to dependents. *See* [Wis. Stat. § 103.165](#); *infra* [ch. 5](#).
  - c. Termination of life estate. *See* [Wis. Stat. §§ 867.01\(3\)\(f\), 867.02\(2\)\(g\), 867.05](#); *infra* [ch. 5](#).
  - d. For intestate estate, use determination of descent of property if six or more years have passed since death without any estate administration. *See* [Wis. Stat. § 867.05](#); *infra* [ch. 5](#).

## D. Summary Probate Procedures [§ 2.14]

➤ **Note.** Summary procedures are available with respect to any *type* of property, but are limited depending on the *value* of the asset(s).

1. Overview
  - a. Distinguishing feature of summary procedures is ability to administer estate without personal representative, although special administrator *may* be appointed for summary settlement and summary assignment.
  - b. In certain instances, formal or informal probate should be used even though summary proceeding is available (e.g., formal or informal probate simplifies conveyance of real property through personal representative).
  - c. Any estate opened with formal or informal probate may be concluded under summary procedure if, during probate, it is discovered that summary proceeding would apply (when sale of decedent's property before distribution to heirs is contemplated, may be desirable to begin formal or informal probate and secure sale through personal representative; switch to appropriate summary method to close estate). [Wis. Stat.](#) § 867.01(2).
  - d. Summary procedures might technically be unavailable because of decedent's interest in property titled in name of surviving spouse or registered domestic partner without rights of survivorship (some courts will forgo inquiry into existence of such property for convenience).
2. Transfer by affidavit. See [Wis. Stat.](#) § 867.03; *infra* [Forms 5.1A–5.1D](#).
  - a. If estate consists exclusively of property subject to administration in Wisconsin that does not exceed \$50,000 in gross value, use transfer by affidavit to secure immediate transfer to heir, guardian, or trustee.
  - b. Transfer by affidavit secures immediate transfer of type of property usually found in very small estate and may also be used in conjunction with nonprobate transfers (e.g., if all assets other than small cash account were transferred to revocable trust before death, use affidavit to transfer account to beneficiaries of revocable trust).
3. Summary settlement. See [Wis. Stat.](#) § 867.01; *infra* [ch. 5](#).
  - a. Use summary settlement whenever estate's net value (gross value less debts for which property in estate is security) either
    - (1) Does not exceed cost, expenses, allowances, and claims under [Wis. Stat.](#) § 859.25(1)(a)–(g), or
    - (2) Does not exceed \$50,000 and decedent is survived by spouse or registered domestic partner or minor child.

➤ *Note.* Property remains subject to claims of creditors unless the allowance for the surviving spouse or registered domestic partner or children exceeds the amount transferred. [Wis. Stat.](#) §§ 861.31, 861.33, 861.35, 861.41.

➤ *Note.* The net value requirement *does not* include nonprobate property.

- b. Settles estate with one hearing without appointing personal representative (notice of disposition not required if no assets are available to satisfy unsecured creditors).
4. Summary assignment. See [Wis. Stat.](#) § 867.02; *infra* [ch. 5](#).
- a. Use in estates not qualifying for summary settlement and when net value does not exceed \$50,000.
  - b. Settles estate with one hearing without appointing personal representative and affords protection to creditors and other interested parties during transfer of property.

#### E. Formal or Informal Probate [§ 2.15]

➤ *Practice Tip.* The differences between formal and informal probate are not a function of the size of the estate or of the type of assets. Instead, in certain instances informal probate will not be available, and in others it will be advisable to voluntarily seek the additional judicial supervision that formal probate offers.

1. Informal probate. See [Wis. Stat.](#) ch. 865; *infra* [ch. 3](#).
- a. Use if either of following is true, [Wis. Stat.](#) §§ 865.02, 865.08(1)(ac), (am):
    - (1) No will exists, and all interested persons consent and agree on personal representative; or
    - (2) Will exists, and does not prohibit use of informal probate, named personal representative accepts appointment, or all interested persons consent and designate personal representative.
  - b. Requires personal representative. [Wis. Stat.](#) §§ 865.02(1), 865.08(1)(ac), (am).
  - c. Attorney is not necessary to probate estate.
  - d. Appraisal of inventory assets is optional unless appraisal is requested by court, interested person, or Wisconsin Department of Revenue (DOR). [Wis. Stat.](#) § 858.15.
  - e. May be used regardless of size of estate.

- f. Estate is closed when personal representative files verified statement with probate registrar that estate has been properly completed (personal representative is liable to creditors and other interested persons for six months after filing closing statement). [Wis. Stat.](#) §§ 865.16, 865.18.
  - g. Probate registrar has greater discretionary power to refuse nominated personal representative's appointment and broad power to deny application. [Wis. Stat.](#) § 865.08(3).
  - h. Should be less costly than formal probate (no court appearance required in most counties).
2. Formal probate. *See infra* [ch. 4](#).
- a. Must be used if will prohibits informal probate or if personal representative requirements not met.
  - b. Requires personal representative. [Wis. Stat.](#) ch. 856.
  - c. Attorney is usually necessary. [Wis. Stat.](#) § 879.15(2).
  - d. Requires appraisal of certain inventory assets.
  - e. Requires final account and hearings or waivers before final judgment entered and estate closed (personal representative is discharged from liability by court order soon after final judgment entered).
  - f. May be used in all cases, whether will exists or not, regardless of size of estate.
  - g. May be preferred if significant questions about property classification or spousal election right or anticipation of conflicts among beneficiaries.

## F. Special Probate Procedures [§ 2.16]

1. Special administration. *See* [Wis. Stat.](#) §§ 856.27, 867.07–.21; *infra* [ch. 4](#).
  - a. Special administration may be resorted to if estate property is in need of management but personal representative is unable to be appointed quickly enough or is unavailable. [Wis. Stat.](#) § 879.57.
  - b. Special administration may also be used to clear up estate issues that will otherwise not be handled in probate court or are being handled in summary proceedings that have no fiduciary, or in estates that have already closed.
2. Administering Wisconsin-situs property of nonresident decedent.
  - **Note.** The state may choose between using ancillary probate, which provides a Wisconsin venue to probate the decedent's estate, or allowing a foreign executor to settle the estate.



- a. Ancillary administration. [Wis. Stat.](#) ch. 868.
    - (1) Purpose is to allow Wisconsin-appointed personal representative of nonresident decedent to collect assets, pay taxes, and transfer assets to primary jurisdiction or to heirs or beneficiaries.
    - (2) May be used whether or not will is admitted in other jurisdiction.
    - (3) May be used to complete foreign probate that affects decedent's Wisconsin property when no administration was sought in Wisconsin within six years after decedent's date of death. [Wis. Stat.](#) § 868.05(1).
  - b. Alternative procedure involving foreign executor. [Wis. Stat.](#) § 877.16.
    - (1) If personal representative has been appointed in another state, letters of office may be filed with proper circuit court, *see infra* § [2.17](#) (jurisdiction and venue).
    - (2) Once letters of office have been filed, foreign executor may exercise any power over estate that Wisconsin-appointed personal representative could exercise.
3. Administering non-Wisconsin-situs property of resident decedent
- a. To determine whether out-of-state ancillary administration is appropriate, determine if estate includes out-of-state real estate or tangible personal property requiring ancillary administration.
  - b. Check statutes of other states to determine procedure.

## G. Jurisdiction and Venue [§ 2.17]

- 1. Circuit courts have jurisdiction over probate. [Wis. Stat.](#) §§ 856.01, 753.03.
  - a. Jurisdiction is in circuit court of county in which decedent was domiciled, even though property may be found in other counties. [Wis. Stat.](#) § 856.01(1).
  - b. If decedent was not domiciled in Wisconsin, first county obtaining jurisdiction over some property subject to probate in Wisconsin has exclusive jurisdiction. [Wis. Stat.](#) § 856.01(2).
    - **Note.** For a more thorough discussion of the jurisdiction of the probate court, judges, and officers, see 15 *Death in Wisconsin* § 2:6, *supra* § [2.8](#).
- 2. Venue
  - a. If decedent was domiciled in Wisconsin, venue is in county in which decedent was domiciled.

- b. If decedent was not domiciled in Wisconsin, venue is in county in which decedent's property is located. [Wis. Stat.](#) §§ 856.01(2), 753.03.
- c. If property is in more than one county, then first court to exercise jurisdiction has exclusive jurisdiction.

### III. Determining and Handling Estate Assets [§ 2.18]

#### A. Overview [§ 2.19]

See MIL schedules 11–16.

1. Personal representative should thoroughly investigate and classify decedent's assets, including those titled solely in decedent's name and those in which decedent has marital property interest, *see infra* § [2.20](#).
2. Personal representative should collect decedent's assets and have them appraised if necessary to establish their value, *see infra* § [2.21](#).
3. Personal representative should invest estate assets so as to maximize return on investments and minimize losses, keeping estate's total tax picture in mind, *see infra* §§ [2.22](#), [2.23](#).
4. Personal representative should keep accurate records (for tax and accounting purposes) concerning origin, development, and disposition of assets, *see infra* § [2.24](#).

#### B. Classification of Assets [§ 2.20]

1. Overview
  - a. The MPA governs married persons' property rights during marriage and at death and classifies assets based on when (i.e., before or after spouses' determination date) and how asset was obtained; title is irrelevant to classification. [Wis. Stat.](#) §§ 766.01(8), 766.31(4).
  - b. Spouses' determination date will be later of the following, [Wis. Stat.](#) § 766.01(5):
    - (1) January 1, 1986;
    - (2) Date of spouses' marriage; or
    - (3) Date when both spouses are domiciled in Wisconsin.

➤ **Note.** Although no clear guidance has been issued from the Wisconsin courts or legislature, it is likely that the determination date for married same-sex couples might be determined as follows:

1. For same-sex couples who were domiciled in Wisconsin when they were married and who married in a state other than Wisconsin that

- then recognized same-sex marriage, the determination date is likely the date of their marriage.
2. For same-sex couples who were domiciled in Wisconsin when they were married and who married in Wisconsin between June 6, 2014 (the date of *Wolf v. Walker*, 986 F. Supp. 2d 982 (W.D. Wis. 2014), which declared Wisconsin's prohibition of same-sex marriage to be unconstitutional) and June 13, 2014 (the date that Wolf was stayed), the determination date is likely the date of their marriage.
  3. For same-sex couples who are now domiciled in Wisconsin but were domiciled in states other than Wisconsin at the time of their marriage and who married in a state that at the time recognized same-sex marriage, the determination date is likely the date they established domicile in Wisconsin.
- c. At death, all marital property must either be divided into two equal shares or be swapped for other property so that deceased spouse's estate contains 50% of couple's total marital property.
- (1) Classification may be important for income tax purposes to establish new tax basis.
  - (2) Swapping property to avoid dividing may constitute an exchange for tax purposes.
- *Note.* The statutory presumption is that both spouses' assets are marital property, but the spouses' marital property agreement supersedes the presumption. [Wis. Stat.](#) § 766.58(3).
2. Personal representative's duties
    - a. Gather information on all property titled in either deceased spouse's name or surviving spouse's name.
    - b. Examine each asset independently to determine asset's classification, using classification rules in paragraph 3, *infra* (as a practical matter, statutory presumptions will apply to assets that cannot be readily classified).

➤ *Note.* Some counties do not require classification if all assets are left to the surviving spouse and neither spouse has children from a prior marriage.
  3. Classification rules
    - a. Marital property: All assets acquired after December 31, 1985, by either spouse during marriage. [Wis. Stat.](#) § 766.31(1), (3).
      - (1) Both spouses hold an undivided one-half interest in each asset, regardless of whose effort produced asset.
      - (2) Income from or appreciation on nonmarital property may be marital property. [Wis. Stat.](#) § 766.63.

- b. Deferred marital property: All assets acquired before January 1, 1986, but during marriage, that will be subject to election by surviving spouse. See [Wis. Stat.](#) § 766.31(6)(a), (8); *infra* § 2.29.
  - c. Individual property: All assets obtained by gift or inheritance or obtained before marriage. [Wis. Stat.](#) § 766.31(6), (7)(a).
  - d. Mixed property: Because some assets are acquired by mixing marital property with nonmarital property, rule is that nonmarital property component will be reclassified to marital property *unless* nonmarital property component can be traced. [Wis. Stat.](#) § 766.63.
  - e. Terminable interest property: Nonemployee spouse's marital property interest in employee spouse's deferred-employment-benefit plan, except excluded plans, or individual retirement account; terminates at nonemployee spouse's death if nonemployee spouse predeceases employee spouse. [Wis. Stat.](#) §§ 766.31(3), 766.61(7), 766.62(5).
    - *Note.* [Wis. Stat.](#) § 766.62(1)(b) provides the formula to be used to calculate the marital property component of deferred employment benefits. See [Wis. Stat.](#) § 766.01(3m).
4. Reclassification methods
- a. Marital agreement. [Wis. Stat.](#) § 766.31(10).
  - b. Gift from one spouse to other spouse. [Wis. Stat.](#) § 766.31(10).
  - c. Insurance proceeds: Written consent. [Wis. Stat.](#) § 766.61(3)(e).
  - d. Income generated by nonmarital property: Unilateral statement. [Wis. Stat.](#) § 766.59.
  - e. Mixing marital and nonmarital assets. [Wis. Stat.](#) § 766.63(1).
  - f. Nonmarital property to marital property: Spouse's application of substantial effort (e.g., spouse's unpaid labor on renovations that increase value of marital residence). [Wis. Stat.](#) § 766.63(2).
    - *Note.* See section 2.28, *infra*, on postmortem adjustments.

### C. Collection of Assets [§ 2.21]

1. Consult MIL sections 11–16 for information on property subject to administration.
2. Personal representative should either retitle estate's property or liquidate property and invest it appropriately, *see infra* § 2.22, in his or her own name as personal representative.

3. Determine whether beneficiary ownership of property is at odds with will or other estate planning documents; if so, consider whether disclaimer is appropriate (disclaimers should be filed before beneficiary accepts any benefit under will or other estate planning documents), or whether beneficiary must make equitable election. [Wis. Stat.](#) § 853.15; *see infra* §§ [2.28](#), [2.29](#).
4. If estate is beneficiary, or as accommodation to other beneficiaries, send certified copy of death certificate and completed claim forms to insurance companies within time limits of policies.

➤ **Note.** If death tax returns will be filed, request IRS Form 712 from insurers for the federal estate tax return. *See infra* [Forms 4.43](#), [4.44](#).

#### D. Investment Considerations [§ 2.22]

*See* [Wis. Stat.](#) § 857.03(1).

➤ **Note.** Estate assets are capital that should be earning returns during the estate's administration.

1. In general
  - a. Consider whether there is more cash in personal or estate checking account than is necessary and perhaps transfer excess to savings account or some income-earning form, *see infra* para. 2.
  - b. If estate contains rental property, determine if rental property is returning an adequate rent, whether someone can manage property during administration, and whether special administration is needed before personal representative is named.
  - c. Investigate probable future market generally and as to estate's stock and bond holdings, determine whether to immediately liquidate or convert, and whether special considerations require retention of stock that otherwise would be sold.
  - d. Sell stock and other investments without set value as soon as possible if beneficiaries do not specifically agree to receive them as part of their share of estate; invest at market rate.
2. Fiduciary duties and responsibilities concerning investments
  - a. When there are no contrary provisions in instrument that created fiduciary's (personal representative's) office (here, the will), personal representative will be held to *prudent investor rule*. Under the rule, the fiduciary's investment and management decisions about individual assets have to be evaluated by looking at the portfolio as a whole, not in isolation. The fiduciary must choose an investment strategy that has risk and return objectives reasonably suited to the estate. [Wis. Stat.](#) § 881.01.

- b. Attorney must understand fiduciary responsibilities involved in administration of estate and make these duties clear to personal representative (Uniform Fiduciaries Act and fiduciary transfer provisions free all persons dealing with fiduciary from liability for fiduciary's misdeeds, absent actual knowledge of such breach; consequently, fiduciary will be liable to estate for his or her errors). [Wis. Stat.](#) § 112.01.
- c. Professional fiduciaries may be held to higher standard of care. *See* James L. Rigelhaupt, Jr., Annotation, *Standard of Care Required of Trustee Representing Itself to Have Expert Knowledge or Skill*, 91 A.L.R.3d 904 (1980).
- d. Advise client of importance of getting independent, expert advice on investments.

## E. Estate and Income Taxes [§ 2.23]

### 1. Income taxes

- a. Personal representative is responsible for filing decedent's final federal (IRS Form 1040) and Wisconsin (DOR Form 1) individual income tax returns. *See* [Wis. Stat.](#) § 71.03(2)(b), (e), (h); *infra* [ch. 6](#).
  - (1) Returns must be filed if gross income exceeds amount required for filing as set forth by IRS and DOR (generally, amount of federal personal exemptions and standard deduction). I.R.C. § 6012(a)(1), (f).
  - (2) Decedent's final income tax returns are due April 15 following year of death (if decedent dies before filing return for year prior to death, personal representative must file returns for year prior to death and year of death). I.R.C. § 6072(a).
- b. Personal representative must file federal (IRS Form 1041) and Wisconsin (DOR Form 2) income tax returns for estate, *see* [Wis. Stat.](#) § 71.13; *infra* [ch. 6](#).
  - (1) Returns must be filed if income exceeds \$600.
  - (2) Due date: Three and one-half months after fiscal year end of estate.
- c. Trustee must file fiduciary income tax return for trust, if any, by April 15 following each taxable year of trust. However, trustees of certain revocable trusts may elect to treat such trusts as part of probate estate for income tax purposes. I.R.C. § 645.
  - (1) Election is effective until two years after death or (if a federal estate tax return is required) six months after final determination of federal estate tax.
  - (2) Election must be made by both trustee and personal representative.

2. Federal estate tax, *see infra* [ch. 6](#).
  - a. If total taxable assets (adding back taxable lifetime gifts) exceed applicable exemption amount, federal estate tax form (IRS Form 706) must be filed. I.R.C. § 6018.
  - b. The applicable exemption amount is:

<u>Year of Death</u>	<u>Amount</u>
2009	\$3,500,000
2010–11	\$5,000,000
2012	\$5,120,000
2013	\$5,250,000
2014	\$5,340,000
2015	\$5,430,000
2016	\$5,450,000
2017	\$5,490,000
2018	\$11,180,000
2019	\$11,400,000
2020	\$11,580,000
2021	\$11,700,000

*See* I.R.C. § 2010(c); Tax Cuts and Jobs Act, Pub. L. No. 115-97, § 11061, 131 Stat. 2091 (2017); American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, § 101(c), 126 Stat. 2013; Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Pub. L. No. 111-312, § 302; Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, §§ 901, 542, 115 Stat. at 150, 76–86.

➤ **Note.** On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRA) went into effect. The law implemented an estate tax regime for decedents dying in 2010–12. The estate tax exemption for these years was \$5 million, to be indexed for inflation beginning in 2012. The American Taxpayer Relief Act of 2012 extended the \$5 million exemption (as indexed for inflation) for years 2013 and beyond. On December 22, 2017, the Tax Cuts and Jobs Act went into effect. The law implemented a temporary increase in the estate tax exemption amount of \$10 million, indexed for inflation, beginning in tax year 2018 and in effect through tax year 2025. For 2020, the estate tax exemption amount with the inflation adjustment was \$11.58 million (in 2021 \$11.7 million). Rev. Proc. 2019-44, 2019-47, I.R.B. 1093; Rev. Proc. 2020-45, 2020-46 I.R.B. 1016. In tax year 2026, the estate tax exemption amount is scheduled to revert to \$5 million, indexed for inflation.

- c. Return and payment of tax due within nine months after date of death. I.R.C. § 6163; I.R.C. § 6166; [Wis. Stat.](#) § 72.01(11m), (11n); Treas. Reg. § 20.6166-1(b).
  - (1) Extension of time for payment can be granted.
  - (2) Election for installment payments or to postpone part of tax attributable to reversionary or remainder interest.

3. Wisconsin estate tax. *See infra* § 6.3.

➤ **Note.** All Wisconsin inheritance and gift taxes were repealed effective for deaths occurring or gifts made on or after January 1, 1992. The Wisconsin estate tax ceased to exist on January 1, 2008.

## F. Inventory and Accounts [§ 2.24]

### 1. Inventory

- a. Inventory must be filed or shown to probate registrar within six months from date of personal representative's appointment unless court has changed time. [Wis. Stat.](#) § 858.01.
- b. If using formal probate, file with court; if using informal probate, can either file with court or show inventory or estate tax return to probate registrar. [Wis. Stat.](#) § 865.11.
- c. Give notice or copy of inventory to residuary beneficiaries of estate. [Wis. Stat.](#) §§ 858.03, 865.11.
- d. Pay filing fees at time of filing inventory or other documents setting forth value of estate. [Wis. Stat.](#) § 814.66.
- e. Inventory filing fee is \$20 for estate valued at \$10,000 or less, or .2% for estates larger than \$10,000.

### 2. Accounts

- a. Under formal probate, account must be filed when personal representative closes estate or leaves office, whichever is earlier. [Wis. Stat.](#) § 862.01.
- b. Under informal probate, an account must be prepared for beneficiaries but need not be filed with court. [Wis. Stat.](#) § 865.16.

## IV. Determining Beneficiary's Interest in Estate [§ 2.25]

### A. Overview [§ 2.26]

The nature of the estate property may affect the determination of beneficial interests. This can occur when there is an exoneration, advancement, abatement, ademption, or equitable election.

➤ **Note.** In some cases, the beneficiaries' identities may not be readily determinable. These cases occur when the decedent's will has been revoked, elected against, disclaimed, assigned, pretermitted, or invalidated.



## B. Revocation or Revival of Prior Will or Codicil [§ 2.27]

### 1. Revocation

- a. Only person who can make will can revoke will (i.e., any person of sound mind and 18 years old or older). [Wis. Stat.](#) § 853.01.
- b. Subsequent will or codicil may revoke prior will either expressly or by inconsistency (i.e., statutory presumption is that most-current provision governs). [Wis. Stat.](#) § 853.11(1)(a), (bm).
- c. “Burning, tearing, canceling, obliterating or destroying” with intent to revoke may revoke prior will. [Wis. Stat.](#) §§ 853.11(1m), 853.11(1)(b) (1995–96).
- d. Testator’s marriage after execution of will, when spouse survives, no longer revokes will, but entitles spouse to share of estate unless at least one of following is true, [Wis. Stat.](#) § 853.12:
  - (1) Will was drafted in contemplation of marriage to surviving spouse,
  - (2) Will or other evidence indicates intent that will be effective despite subsequent marriage,
  - (3) Will or other evidence indicates that testator considered revising will after marriage and decided not to,
  - (4) Testator provided for spouse by transfer outside of will and evidence shows intent that transfer be in lieu of provisions in will, or
  - (5) Spouses entered into marital property agreement that provides for spouse or specifies that surviving spouse is to have no rights to testator’s estate.

➤ *Note.* The amount of the spouse’s share is equal to what his or her intestate share would have been, reduced by amounts passing under the will to issue of the testator. [Wis. Stat.](#) § 853.12.
- e. Divorce or annulment may revoke prior will. [Wis. Stat.](#) §§ 853.11(3), 854.15(3)–(5).
- f. Beneficiary’s felonious killing of testator may revoke prior will, unless will expressly provides otherwise. [Wis. Stat.](#) §§ 853.11(3m), 854.14.

### 2. Revival. [Wis. Stat.](#) § 853.11(6).

- a. Original instrument (will or codicil) (*Will A*) that is revoked by subsequent instrument (*Will B*) that itself is later revoked may be revived as follows:
  - (1) If *Will A* is *partially* revoked by *Will B*, subsequent revocation of *Will B* by destruction or other physical act revives revoked parts of *Will A*

(unless evidence shows that testator *did not intend* to revive revoked parts of Will A). [Wis. Stat.](#) § 853.11(6)(a).

- (2) If Will A is *wholly* revoked by Will B, subsequent revocation of Will B by destruction or other physical act does not revive Will A (unless evidence shows that testator *did intend* to revive Will A). [Wis. Stat.](#) § 853.11(6)(b).
  - (3) If Will A is revoked (either partially or wholly) by Will B, and Will B is subsequently revoked by subsequent instrument (Will C), Will A (or parts thereof) remains revoked (unless evidence shows that testator *did intend* to revive Will A (or parts thereof)). [Wis. Stat.](#) § 853.11(6)(c).
- b. If original instrument is not available, it may be proved as provided in [Wis. Stat.](#) § 856.17. [Wis. Stat.](#) § 853.11(6)(d).
  - c. If revival of original instrument (Will A) is not possible, doctrine of dependent relative revocation may apply to reinstate subsequent instrument (Will B) if party seeking reinstatement can prove that testator's revocation of Will B should be set aside because testator mistakenly thought that revocation of Will B would revive Will A (given the recent liberalization of the doctrine of revival, however, it is difficult to imagine a fact pattern in which dependent relative revocation would apply when revival of Will A would not also be available). [Wis. Stat.](#) § 853.11(5); *Ruedisili v. Henkey (In re Estate of Alburn)*, 18 Wis. 2d 340, 118 N.W.2d 919 (1963); *Callahan v. La Crosse Tr. Co. (In re Callahan's Estate)*, 251 Wis. 247, 254–55, 29 N.W.2d 352 (1947).

## C. Postmortem Adjustments to Disposition of Estate [§ 2.28]

1. Deferred-marital-property election
  - a. Surviving spouse may elect up to 50% of *augmented deferred marital property estate*. [Wis. Stat.](#) § 861.02.
  - b. Augmented-deferred-marital-property estate consists of deferred marital property (property acquired during marriage before 1986 or while spouses were domiciled in another state) of *both* spouses, whether or not passing by probate or nonprobate means, and includes deferred marital property given to third parties by the decedent within two years of death. [Wis. Stat.](#) §§ 861.02(2), 861.03.
  - c. Procedure for election. [Wis. Stat.](#) §§ 861.08, 861.11 (1995–96).
    - (1) Spouse may file written election with probate court.
    - (2) Time limit for filing is six months from date of decedent's death but may be extended during this period for cause.

- (3) Statutory priority for probate and nonprobate property from which elective share will be satisfied. [Wis. Stat.](#) § 861.06.
  - (4) Surviving spouse's elective share is reduced by value of augmented deferred marital property surviving spouse otherwise receives, his or her own augmented deferred marital property, probate assets, annuities, life insurance, gifts in excess of \$5,000 per year made by decedent to surviving spouse, life estates, retirement-plan death benefits, powers of appointment, jointly held assets, and allowances under [Wis. Stat.](#) § 861.31(4) or 861.35(4) that court orders to be used to satisfy election. [Wis. Stat.](#) §§ 861.06(2), 861.03, 861.04.
2. Disclaimer. [Wis. Stat.](#) §§ 853.40, 854.13.
- a. Probate assets
    - (1) Any person entitled to intestate share may disclaim all or part of that share. [Wis. Stat.](#) § 854.13(2)(a)2.
    - (2) Beneficiary may disclaim all or any part of devise under will unless will expressly prohibits partial disclaimer. [Wis. Stat.](#) § 854.13(2)(a)2., (d).
 

➤ **Note.** Unless the decedent's will indicates a contrary intent, a beneficiary who has predeceased the decedent and who is the decedent's grandparent, issue of such grandparent, or stepchild shall be represented per stirpes in distribution by the beneficiary's issue, if any. *Per stirpes* is defined in [Wis. Stat.](#) § 854.04(1). [Wis. Stat.](#) § 854.06.
    - (3) Disclaimer accomplished by filing signed declaration with probate court and personal representative. [Wis. Stat.](#) § 854.13(5).
    - (4) Disclaimed share passes as if person disclaiming had predeceased decedent. [Wis. Stat.](#) § 854.13(7).
  - b. Survivorship property
    - (1) Decedent's one-half interest in joint tenancy property and survivorship marital property may be disclaimed by surviving spouse. [Wis. Stat.](#) § 854.13(2)(b), (c).
    - (2) Disclaimer accomplished by filing signed declaration with probate court and personal representative. [Wis. Stat.](#) § 854.13(5).
    - (3) Disclaimed property passes to decedent's probate estate. [Wis. Stat.](#) § 854.13(8), (9).

- c. Other property
    - (1) The following interests received may also be disclaimed: trusts, deeds, marital property agreements, retirement plans, annuities, insurance policies, beneficiary designations, powers of appointment, interests received as a result of another disclaimer, and contingent or discretionary interests. [Wis. Stat.](#) §§ 854.13(2)(a)2., 854.01.
    - (2) Disclaimer accomplished by delivering signed declaration to (1) transferor of property, if living, (2) transferor's personal representative if transferor is deceased, or (3) legal titleholder of property, as well as to probate court and any trustees. [Wis. Stat.](#) § 854.13(5).
    - (3) Disclaimed property passes as if person disclaiming had predeceased decedent. [Wis. Stat.](#) § 854.13(7).
  - d. To qualify, a disclaimer must
    - (1) Be made nine months from date of death, unless court finds cause to extend limit, [Wis. Stat.](#) § 854.13(4); and
    - (2) Describe property disclaimed, declare disclaimer and its extent, and be signed by the disclaimant, [Wis. Stat.](#) § 854.13(3).
  - e. Person's right to disclaim property is barred if person has transferred or encumbered disclaimed property, or contracted to do so, has accepted or benefited from disclaimed property, or has waived the right to disclaim. [Wis. Stat.](#) § 854.13(11g).
3. Assignment of other interests. [Wis. Stat.](#) § 863.07.
- a. When decedent is testate, assignment permits distributee to assign all or part of his or her interest before entry of final judgment (unless not assignable under specific will provisions) by filing copies of the assignment with personal representative and court.
  - b. Assignment is also permitted when decedent is intestate.

## **D. Advancement, Ademption, Exoneration, Abatement, Pretermitted Heirs, and Equitable Election [§ 2.29]**

- 1. Advancement
  - a. Presumption is that gift made during testator's lifetime is not advancement to be deducted from distributee's share, unless one or more of the following is true:
    - (1) Will or other governing instrument provides for deduction of the gift,
    - (2) Decedent has specified to the contrary in signed separate writing, or

- (3) Distributee has acknowledged in writing that gift was advance.
- b. Pursuant to [Wis. Stat.](#) §§ 852.11, 854.09, same presumption exists against advancement in intestate case, unless
  - (1) Decedent has specified to the contrary in signed separate writing, or
  - (2) Distributee has acknowledged in writing that gift was advance.
  - **Note.** Distribution may be reduced by amount of debt owing from distributee to decedent or decedent's estate. [Wis. Stat.](#) §§ 852.12, 854.12.
- 2. Ademption. [Wis. Stat.](#) §§ 853.35, 854.08.
  - a. *Ademption* is either fulfillment of specific bequest by some gift to distributees during decedent's lifetime *or* sale or destruction of specifically bequested property before death (applies only to specific devise or bequest situations).
  - b. Presumption against ademption unless
    - (1) Will appears to have an intent that gift should fail, or
    - (2) Decedent made lifetime gift with intent that specific bequest be fulfilled.
  - c. Specific rules of nonademption apply when property is sold or destroyed before death. [Wis. Stat.](#) § 854.08(2), (6)(b).
- 3. Exoneration
  - a. Presumption is that all property passes with existing liens and mortgages in force and not paid off by estate unless will provides otherwise. [Wis. Stat.](#) §§ 863.13, 854.05(2).
  - b. Specific rules apply to secured claims and payment of debts secured by estate property. [Wis. Stat.](#) §§ 859.19, 859.43.
- 4. Abatement. [Wis. Stat.](#) §§ 863.11, 854.18.
  - a. Distributions reduced or eliminated when size of estate will not pay all claims and distributions intended.
  - b. Distributee's shares abate in following order:
    - (1) Property not disposed of in will,
    - (2) Residuary bequests,
    - (3) General bequests, and
    - (4) Specific bequests.

- c. Exceptions
  - (1) Special abatement provisions to meet spouse's elective share and allowances or share of spouse not included in will signed before the marriage. [Wis. Stat.](#) §§ 854.18(1), 861.02, 853.12.
  - (2) Special abatement provisions to meet share necessary for issue not included in will. [Wis. Stat.](#) §§ 854.18(1), 853.25.
  - (3) Contrary intention expressed or implied in will. [Wis. Stat.](#) § 854.18(3).
- 5. Pretermitted heirs. [Wis. Stat.](#) § 853.25.
  - a. *Pretermitted heirs* (issue of testator born or adopted after execution of will, or omitted from will by accident or mistake as proved by clear and convincing evidence) are entitled to share of estate as follows:
    - (1) If decedent had no children when will executed, each pretermitted heir receives what would have been his or her intestate share, unless substantially all estate left to other parent of pretermitted heir, [Wis. Stat.](#) § 853.25(1)(b); and
    - (2) If decedent had other children when will was executed, and will left property to one or more of then living children, pretermitted heir receives share similar to that received by the other children, [Wis. Stat.](#) § 853.25(1)(c).
  - b. Pursuant to [Wis. Stat.](#) § 853.25(1)(a), no share for pretermitted heir if
    - (1) It appears from will or other evidence that omission was intentional, or
    - (2) Such issue are provided for by testator outside will.
  - c. Pursuant to [Wis. Stat.](#) § 852.05, nonmarital children of deceased putative father may take as pretermitted heirs only if at least one of following is true:
    - (1) Decedent has been adjudicated as father in paternity proceeding under [Wis. Stat.](#) ch. 767 or by final order or judgment of a court of competent jurisdiction in any state,
    - (2) Decedent has admitted in open court that he is father, or
    - (3) Decedent has acknowledged that he is father in signed writing.

➤ **Note.** A demand for relief must be made within six months after the will is admitted or before entry of final judgment, whichever occurs first. [Wis. Stat.](#) § 853.25(3).

6. Equitable election
  - a. If will attempts to dispose of property that belongs to beneficiary of will, beneficiary must elect whether to take under will or retain property. [Wis. Stat. § 853.15\(1\)](#).
  - b. Statute provides procedure for election. [Wis. Stat. § 853.15\(2\)](#).

### E. Will Contests [§ 2.30]

1. Standing to contest will belongs generally to anyone who will get more from estate if will is *not* proven.
2. Grounds for contesting will
  - a. Evidence that will was invalidly executed because
    - (1) Execution of will failed to conform with statutory standards, [Wis. Stat. §§ 853.03, 853.05](#);
    - (2) Witnesses were incompetent at time will was executed, [Wis. Stat. § 853.07\(1\)](#); or
    - (3) Witnesses had interest in will at time will was executed, [Wis. Stat. § 853.07\(2\)](#).
  - b. Evidence that decedent lacked testamentary capacity at time will was executed because
    - (1) Testator was less than 18 years of age; or
    - (2) Testator lacked capacity to make will or was incapable of understanding nature of will, extent of property, natural objects of bounty, and distributive plan. [Wis. Stat. § 853.01](#); *Fischbach v. Knutson (In re Estate of Von Ruden)*, 55 Wis. 2d 365, 198 N.W.2d 583 (1972).
  - c. Evidence that testator lacked testamentary intent at time will was executed.
  - d. Evidence that beneficiary exerted undue influence on testator. *See Miller v. Vorel (In re Estate of Vorel)*, 105 Wis. 2d 112, 116, 312 N.W.2d 850 (Ct. App. 1981). Must prove that *either*
    - (1) Confidential or fiduciary relationship existed between testator and beneficiary, coupled with “suspicious circumstances,” *see Von Ruden*, 55 Wis. 2d at 373; or
    - (2) Testator was capable of being influenced (susceptible), beneficiary had opportunity to exert influence on testator, beneficiary had disposition to influence testator, and undue influence caused coveted result for

beneficiary, *see Hamm v. Jenkins (In re Estate of Hamm)*, 67 Wis. 2d 279, 283, 227 N.W.2d 34 (1975).

- e. Existence of fraud—belief that beneficiary deliberately misstated facts to testator or failed to correct erroneous factual information and that misstatements resulted in favorable treatment of beneficiary (difficult to prove). *Lauterjung v. Ford (In re Estate of Ford)*, 19 Wis. 2d 436, 447, 120 N.W.2d 647 (1963).
  - f. Existence of mistake on face of will (must be resolved by extrinsic evidence and is difficult to prove).
3. Usually requires special administrator. *See infra* [ch. 4](#).

#### **F. Petition to Compromise [§ 2.31]**

1. Court can approve personal representative's petition to compromise disputes with claimants or with distributees of testate or intestate estates when all parties in interest join in compromise. [Wis. Stat.](#) § 879.59.
2. With court approval, petition to compromise allows parties to adjust pattern of distribution set by will or statute to more accurately reflect distributees' needs or desires.
3. Although court-approved compromise may reduce sole beneficiary's share, this type of postmortem estate planning has been held constitutional. *See State v. Patri (In re Jorgensen's Estate)*, 267 Wis. 1, 64 N.W.2d 430 (1954).



## Forms and Letters

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[Form 2.1 Letter of Representation \(EST-0109\)](#)

## V. Letter of Representation

### Commentary and Instructions for [Form 2.1](#)

[Form 2.1](#) provides a sample letter of representation (engagement letter). Note that this letter addresses the issue of whom the attorney represents and is tailored to indicate the consequences should a conflict of interest develop between the surviving spouse's (or surviving registered domestic partner's) duties as personal representative and the surviving spouse's marital property rights (or the property rights of the surviving registered domestic partner). The letter also specifies which tasks will be undertaken by the attorney in settling the estate.

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**Form 2.1 Letter of Representation (EST-0109)**

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(Date)

(PR's Name)  
(PR's Address)

Re: Estate of (Decedent's Name)

Dear (PR's Name):

We have found that sending engagement letters to new clients, or to existing clients for whom we are undertaking new, significant projects, is beneficial to all concerned. The following paragraphs describe our proposed activity on your behalf and the terms of our engagement.

1. *Who We Represent.* We will represent you, in your capacity as personal representative of (Decedent's Name)'s estate. As personal representative, you must administer the estate for the benefit of (Decedent's Name)'s beneficiaries: (Beneficiaries' Names). Please note that as personal representative your duty is to treat all beneficiaries impartially, a duty that could possibly conflict with your individual interest in the estate. Specifically, as surviving spouse [or surviving registered domestic partner], you may have property rights that, if asserted, would adversely affect the other beneficiaries' interests in the estate. In addition, other issues may arise that put your interest as beneficiary in conflict with your duty as personal representative. We cannot act to pursue your personal interest in the estate to the detriment of other beneficiaries. If, at any time during the estate administration, you or we perceive there is a conflict, you may need to hire an attorney to represent your individual interest.
2. *What We Will Do.* In representing you, we will do the following:
  - Prepare and file all court pleadings required in the administration of the Estate.
  - Follow all other requirements of the (County Name), Wisconsin, Probate Court relating to the administration of the Estate.
  - Work with you in your capacity as personal representative regarding administration of the Estate, particularly tax planning, liquidity planning, and planning for distributions from the Estate.
  - Prepare tax filings (federal estate tax, and fiduciary income tax) relating to the Estate. However, the final joint income tax return will be prepared by (Decedent's (and Spouse's) Name)'s normal tax return preparer.
  - Assist you in collecting, inventorying, administering, and distributing the assets of the Estate.
3. *How We Determine Our Fees.* To help us determine a reasonable fee for our services, each of our attorneys and legal assistants maintains time records for each client and matter. (Attorney's Name) will be responsible for your account, and will review the time records each month before a statement is sent. We assign hourly rates to all attorneys and legal assistants and adjust these rates from time to time (generally once a year). An hour of service generally bears a fee of about \$ (Amount) to \$ (Amount) for a legal assistant and the fees for our most senior and experienced attorneys are about \$ (Amount) to \$ (Amount). Normally, the average hourly rate for the personnel working on a particular engagement will fall

in the \$ (Amount) to \$ (Amount) range, but may be higher with extensive senior attorney involvement. (Attorney's Name)'s current hourly billing rate is \$ (Amount) and (Attorney 2's Name)'s hourly billing rate is \$ (Amount).

We will also make out-of-pocket disbursements on behalf of the Estate and will be entitled to reimbursement for those reasonable expenditures advanced. These disbursements include, for example, court costs, photocopying, long-distance telephone charges, messenger fees, fax transmissions, and online-database-research charges.

Because we are not requiring an advanced fee before beginning this representation, we ask that you pay your bill promptly after you receive it.

Our preliminary estimate of fees in our representation of you is between \$ (Amount) and \$ (Amount). This estimate is based on the issues involved in administering the Estate as known to date. If additional issues arise during the administration of the Estate beyond those anticipated, the fee may be higher. We will communicate with you if unanticipated circumstances arise that would require additional services and an increased fee. Such estimates are not a maximum or minimum fee quotation. We will determine our actual fees in accordance with the policies described above.

We will submit our invoices monthly or at other intervals as agreed throughout administration of the Estate. If you request it, we will forward the invoices directly to you. Our invoices are payable (Number) days after presentation.

4. *Conclusion of Representation.* We expect to represent you until the estate administration is concluded. If, at any time, you wish us to cease activities on your behalf, please so advise us and we will promptly take steps to conclude our representation. Those steps would include preparing the materials appropriate for transferring the matter to another attorney, if you so wish. Of course, we expect you to have paid all fees and disbursements incurred to the termination or transfer.

Similarly, we reserve the right to terminate our representation of you provided that such termination conforms to the standards of the Rules of Professional Conduct and we obtain permission from the presiding judge if we are in court.

If the arrangement described by this letter and its enclosure accurately describes your engagement of us and is acceptable to you, please confirm your acceptance by signing and returning the enclosed copy of this letter.

We very much appreciate the confidence you have shown in us and look forward to completing the administration of (Decedent's Name)'s estate.

Sincerely,

(Firm Name)

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(Attorney's Name)

Enclosures

REPRESENTATION AGREEMENT

The undersigned, personal representative of the Estate of (Decedent's Name), deceased, retains the professional services of (Attorney's Name) as provided in this letter.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(PR's Name)

# Chapter 3

## Informal Probate

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[Outline of Informal Probate Procedures](#) .....3-4

[Forms and Letters](#).....3-19

### Introduction

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Chapter 3 addresses informal probate.<sup>1</sup>

Most estates are now settled by informal administration. Informal administration is distinguished from formal administration in that informal administration is an administrative proceeding before the probate registrar, while formal administration is a judicial proceeding before the court. See [Wis. Stat.](#) § 865.03(1).

This chapter describes how to probate an estate when the proceedings are either (1) on waiver (that is, without requiring a hearing to open the estate), or (2) on hearing after notice. At times, summary procedures may be most appropriate for settling the estate. See *infra* [ch. 5](#). In some cases, it will be necessary to switch to formal administration even after informal administration has commenced. Whenever probating an estate in an unfamiliar jurisdiction, the best practice is to call the probate registrar and confirm the appropriate procedures.

An estate being settled by informal administration will have a personal representative. In most cases, the personal representative can handle nearly all tasks involved in settling the estate. Nonetheless, many estates retain attorneys to work with the personal representative. Many sample letters included in this chapter serve to keep the personal representative and attorney in close contact while the estate is being settled and provide a means of documenting the work involved. If the law office relies on a legal assistant or paralegal to handle some of the more routine work involved in settling the estate, the legal assistant or paralegal also should have regular contact with the personal representative and use a suitable tracking system to monitor the estate’s progress.

The advantage of informal administration is that court appearances are kept to a minimum, thus saving time for both the attorney and the client—and saving the client the anxiety that often accompanies a court appearance.

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by 2021 Wis. Act 24; and all references to the United States Code (U.S.C.) are current through Pub. L. No. 117-7 (Apr. 14, 2021).

The most important thing to keep in mind when using informal administration is that it is designed for an estate in which dispute resolution is not needed. If an issue will likely be litigated, formal proceedings are preferable.

[Chapter 1](#), *supra*, provides a Master Information List (MIL) that can be used to gather information needed to fill out the various forms in this chapter. [Chapter 4](#), *infra*, addresses formal probate, including information on converting the proceedings from formal to informal probate. [Chapter 5](#), *infra*, addresses summary procedures. [Chapter 6](#), *infra*, discusses the various issues involved in estate and income taxes.

**A note about forms:** All court-approved forms are available on the internet and can be downloaded as fill-in forms. A current list of the forms by title and number can be found at the back of the book under “Forms Index.” All court-approved probate forms are available at Wis. Ct. Sys., *Circuit Court Forms: Probate*, <https://wicourts.gov/forms1/circuit/formcategory.jsp?Category=26> (last updated Sept. 25, 2020). The forms can be downloaded and saved in the client’s file.

➤ **Forms Alert.** With enactment of the Wisconsin Trust Code on July 1, 2014 (2013 Wis. Act 92), testamentary trusts (including those testamentary trusts in existence before that date) are no longer subject to continuing court supervision. Although a court may intervene in any trust administration matter, *see Wis. Stat.* § 701.0201, court supervision is not required unless ordered by the court. Accordingly, former Forms 3.77 (Trust Inventory, PR-1932), 3.78 (Petition for Termination of Trust, PR-1940), 3.79 (Order on Petition for Termination of Trust, PR-1941), and 3.80 (Order Discharging Trustee, PR-1933) are no longer necessary.

## Electronic Filing

A Wisconsin attorney must electronically file all pleadings in probate actions if brought by a mandatory user of the eFiling system. *Wis. Stat.* § 801.18(2), (3)(a); Wis. Ct. Sys., *Circuit Ct. eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). Every Wisconsin attorney who files cases must create a registration and password and the Wisconsin Court System provides instructions for creating the registration. *Wis. Stat.* § 801.18(3); Wis. Ct. Sys., *Creating an eCourts Account* (Mar. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/registercourts.pdf>.

The Wisconsin Court System provides instructions specific to electronically filing probate documents. Wis. Ct. Sys., *eFiling a New Probate Case* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileprobatecase.pdf>. An electronic filing fee of \$20 is due with the initial filing. *See Wis. Stat.* § 801.18(7)(c). The fee can be paid via credit card or an electronic check. The clerk of courts will charge a 2.75% fee for credit card payments and a flat fee of \$1.95 for electronic check payments.

Regarding documents particular to probate, the original will must still be physically delivered or sent to the probate court for filing. When the Inventory is filed, the inventory filing fee must be paid at the same time. The Wisconsin Court System provides detailed instructions for electronically filing the Inventory. Wis. Ct. Sys., *eFiling an Inventory or Exhibited Inventory* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibitinventory.pdf>.

If the court accepts a document, the document is considered filed on the date the document is electronically submitted to the court, even though the attorney may receive electronic notice of the filing several days later. [Wis. Stat.](#) § 801.18(4). The eFiling system accepts submissions even when the clerk's office is not open, and a document is considered to have been filed on a particular calendar day as long as submission is complete by 11:59 p.m. Central Time. [Wis. Stat.](#) § 801.18(4)(d), (e). If payment is required, the document is not filed until payment is received. [Wis. Stat.](#) § 801.18(7)(b).

All parties that have opted into electronic filing will receive an email when the court accepts a filing. Except for documents requiring personal service, the electronically issued court notice of filed documents has the same effect as traditional service for parties that have opted into electronic filing because all such parties receive electronic notice of filings. [Wis. Stat.](#) § 801.18(6). Note that estate beneficiaries and claimants that are unrepresented and not registered users must still be served with paper copies. If a beneficiary or claimant obtains counsel, the attorney may be served via electronic filings.

Based on the author's experience and a panel discussion with the Milwaukee County Deputy Registers in Probate and Court Commissioner, cover letters are not needed for court filings, but they may be filed and should be filed if an explanation is required.

Local circuit courts cannot electronically issue certified copies (e.g., Domiciliary Letters). Certified copies must be requested in person or via traditional mail and the relevant fee paid with the request.

The Wisconsin Court System provides updated information for electronic filing on general topics and probate topics. Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). The Wisconsin Court System eFiling Support Center can be contacted by phone at 1-800-462-8843, email, or online chat and is very helpful with questions. Wis. Ct. Sys., *Contact eFiling Support*, <https://www.wicourts.gov/ecourts/efilecircuit/efilefeedback.htm> (last updated Apr. 14, 2021). When filing in a new county, always check local rules and call the local register in probate to determine local practice and procedure.



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**Outline of Informal Probate Procedures**

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  - A. [In General](#) [§ 3.2]
  - B. [Jurisdiction and Venue](#) [§ 3.3]
  - C. [Determination of Heirship](#) [§ 3.4]
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  - E. [Probate Claims Notice](#) [§ 3.6]
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- II. [Procedure for Opening Estate When on Waiver](#) [§ 3.10]
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- VIII. [Procedure for Shifting to Formal Proceedings](#) [§ 3.30]
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- IX. [Procedure When GAL or Attorney Required](#) [§ 3.34]
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## I. Introduction [§ 3.1]

### A. In General [§ 3.2]

1. Informal administration can be used:
  - a. If there is a will that does not prohibit informal administration, nominated personal representative accepts appointment or all interested persons consent and designate personal representative, and bond is furnished if required, [Wis. Stat.](#) § 865.02(1)(a); or
  - b. If there is no will, all interested persons consent in writing to informal administration and to appointment of nominated personal representative, and bond is furnished if required, [Wis. Stat.](#) §§ 865.02(1)(b), 865.08(1)(ac).
2. Appraisal of inventory assets is optional unless requested by court, interested person, or Wisconsin Department of Revenue (DOR). [Wis. Stat.](#) § 858.15.
3. Compared with formal administration, informal administration grants probate registrar greater discretionary power to refuse nominated personal representative's appointment and to deny Application for Informal Administration ([Form 3.1](#)). *See infra* § [3.11](#).
4. No court appearance is required in many counties, so informal administration may be less costly than formal administration.
5. Estate is closed when personal representative files verified statement with probate registrar that estate has been properly administered. *See infra* § [3.28](#).  

➤ **Note.** The personal representative remains liable to creditors and interested persons for six months after filing the Personal Representative's Statement to Close Estate ([Form 3.70](#)). [Wis. Stat.](#) § 865.18.

### B. Jurisdiction and Venue [§ 3.3]

1. Generally, jurisdiction is in circuit court of county in which decedent was domiciled, even though decedent might have owned property in other counties. [Wis. Stat.](#) §§ 856.01(1), 753.03.
2. If decedent owned property in more than one county and appraisal is required, appraisers in each county may be appointed by court with primary jurisdiction over decedent. [Wis. Stat.](#) § 858.13.
3. If decedent was not domiciled in Wisconsin, first county obtaining jurisdiction over some property subject to probate in Wisconsin will have exclusive jurisdiction. [Wis. Stat.](#) § 856.01(2).
4. Any interested person with reason to believe that assigned judge will not be impartial may file request for substitution with probate registrar; subsequently,

originally assigned judge will be disqualified, and probate registrar will request assignment of different judge. [Wis. Stat.](#) § 801.58.

### C. Determination of Heirship [§ 3.4]

1. Overview
  - a. Intestate estate or share passes to decedent's heirs as determined by statute. [Wis. Stat.](#) §§ 852.01, 852.03.
  - b. Surviving heirs entitled to intestate share will generally take that share per stirpes. [Wis. Stat.](#) §§ 852.03(1), 854.04.
  - c. Partial blood relatives take same share as if they had been whole blood relatives. [Wis. Stat.](#) §§ 852.03(3), 854.21(4).
  - d. Legal heir must survive decedent by at least 120 hours, or heir will be deemed to have predeceased decedent. [Wis. Stat.](#) §§ 852.01(2), 854.03.
2. Posthumous child may be legal heir even if born after decedent's death if conceived by decedent and other parent before decedent's death. [Wis. Stat.](#) §§ 852.03(4), 854.21(5).
3. Nonmarital child
  - a. Decedent's nonmarital child takes in same manner as marital child from same mother and also from father if paternity has been adjudicated in Wisconsin or another state or if putative father has either admitted paternity in open court or acknowledged paternity in signed writing. [Wis. Stat.](#) § 852.05(1).
  - b. Nonmarital child's property passes according to [Wis. Stat.](#) § 852.01 except that father or father's kindred may inherit only if putative father has been adjudicated as father in Wisconsin or another state. [Wis. Stat.](#) § 852.05(2).
4. Adopted child
  - a. Adopted child takes in same manner as biological child if conditions of statute are met. [Wis. Stat.](#) §§ 851.50, 854.20.
  - b. For inheritance purposes, adopted child ceases to be child of his or her biological parents except when biological parent marries or remarries and child is adopted by new stepparent.
5. Heir includes a surviving domestic partner. [Wis. Stat.](#) § 852.01(1).

### D. Appointment of Guardian ad Litem or Attorney [§ 3.5]

1. Appoint guardian ad litem (GAL) for heir who is a minor or an incompetent person, or appoint attorney for person in military. [Wis. Stat.](#) §§ 879.23, 879.25.

2. GAL and guardian of estate can waive notices for incompetent persons and minors, but not for persons in military service. [Wis. Stat.](#) § 879.09.
3. Discharge GAL when heir's minority or incompetency has terminated or when person represented no longer has interest in estate. [Wis. Stat.](#) § 879.23(3).

➤ **Note.** A GAL may be dispensed with or terminated if a living person is a party to the proceedings and has a substantially identical interest as the minor or incompetent person (e.g., the decedent's surviving spouse or registered domestic partner will generally have the same interest as the decedent's surviving minor child, so a GAL will not always be appointed). [Wis. Stat.](#) § 879.23(5).

### E. Probate Claims Notice [§ 3.6]

1. Pursuant to [Wis. Stat.](#) § 859.07(2), at least 30 days before expiration of time to file claims, give Probate Claims Notice (*see infra* [Form 3.7](#)) to the Department of Health Services (DHS), the Department of Children and Families (DCF), or the Department of Corrections, as applicable, and to the county clerk of the county of residence:
  - a. If decedent was at any time a patient or inmate of any state or county hospital or institution;
  - b. If decedent was responsible for outstanding obligation to state or county for specified services; or
  - c. If decedent or decedent's spouse received services provided as a benefit under a long-term care program, medical assistance (MA), long-term community support services, or Wisconsin chronic disease program benefits.
2. Investigate whether DHS has lien on decedent's home if decedent
  - a. Received MA; and
  - b. Resided in nursing home, or was a patient in a hospital and was required to contribute to the cost of care, at death. [Wis. Stat.](#) § 49.496(2)(a).

### F. Notice to Interested Persons and Creditors [§ 3.7]

1. Within 10 days after personal representative's appointment, give interested persons list of interested persons and, if decedent died testate, copy of will. [Wis. Stat.](#) § 865.08(5).

➤ **Practice Tip.** This is usually done by providing the interested persons with a copy of the Application for Informal Administration ([Form 3.1](#)), which includes the names and addresses of all interested persons. Consult MIL Section 5 (information on heirs and beneficiaries).

- *Note.* *Interested person* is any of the following: (1) an heir under [Wis. Stat.](#) ch. 852, (2) beneficiary under will offered for probate, (3) beneficiary of trust created in will, and (4) named personal representative. [Wis. Stat.](#) §§ 851.21, 852.01.
  - *Note.* Heir includes domestic partner under [Wis. Stat.](#) § 852.01(1).
2. Give notice to interested persons either by mail and publication or by personal service; otherwise secure waiver. [Wis. Stat.](#) §§ 879.03, 879.05, 879.09.
    - *Note.* *Interested persons* does *not* include beneficiaries named in a tangible personal property list, a digital property list, or memorandum under [Wis. Stat.](#) § 853.32(2). [Wis. Stat.](#) § 853.32(2)(e).
    - *Note.* If the proceedings are on notice, also file an Affidavit of Service ([Form 4.9](#)) and Proof of Publication ([Form 3.19](#)). The notice must be published in a county newspaper, and it must run for the first time within 15 days of the date on which it was signed. [Wis. Stat.](#) §§ 879.05(1), (4), 859.07(1).
  3. Give creditors at least 30 days' notice of deadline for filing claims with Notice to Creditors ([Form 3.8](#)) or Notice Setting Time to Hear Application and Deadline for Filing Claims (on notice) ([Form 3.22](#)). [Wis. Stat.](#) §§ 859.07, 859.02. Notice pursuant to [Wis. Stat.](#) § 859.02(2) must be by registered or certified mail.
    - *Note.* Publication alone is insufficient notice. The best practice is to mail written notice to the creditor and also publish the order. Proof of publication is also required. [Wis. Stat.](#) § 859.02(2); *see infra* [Form 3.19](#).

### G. Notice of Right to Select Personal Representative's Attorney [§ 3.8]

1. If corporate fiduciary has been appointed personal representative, within five days after appointment give interested persons who are receiving majority interest notice of their right to select personal representative's attorney. [Wis. Stat.](#) § 856.31.
2. Select personal representative's attorney within 30 days after appointment. [Wis. Stat.](#) § 856.31.

### H. Appointment of Resident Agent [§ 3.9]

Appoint resident agent to receive service of process if personal representative is from out of state. [Wis. Stat.](#) § 856.23(1)(d).

## II. Procedure for Opening Estate When on Waiver [§ 3.10]

➤ *Note.* For procedure when on notice, see sections [3.14](#) and [3.15](#), *infra*.

### A. Overview [§ 3.11]

1. Will must be filed in hard copy within 30 days after decedent's death. [Wis. Stat. § 856.05\(1\)](#).
2. File Application for Informal Administration ([Form 3.1](#)) unless
  - a. There has been demand for formal administration;
  - b. Decedent's will expressly prohibits informal administration, [Wis. Stat. § 865.02\(2\)](#); or
  - c. Formal administration, special administration, or summary proceedings have been commenced, [Wis. Stat. § 865.04\(1\)](#).

➤ *Note.* The application can be made by any interested person, but is usually made by the nominated personal representative. [Wis. Stat. § 856.07](#).

3. Determine decedent's legal heirs. *See supra* [§ 3.4](#).
4. If probate registrar admits Application for Informal Administration ([Form 3.1](#)), probate registrar will appoint nominated personal representative and sign Statement of Informal Administration ([Form 3.15](#)). [Wis. Stat. §§ 865.07\(1\), 865.08](#).

➤ *Note.* The probate registrar may deny the Application for Informal Administration ([Form 3.1](#)) for the petitioner's failure to comply with [Wis. Stat. § 856.23](#) (disqualification of personal representative), [865.02](#) (see para. 2.b., *supra*), or [865.07](#) (incomplete information, lack of jurisdiction, etc.), or for any other reason. [Wis. Stat. § 865.08\(3\)](#). [Wis. Stat. § 865.08\(1\)\(am\)](#) designates who should be appointed if no personal representative has been nominated in the will or if the nominated personal representative fails to qualify.

➤ *Practice Tip.* Denial of the Application for Informal Administration does not preclude informal administration or summary proceedings. If the reasons for denial can be remedied (e.g., by supplying missing information), an Application for Informal Administration can be made again.

5. If decedent created testamentary trust, probate registrar may issue Letters of Trust ([Form 4.19](#)), require bond, and direct named trustee to proceed according to [Wis. Stat. § 701.0702](#). [Wis. Stat. § 865.08\(6\)](#).

### B. Required Documents [§ 3.12]

1. Application for Informal Administration ([Form 3.1](#)), accompanied by will

2. Waiver and Consent ([Form 3.3](#)) from interested persons
3. Proof of Heirship ([Form 3.4](#)). *See supra* § [3.4](#).
4. Order Appointing GAL or Attorney ([Form 3.9](#)) and Consent to Act ([Form 3.10](#)), if required. *See supra* § [3.5](#).  
  
➤ **Note.** GAL and guardian of estate can waive notice of hearing on admission of will or for administration unless the GAL is for someone in military service. [Wis. Stat.](#) § 879.09.
5. Probate Claims Notice ([Form 3.7](#)) to state of Wisconsin, if required. *See supra* § [3.6](#).
6. Notice to Creditors ([Form 3.8](#)). *See supra* § [3.7](#).
7. Consent to Serve as Personal Representative ([Form 3.13](#)).
8. Signature Bond ([Forms 4.17–4.18](#)) or Other Bond, if required
9. Statement of Informal Administration ([Form 3.15](#)) (to be issued by probate registrar)
10. Domiciliary Letters for personal representative ([Form 3.16](#)) (to be issued by probate registrar)

### III. Procedure for Opening Estate with Notice and Hearing [§ 3.13]

#### A. Overview [§ 3.14]

1. If interested persons do not waive right to receive notice, give notice to interested persons at least 20 days before the hearing on the Application for Informal Administration ([Form 3.1](#)). [Wis. Stat.](#) §§ 865.05, 879.05.
2. Prove service and publication of notice.

#### B. Required Documents [§ 3.15]

1. Notice Setting Time to Hear Application and Deadline for Filing Claims ([Form 3.22](#))
2. Affidavit of Service ([Form 4.9](#))
3. Proof of Publication ([Form 3.19](#))
4. Application for Informal Administration ([Form 3.1](#)), accompanied by will
5. Proof of Heirship ([Form 3.4](#)). *See supra* § [3.4](#).

6. Order Appointing GAL or Attorney ([Form 3.9](#)) and Consent to Act ([Form 3.10](#)), if required. *See supra* § [3.5](#).  
  
➤ **Note.** GAL and guardian of estate can waive notice of hearing on admission of will or for administration unless the GAL is for someone in military service. [Wis. Stat.](#) § 879.09.
7. Probate Claims Notice ([Form 3.7](#)) to state of Wisconsin, if required. *See supra* § [3.6](#).
8. Notice to Creditors ([Form 3.8](#)). *See supra* § [3.7](#).
9. Consent to Serve as Personal Representative ([Form 3.13](#))
10. Signature Bond ([Forms 4.17–4.18](#)) or Other Bond, if required
11. Statement of Informal Administration ([Form 3.15](#)) (to be issued by probate registrar)
12. Domiciliary Letters for personal representative ([Form 3.16](#)) (to be issued by probate registrar)

#### **IV. Procedures to Secure and Protect Assets [§ 3.16]**

##### **A. Overview [§ 3.17]**

A personal representative is a fiduciary and has an obligation to secure and protect estate assets.

##### **B. Secure Estate Assets [§ 3.18]**

1. In contentious situations, the personal representative should change the locks on decedent’s residence, and other real estate, to prevent people who have keys from accessing the residence and removing tangible personal property.
2. The personal representative must make sure that property casualty insurance is in place for all real estate and vehicles. Most casualty policies for residences are underwritten as owner occupied. Post-death, there is sometimes a grace period, but the personal representative should contact an insurance agent to make sure the policy underwrites a vacant residence.
3. The personal representative should locate all stock certificates and store them in a secure location.

##### **C. Investment of Assets [§ 3.19]**

1. A personal representative is subject to the Uniform Prudent Investor Act: “A fiduciary shall invest and manage assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the



estate, trust, conservatorship, or guardianship. In satisfying this standard, the fiduciary shall exercise reasonable care, skill, and caution.” [Wis. Stat. § 881.01\(3\)\(a\)](#).

2. Pursuant to [Wis. Stat. § 881.01\(5\)](#), if decedent had investment holdings,

[w]ithin a reasonable time after accepting a fiduciary appointment or receiving assets, a fiduciary shall review the assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the portfolio into compliance with the purposes, terms, distribution requirements, and other circumstances of the estate, trust, conservatorship, or guardianship and with the requirements of this section.

## V. Procedure for Determination and Inventory of Assets [§ 3.20]

### A. Overview [§ 3.21]

1. Instruct personal representative to give IRS notice of fiduciary relationship. *See infra* § [6.4](#).
2. Examine decedent’s safe deposit box if not done previously.

➤ **Note.** Opening the box may require a court order and the appointment of a special administrator. The institution’s policy determines which items (other than the will) can be removed before the personal representative is appointed. After the personal representative has been appointed, he or she should have full access to the safe deposit box and the ability to remove contents.

3. Collect assets (consult MIL Sections 11–16 for information on property passing through probate estate and MIL Sections 17–21 for nonprobate property requiring administration):
  - a. Life insurance: Send copy of decedent’s death certificate and claim forms to each life insurance company within time limit specified by policy; request Form 712 from each life insurance company to use for federal estate tax return. *See infra* [Forms 3.53, 3.54](#).
  - b. Health and indemnity insurance: Endorse and cancel casualty, liability, and health insurance policies after any claims against policies have been investigated and processed; obtain allowable refunds.
  - c. Pension and other benefits: Claim allowable benefits, including Social Security; request information on taxability of benefits from decedent’s employer.
  - d. Accounts at financial institutions: Transfer checking and savings accounts to estate account (present certified copies of Domiciliary Letters ([Form 3.16](#)) to institution’s officer).
  - e. Securities with paper certificate: Transfer securities to personal representative or account in street name, or liquidate. *See infra* [Forms 3.55, 3.56](#).

- f. Savings bonds: Redeem or reissue U.S. bonds.
  - g. Real property assets: Examine titles to verify ownership, liens, possessory rights, and adverse possession. *See infra* [Forms 3.31, 3.32](#).
    - **Note.** Title to all property passes to the personal representative upon appointment. The personal representative has the power to sell, mortgage, or lease property without court approval. [Wis. Stat.](#) §§ 857.01, 860.01.
  - h. Motor vehicles: Consider transfer of motor vehicles to surviving spouse or registered domestic partner or other heir during probate.
  - i. Accounts: Cancel accounts in decedent's name, such as cell phone plans, subscriptions to publications, and cable and internet contracts, and collect relevant post-death refunds.
  - j. Tangible personal property: Household furniture and furnishings, jewelry, etc., will often be subject to specific provisions of the will, but typically not itemized or appraised for inventory purposes unless there are items of particular value.
  - k. Digital Property: Defined by [Wis. Stat.](#) § 711.03(1) as an electronic record in which a person has a right or interest, but does not include underlying property or underlying liability unless the property or liability itself is an electronic record. The personal representative has a right to disclosure of a catalogue of the decedent's digital property, unless while alive the decedent prohibited disclosure or a court orders otherwise.
4. Prepare Inventory ([Form 3.42](#)).
- a. List all assets owned by decedent at time of death. [Wis. Stat.](#) § 865.11(1).
  - b. Include all property subject to administration, *see* MIL Sections 11–16. [Wis. Stat.](#) § 858.07.
    - **Practice Tip.** It is no longer necessary to report the decedent's interest in joint property, survivorship marital property, and other property not subject to administration, *see supra* [MIL §§ 17–21](#), on the Inventory ([Form 3.42](#)). *See* 1997 Wis. Act 83. Nevertheless, it is a good idea to document this information in order to establish a new tax basis for such property.
      - **Practice Tip.** Some counties (e.g., Kenosha County) require documentation of the values set forth on the Inventory.
  - c. Report encumbrances, liens, or other charges against each item of property, which offset value of inventoried assets. [Wis. Stat.](#) § 865.12.
  - d. Retain appraiser to establish fair market value of assets, if necessary.

➤ *Practice Tip.* [Wis. Stat.](#) § 858.15 provides that appraisal is not necessary for assets when the value is readily ascertainable without the exercise of judgment by an appraiser.

5. File or exhibit Inventory ([Form 3.43](#)) to probate registrar and pay filing fees within six months after personal representative's appointment unless court orders different deadline. [Wis. Stat.](#) §§ 858.01, 865.11(2).

➤ *Practice Tip.* In lieu of filing the Inventory, draft and file the Inventory Exhibited ([Form 3.43](#)) as provided by [Wis. Stat.](#) § 851.74.

6. Give copy of Inventory to each interested person. [Wis. Stat.](#) § 865.11(2).

## B. Required Documents [§ 3.22]

1. Inventory ([Form 3.42](#)), or
2. Inventory Exhibited ([Form 3.43](#)); and
3. Affidavit of Service ([Form 4.9](#))

## VI. Procedures for Disposing of Claims [§ 3.23]

### A. Overview [§ 3.24]

1. Evaluate and either allow or disallow claims timely filed against estate according to requirements of [Wis. Stat.](#) ch. 859. [Wis. Stat.](#) § 865.13.
2. If a creditor had timely notice of the deadline to file claims, such creditor must file its claim on or before the deadline to file claims. [Wis. Stat.](#) § 859.01.
3. If a personal representative knew, or reasonably should have known, of the claim, the personal representative must send the creditor notice of the deadline to file claims. [Wis. Stat.](#) § 859.02(2).
4. Other claims. [Wis. Stat.](#) § 865.13.
  - a. Pay “just demands” against estate, whether or not filed as claims; and
  - b. File Proof of Publication ([Form 3.19](#)) concerning Notice to Creditors ([Form 3.8](#)) if one has not already been filed.
5. Liability for distributions
  - a. Any distributee or claimant who improperly receives property from estate is liable for return of property. [Wis. Stat.](#) § 865.14.

- b. If improperly received property is further distributed to recipient who accepts property in good faith, for value, and without actual notice that distribution was improper, such recipient is not personally liable to estate. [Wis. Stat. § 865.15](#).
- c. Personal representative remains liable for six months after Statement to Close Estate ([Form 3.70](#)) is filed. [Wis. Stat. §§ 865.16, 865.18, 865.19](#).

## B. Contesting Claims [§ 3.25]

1. The personal representative, a GAL, or an interested person with approval of the court may contest a claim. [Wis. Stat. § 859.33\(1\)](#).
2. If the creditor served the claim on the personal representative or the personal representative's attorney, the objection to the claim must be filed within 60 days after the creditors file the claim. [Wis. Stat. § 859.33\(1\)](#).
3. If an objection to a claim is filed, the court may require the issues to be made definite, fix a date for a pretrial conference, and direct the manner in which pleadings, if any, shall be exchanged. The court shall set a time for trial upon its own motion or upon motion of any party. [Wis. Stat. § 859.33\(2\)](#).

## C. Required Document(s) [§ 3.26]

Estate Receipt (for uncontested Claim) ([Form 3.37](#)); or Demand for Formal Proceedings ([Form 3.74](#)), Order on Hearing for Objection to Claim, Affidavit of Service ([Form 4.9](#)), and Order Granting Objection to Claim (for contested Claims)

## VII. Procedure for Closing the Estate [§ 3.27]

### A. Overview [§ 3.28]

1. File final federal estate income tax return with IRS. *See infra* [Form 6.10](#).
  2. File final Wisconsin estate income tax return with DOR. *See infra* [Form 6.11](#).
  3. File Closing Certificate for Fiduciaries ([Form 6.15](#)) with court once certificate has been received from DOR, if required. The Closing Certificate is obtained by completing and filing a Schedule CC, Request for a Closing Certificate for Fiduciaries. If decedent had unpaid state tax liability, this must be satisfied before the Closing Certificate is issued. The form is available at <https://www.revenue.wi.gov/TaxForms2020/2020-ScheduleCCf.pdf> (last revised Aug. 2020). The form can be filed electronically, and the Closing Certificate is usually mailed to the filer within days. *See* Wis. Dep't of Revenue, *Estates, Trusts, and Fiduciaries*, FAQ 2, <https://www.revenue.wi.gov/Pages/FAQS/ise-estate.aspx#estate2> (last updated Jan. 6, 2021).
- **Note.** Some counties require that a Petition and Order to Dispense with Filing of Closing Certificate for Fiduciaries be filed with the Closing Certificate even if

there is insufficient income in the estate to require the filing of an estate income tax return. See [Forms 6.16](#) and [6.17](#), *infra*, for sample Petition and Order.

4. File (or exhibit) Estate Account ([Form 3.65](#)) with court (if not waived by residuary beneficiaries) after federal estate tax return has been filed with IRS (and closing letter obtained), if required, all claims have been paid, and all receipts and releases from claimants have been filed with court.
5. Pursuant to [Wis. Stat.](#) § 865.16, file Personal Representative's Statement to Close Estate ([Form 3.70](#)) with court indicating that
  - a. Notice was given to interested persons and creditors, and deadline for filing claims has passed;
  - b. Personal representative has fully administered estate by paying, settling, or disposing of all claims, expenses of administration, funeral and burial expenses, and taxes, or has made arrangements to settle outstanding liabilities; and
  - c. Personal representative has sent copy of Statement to Close Estate to all distributees and claimants and made full accounting to all affected distributees.
6. If no proceedings challenging statement are pending in court six months after Statement to Close Estate ([Form 3.70](#)) is filed, personal representative's appointment terminates and personal representative is released from liability for further claims, barring fraud, misrepresentation, inadequate disclosure, or breach of fiduciary duty. [Wis. Stat.](#) §§ 865.16(2), 865.18.
7. File receipts from distributees with a description of asset received. [Wis. Stat.](#) §§ 865.21, 863.41; *infra* [Forms 3.66](#), [3.67](#).

## **B. Required Documents [§ 3.29]**

1. Federal Estate Income Tax Return ([Form 6.10](#))
2. Wisconsin Income Tax Return ([Form 6.11](#))
3. Estate Account ([Form 3.65](#)) (unless waived by beneficiaries)
4. Closing Certificate for Fiduciaries ([Form 6.15](#))
5. Estate Receipts from Distributees ([Forms 3.66](#), [3.67](#))
6. Statement of Termination and Confirmation of Interest(s) in Property ([Form 3.50](#))
7. Transfer of Interest in Property ([Form 3.51](#))
8. Personal Representative's Statement to Close Estate ([Form 3.70](#))

## VIII. Procedure for Shifting to Formal Proceedings [§ 3.30]

### A. In General [§ 3.31]

1. Any interested person may, at any time during informal administration, demand formal proceedings for a particular issue or for all subsequent proceedings. [Wis. Stat. § 865.03\(1\)](#).  
  
➤ *Note.* Any interested person may also invoke the court's jurisdiction to require or contest an appraisal. [Wis. Stat. § 865.12](#)
2. Personal representative may ask court to resolve particular question in formal proceeding and then request that informal administration resume. [Wis. Stat. § 865.10\(1\)](#).

### B. Demand for Formal Proceedings [§ 3.32]

1. Demand for Formal Proceedings ([Form 3.74](#)) is served on personal representative and filed with court. [Wis. Stat. § 865.03\(2\)](#).  
  
➤ *Note.* Service suspends informal administration and the personal representative's powers. See [Wis. Stat. § 865.03\(2\)](#); *infra* [Form 3.74](#).
2. Within 10 days after receiving demand, notice is given to interested persons disclosing the nature of demand to interested persons or waivers are secured. [Wis. Stat. § 865.05\(3\)](#); *infra* [Form 3.22](#).
3. Affidavit of Service ([Form 4.9](#)) is prepared for notice to interested persons unless on waiver.
4. Upon entry of order or judgment on matter subject to formal proceeding, informal administration will resume. [Wis. Stat. § 865.04\(4\)](#).

### C. Reinstatement of Informal Proceedings [§ 3.33]

1. Court may reinstate informal administration and personal representative's authority once issues raised by demand have been resolved. [Wis. Stat. § 865.03\(2\)](#).
2. Personal representative may make Application for Informal Administration ([Form 3.1](#)) at any time with notice to interested persons or waivers. [Wis. Stat. § 865.05\(2\)](#).
3. Affidavit of Service ([Form 4.9](#)) should be prepared for notice to interested persons if waivers were not secured.

## IX. Procedure When GAL or Attorney Required [§ 3.34]

### A. Overview [§ 3.35]

1. Minor or incompetent interested person may be required to have GAL to represent person's best interests with regard to estate administration and to accept or waive notice of proceedings, give consent, etc.
  - *Note.* The GAL or guardian of estate can waive notice of hearing on admission of will or for administration unless the GAL is appointed for someone in military service. [Wis. Stat.](#) § 879.09.
2. Person in military service may have right to have attorney represent person's interests. [Wis. Stat.](#) § 879.09.
  - *Note.* The sequence of forms and letters provided in this chapter assumes that neither a GAL nor an attorney for a person in the military is required.

### B. Required Documents [§ 3.36]

Order Appointing GAL or Attorney ([Form 3.9](#)) and Consent to Act ([Form 3.10](#))

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## Forms and Letters

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➤ *Note.* All court-approved forms are available on the internet and can be downloaded as fill-in forms. A current list of the forms by title and number can be found at the back of the book under “Forms Index.” A listing of the forms, by number, is available at Wis. Ct. Sys., *Circuit Court Forms*, <https://www.wicourts.gov/forms1/circuit.htm> (last updated Sept. 25, 2020). That listing includes all the court-approved forms, requiring you to scroll down to the appropriate probate (PR) forms from the list reprinted in this handbook. The forms can be downloaded from Wis. Ct. Sys., *Circuit Court Forms: Probate*, <https://www.wicourts.gov/forms1/circuit/formcategory.jsp?Category=26> (last updated Sept. 25, 2020). You can then save the blank form, or the filled-in form, in the client’s file.

### ■ Opening the Estate on Waiver

- [Form 3.1 Application for Informal Administration \(EST-0110\)](#)
- [Form 3.2 Form W-9 Request for Taxpayer Identification Number and Certification \(EST-0111\)](#)
- [Form 3.3 Waiver and Consent \(EST-0112\)](#)
- [Form 3.4 Proof of Heirship \(EST-0113\)](#)
- [Form 3.5 Letter Regarding Initiation of Probate \(EST-0114\)](#)
- [Form 3.6 Letter Regarding Possible Welfare Claims \(EST-0115\)](#)
- [Form 3.7 Probate Claims Notice \(F-13033\) \(EST-0116\)](#)
- [Form 3.8 Notice to Creditors \(EST-0117\)](#)
- [Form 3.9 Order Appointing Guardian ad Litem or Attorney \(EST-0118\)](#)
- [Form 3.10 Consent to Act \(EST-0187\)](#)
- [Form 3.11 Petition to Dispense with Guardian ad Litem \(EST-0119\)](#)
- [Form 3.12 Order Dispensing with Guardian ad Litem \(EST-0120\)](#)
- [Form 3.13 Consent to Serve \(EST-0121\)](#)
- [Form 3.14 Declination to Serve or Resignation \(EST-0123\)](#)
- [Form 3.15 Statement of Informal Administration \(EST-0124\)](#)
- [Form 3.16 Domiciliary Letters \(EST-0125\)](#)
- [Form 3.17 Letter Requesting Domiciliary Letters \(EST-0126\)](#)
- [Form 3.18 Letter Forwarding Initial Documents to Probate Court \(EST-0128\)](#)
- [Form 3.19 Proof of Publication \(EST-0129\)](#)
- [Form 3.20 Letter Forwarding Proof of Publication \(EST-0130\)](#)
- [Form 3.21 Application for Death Certificate \(F-05280\) \(EST-0131\)](#)

### ■ Opening Estate with Notice and Hearing

- [Form 3.22 Notice Setting Time to Hear Application and Deadline for Filing Claims \(EST-0132\)](#)

### ■ Collection of Assets and Inventory (EST-0110)

- [Form 3.23 Letter Requesting Information on Savings and Checking Accounts and Loans \(EST-0133\)](#)
- [Form 3.24 Letter to Financial Institution Concerning Safe Deposit Box \(EST-0134\)](#)
- [Form 3.25 Waiver of Personal Representative’s Fee \(EST-0135\)](#)
- [Form 3.26 Letter Forwarding Waiver of Fees to Probate Registrar \(EST-0136\)](#)



- [Form 3.27 Letter to Postmaster \(EST-0137\)](#)
- [Form 3.28 Letter Reminding Personal Representative to Review Insurance \(EST-0138\)](#)
- [Form 3.29 Letter Requesting Information from Decedent's Employer \(EST-0139\)](#)
- [Form 3.30 Letter Requesting Real Estate Tax Bills \(EST-0140\)](#)
- [Form 3.31 Letter to Title Insurer \(EST-0141\)](#)
- [Form 3.32 Letter Forwarding Title Reports \(EST-0142\)](#)
- [Form 3.33 Letter to Creditor \(Timely Notice\) \(EST-0143\)](#)
- [Form 3.34 Letter to Creditors \(Late Notice\) \(EST-0144\)](#)
- [Form 3.35 Letter Forwarding Claims Information to Probate Registrar \(EST-0145\)](#)
- [Form 3.36 Letter Forwarding Payment to Creditor \(EST-0146\)](#)
- [Form 3.37 Estate Receipt \(EST-0147\)](#)
- [Form 3.38 Letter to Personal Representative Concerning Payment of Bill for Proof of Publication \(EST-0148\)](#)
- [Form 3.39 Letter to Probate Registrar Concerning Proof of Publication \(EST-0149\)](#)
- [Form 3.40 Letter Forwarding Publication Fee \(EST-0150\)](#)
- [Form 3.41 Letter to Personal Representative or Relative Regarding Inventory \(EST-0151\)](#)
- [Form 3.42 Inventory \(EST-0152\)](#)
- [Form 3.43 Inventory Exhibited \(EST-0153\)](#)
- [Form 3.44 Letter Forwarding Inventory to Probate Registrar \(EST-0154\)](#)
- [Form 3.45 Letter Forwarding Inventory to Beneficiaries \(EST-0155\)](#)

■ Transfer of Assets

- [Form 3.46 Marital Property Settlement Worksheet \(EST-0156\)](#)
- [Form 3.47 Marital Property Exchange Agreement \(EST-0157\)](#)
- [Form 3.48 Petition for Approval of Marital Property Exchange Agreement \(EST-0158\)](#)
- [Form 3.49 Order Approving Marital Property Exchange Agreement \(EST-0159\)](#)
- [Form 3.50 Statement of Termination or Confirmation of Interest\(s\) in Property \(EST-0160\)](#)
- [Form 3.51 Statement of Transfer of Interest in Property \(EST-0161\)](#)
- [Form 3.52 Termination of Decedent's Interest \(HT-110/TOD-110\) \(EST-0162\)](#)
- [Form 3.53 Letter Regarding Life Insurance \(EST-0164\)](#)
- [Form 3.54 Life Insurance Statement for Insured Decedent \(IRS Form 712\) \(EST-0165\)](#)
- [Form 3.55 Letter to Stockbroker \(EST-0166\)](#)
- [Form 3.56 Letter of Instruction \(Securities\) \(EST-0167\)](#)
- [Form 3.57 Affidavit of Domicile \(EST-0168\)](#)
- [Form 3.58 Letter Forwarding Deed for Recording \(EST-0169\)](#)
- [Form 3.59 Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir \(MV2300\) \(EST-0170\)](#)
- [Form 3.60 Wisconsin Title & License Plate Application \(MV1\) \(EST-0171\)](#)
- [Form 3.61 Letter Forwarding Statement for Transfer of Vehicles and Title to DOT \(EST-0172\)](#)

■ Closing the Estate

- [Form 3.62 Petition for Extension of Time \(EST-0173\)](#)
- [Form 3.63 Order for Extension of Time \(EST-0174\)](#)
- [Form 3.64 Letter Forwarding Petition and Order for Extension of Time \(EST-0175\)](#)
- [Form 3.65 Estate Account \(EST-0176\)](#)
- [Form 3.66 Estate Receipt: Specific Bequest \(EST-0177\)](#)
- [Form 3.67 Estate Receipt: Residual Bequest \(EST-0177\)](#)
- [Form 3.68 Letter Forwarding Estate Receipt to Probate Registrar \(EST-0179\)](#)

[Form 3.69 Letter Concerning Distribution: Short Form \(EST-0180\)](#)

[Form 3.70 Personal Representative's Statement to Close Estate \(EST-0181\)](#)

[Form 3.71 Letter Forwarding Statement to Close Estate to Beneficiaries \(EST-0182\)](#)

[Form 3.72 Letter Forwarding Closing Documents to Probate Registrar \(EST-0183\)](#)

[Form 3.73 Final Letter to Personal Representative \(EST-0184\)](#)

■ Demand for Formal Proceedings

[Form 3.74 Demand for Formal Proceedings \(EST-0185\)](#)

## X. Application for Informal Administration

### Commentary and Instructions for [Form 3.1](#)

Informal administration of both intestate and testate estates begins with filing an Application for Informal Administration with the probate registrar. If the decedent left a will, the will must not prohibit the use of informal probate. [Wis. Stat.](#) § 856.05 requires that the will be filed with the probate court within 30 days after the decedent's death. All interested persons must agree to informal administration if the decedent died intestate. Initiation of informal administration may be blocked by a demand for formal proceedings or by the initiation of formal, special, or summary proceedings. *See infra* [Form 3.74](#).

➤ **Practice Tip.** The statutes require the personal representative to provide each interested person with a “list of all interested persons.” [Wis. Stat.](#) § 865.08(5). This requirement can be met by sending each interested person a copy of the Application.

The probate registrar may deny the application if the statutory requirements are not met or for “any other reason.”

#### Contents

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 Check the applicable box.
- #3 This figure may be an estimate. But it should be in excess of \$50,000 because some judges may require that summary procedures be used if the estate's value is below \$50,000. (*Note:* Other counties will allow the use of informal probate even if the estate is below \$50,000.) Value only property subject to administration at the time of decedent's death. Do not include property over which the decedent had a power of appointment (MIL Section 20), life insurance payable to beneficiaries other than the estate (MIL Section 17), property held in joint tenancy (MIL Section 18), or transfers made during the decedent's lifetime (MIL Section 19).
- #4 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, MA, long-term care services, Wisconsin chronic disease program benefits, or any of the other services described in [Wis. Stat.](#) § 859.07(2), send the Probate Claims Notice ([Form 3.7](#)) to the DHS, the Department of Children and Families, or the Department of Corrections as appropriate and the county clerk. *See infra* [Form 3.6](#).
- #5 Check the applicable boxes to indicate whether the decedent was married and whether his or her spouse, if applicable, has received benefits from community options program or Wisconsin Chronic Disease Program.
- #6 Check the applicable boxes to indicate whether the decedent died intestate or testate and left a will and any codicil(s).
- #7 Interested persons include heirs, beneficiaries, named trustees, the named personal representative, and such additional persons as the court may order. If an interested person is a minor, so state and give the minor's date of birth. If an interested person is an incompetent person or a person in the military service, so state.
- #8 Check the applicable boxes.

#9 Enter the name of the person who will make the petition. Any interested person may apply for informal administration, provided that formal administration has not commenced.

**Distribution**

Original: Probate registrar

Conformed copies: Applicant, other interested persons, and firm file

**References**

[Wis. Stat.](#) §§ 865.02(1)(a), (b), 865.04(1)(a), 865.06(1)–(3)

Form 3.1 Application for Informal Administration (EST-0110)

STATE OF WISCONSIN, CIRCUIT COURT, (NAME OF COUNTY) COUNTY
IN THE MATTER OF THE ESTATE OF
Name
Application for Informal Administration
Case No. (Case No.)

UNDER OATH, I STATE:

- 1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death), was domiciled in (County Name) County, State of (State Name) with a mailing address of (Decedent's Address).
2. I am interested as (#1)
3. Other proceedings concerning the estate of the decedent are are not pending in this state or elsewhere. Explain:
4. The estimated net value of decedent's property requiring administration is \$
5. The decedent
did did not receive Medical Assistance/Medicaid.
did did not receive Family Care and/or Partnership benefits (through a Managed Care Organization - MCO/CMO).
did did not receive benefits from the Community Options Program (COP).
did did not receive benefits from Wisconsin Chronic Disease Program.
was was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county.
Explain:
I lack information to complete this section.
6. If the decedent was ever married, complete the following: (If more than one spouse See attached.)
Name of spouse (living or deceased)
Married to decedent Divorced from decedent at time of decedent's death.
The spouse did did not receive benefits from the Community Options Program (COP).
The spouse did did not receive benefits from the Wisconsin Chronic Disease Program.
I lack information to complete this section.

(Complete question 7 OR 8 below, whichever is applicable.)

- 7. The decedent died leaving a will, dated
codicil(s) (if any), dated

I believe these documents were executed properly and are valid. I made diligent inquiry and am unaware of any revocation by decedent.

- The original will, including any codicil(s),
is in the possession of the court.
accompanies this application.
was probated elsewhere and an authenticated copy accompanies this application.
is en route to the court by mail or personal delivery (for eFilers only).

The personal representative(s) named by the decedent in the will and/or any codicil is:
Name(s)

I nominate to serve as personal representative(s).

The trustee(s) named by the decedent in the will and/or codicil is:
Name(s)

I nominate to serve as trustee(s).

INFORMAL PROBATE

8. I made diligent inquiry and am unaware of any unrevoked will of the decedent and believe that the decedent died leaving no will.

I nominate \_\_\_\_\_ to serve as personal representative(s).

9. The names and mailing addresses of all interested persons are:  
 (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)  See attached

Name	Relationship <small>[e.g. Heir, Beneficiary, Fiduciary]</small>	Mailing Address <small>[Street, City, State, Zip]</small>	If Minor, Date of Birth
(#7)			

10. Other: \_\_\_\_\_

**I REQUEST:**

1. A statement of informal administration be issued.
2. The will, including any codicil(s), be admitted to informal administration.
- (#8)  3. Domiciliary letters be issued to \_\_\_\_\_ (PR's Name)
4. Letters of trust be issued to \_\_\_\_\_ (Trustee's Name)  
 for the following trust: \_\_\_\_\_ (Name of Trust)
- Letters of trust be issued to \_\_\_\_\_ (Trustee's Name)  
 for the following trust: \_\_\_\_\_ (Name of Trust)
5. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶

Applicant  
 \_\_\_\_\_  
 (#9)  
Name Printed or Typed

Address  
 \_\_\_\_\_

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	State Bar Number (if any)

## **XI. Form W-9 Request for Taxpayer Identification Number and Certification**

### **Commentary and Instructions for [Form 3.2](#)**

To complete the estate's income tax returns, the tax preparer must obtain the Social Security number of all individual beneficiaries, as well as the federal tax identification number of the charitable beneficiary or a trust that will receive estate assets. Mail [Form 3.2](#) to the individual, trust, or charitable beneficiary with an explanation that the individual's Social Security number or charitable organization's or trust's tax identification number is required for IRS tax reporting purposes by the estate.

#### **Contents**

- #1 Insert the beneficiary's name.
- #2 Insert the beneficiary's Social Security number if the beneficiary is an individual.
- #3 Insert the beneficiary's tax identification number if the beneficiary is a charity or a trust.
- #4 Beneficiary must sign.

#### **Distribution**

Original: File

#### **References**

IRS Form W-9, IRS Form 706, IRS Form 1041, and Schedule K-1

# Form 3.2 Form W-9 Request for Taxpayer Identification Number and Certification (EST-0111)

Form <b>W-9</b> (Rev. October 2018) Department of the Treasury Internal Revenue Service	<h2 style="margin:0;">Request for Taxpayer Identification Number and Certification</h2> <p style="margin:0;">▶ Go to <a href="http://www.irs.gov/FormW9">www.irs.gov/FormW9</a> for instructions and the latest information.</p>	Give Form to the requester. Do not send to the IRS.
1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. (#1)		
2 Business name/disregarded entity name, if different from above		
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____ <small>Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.</small>  <input type="checkbox"/> Other (see instructions) ▶ _____	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from FATCA reporting code (if any) _____  <small>(Applies to accounts maintained outside the U.S.)</small>	
5 Address (number, street, and apt. or suite no.) See instructions.	Requester's name and address (optional)	
6 City, state, and ZIP code		
7 List account number(s) here (optional)		

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

<b>Social security number (#2)</b>
[ ] [ ] [ ] - [ ] [ ] [ ] - [ ] [ ] [ ]
OR
<b>Employer identification number (#3)</b>
[ ] [ ] [ ] [ ] - [ ] [ ] [ ] [ ]

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ▶ (#4)	Date ▶
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**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*



By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes, if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

**Specific Instructions**

**Line 1**

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(ii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

**Line 2**

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

**Line 3**

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

**Line 4, Exemptions**

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

**Exempt payee code.**

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

- 1—An organization exempt from tax under section 501(c)(3), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)
- 2—The United States or any of its agencies or instrumentalities
- 3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities
- 5—A corporation
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission
- 8—A real estate investment trust
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940
- 10—A common trust fund operated by a bank under section 584(a)
- 11—A financial institution
- 12—A middleman known in the investment community as a nominee or custodian
- 13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)
- B—The United States or any of its agencies or instrumentalities
- C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(ii)
- F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state
- G—A real estate investment trust
- H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940
- I—A common trust fund as defined in section 584(a)
- J—A bank as defined in section 581
- K—A broker
- L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

**Part II. Certification**

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

1. **Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.
2. **Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.
3. **Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.
4. **Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).
5. **Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABL accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

**What Name and Number To Give the Requester**

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup> The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The grantor <sup>4</sup>
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

- <sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.
  - <sup>2</sup> Circle the minor's name and furnish the minor's SSN.
  - <sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.
  - <sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.
- \*Note:** The grantor also must provide a Form W-9 to trustee of trust.  
**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

**Secure Your Tax Records From Identity Theft**

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

- To reduce your risk:
- Protect your SSN.
  - Ensure your employer is protecting your SSN, and
  - Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.** Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@ftc.gov](mailto:spam@ftc.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

### Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## XII. Waiver and Consent

### Commentary and Instructions for [Form 3.3](#)

The consent form typically is used in an informal probate, along with the Application for Informal Administration ([Form 3.1](#)), if interested persons wish to consent to proceed on waiver, thereby avoiding the delay involved in scheduling a hearing on notice. The form allows the interested person to consent to the admission of the will, if any, and to the appointment of the nominated personal representative. [Wis. Stat.](#) § 879.09 provides that a GAL or guardian of an estate can waive notice of a hearing to prove a will or for administration.

Some probate registrars may waive the bond requirement if all interested persons consent to the personal representative's appointment without bond. This information can be provided on this form.

#### Contents

- #1 Include the names of all interested persons and nature of their interest. Fill in exact names of interested persons who will sign the Waiver and Consent, listing their corresponding interest in the informal probate.

#### Distribution

Original: Probate registrar  
Conformed copies: One to each interested person together with a list of all such persons and copies of the will, if any, and firm file

#### References

[Wis. Stat.](#) §§ 865.02(1)(b)1., 865.05, 865.08(5)

Form 3.3 Waiver and Consent (EST-0112)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

(Decedent's Name) \_\_\_\_\_  
Name \_\_\_\_\_

Amended

**Waiver and Consent  
(Informal Administration)**

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

- 1. I am by law an interested person in this estate.
- 2. I am not a minor.
- 3. I have not been found incompetent and I do not have a guardian.
- 4. I waive any further notice of the hearing on the application for informal administration. I enter my appearance in this matter, and consent to the requests made in the application for informal administration.
- 5. I have received a list of all interested persons, and (Choose one)
  - a copy of the will dated \_\_\_\_\_ and codicil(s) (if any), dated \_\_\_\_\_.
  - a notice of the nature and amount of the bequest contained in the will dated \_\_\_\_\_ or codicil(s) (if any), dated \_\_\_\_\_.
  - decedent died leaving no will.
- 6. I consent to the admission of the will dated \_\_\_\_\_ and codicil(s) (if any), dated \_\_\_\_\_ (Date of Will or Codicil) \_\_\_\_\_.
- 7. I consent to the appointment of \_\_\_\_\_ (PR's Name) \_\_\_\_\_ as personal representative(s) in this estate.
- 8. Other: \_\_\_\_\_

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)

▶ \_\_\_\_\_  
Signature  
(#1)  
Name Printed or Typed  
\_\_\_\_\_  
Address  
\_\_\_\_\_

\_\_\_\_\_  
Email Address Telephone Number  
\_\_\_\_\_  
Date State Bar No. (if any)



Signature		Signature	
(#1)		(#1)	
Name Printed or Typed		Name Printed or Typed	
Address		Address	
Email Address	Telephone Number	Email Address	Telephone Number
Date	State Bar No. (if any)	Date	State Bar No. (if any)

Form completed by: (Name)	
Address	
Email Address	
Telephone	Bar Number (if any)



*[Reserved]*

### **XIII. Proof of Heirship**

#### **Commentary and Instructions for [Form 3.4](#)**

In both testate and intestate administrations, the heirs must be determined so that the identity of interested persons may be known. In intestate administration, determining heirship is also necessary because the heirs are the distributees.

#### **Contents**

- #1 Answer only relevant questions, that is, those questions that must be answered to determine those heirs who would take in the estate if it was intestate. Designate irrelevant questions by writing “not relevant.”
- #2 Proof of heirship can be made by anyone having knowledge of the facts. The witness need not be related to the decedent.

#### **Distribution**

Original: Probate registrar  
Conformed copies: Personal representative and firm file

#### **References**

[Wis. Stat.](#) §§ 852.01, 863.23, 854.03

**Form 3.4 Proof of Heirship (EST-0113)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

Name

**Proof of Heirship**

- Informal Administration**  
 **Formal Administration**

Case No. \_\_\_\_\_

**UNDER OATH, I ANSWER THE FOLLOWING QUESTIONS: (#1)**

1. What is your name, mailing address and relationship to the decedent?

Name	Mailing Address	Relationship
(#2)		

2. Was the decedent survived by a spouse or domestic partner?  Yes  No

If YES, give name: \_\_\_\_\_

3. A. Did the decedent have any children? (Living or deceased; natural or adopted.)  Yes  No

If YES, list all names. (If deceased, indicate date of death.)  See attached

Name of Decedent's Children	If Deceased, Date of Death

B. For each deceased child listed in 3A., list his or her name and the names of his or her children (Living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants. (Living or deceased; natural or adopted.)  See attached

Name of Deceased Child in (3A)	Name of Deceased Child's Child(ren)	Date of Death

4. If there is a surviving spouse or domestic partner, are all of the decedent's children listed in 3A., also the children of the surviving spouse or domestic partner?  Yes  No

If NO, give details: \_\_\_\_\_

**Instructions:**

Are there living persons listed in answers to questions 2. through 4.?

- If Yes, skip to question 8.
- If No, continue with question 5.

5. Did the decedent leave surviving parents?  Yes  No

If YES, list names.

Name(s)

6. A. If no surviving parent, did the decedent have brothers or sisters? (Living or deceased; whole blood, half blood, adopted)  No  Yes

If YES, list all names. (If deceased, indicate date of death.)

Name of Decedent's Brothers or Sisters	If Deceased, Date of Death

B. For each deceased brother or sister listed in 6A., list his or her name and the names of his or her children (Living or deceased; natural or adopted). If any of his or her children is deceased, indicate the date of death of that child and the names of his or her descendants. (Living or deceased; natural or adopted)  See attached

Name of Deceased Brother or Sister in (6A)	Date of Death	Name of Deceased Brother's or Sister's Children

7. If there are **no living persons** listed in questions 2. through 6B., list names of maternal (mother) and paternal (father) grandparents and the descendants of any deceased grandparent and whether the person is living or deceased. Please continue listing children of deceased persons until a living person is named.  See attached

MATERNAL (Mother)	PATERNAL (Father)
Grandfather:	Grandfather:
Grandmother:	Grandmother:
Descendants:	Descendants:

8. Did any of the persons named in #2 through #7 die within 120 hours (5 days) after the death of the decedent?  No  Yes

If YES, list name(s), date of death and descendant(s).

Name	Date of Death	Descendant(s)

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (If any)

▶ \_\_\_\_\_

Signature  
 (#2)  
 Name Printed or Typed

Address

Email Address Telephone Number

Date State Bar No. (if any)

## XIV. Letter Regarding Initiation of Probate

### Commentary and Instructions for [Form 3.5](#)

Send this letter to each residuary beneficiary or heir as a cover letter for the following enclosures:

1. Copy of the will (if testate)
2. Copy of the Application for Informal Administration ([Form 3.1](#))
3. A Waiver and Consent ([Form 3.3](#))
4. Request for Taxpayer Identification ([Form 3.2](#))

Conform the letter's language to the particularities of the estate (e.g., whether the decedent died testate).

For beneficiaries of a specific bequest, provide only the waiver and consent, and a notice of the nature and amount of the bequest rather than a copy of the entire will. The Social Security numbers for beneficiaries of a specific bequest are generally not needed.

#### **Distribution**

Original: Addressee/Beneficiary  
Copies: Personal representative (optional) and firm file

**Form 3.5 Letter Regarding Initiation of Probate (EST-0114)**

---

(Date)

(Beneficiary's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Beneficiary's Name):

We have been retained by (nominated Personal Representative) to probate the estate of (Decedent's Name). Enclosed are the following documents needed to initiate probate:

1. Copy of Last Will and Testament of (Decedent's Name), dated (Date of Will)
2. Copy of Application for Informal Administration, which contains a list of interested persons
3. Waiver and Consent for informal administration
4. Request for Taxpayer Identification Number and Certification

Please fill out the Request for Taxpayer Identification Number and Certification and sign the enclosed Waiver and Consent and return them to me in the enclosed postage-paid envelope. The Consent stamped "copy" is for your records. By signing the Consent, you are allowing the will to be admitted to probate and (PR's Name) to be appointed as personal representative without the need for a court hearing. After these documents have been filed with the court, we will be in touch with you with respect to the probate proceedings.

Please notify me immediately if your address changes during the estate proceedings. If you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## XV. Letter Regarding Possible Welfare Claims and Probate Claims Notice (F-13033)

### Commentary and Instructions for [Forms 3.6–3.7](#)

[Form 3.6](#) can be sent, as appropriate, to the DHS, the DCF, or the Department of Corrections if the decedent was a patient or inmate of a state or county hospital or institution. It is intended to provide protection against a claim made by a governmental unit at a later date. Consult MIL Section 2.

The DHS must be notified about the death of anyone who was at any time confined to a state or county hospital or institution, who was responsible for any outstanding obligation to the state or county for specified services, or who received (or whose spouse or registered domestic partner received) MA, long-term community care services, long-term care services, or Wisconsin chronic disease program benefits. The Probate Claims Notice ([Form 3.7](#)) must be sent to the DHS or the Department of Corrections by registered or certified mail at least 30 days before the date set for hearing claims and to the county clerk for the county in which the decedent maintained his or her legal residence. Note also that under [Wis. Stat.](#) § 46.10, the state can recover from a decedent's estate the amount of some types of public assistance paid to or for the benefit of the decedent or specified relatives. Some courts require the Probate Claims Notice in every probate. In certain circumstances, the state also can recover from the decedent's estate any MA payments made to the decedent or his or her spouse under [Wis. Stat.](#) § 49.496. These claims are filed and treated the same as other claims against the estate. An Affidavit of Service ([Form 4.9](#)) should be filed with the court along with the original of the Probate Claims Notice.

#### Contents (Letter Regarding Possible Welfare Claims)

#1 Enter the name of the decedent or the decedent's parents, as appropriate.

#### Contents (Probate Claims Notice)

- #1 Indicate whether type of probate is informal or formal.  
 #2 The date for filing claims is found on [Form 4.5](#) or [Form 4.7](#).

#### Distribution

Original:	File notice with the court with original Affidavit of Mailing
Conformed copies:	Mail notice (registered or certified) to DHS, DCF, or Department of Corrections and county clerk for the county in which decedent maintained legal residence, personal representative, and firm file

#### References

[Wis. Stat.](#) § 859.07

**Form 3.6 Letter Regarding Possible Public Benefits Claims  
(EST-0115)**

---

(Date)

Department of Health Services  
(Address)

Re: Estate of (Decedent's Name)

To Whom It May Concern:

\_\_\_\_ #1 \_\_\_\_ died recently in \_\_\_\_ (Decedent's Residence at Death (City, State)) \_\_\_\_ . We have not been able to eliminate the possibility that (he/she) received some kind of public assistance in the past.

Would you please check your records and indicate to us whether or not \_\_\_\_ (#1) \_\_\_\_ 's name appears in your files.

Thank you very much for your help.

Sincerely yours,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)



**Form 3.7 Probate Claims Notice (F-13033) (EST-0116)**

DEPARTMENT OF HEALTH SERVICES  
Division of Medicaid Services  
F-13033 (05/2021)

STATE OF WISCONSIN

**PROBATE CLAIMS NOTICE**

Completion of this form is required according to Wis. Stat. §§ 859.07 (2), 867.01 (3)(d), and 867.02 (2)(d). Personally identifiable information will only be used in the administration of the Estate Recovery Section and will not be disclosed to other agencies. Consequences of failure to complete this form are covered under Wis. Stat. §§ 859.02 and 865.17.

In the matter of the estate of:	STATE OF WISCONSIN, Circuit Court Branch
Name – Deceased Member	County of Probate
Social Security Number (SSN)	Type of Probate (#1)
Date of Death	File Number
Date of Birth	Final Date to File Claims (#2)

- Check here if the **deceased member** has received one or more of the following:
- Medicaid or BadgerCare Plus benefits under Wis. Stat. ch. 49
  - Medicaid or non-Medicaid benefits under a long-term care program as defined in Wis. Stat. § 49.496 (bk)s
  - Medicaid Purchase Plan benefits under Wis. Stat. § 49.472
  - Wisconsin Community Options Program benefits under Wis. Stat. § 46.27
  - Wisconsin Chronic Disease Program benefits under Wis. Stat. §§ 49.68 through 49.685
- Check here if the **predeceased spouse** of the deceased member has received one or more of the following, and provide the requested information below (if more than one spouse, attach an additional sheet):
- Medicaid or BadgerCare Plus benefits under Wis. Stat. ch. 49
  - Medicaid or non-Medicaid benefits under a long-term care program as defined in Wis. Stat. § 49.496 (bk)
  - MAPP benefits under Wis. Stat. § 49.472
  - COP benefits under Wis. Stat. § 46.27
  - WCDP benefits under Wis. Stat. §§ 49.68 through 49.685

Name – Predeceased Spouse	SSN – Predeceased Spouse
Date of Birth – Predeceased Spouse	Date of Death – Predeceased Spouse

**Disclosure of the SSN of a Medicaid member is mandatory, per 42 U.S.C. 1320b-7. Disclosure of the SSN of a non-Medicaid member is voluntary. The SSN will only be used for the identification of Medicaid, BadgerCare Plus, COP, and WCDP members and for the administration of the Estate Recovery Section.**

Name – Personal Representative/Petitioner			Name – Attorney		
Mailing Address			Mailing Address		
City	State	Zip Code	City	State	Zip Code

**MAILING:** This form must be sent to the Department of Health Services Estate Recovery Section by certified mail at least 30 days prior to the date set under Wis. Stat. § 859.01, or as soon as possible after filing summary petitions under Wis. Stat. § 867.01 or 867.02.

Mail a copy to:  
Wisconsin Department of Health Services  
Division of Medicaid Services  
Estate Recovery Section  
PO Box 309  
Madison WI 53701-0309

## XVI. Notice to Creditors

### Commentary and Instructions for [Form 3.8](#)

The Notice to Creditors must be published in a county newspaper officially designated for legal notices. The notice must be printed within 15 days after it is signed and be published for three consecutive weeks. Some probate registrars will forward conformed copies to newspapers if the attorney provides them with an extra copy of the notice, a transmittal letter, and a postage-paid, addressed envelope.

[Wis. Stat.](#) §§ 859.02 and 859.03 require that creditors be sent a copy of the notice to ensure that claims are cut off. Note that when the proceedings are on notice, the Notice Setting Time to Hear Application and Deadline for Filing Claims ([Form 3.22](#)) meets the statutory requirements for giving notice to creditors. Use [Form 3.33](#), *infra*, to forward either notice to creditors.

#### Contents

- #1 The probate registrar will supply the information.
- #2 Enter address of Register in Probate office.
- #3 Enter the name of the newspaper designated for publication.

#### Distribution

Original: Probate registrar  
Conformed copies: Applicant, one to each known or ascertainable creditor, newspaper, and firm file

#### References

[Wis. Stat.](#) §§ 859.01, 859.02, 859.07, 865.05, 865.06, 879.05

Form 3.8 Notice to Creditors (EST-0117)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)  
Name

**Notice to Creditors  
(Informal Administration)**

Case No. \_\_\_\_\_ (Case No.)

**PLEASE TAKE NOTICE:**

1. An application for informal administration was filed.
2. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address).
3. All interested persons waived notice.
4. The deadline for filing a claim against the decedent's estate is (Date) \_\_\_\_\_ (#1).
5. A claim may be filed at the \_\_\_\_\_ (#2) County Courthouse, \_\_\_\_\_, Wisconsin, Room \_\_\_\_\_.

Form completed by: (Name)	
Address	
Telephone	Bar Number (If any)

**DO NOT PRINT the following text when publishing this notice.**

**Notice to Newspaper and Personal Representative:**

Notice must be given by publication of this notice in the following newspaper: \_\_\_\_\_ (#3) once a week for three consecutive weeks; the first publication date must be within 15 days from the date of this notice.

The personal representative is responsible for providing the deadline for filing a claim against the decedent's estate to all known or reasonably ascertainable creditors.

## XVII. Order Appointing GAL or Attorney and Consent to Act

### Commentary and Instructions for [Forms 3.9](#) and [3.10](#)

The probate registrar has the authority to appoint GALs or attorneys for persons in the military service. GALs are necessary for minors, persons in the military service, or others who are legally incapable of acting. They might also be used for a beneficiary who has disappeared.

[Wis. Stat.](#) § 879.23 governs appointments of GALs. Parents of minors and parents or adult children of adult incompetent individuals can serve, but all other GALs must be attorneys. The probate registrar will assist in naming an attorney from a list kept by the court.

Remember that if another beneficiary has interests substantially the same as the person who would otherwise need a GAL, the GAL can be dispensed with. Thus, if a will leaves \$1,000 to “each of my children” and one of several children is a minor, no GAL is necessary because the older siblings can adequately represent the minor child.

#### Contents (Order Appointing GAL or Attorney)

- #1 Enter names of individual requiring representation and GAL or attorney.
- #2 Enter name of GAL to be appointed.
- #3 Enter whether consent to act is required.
- #4 Court will enter if petition is denied.

#### Contents (Consent to Act)

If the court requires the Consent to Act form to be signed by the appointed GAL or attorney, fill out this form.

- #1 Check the box and have the GAL (or attorney) sign and fill out remaining lines on the form.
- #2 Conform date to date of Order Appointing GAL or Attorney.

#### Distribution

Original: Probate registrar  
Conformed copies: Applicant and firm file

#### References

[Wis. Stat.](#) § 879.23

**Form 3.9 Order Appointing Guardian ad Litem or Attorney (EST-0118)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

Amended

(Decedent's Name)

**Order Appointing  
Guardian ad Litem or Attorney**

Case No. \_\_\_\_\_ (Case No.)

A matter is pending in this court and (Individual(s)) \_\_\_\_\_ (Name of Person Under  
(#1)  a guardian ad litem. Legal Disability) require(s) the appointment of  
 an attorney.

**THE COURT ORDERS:**

- (#2)  1. The appointment of the following person as  guardian ad litem  attorney for the above-named individual(s).  
Name: \_\_\_\_\_ (Name of GAL/Attorney)  
Address: \_\_\_\_\_ (Address)  
Telephone Number: \_\_\_\_\_ (Telephone No.)
- (#3)  2. Consent to Act  is  is not required to be signed.
- (#4)  3. The Petition is denied because \_\_\_\_\_.
- 4. Other: \_\_\_\_\_

GF-131A, 02/18 Order Appointing Guardian ad Litem or Attorney  
§§48.23, 48.235, 51.60, 54.40, 55.105, 757.52, 757.48, 767.407, 813.123(3)(b), 879.23, and 879.25, Wisconsin Statutes  
This form shall not be modified. It may be supplemented with additional material.

**Form 3.10 Consent to Act (EST-0187)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
Case Caption:  (Decedent's Name)	<b>Consent to Act</b> Case No. (Case No.)

An Order Appointing Guardian ad Litem or Attorney was filed on [Date] \_\_\_\_\_.

(#1) I consent to my appointment as  guardian ad litem  attorney for (Name of Person Under Legal Disability)

▶ \_\_\_\_\_

Signature  
(GAL/Attorney's Name)  
Name Printed or Typed  
(Address)  
Address

(Email Address) (Telephone No.)  
Email Address Telephone Number  
(#2)  
Date State Bar No. (if any)

## XVIII. Petition to Dispense with GAL and Order Dispensing with GAL

### Commentary and Instructions for [Forms 3.11–3.12](#)

The probate registrar may dispense with the appointment of a GAL if the doctrine of virtual representation applies. For example, a minor child may have interests that are substantially identical to an adult sibling's interests. In these cases, the minor child probably will not require representation by a GAL. If a GAL will not be appointed, prepare the Petition to Dispense with GAL, along with the Order Dispensing with GAL for the court's signature. If a GAL is necessary, see section [3.34](#) and [Forms 3.9](#) and [3.10](#), *supra*.

#### Contents (Petition to Dispense with GAL)

- #1 State the relationship or interest of the petitioner to the deceased. The petitioner will normally be the person who signed the Application for Informal Administration ([Form 3.1](#)).
- #2 Check the applicable box(es) describing the person interested in the estate who is under legal disability. If the person is a minor or an incompetent individual, enter that person's name; if the person is not in being or presently unascertainable, describe the person.
- #3 Enter the name of the person who has substantially the same interests as the interested person who is under legal disability.
- #4 Enter the name of the person who will make the petition.

#### Contents (Order Dispensing with GAL)

- #1 See Item #2 in the Petition to Dispense with GAL, *supra*.
- #2 See Item #3 in the Petition to Dispense with GAL, *supra*.

#### Distribution

Original: Probate registrar  
Conformed copies: Applicant and firm file

#### References

[Wis. Stat.](#) § 879.23(5)

# Form 3.11 Petition to Dispense with Guardian ad Litem (EST-0119)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <b>Petition to Dispense with Guardian ad Litem</b> <input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration Case No. _____ (Case No.)
---	---

**UNDER OATH, I STATE:**

1. The decedent, with date of birth (Date of Birth) \_\_\_\_\_ and date of death (Date of Death) \_\_\_\_\_, was domiciled in (County Name) \_\_\_\_\_ County, State of (State Name) \_\_\_\_\_, with a mailing address of (Decedent's Address) \_\_\_\_\_.
2. I am interested as [Relationship to Decedent] \_\_\_\_\_ (#1) \_\_\_\_\_.
3. There is an interested person in this estate who is
  - a minor or ward [Name] \_\_\_\_\_ (#2) \_\_\_\_\_ and has no guardian of estate.
  - the guardian of the estate fails to appear on the minor's or the ward's behalf.
  - the interest of a minor or ward and is adverse to the interest of the guardian of the estate.
  - a person not in being or presently unascertainable.
 [Describe] \_\_\_\_\_
4. [Name] \_\_\_\_\_ (#3) \_\_\_\_\_ is a living person of full legal rights and capacity, who is an interested person in this estate and has a substantially identical and not adverse interest with such person.

**I REQUEST THE COURT:**

Dispense with the appointment of a guardian ad litem for this person in this estate due to virtual representation.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

▶ \_\_\_\_\_ (#4)  
 Signature  
 \_\_\_\_\_  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (If any)

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (If any)



Form 3.12 Order Dispensing with Guardian ad Litem (EST-0120)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended  
 (Decedent's Name)  
 Name \_\_\_\_\_

**Order Dispensing with Guardian ad Litem**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.)

A Petition to Dispense with Guardian ad Litem was filed.

THE COURT FINDS:

- There is an interested person in this estate [Name] \_\_\_\_\_ (#1) who is  
 a minor or ward and  
 has no guardian of estate.  
 the guardian of the estate fails to appear on the minor's or the ward's behalf.  
 the interest of a minor or ward and is adverse to the interest of the guardian of the estate.  
 a person not in being or presently unascertainable. [Describe] \_\_\_\_\_
- [Name] \_\_\_\_\_ (#2) is a living person of full legal rights and capacity, who is an interested person in this estate and has a substantially identical and not adverse interest with such person.
- The interests of the person named in #1 are virtually represented in these proceedings.
- Other: \_\_\_\_\_

THE COURT ORDERS:

- Appointment of a guardian ad litem for the named minor, ward or unknown/unascertainable person in this estate dispensed with due to virtual representation.
- Other: \_\_\_\_\_

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (if any)

## **XIX. Consent to Serve**

### **Commentary and Instructions for [Form 3.13](#)**

Before being issued formal authority to proceed with the probate, the proposed personal representative must accept the duties of the personal representative, agree to comply with the law, and agree to come under the supervision and authority of the court. The personal representative must also agree to the terms listed in the Consent to Serve.

If the personal representative is not a resident of Wisconsin, he or she must agree to appoint another person whom the local registrar finds acceptable. Some courts may prefer the probate registrar to be named.

#### **Contents**

- #1 Check the “personal representative” box.
- #2 If the personal representative is not a resident of Wisconsin, check the box and enter the name of the proposed agent. Some probate registrars may require that they be named resident agent.
- #3 If needed, enter the name of the proposed resident agent.

#### **Distribution**

Original: Probate registrar  
Conformed copies: Personal representative and firm file

#### **References**

[Wis. Stat.](#) §§ 856.23, 865.08(2), 867.17, 879.67

Form 3.13 Consent to Serve (EST-0121)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

(Decedent's Name)

Name

Amended

Consent to Serve

- Informal Administration
 Formal Administration

Case No. (Case No.)

- (#1) 1. I consent to serve as [ ] personal representative [ ] special administrator of this estate. I accept the duties, submit personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person and agree to be bound by the laws of Wisconsin.
2. I will file any required bond.
[ ] 3. I am a nonresident of Wisconsin.

I appoint (Name) (#2) as resident agent to accept service of process.

Signature (PR's Name) Name Printed or Typed
Address
Email Address Telephone Number
Date State Bar No. (if any)

Acceptance by Resident Agent

I accept appointment as resident agent for this estate to accept service of process.

Form completed by: (Name)
Address
Email Address
Telephone Number Bar Number (If any)
Resident Agent (#3) Name Printed or Typed
Address
Email Address Telephone Number
Date State Bar No. (if any)

## **XX. Declination to Serve or Resignation**

### **Commentary and Instructions for [Form 3.14](#)**

Sometimes the named personal representative is unable or unwilling to serve. This form informs the court of that fact and lays the basis for appointment of another person or a bank.

#### **Contents**

#1 Enter name of person declining.

#### **Distribution**

Original: Court

Copies: Person declining, firm file

# Form 3.14 Declination to Serve or Resignation (EST-0123)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

## Declination to Serve or Resignation

Name

- Informal Administration
- Formal Administration

Case No. \_\_\_\_\_ (Case No.)

**DECLINATION TO SERVE**

1. I was named in the will or codicil of the decedent to serve as
  - personal representative.
  - testamentary trustee.
2. I have not undertaken any duties in this capacity.
3. I decline to serve in this capacity.

**RESIGNATION**

1. I am the
  - personal representative.
  - testamentary trustee.
  - special administrator.
2. I resign for the following reason(s): \_\_\_\_\_
3. I request that the court accept my resignation.
4. I understand that I will not be discharged until
  - A. I have completed all required duties and filed any required documents;
  - B. a successor is appointed (if needed), AND
  - C. the Court issues an order of discharge.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

▶ \_\_\_\_\_ (#1)  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

## **XXI. Statement of Informal Administration**

### **Commentary and Instructions for [Form 3.15](#)**

The Statement of Informal Administration in informal probate is equivalent to the Order for Administration in formal probate. It is the method by which the probate registrar accepts the probate and gives authority to the personal representative. The statement will be given only after the application, consents, notices, and the will, if any, have been properly filed. The probate registrar must determine that the personal representative is qualified.

#### **Contents**

- #1 Check the applicable box.
- #2 Check the applicable boxes.
- #3 Check the applicable box.
- #4 Check the applicable box.
- #5 The probate registrar may require the personal representative or the trustee to file bond. If bond is required, check the applicable box and enter the amount of the bond. The probate registrar will set the amount of bond.

#### **Distribution**

Original: Probate registrar  
Conformed copies: Personal representative and firm file

#### **References**

[Wis. Stat.](#) §§ 865.07, 865.08

Form 3.15 Statement of Informal Administration (EST-0124)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY
IN THE MATTER OF THE ESTATE OF \_\_\_\_\_ (Decedent's Name)
Statement of Informal Administration
Case No. \_\_\_\_\_ (Case No.)

An Application for Informal Administration was filed.

THE PROBATE REGISTRAR FINDS:

- 1. The application is complete, including verification.
2. The applicant is an interested person.
3. The court has jurisdiction and is the proper venue.
4. The requests and consents regarding use of informal administration are complete and notice was given to all persons entitled to notice.
5. The decedent died on [date] (Date of Death) leaving A. no will. B. a will dated; codicil(s) (if any) dated; that was/were in possession of the court accompanied the application was/were probated elsewhere and an authenticated copy accompanies the application and is a valid uncontested document(s) executed in compliance with the statutes and does not expressly prohibit informal administration.
6. The nominated personal representative(s) (PR's Name) is/are not disqualified by law or otherwise deemed unsuitable.
7. No administration is pending either before the court or in another jurisdiction, OR Administration is pending either before the court or in another jurisdiction and no demand was made for formal administration. Proof of probate accompanies the application.
8. Other;

**THE PROBATE REGISTRAR STATES:**

- 1. The application for informal administration is granted.
- 2. The will dated \_\_\_\_\_ is admitted.
- 3. The codicil(s) (if any) dated \_\_\_\_\_ is/are admitted.
- (#5) 4. Domiciliary letters are issued to \_\_\_\_\_  
 and no bond is required.  
 upon filing and acceptance of  a signature bond.  a surety bond in the sum of \$ \_\_\_\_\_.
- 5. Letters of trust are issued to \_\_\_\_\_  
for the following trust: \_\_\_\_\_  
 and no bond is required.  
 upon filing and acceptance of  a signature bond.  a surety bond in the sum of \$ \_\_\_\_\_.
- 6. Other: \_\_\_\_\_
- See attached for any additional trusts.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)



## XXII. Domiciliary Letters and Letter Requesting Domiciliary Letters

### Commentary and Instructions for [Forms 3.16–3.17](#)

Domiciliary Letters give the personal representative official authority to act. Upon issuance of these letters, title to the decedent's probate assets vests in the personal representative and, unless restricted by the provisions of the decedent's will, the personal representative has all the powers granted that office by statute.

Additional certified copies of the Domiciliary Letters can be obtained from the probate registrar at any time during administration upon payment of the required certification fee. If the copies are to be mailed by the registrar, include a postage-paid envelope. The current fee is \$4 per certified copy. [Wis. Stat.](#) § 814.66(1)(g), (h).

#### Distribution

Original:	Probate registrar
Conformed copies:	Firm file and certified copies to use for release of bank accounts, transfer of securities, etc.

#### References

[Wis. Stat.](#) §§ 865.08, 860.01, 860.11

Form 3.16 Domiciliary Letters (EST-0125)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)

Name \_\_\_\_\_

**Domiciliary Letters**

Informal Administration

Formal Administration

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

To: \_\_\_\_\_ (PR's Name and Address)

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).

You are granted domiciliary letters with general powers and duties of a personal representative.

You are authorized to administer the estate as required by law.

Other: \_\_\_\_\_

(COURT SEAL)

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)

## Form 3.17 Letter Requesting Domiciliary Letters (EST-0126)

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No. (Case No.)

Dear (Name):

Please send me (number) certified copies of the Domiciliary Letters in the above-named estate. I have enclosed our firm's check for \$ (Amount) for the cost of the certified copies and a postage-paid envelope for your convenience.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## XXIII. Letter Forwarding Initial Documents to Probate Court

### Commentary and Instructions for [Form 3.18](#)

If not efilng, use this letter to forward the initial probate documents to the probate court for filing. Ordinarily, the documents will include the Application for Informal Administration ([Form 3.1](#)); the decedent's will and any codicils; the Notice to Creditors ([Form 3.8](#)); a signed Waiver and Consent from all interested persons ([Form 3.3](#)); the personal representative's Consent to Serve ([Form 3.13](#)); Domiciliary Letters ([Form 3.16](#)); the Statement of Informal Administration ([Form 3.15](#)); the Proof of Heirship ([Form 3.4](#)); a copy of the decedent's death certificate, if required; the Petition to Dispense with GAL ([Form 3.11](#)) and Order Dispensing with GAL ([Form 3.12](#)), if appropriate; and checks to cover forms fees and the cost of certified copies of the Domiciliary Letters.

If efilng, note that only one copy of documents needs to be filed, online payment is needed, the attorney can print filed copies of documents from the efilng portal, and certified copies must be requested by mail or in person with the required fee.

Some counties require a forms fee, while others do not. Also, not every county requires a copy of the death certificate. Check with the probate registrar to determine local practice.

#### Contents

- #1 Delete this if proceedings are on notice.
- #2 Delete this if it is not applicable to the estate.
- #3 Include the forms fee if the county requires it.
- #4 Current payment is \$4 per certified copy. [Wis. Stat.](#) § 814.66(1)(g), (h).
- #5 Include a copy of the death certificate if the county requires it.

#### Distribution

Original: Probate registrar  
Copies: Personal representative and firm file

## Form 3.18 Letter Forwarding Initial Documents to Probate Court (EST-0128)

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)

Dear (Name):

With regard to the above-named estate, the following documents are attached:

1. Application for Informal Administration
2. Original Last Will and Testament of (Decedent's Name), dated (Date of Will)
3. Original and two copies of the Notice to Creditors
- (#1) 4. Waiver and Consent signed by (Interested Persons)
5. Consent to Serve signed by (PR's Name)
6. Original and three copies of Domiciliary Letters
7. Original and one copy of Statement of Informal Administration
8. Proof of Heirship
- (#2) 9. Original and one copy each of Petition to Dispense with Guardian ad Litem and Order Dispensing with Guardian ad Litem for (name of minor or incompetent person)
- (#3) 10. \$ (Amount) (forms fee) (if applicable)
- (#4) 11. \$ (Amount) (payment for three certified copies of Domiciliary Letters)
- (#5) 12. One copy of (Decedent's Name)'s death certificate

If these documents meet with your approval, please have the Notice to Creditors and the Statement of Informal Administration signed and then file them with your office. Please return two conformed copies of the Notice to Creditors, one conformed copy of the Statement of Informal Administration, and one conformed copy of the Order Dispensing with Guardian ad Litem to me. Please issue three certified copies of the Domiciliary Letters and return them to me also. A postage-paid, pre-addressed envelope is enclosed for your convenience.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosures

## XXIV. Proof of Publication and Letter Forwarding Proof of Publication

### Commentary and Instructions for [Forms 3.19–3.20](#)

Once the Notice to Creditors ([Form 3.8](#)) has been published, the Proof of Publication must be filed with the probate court. Most newspapers have their own forms for this purpose and will complete them without help. If the newspaper does not offer to provide the form, use [Form 3.19](#). Attach an original of the actual notice as printed in the newspaper.

Once publication has occurred, the newspaper will send an invoice for the cost of publication. At that point, use [Form 3.38](#), *infra*, to send the invoice to the personal representative for payment.

Use [Form 3.20](#), *infra*, to forward the original Proof of Publication to the probate court.

### Contents (Proof of Publication)

- #1 Enter the newspaper officer's name.
- #2 Enter the newspaper officer's title.
- #3 Enter the name of the newspaper.
- #4 Enter the place of publication.
- #5 Take these dates from the copy of the Notice to Creditors.

### Distribution

Original: Probate court  
Copy: Personal representative and firm file





**Form 3.20 Letter Forwarding Proof of Publication (EST-0130)**

---

*(Date)*

*(Newspaper)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

To Whom It May Concern:

With regard to the above-named estate, enclosed is a Notice to Creditors. Please publish this notice according to the instructions in the notice, and forward a Proof of Publication to me, along with your invoice for payment.

I appreciate your attention to this matter.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosure

## **XXV. Application for Death Certificate**

### **Commentary and Instructions for [Form 3.21](#)**

The death certificate is usually prepared by the physician who was caring for the person before death or who examined the decedent to determine the cause of death. Certified copies of death records are available only to interested persons, and the register of deeds is permitted to charge a fee for providing the copies. [Form 3.21](#) is an Application for Death Certificate.

Because of privacy rules, death certificates are provided only to persons who demonstrate a need to have the information on the certificate. For deaths that occurred before January 1, 1967, copies can be obtained from the DHS or the county department of health.

#### **Distribution**

Original: Register of Deeds

#### **References**

[Wis. Stat.](#) ch. 69

# Form 3.21 Application for Death Certificate (F-05280) (EST-0131)

DEPARTMENT OF HEALTH SERVICES  
Division of Public Health  
F-05280 (Rev. 05/2018)

STATE OF WISCONSIN  
Wis. Stat. § 69.21  
Page 1 of 2

## WISCONSIN DEATH CERTIFICATE APPLICATION (for Mail or In-Person Requests)

TYPE or PRINT.

**PENALTIES:** Any person who illegally possesses any vital record with knowledge that the vital record has been illegally obtained is guilty of a Class I felony [a fine of not more than \$10,000 or imprisonment of not more than 3 years and 6 months, or both, per Wis. Stat. § 69.24(1)].

<b>I. APPLICANT INFORMATION</b>	CURRENT NAME - First	Last	MAIL TO NAME - First (if different)	Last		
	YOUR STREET ADDRESS (CANNOT be a P.O. Box address) Apt. No.		MAIL TO ADDRESS (if different than street address) Apt. No.			
	City	State	ZIP Code	City	State	ZIP Code
	DAYTIME TELEPHONE NUMBER ( )			EMAIL ADDRESS		
	TYPE OF CURRENT VALID PHOTO ID (See Item 4, on page 2.)	PHOTO ID NUMBER	STATE OF ISSUANCE	EXPIRATION DATE		
<b>II. APPLICANT'S RELATIONSHIP TO PERSON NAMED ON THE CERTIFICATE</b>	Per Wis. Stat. § 69.21, a CERTIFIED copy of a death certificate is available to applicants with a "direct and tangible interest." (A-D below) CHECK ONE box which indicates YOUR RELATIONSHIP to the PERSON NAMED on the death certificate.					
	A. I am a member of the immediate family of the person named on the death certificate. <input type="checkbox"/> Parent (My name is on the death certificate and my parental rights have not been terminated.) <input type="checkbox"/> Brother / Sister <input type="checkbox"/> Current Spouse <input type="checkbox"/> Child <input type="checkbox"/> Maternal Grandparent <input type="checkbox"/> Paternal Grandparent <input type="checkbox"/> Current Domestic Partner (registered in the Wis. Vital Records System)					
	B. <input type="checkbox"/> I am the legal custodian or guardian of the person named on the death certificate.					
	C. <input type="checkbox"/> I am a representative authorized by any person in category A or B, including an attorney. Specify the person you represent: _____					
	D. <input type="checkbox"/> I can demonstrate the death certificate is necessary for the determination or protection of a personal or property right. Specify your interest: _____					
	E. <input type="checkbox"/> I am a direct descendent of the decedent and am requesting an uncertified copy of the death certificate. F. <input type="checkbox"/> None of the above, I am requesting an uncertified copy. (Copy will not be valid for identity purposes.) NOTE: Stepparents, stepchildren, stepbrothers / stepsisters may only obtain certified copies as categories B-D.					
<b>III. FEES</b>	PURPOSE FOR WHICH CERTIFICATE IS REQUESTED:					
	FIRST COPY FEE .....		\$ 20.00	\$20.00		
	<input type="checkbox"/> Fact of Death (without cause of death, manner of death, and final disposition) (sufficient for most financial transactions) OR <input type="checkbox"/> Extended Fact of Death (with cause of death, manner of death, and final disposition) (for insurance benefit claims)					
	EACH ADDITIONAL COPY (issued at the same time as the first copy)					
	<input type="checkbox"/> Fact of Death .....	Number of Additional Copies	X \$ 3.00	\$ 0.00		
	<input type="checkbox"/> Extended Fact of Death .....	Number of Additional Copies	X \$ 3.00	\$ 0.00		
	FEE IS NOT REFUNDABLE IF NO RECORD IS FOUND. CANCELLATION REQUESTS ARE NOT ACCEPTED.		TOTAL \$ 20.00			
Submit your application materials and fee to: STATE VITAL RECORDS OFFICE / PO BOX 309 / MADISON, WI 53701-0309						
Be sure to include: <input type="checkbox"/> completed form, <input type="checkbox"/> acceptable identification, <input type="checkbox"/> payment, <input type="checkbox"/> self-addressed, stamped, business-size envelope, and <input type="checkbox"/> any additional proof or authorization required						
Make check or money order payable to: STATE OF WIS. VITAL RECORDS						
<b>IV. DEATH RECORD INFORMATION</b>	NAME OF DECEDENT - First		Middle	Last	DATE OF DEATH (MMDDYYYY)	
	PLACE OF DEATH - County		PLACE OF DEATH - City, Village, or Town *		DECEDENT'S SOCIAL SECURITY NUMBER *	
	DECEDENT'S AGE / BIRTHDATE *		DECEDENT'S OCCUPATION *	NAME OF DECEDENT'S SPOUSE *		
	NAME OF DECEDENT'S PARENT *			NAME OF DECEDENT'S PARENT *		
I hereby attest that the information provided on this application is correct to the best of my knowledge and belief and that I am entitled to copies of the requested death certificate in accordance with the categories listed above.						
SIGNATURE (Applicant)			Date Signed (MMDDYYYY)			

Important: Signature and payment are required for processing.

\*The fields marked with an asterisk (\*) do not have to be completed. The information is helpful but not required.

**1. What is the difference between a "certified" and an "uncertified" copy of a death certificate?**

**A CERTIFIED COPY:**

- Is printed on security paper, has a raised seal, and shows the signature of the State Registrar or Local Registrar.
- Can be used for legal purposes.
- Can only be obtained with a direct and tangible interest as defined in Wis. Stat. § 69.20(1).

**AN UNCERTIFIED COPY:**

- Is printed on plain paper and marked uncertified.
- Cannot be used for identity purposes.
- Contains the same information as a certified copy.

**2. Limitations on access to cause of death information**

Uncertified copies of death records shall not include the extended fact of death (with cause of death, manner of death, and final disposition) unless 50 years have elapsed from the year in which the death occurred or the applicant has a direct and tangible interest per Wis. Stat. § 69.20(1), or is a direct descendent of the decedent.

**3. How long will it take to process my request?**

**APPLYING IN PERSON**

- Requests for **certified** copies of death certificates are usually completed within 2 business hours of application, if the death certificate is on file.
- Requests for **uncertified** copies of death certificates are not completed on the same schedule as requests for certified copies. In-person requests for uncertified copies may take up to 1 month to complete.

**APPLYING BY MAIL**

- Requests for **certified** copies of death certificates may take up to 2 weeks plus mail time to complete.
- Requests for **uncertified** copies of death certificates are not completed on the same schedule as certified copies. Mail requests for uncertified copies may take up to 1 month plus mail time.

**4. What identification is required when applying for a death certificate?**

Requests for certified copies require proof of identification. Applicant's original ID is required for in-person applications. A **photocopy** of the applicant's ID is required for mail applications.

**Expired cards or documents will not be accepted.**

Examples of acceptable forms of identification include:

- |   |                  |  |
|---|------------------|--|
| <p><b>One of these:</b></p> <ul style="list-style-type: none"> <li>• State issued driver's license or ID card</li> <li>• US Government issued photo ID</li> <li>• US or Foreign passport</li> <li>• Tribal or Military ID card</li> </ul> | <p><b>OR</b></p> | <p><b>Two of these:</b></p> <ul style="list-style-type: none"> <li>• Bank/Earnings statement</li> <li>• Current, dated, signed lease</li> <li>• Health insurance card</li> <li>• Utility bill or traffic ticket</li> <li>• Vehicle registration/title</li> </ul> |
|---|------------------|--|

**If you have questions regarding this form, please call 608-266-1373  
or visit our website at <http://www.dhs.wisconsin.gov/vitalrecords>**

## XXVI. Notice Setting Time to Hear Application and Deadline for Filing Claims

### Commentary and Instructions for [Form 3.22](#)

If the Application is not filed on waiver, use this form to simultaneously give notice to interested persons that the Application for Informal Administration ([Form 3.1](#)) has been filed and notify creditors of the time limit for filing claims.

[Wis. Stat.](#) §§ 859.02 and 859.48 require sending creditors a copy of the notice to ensure that claims are cut off. The difference between this form and [Form 3.8](#), *supra*, is that this form contemplates a hearing on the application for informal probate.

#### Contents

- #1 The probate registrar will insert the date and time.
- #2 The probate registrar will insert the filing date, which will be three to four months from the date the order is signed unless the date falls on a Saturday or Sunday or holiday.
- #3 Enter the address of the Registrar in Probate.
- #4 Enter the name(s) or address(es) of interested persons who are not known or reasonably ascertainable.
- #5 Enter the name of the newspaper designated for publication.

#### Distribution

Original: Probate registrar  
Conformed copies: Applicant, one to each interested person together with a copy of the will and list of all interested persons, all known and ascertainable creditors, newspaper, and firm file

#### References

[Wis. Stat.](#) §§ 859.01, 859.02, 859.07, 859.48, 865.05

# Form 3.22 Notice Setting Time to Hear Application and Deadline for Filing Claims (EST-0132)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)

Name \_\_\_\_\_

**Notice Setting Time to Hear Application and Deadline for Filing Claims (Informal Administration)**

Case No. \_\_\_\_\_ (Case No.)

**PLEASE TAKE NOTICE:**

1. An application for informal administration was filed.
2. The decedent, with date of birth (Date of Birth) \_\_\_\_\_ and date of death (Date of Death) \_\_\_\_\_ was domiciled in \_\_\_\_\_ (County Name) \_\_\_\_\_ County, State of \_\_\_\_\_ (State Name) \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (Decedent's Address) \_\_\_\_\_.
3. The application will be heard at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Wisconsin, Room \_\_\_\_\_, before \_\_\_\_\_, Probate Registrar, on [Date] \_\_\_\_\_ (#1) at [Time] \_\_\_\_\_ (#1).

**You do not need to appear unless you object. The application may be granted if there is no objection.**

4. The deadline for filing a claim against the decedent's estate is [Date] \_\_\_\_\_ (#2).
5. A claim may be filed at the \_\_\_\_\_ (#3) \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Wisconsin, Room \_\_\_\_\_.
6. This publication is notice to any persons whose names or address are unknown.

**\*DO NOT PRINT the following if left blank:**

The names or addresses of the following interested persons (if any) are not known or reasonably ascertainable: \_\_\_\_\_ (#4)

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with person named below for exact time and date.

Form completed by: (Name) _____	
Address _____	
Telephone Number _____	Bar Number (if any) _____

**DO NOT PRINT the following text when publishing this notice.**

**Notice to Newspaper and applicant:**

Notice must be given by publication of this notice in the following newspaper: \_\_\_\_\_ (#5)  
once a week for three consecutive weeks; the first publication date must be within 15 days from the date of this notice.

The applicant is responsible for providing a copy of this notice, a copy of the will and codicils (if any) or notice of the nature and amount of devise or bequest to all interested persons

1. by mailing at least 20 days before the hearing; **OR**
2. by personal service at least 10 days before the hearing.

The applicant/personal representative is responsible for providing the deadline for filing a claim against the decedent's estate to all known or reasonably ascertainable creditors.

## **XXVII. Letter Requesting Information on Savings and Checking Accounts and Loans and Letter to Financial Institution Concerning Safe Deposit Box**

### **Commentary and Instructions for [Forms 3.23–3.24](#)**

Use [Form 3.23](#) to obtain information on savings or checking accounts, certificates of deposit, and loans. Send a copy to the personal representative. Note that this letter does not mention the decedent's marital property interest in the surviving spouse's account. It is recommended that such information be requested by separate correspondence.

Occasionally, a decedent's safe deposit box is hard to locate. Mail [Form 3.24](#) to local banks and credit unions, where it might be possible to locate the safe deposit box. The decedent's family may be able to narrow the range of likely possibilities.

### **Contents (Letter Requesting Information on Savings and Checking Accounts and Loans)**

- #1 Include numbers for any accounts you know the decedent had at the institution.
- #2 Most financial institutions now require the personal representative to authorize release of the requested information. The personal representative should send a copy of his or her Domiciliary Letters to the institution when making the authorization.

### **Distribution**

Originals:                   Financial institution  
Conformed copies:       Personal representative and firm file



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## Form 3.23 Letter Requesting Information on Savings and Checking Accounts and Loans (EST-0133)

---

(Date)

(Financial Institution)  
(Address)

Re: Estate of (Decedent's Name)  
(Decedent's Domicile (City, State))  
Date of Death: (Date of Death)  
Social Security No. \_\_\_\_\_

To Whom It May Concern:

We have been retained to probate the estate of (Decedent's Name), who died on (Date of Death). Please supply the information requested below with regard to any accounts or certificates of deposit in the decedent's name that are either solely held or jointly held with any other individual. Please be sure to use the balance as of the date of the decedent's death and any interest accrued to the date of death.

Savings Account/Certificate of Deposit

- a. Number \_\_\_\_\_
- b. Balance \$ \_\_\_\_\_  
Plus accrued interest to (Date of Death) \$ \_\_\_\_\_
- c. Account held in name of (solely held or jointly held)  
\_\_\_\_\_
- d. Interest payment dates \_\_\_\_\_
- e. Amount of interest paid from the first of the year to (Date of Death)  
(excluding accrued interest) \$ \_\_\_\_\_

Checking Account

- a. Number \_\_\_\_\_
- b. Balance \$ \_\_\_\_\_  
Plus accrued interest to (Date of Death) \$ \_\_\_\_\_

- c. Account held in name of (solely held or jointly held)  
\_\_\_\_\_
- d. Interest payment dates \_\_\_\_\_
- e. Amount of interest paid from the first of the year to (Date of Death)  
(excluding accrued interest) \$ \_\_\_\_\_

Loans

- a. Name of borrowers (solely held or jointly held)  
\_\_\_\_\_
- b. Principal balance due as of (Date of Death)  
\$ \_\_\_\_\_
- c. Outstanding interest due to (Date of Death)  
\$ \_\_\_\_\_
- d. Payment terms
- e. Life insurance to cover outstanding balance \$ \_\_\_\_\_

Please send us a copy of any promissory or mortgage notes owing by the decedent to your institution. You may use this letter to return the information to us. Your prompt response to this letter will be appreciated.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

KNOWN ACCOUNT NOS.:

- (#1) \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

(#2) As personal representative of the above-named estate, I authorize release of the information requested to (Attorney's Name). Enclosed are copies of my Domiciliary Letters for your records.

\_\_\_\_\_  
*(PR's Name)*

**Form 3.24 Letter to Financial Institution Concerning Safe Deposit Box (EST-0134)**

---

(Date)

(Institution's Name)  
(Address)

ATTN: Safe Deposit Department

Re: Estate of (Decedent's Name)

To Whom It May Concern:

      (Decedent's Name)       of       (Decedent's Address)       died recently. We have been retained as attorneys for the estate. So far we have been unable to determine whether the decedent had a safe deposit box.

Please check your records and return this letter to advise us if the decedent had any interest in a safe deposit box at your bank.

Thank you very much.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Reply:

\_\_\_\_\_ Decedent had no safe deposit box at this bank.

\_\_\_\_\_ Decedent was the (sole) (joint) owner of box no. \_\_\_\_\_ at this bank.

\_\_\_\_\_ Name of joint owner \_\_\_\_\_

## XXVIII. Waiver of Personal Representative's Fee and Letter Forwarding Waiver of Fees to Probate Registrar

### Commentary and Instructions for [Forms 3.25–3.26](#)

Wisconsin law provides a fee for the personal representative and reimbursement for his or her out-of-pocket expenses in the administration of the estate. If the personal representative wants to waive all or part of this fee, he or she should file a waiver with the court before final accounting ([Form 3.25](#)). In some instances, a waiver is beneficial from a tax standpoint. Some courts do not require the written waiver.

If not e-filing, use [Form 3.26](#) to send the waiver to the probate court.

### Contents (Waiver of Personal Representative's Fee)

- #1 Some estates have several personal representatives. One personal representative can waive even if the others do not. Be certain who is making waivers.
- #2 Indicate whether it is the full fee or some portion of the fee that is being waived.
- #3 Choose the appropriate wording.
- #4 Enter the current date.

### Distribution

Original: File with the court  
Conformed copies: Personal representative and firm file

### References

[Wis. Stat.](#) §§ 857.05, 857.07



**Form 3.26 Letter Forwarding Waiver of Fees to Probate Registrar  
(EST-0136)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No.     (Case No.)    

Dear (Name):

With regard to the above-named estate, enclosed is a waiver of the personal representative's fees. Please file this waiver with your office.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure

## XXIX. Letter to Postmaster

### Commentary and Instructions for [Form 3.27](#)

Send this letter to the postmaster to change the decedent's address to that of the personal representative. This can also be done quickly online at USPS, *Forward Mail*, <https://www.usps.com/manage/forward.htm> (last visited Apr. 16, 2021). The postal service will charge a \$1.05 fee, and the address on file with the credit card used to pay must match the billing address.

#### Distribution

Original: Postmaster

Copy: Personal representative and firm file

**Form 3.27 Letter to Postmaster (EST-0137)**

---

(Date)

U.S. Postmaster  
(Address)

Re: Estate of (Decedent's Name)

Dear Postmaster:

We represent the estate of (Decedent's Name), who died on (Date of Death). On behalf of (PR's Name), the personal representative of the estate, we request that all mail addressed to the decedent at (decedent's last known address) be forwarded to (PR's Name) at (PR's Address).

Enclosed is a photocopy of the Domiciliary Letters issued to (PR's Name), granting (him/her) the authority to act in the capacity of personal representative.

I appreciate your attention to this matter.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure

cc: Personal Representative



## **XXX. Letter Reminding Personal Representative to Review Insurance**

### **Commentary and Instructions for [Form 3.28](#)**

The personal representative should review the insurance policies on the decedent's real property and check with the decedent's insurance agent to ensure that coverage is in place and is appropriate. Use this letter to remind the personal representative to do so.

#### **Distribution**

Original: Personal representative  
Copy: Firm file

**Form 3.28 Letter Reminding Personal Representative to Review  
Insurance (EST-0138)**

---

*(Date)*

*(PR's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(PR's Name)*:

Please review all liability insurance policies on the real property in the above-named estate and ensure that all necessary liability policies are in full force and effect and are kept current.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

---

*(Attorney's Name)*

## XXXI. Letter Requesting Information from Decedent's Employer

### Commentary and Instructions for [Form 3.29](#)

Send this letter to the decedent's employer(s) or former employer(s) to obtain information concerning all types of employee benefits and compensation (pension, profit-sharing, insurance, and so on). This information will be included on the Inventory ([Form 3.42](#)). Enclose a duplicate of the letter so that the employer can list information on it.

#### Distribution

Original:                   Employer  
Conformed copies:    Personal representative and firm file

---

## Form 3.29 Letter Requesting Information from Decedent's Employer (EST-0139)

---

(Date)

(Employer's Name)  
(Address)

Re: Estate of (Decedent's Name)

To Whom It May Concern:

We represent the estate of (Decedent's Name), whose address was (Decedent's Address), and who died on (Date of Death) at (Place of Death (City, State)), and who was (an employee/a retired employee) of your organization at the time of (his/her) death.

We understand that certain employee benefits accrued or will be payable to the decedent's beneficiaries because of (his/her) employment, which may affect the death or income tax liability, or both, of the survivor(s) or the estate.

Accordingly, we would appreciate it if you would please forward the following information to us:

1. Group insurance
  - Name of company
  - Beneficiary
  - Policy number
  - Amount of benefit
  - How payable (lump sum, installments)
  
2. Compensation
  - a. Accrued compensation to date of death
    - To whom paid (surviving spouse, children, estate)
  - b. Salary continuation such as lump-sum death benefit, monthly payment, similar continuation, or deferred compensation
    - (1) Amount
    - (2) Whether gratuitous or by a contract
  
3. Pension [or profit-sharing] payment
  - a. Whether noncontributory or contributory
  - b. If contributory
    - (1) How much did employer contribute \$ \_\_\_\_\_
    - (2) How much did employee contribute \$ \_\_\_\_\_
    - (3) Total contributions \$ \_\_\_\_\_

- c. Whether payable in lump sum or in installments
    - (1) If in installments, their nature and amount
    - (2) If lump sum, the amount of payment
  - d. Did any of the benefit payments represent life insurance proceeds? If so, please list the amount of life insurance proceeds and the cash surrender value at date of death:  

---
  - e. Is the plan exempt under I.R.C. § 401(a)?
4. Please list any other benefits not included above.

It has been our experience that the nature, amounts, and kinds of benefits that may be payable at the death of (*an employee/a retired employee*) do not follow any particular pattern and are so varied as to be unclassifiable, often with unexpected tax consequences. Therefore, we are inquiring about the entire range of possibilities.

We have enclosed a duplicate of this letter for your convenience in listing and returning the requested information. Please feel free to provide any additional information that you think may be relevant to our inquiry.

Sincerely,

(*Firm Name*)

---

(*Attorney's Name*)

Enclosure

cc: Personal Representative

## XXXII. Letter Requesting Real Estate Tax Bills

### Commentary and Instructions for [Form 3.30](#)

Send this letter to the county treasurer if the personal representative is not able to provide the tax bills for the decedent's real property for the year preceding the decedent's death. Most counties now have this information available on their websites. Most courts accept the estimated fair market value shown on tax bills for Wisconsin property as the value of the residential property. However, if a federal estate tax return is required, or if the property is vacant or commercial property, it may be advisable to secure an appraisal.

#### Contents

#1 Check with the treasurer to see if a fee is required.

#### Distribution

Original: County treasurer  
Copy: Personal representative and firm file

## Form 3.30 Letter Requesting Real Estate Tax Bills (EST-0140)

---

(Date)

(Name)  
County Treasurer  
(Address)

Re: Estate of (Decedent's Name)

Dear (Name):

We represent the estate of (Decedent's Name), who died on (Date of Death). Please send me copies of the (Year) real estate tax bill for the following properties:

1. (Property Address)  
\_\_\_\_\_  
\_\_\_\_\_
2. (Property Address)  
\_\_\_\_\_  
\_\_\_\_\_

I have enclosed our firm's check for \$ (#1), along with a postage-paid envelope.

Should you have any questions, please do not hesitate to contact me.

Sincerely,  
(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## XXXIII. Letter to Title Insurer and Letter Forwarding Title Reports

### Commentary and Instructions for [Forms 3.31–3.32](#)

Send [Form 3.31](#) to the title company to request a letter report clarifying ownership if the decedent's real estate will likely be kept by a family member. The letter report should list outstanding liens, judgments, and mortgages. If a family member is taking the real estate, he or she should know of any outstanding encumbrances. If the real estate will be sold, a commitment to insure will be required as part of the sale.

Once you receive the letter report, use [Form 3.32](#) to forward the report to the personal representative. If the report reveals any problems, add a paragraph advising the personal representative what the problem is and what needs to be done.

### Contents (Letter Forwarding Title Reports)

#1 Advise the personal representative of any title problems.

### Distribution

Original: Title company  
Copy: Personal representative and firm file



## Form 3.31 Letter to Title Insurer (EST-0141)

---

(Date)

(Name)  
(Title Insurance Co.)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Name):

With regard to the above-named estate, enclosed are the following documents:

1. Real estate tax bill for  (Year)  for  (County Name)  County
2. Copy of deed

Please issue a letter report reflecting ownership of the property at this time.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

---

(Attorney's Name)

Enclosures

## Form 3.32 Letter Forwarding Title Reports (EST-0142)

---

(Date)

(PR's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (PR's Name):

With regard to the above-named estate, enclosed are copies of the letter reports from the title company that have been received on the following properties:

1.           (Property Address)            
\_\_\_\_\_
2.           (Property Address)            
\_\_\_\_\_
3.           (Property Address)            
\_\_\_\_\_

(#1)

Also enclosed are the invoices for preparation of the letter reports. Please forward payment directly to           (title company's name)           from the personal representative's checking account.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## XXXIV. Letters to Creditors

### Commentary and Instructions for [Forms 3.33, 3.34, and 3.35](#)

After the U.S. Supreme Court's decision in *Tulsa Professional Collection Services, Inc. v. Pope*, 485 U.S. 478 (1988), the Wisconsin claims statutes were amended. See [Wis. Stat.](#) §§ 859.01, 859.02. Essentially, notice should be sent to all putative creditors at least 30 days before the claims filing date.

Use [Form 3.33](#) if the creditor was given timely notice of the right to file a claim. If notice is not timely given, creditors' rights exist until either the 30-day notice has been given or one year elapses from the date of death. Use [Form 3.34](#) if the creditor was not given timely notice of the claims filing date.

Use [Form 3.35](#) to forward the claims information to the probate registrar.

#### Contents (Letter to Creditors (Timely Notice))

- #1 When the proceedings are on waiver, use the Notice to Creditors ([Form 3.8](#)). When the proceedings are on notice, use the Notice Setting Time to Hear Application and Deadline for Filing Claims ([Form 3.22](#)).
- #2 Current filing fee for claims is \$3. [Wis. Stat.](#) § 814.66(1)(i).

#### Contents (Letter to Creditors (Late Notice))

- #1 Current filing fee for claims is \$3. [Wis. Stat.](#) § 814.66(1)(i).

#### Distribution

Original:                      Creditor  
Conformed copies:        Personal representative and firm file, extra copy for probate court if required

#### References

[Wis. Stat.](#) §§ 859.01, 859.02, 859.45, 859.48

**Form 3.33 Letter to Creditor (Timely Notice) (EST-0143)**

---

(Date)

(Creditor's Name)  
(Address)

Re: Estate of (Decedent's Name)  
(County Name) County Courthouse  
Case No. (Case No.)

To Whom It May Concern:

Our firm represents the Estate of (Decedent's Name), who died on (Date of Death).  
Enclosed is a copy of the (#1). It is sent to you as a creditor or possible creditor in the above-named estate.

Claims in the proper form, along with the (#2) filing fee, must be filed by the deadline stated in the notice to creditors. Filing is done with the Probate Registrar, at the courthouse at (Court's Address), Wisconsin.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure

**Form 3.34 Letter to Creditors (Late Notice) (EST-0144)**

---

(Date)

(Creditor's Name)  
(Address)

Re: Estate of (Decedent's Name)  
(County Name) County Courthouse  
Case No. (Case No.)

To Whom It May Concern:

We have learned that you may have a claim against the above estate and were not previously given notice of your right to file a claim. Pursuant to Wis. Stat. § 859.48, you must file a claim within 30 days after this notice or your rights will be barred.

Claims in the proper form, along with the (#1) filing fee, must be filed with the Probate Registrar, at the courthouse at (Court's Address), Wisconsin.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

**Form 3.35 Letter Forwarding Claims Information to Probate Registrar (EST-0145)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No. (Case No.)

Dear (Name):

I am providing you with copies of information forwarded to creditors who are known or reasonably ascertainable at this time. This notice is given pursuant to Wisconsin law.

Should you have any questions, please let me know.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## XXXV. Letter Forwarding Payment to Creditor and Estate Receipt

### Commentary and Instructions for [Forms 3.36–3.37](#)

If a claim has been filed in the estate, the court will require a receipt from the creditor or a letter from the creditor stating that the claim is withdrawn. The latter is commonly needed from health-care providers, who often file a claim before they receive insurance payments.

Use [Form 3.36](#) to obtain an Estate Receipt ([Form 3.37](#)) from a creditor who has filed a claim. Note that the same Estate Receipt should be used for informal, formal, and summary probate procedures.

If it is necessary to contest a claim, most courts will require that formal proceedings be used to resolve the dispute. *See infra* [Forms 4.23–4.25](#).

#### Contents (Letter Forwarding Payment to Creditor)

#1 Insert the amount paid to the creditor.

#### Contents (Estate Receipt)

- #1 Check the “personal representative” box.
- #2 Insert the amount paid to the creditor.
- #3 Check applicable box (item 2).
- #4 Insert the creditor’s name and address.
- #5 The creditor should insert the date when signing the receipt.

#### Distribution

Original:                      Creditor and, after execution, probate court  
Conformed copies:        Personal representative and firm file

#### References

[Wis. Stat.](#) §§ 863.41, 865.21

## Form 3.36 Letter Forwarding Payment to Creditor (EST-0146)

---

(Date)

(Creditor's Name)  
(Address)

Attention: Adjustment Department

Re: Claim Against Estate of (Decedent's Name)  
Account No. (Account No.)

Dear (Creditor's Name):

The personal representative of the above-named estate has advised me that full payment for \$ (#1) has been forwarded to you for the claim you filed against the estate.

Enclosed is an Estate Receipt form for full satisfaction of the claim. Please sign, date, and return the form to me immediately in the enclosed postage-paid envelope.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

---

(Attorney's Name)

Enclosures



# Form 3.37 Estate Receipt (EST-0147)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<input type="checkbox"/> Amended
IN THE MATTER OF THE ESTATE OF _____	<b>Estate Receipt</b>
(Decedent's Name) Name _____	<input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration
_____	Case No. (Case No.) _____

(#1) 1. I received from the  personal representative  special administrator of this estate the following:

Describe items of property or monies received
(#2)

(#3)  2. This is a  partial  full distribution of my share of the estate.

3. This is a full satisfaction of the claim filed by \_\_\_\_\_ in the amount of \$\_\_\_\_\_.

4. This is a distribution of funds to trust. (Identify Trust) \_\_\_\_\_

5. Other: \_\_\_\_\_

Form completed by: (Name) _____		Signature _____
Address _____	▶	( #4 ) Name Printed or Typed _____
Email Address _____		Address _____
Telephone Number _____	Bar Number (If any) _____	Email Address _____
		Telephone Number _____ ( #5 ) Date _____

## XXXVI. Letters Concerning Proof of Publication

### Commentary and Instructions for [Forms 3.38–3.40](#)

When the Proof of Publication ([Form 3.19](#)) of the Notice to Creditors ([Form 3.8](#)) and the bill for publication have been received from the newspaper, send [Form 3.38](#) to the personal representative to arrange for payment of the bill. In addition, the Proof of Publication should be forwarded to the probate registrar for filing. If not efileing, use [Form 3.39](#) to do so.

If the personal representative has not paid the publication fee directly, use [Form 3.40](#) to forward payment to the newspaper.

#### Distribution

Original: Personal representative; newspaper; probate court  
Copy: Firm file

**Form 3.38 Letter to Personal Representative Concerning Payment of  
Bill for Proof of Publication (EST-0148)**

---

*(Date)*

*(PR's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(PR's Name)*:

With regard to the above-named estate, enclosed are the following documents:

1. Copy of Proof of Publication
2. Invoice from *(name of newspaper designated for publication)*

Please make payment from the personal representative's checking account and forward it directly to *(name of newspaper designated for publication)*.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosures

**Form 3.39 Letter to Probate Registrar Concerning Proof of  
Publication (EST-0149)**

---

*(Date)*

*(Name)*  
Probate Registrar  
*(County Name)* County Courthouse  
*(Address)*

Re: Estate of *(Decedent's Name)*  
Case No.     *(Case No.)*    

Dear *(Name)*:

With regard to the above-named estate, enclosed is the Proof of Publication to be filed with your office.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosure

**Form 3.40 Letter Forwarding Publication Fee (EST-0150)**

---

*(Date)*

*(Newspaper)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

To Whom It May Concern:

With regard to the above-named estate, enclosed is our firm's check for \$ *(Amount)* for the cost of legal publication.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

---

*(Attorney's Name)*

Enclosure

## XXXVII. Letter to Personal Representative or Relative Regarding Inventory

### Commentary and Instructions for [Form 3.41](#)

Send this letter to the personal representative or any relative who is assisting you with the Inventory ([Form 3.42](#)). If used as a cover letter requesting the personal representative to sign the original Inventory, the signature must be notarized and the letter must be altered.

## Form 3.41 Letter to Personal Representative or Relative Regarding Inventory (EST-0151)

---

*(Date)*

*(PR's or Relative's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(PR's or Relative's Name)*:

We are enclosing a copy of the Inventory, which we believe includes a complete list of all property in which *(Decedent's Name)* had an interest as of the date of *(his/her)* death.

Please examine the Inventory carefully. If you know of any additional property, please advise us of it immediately. Unless we hear from you to the contrary, we will assume that the Inventory is complete as far as you know, and we will file it with the court.

If you have any questions, please get in touch with us.

Sincerely,

*(Firm Name)*

---

*(Attorney's Name)*

Enclosure

## XXXVIII. Inventory

### Commentary and Instructions for [Form 3.42](#)

The Inventory lists all property subject to administration that was owned by the decedent, as valued at the date of the decedent's death. The personal representative must verify that the Inventory includes all such property. The Inventory must be exhibited to the probate registrar but need not be filed. The Master Information List: Property Passing Through Probate Estate provides an orderly way of collecting information on assets and values. MIL Schedules 11–16 can be attached to the Inventory. *See supra* [ch. 1](#).

The informal probate statutes require furnishing a copy of the Inventory to all interested persons. In some counties the court may allow the formal probate proceeding of Notice of Inventory on File ([Form 4.27](#)) to be used (the personal representative sends a notice that the Inventory is on file and that a copy of the Inventory will be sent on request). *See* [Form 4.27](#). Although not specifically required by statute, an Affidavit of Mailing is often prepared and filed when the Inventory or the notice is sent to the interested persons. *See* [Form 4.9](#) for an example of how to prepare the Affidavit of Service.

[Form 3.42](#) illustrates how an inventory, attachments, and summary of schedules would be prepared using the Fact Pattern of the Hart Estate found in [chapter 6, \*infra\*](#). For more information on efilings an inventory, see Wis. Court Sys., *eFiling an Inventory or Exhibited Inventory*, <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibinventory.pdf> (last updated Sept. 2018).

### Contents

- #1 **Property Subject to Administration.** This section summarizes the gross value of all property subject to administration, the total liens and other encumbrances or charges, and the net value on which the probate filing fee is based.
- #2 **Classification of Property.** If the decedent was married, the Inventory serves to classify property as marital or nonmarital. On the attached schedules, indicate marital property using an asterisk or other clear designation.
- #3 Show the value of financial institution and brokerage accounts, stocks, bonds, mutual funds, etc., as of date of death, including accrued interest.
- #4 For real estate, it is recommended to reflect how value determined (i.e., whether by appraisal or property tax assessment).
- #5 List nonprobate assets on separate page to document value and tax basis, but this is not filed with Register in Probate.
- #6 **Property Not Subject to Administration.** Property not subject to administration is no longer required to be shown on the Inventory. However, listing it “for informational purposes only” provides a record that can be sent to the DOR to establish tax basis.
- #7 **Filing Fee.** A fee of 0.2% of the value of the property subject to administration must be paid when filing the form, with a minimum fee of \$20. *See* [Wis. Stat.](#) § 814.66(1)(a). Some counties may also require a forms filing fee. When efilings the inventory, the filing fee must be paid at the time of filing. The author usually uses the estate's checking account and routing number to pay.



**Distribution**

Original: Probate registrar  
Conformed copies: Personal representative, each interested person, and firm file

**References**

[Wis. Stat. § 865.11](#)

**Form 3.42 Inventory (EST-0152)**

STATE OF WISCONSIN, CIRCUIT COURT, <u>DANE</u> COUNTY	<input type="checkbox"/> Amended <b>Inventory</b> <input checked="" type="checkbox"/> <b>Informal Administration</b> <input type="checkbox"/> <b>Formal Administration</b>
IN THE MATTER OF THE ESTATE OF <u>William O. Hart</u> Name <u>Deceased</u>	Case No. <u>20-PR-9999</u>

**UNDER OATH, I STATE:**

As personal representative, I certify that to the best of my knowledge this inventory with schedules includes:

1. All property subject to administration.
2. Any encumbrance, lien or other charge against each item of property.
3. Identification of marital property, if any.

I will furnish a copy of this inventory to all persons interested as required by law.

SUMMARY OF PROPERTY SUBJECT TO ADMINISTRATION <small>(Value of Decedent's Interest on date of death)</small>	Date of Death 02/01/2020
Total value of property subject to administration	\$ 5,087,900.00
Minus total value of encumbrances, liens or other charges against each item of property	(\$ 1,200.00)
Net Value of Property Subject to Administration (cannot be less than \$0)	\$ 5,086,700.00

**Provide itemized lists on attached schedules and clearly designate any marital property interests.**

**NOTE:** A statutory filing fee must accompany this form.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

► \_\_\_\_\_  
Personal Representative  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

► \_\_\_\_\_  
Personal Representative  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

Number	<b>Supporting Inventory Schedules</b> (Description of property including digital property as defined under §711.03(10), Wis. Stats., legal description of real estate, and related encumbrances, liens or other charges against each item.) <b>Clearly designate marital property.</b>	<b>Value of Decedent's Interest on Date of Death</b>
	Marital Property items are indicated with an *	
	Marital Property titled in the name of William O. Hart	
1*	BROKERS OF AMERICA Account No.: 111222 Titled: William Hart (No accrued income) Decedent's 1/2 Marital Share valued using Estate Valuation	\$1,900,000.00
2*	BEST BANK AND TRUST Checking Account No.: 3607622 Titled: William O. Hart (No accrued income) Decedent's 1/2 Marital Share valued using Estate Valuation	\$125,000.00
3*	UNCASHED PAYCHECK FROM BEST WORKS, INC. Payee: William O. Hart Decedent's 1/2 Marital Share	\$1,500.00
4*	2018 TOYOTA CAMRY LE 4-DOOR SEDAN VIN: Titled: William O. Hart Valued at Kelley Blue Book Decedent's 1/2 Marital Share	\$8,500.00
5*	FIRST BROKERAGE Account No. 2323232 Titled: William Hart (No accrued income) Decedent's 1/2 Marital Share valued using Estate Valuation	\$37,250.00
	Marital Property titled in the name of Ruth Hart	
6*	BEST BANK AND TRUST CDs No.: 222333 Titled: Ruth Hart Decedent's 1/2 Marital Share	\$475,000.00
7*	BEST BANK Checking Account No.: 324456 Titled: Ruth Hart Decedent's 1/2 Marital Share	\$2,500.00
8*	UNCASHED PAYCHECK FROM BEST WORKS, INC. Payee: Ruth Hart Decedent's 1/2 Marital Share	\$1,000.00
9*	2018 FORD TAURUS 4-DOOR SEDAN VIN: Titled: Ruth Hart Decedent's 1/2 Marital Share	

INFORMAL PROBATE

	Valued at Kelley Blue Book	\$10,000.00
10*	FIRST BROKERAGE Stock Dividend Payable to: Ruth Hart Decedent's 1/2 Marital Share	\$50.00
	Individual Property	
11	VACATION HOME 2357 W. Glenview Road Lake Bluff, IL Parcel No.: 54-545454 Titled: William O. Hart Valued at appraisal	\$2,500,000.00
12	HUNTING EQUIPMENT Estimate Value	\$1,600.00
13	FIRST BROKERAGE Account No.: 2323232 Titled: William Hart Individual Property Component	\$25,500.00
	TOTAL VALUE SUBJECT TO PROBATE	\$5,087,900.00
	MINUS ENCUMBRANCES, LIENS OR OTHER CHARGES	
	AUTOMOBILE LOAN - FORD TAURUS Best Bank and Trust Loan No.: 8675309 Outstanding Balance: \$2,400.00 Decedent's 1/2 Marital Property Interest	(\$1,200.00)
	NET VALUE SUBJECT TO PROBATE	\$5,086,700.00

## XXXIX. Inventory Exhibited and Letters Forwarding Inventory

### Commentary and Instructions for [Forms 3.43–3.45](#)

[Wis. Stat.](#) § 865.11(2) requires only that the Inventory in informal proceedings be exhibited to the probate registrar. In many cases, the Inventory is not even filed. In such cases, the probate registrar may require that a form be filed to certify that the Inventory has been exhibited and the fees have been paid. The attorney may prepare the Inventory Exhibited ([Form 3.43](#)) for the probate registrar’s signature. In some counties, a county employee will prepare the Inventory Exhibited. For more information on efileing an inventory exhibited, see Wis. Court Sys., *eFiling an Inventory or Exhibited Inventory*, <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibinventory.pdf> (last updated Sept. 2018).

Some courts require—and most prefer—that the Inventory be filed. Check with the probate registrar of the county in which the estate is being administered as to local practice and make appropriate modifications to the letter forwarding the Inventory. If the forwarded Inventory is to be filed rather than simply exhibited, do not prepare an Inventory Exhibited. If not efileing, use [Form 3.44](#) to forward to the probate registrar the Inventory, the filing fee, and, if appropriate, the Inventory Exhibited. If efileing, note that only one copy of documents needs to be filed, online payment is needed, and the attorney can print filed copies of documents.

Send [Form 3.45](#) to each beneficiary who receives a copy of the Inventory.

#### Contents (Inventory Exhibited)

- #1 Enter the value shown in the Inventory.
- #2 Enter the fee.

#### Contents (Letter Forwarding Inventory to Probate Registrar)

- #1 Enter the fee.
- #2 Include if copy of Inventory is sent to interested persons before filing. If done later, omit the Affidavit.
- #3 Add if Inventory is not being filed.

#### Distribution

Original: Probate registrar  
Confirmed Copies: Personal representative and firm file

#### References

[Wis. Stat.](#) §§ 865.11, 851.74

**Form 3.43 Inventory Exhibited (EST-0153)**

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of

      (Decedent's name)      ,  
Deceased

**INVENTORY  
EXHIBITED**

Case No.       (Case No.)      

The Inventory in the above-entitled matter was exhibited, pursuant to Wis. Stat. § 865.11(2), to the court on \_\_\_\_\_. The net value of property subject to administration is \$   (#1)  , thereby setting the filing fee due and owing at \$   (#2)   pursuant to Wis. Stat. § 814.66(1)(a)2. The filing fee was paid on \_\_\_\_\_.

**Form 3.44 Letter Forwarding Inventory to Probate Registrar  
(EST-0154)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No.     (Case No.)    

Dear (Name):

With regard to the above-named estate, attached are the following documents:

1. Inventory
2. \$     (#1)     for the inventory filing fee
- (#2) 3. Affidavit of Mailing
- (#3) 4. Original and one copy of the Inventory Exhibited

(Choose appropriate alternative)

*(Please file these documents with your office./Please return the Inventory and a conformed copy of the Inventory Exhibited in the postage-paid, pre-addressed envelope provided.)*

(Continue)

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

**Form 3.45 Letter Forwarding Inventory to Beneficiaries (EST-0155)**

---

(Date)

(Beneficiary's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Beneficiary's Name):

With regard to the above-named estate, enclosed is a copy of the Inventory for your records.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure



## XL. Marital Property Settlement Information and Worksheet

### Commentary and Instructions for [Forms 3.46–3.47](#)

For probate purposes, the Marital Property Act uses the item-by-item rule instead of the aggregate rule ([Wis. Stat.](#) § 861.01). Under the item-by-item rule, after the death of one spouse, the surviving spouse owns an undivided one-half interest in each item of former marital property. Therefore, after the death of one spouse, the surviving spouse and the estate of the deceased spouse will own the former marital property assets as tenants in common. If all assets of the deceased spouse pass to the surviving spouse, then the issue of each spouse owning a one-half interest becomes irrelevant since the surviving spouse obtains ownership of the entire asset. Keep in mind, however, that income from the deceased spouse's interest in marital property must be reported on the estate income tax return.

The situation is much different if marital property assets of the deceased spouse pass to a beneficiary other than the surviving spouse. In such cases, the surviving spouse and the estate of the deceased spouse should exchange their undivided interests among themselves so that the surviving spouse and beneficiaries of the estate own entire assets rather than partial interest in each asset. Similarly, if the assets of the deceased spouse up to the amount of the federal estate tax exemption are to be distributed to a credit shelter trust for estate tax planning purposes, the surviving spouse and the estate of the deceased spouse should exchange their undivided interests among themselves so that the surviving spouse and credit shelter trust own entire assets.

[Form 3.46](#) illustrates how a marital property exchange would be prepared using the Fact Pattern for the William O. Hart Estate found in [chapter 6](#), *infra*. [Form 3.46](#) assumes that the estate passes to a credit shelter trust for the benefit of the decedent's surviving spouse (for purposes of this illustration).

[Form 3.46](#) can be signed by the surviving spouse and the personal representative to document the agreement. If a more formal agreement is desired, [Form 3.47](#) can be used. If a court order is desired, use [Form 3.48](#), Petition for Approval of Marital Property Exchange Agreement, and [Form 3.49](#), Order Approving Marital Property Exchange Agreement, *infra*. Note that under [Wis. Stat.](#) § 766.31(3)(b), a court order approving the exchange is not required.

The question arises whether a marital property exchange is a taxable event for federal and Wisconsin income tax purposes. In a series of Revenue Rulings and Private Letter Rulings, the IRS has confirmed that an equal non-pro-rata division of community property between living spouses is not an income taxable event. In several rulings, the IRS has extended these holdings to the equal non-pro-rata division of community property after the death of one spouse. Perhaps significantly, however, in each of the rulings involving the division of community property after the death of one spouse, either the terms of the governing trust instrument or applicable state law expressly authorized the trustee to make non-pro-rata distributions of property.

In response to this apparent uncertainty, 2005 Wis. Act 216 created a new provision. Under [Wis. Stat.](#) § 766.31(3)(b)3., a surviving spouse and a distributee who is a successor in interest to all or a part of a deceased spouse's interest in marital property may petition the court to approve an exchange of interest in marital property authorized by an agreement described in [Wis. Stat.](#) § 766.31(3)(b)1. or 2. Court approval of the exchange, however, is not required for such an agreement to be effective. Under [Wis. Stat.](#) § 71.05(6)(a)16. and (b)12., an exchange of former

marital property interest between a surviving spouse and a distributee of the decedent spouse under [Wis. Stat. § 766.31\(3\)\(b\)](#) will be treated as a nontaxable exchange for Wisconsin income tax purposes.

The Estate Account ([Form 3.65](#)) will include the income accrued on the marital property in the estate before distribution to the estate beneficiaries.

Form 3.46 Marital Property Settlement Worksheet (EST-0156)

William O. Hart									
Marital Exchange of Assets with Ruth Hart									
Effective Date of Exchange: 2-1-2020									
VERSION 1									
	Col A	Col 1 [% Col A]	Col 2 [% Col A]	Col 3 [Exchange]	Col 4	Col 5 [Col 1 + Col 3]	Col 6 [Col 2 + Col 4]		
	Current Title	William's Estate Value	Ruth Value	William's Estate Value	Ruth Value	William's Estate Value	Ruth Value	William's Estate Value	Ruth Value
1	Marital Assets Available for Exchange								
1	First Brokerage Account X3232	\$74,500.00	\$37,250.00	\$37,250.00	(\$37,250.00)	\$74,500.00	\$0.00		
2	Brokers of America Account X1222	\$3,800,000.00	\$1,900,000.00	\$1,218,250.00	(\$1,218,250.00)	\$3,118,250.00	\$681,750.00		
3	Best Bank & Trust Checking Account X7622	\$250,000.00	\$125,000.00	(\$125,000.00)	\$125,000.00	\$0.00	\$250,000.00		
4	Uncashed Paycheck for William	\$3,000.00	\$1,500.00	(\$1,500.00)	\$1,500.00	\$0.00	\$3,000.00		
5	Best Bank & Trust Certificate of Deposit No. X2333	\$950,000.00	\$475,000.00	(\$475,000.00)	\$475,000.00	\$0.00	\$950,000.00		
6	Best Bank Checking Account X4456	\$5,000.00	\$2,500.00	(\$2,500.00)	\$2,500.00	\$0.00	\$5,000.00		
7	Uncashed Paycheck for Ruth	\$2,000.00	\$1,000.00	(\$1,000.00)	\$1,000.00	\$0.00	\$2,000.00		
8	Best Bank & Trust Savings Account XXXX	\$1,301,000.00	\$650,500.00	(\$650,500.00)	\$650,500.00	\$0.00	\$1,301,000.00		
	Totals	\$6,385,500.00	\$3,192,750.00			\$3,192,750.00	\$3,192,750.00		
				Cash to Balance (if necessary)		\$0.00	\$0.00		
						\$3,192,750.00	\$3,192,750.00		
	Marital exchange of assets acknowledged and agreed upon as of February 1, 2018								
	Ruth Hart								
	Personal Representative of the William O. Hart Estate								
	Ruth Hart, Individual								
	Estate Assets to Family Trust								
	Less estate expenses:								
	Funeral expenses (\$10,500.00)								
	Probate and publication fees (\$10,388.40)								
	Legal fees and disbursements (\$1,000,000.00)								
	Credit card and misc bills (\$1,250.00)								
	Net Assets to Family Trust \$3,070,711.60								
	Note: Does not include marital assets passing to specific beneficiaries								

## Form 3.47 Marital Property Exchange Agreement (EST-0157)

---

**WHEREAS**, [Decedent's Name] and [Spouse's Name] owned marital property in their separate names and in their joint names before [Decedent's Name]'s death;

**WHEREAS**, [Trustee's Name] (hereinafter "Trustee") is the Trustee of the [Name] Trust, the residual beneficiary of [Decedent's Name]'s Will; and

**WHEREAS**, [Spouse's Name], as surviving spouse, and the Trustee as a distributee of [Decedent's Name]'s estate, would like to enter into an exchange agreement pursuant to Wis. Stat. § 766.31(3)(b) to separate [Decedent's Name] and [Spouse's Name]'s interests in certain assets classified as marital property, in order to simplify the administration of such assets.

**NOW, THEREFORE**, it is agreed by the parties:

1. The following marital property assets shall be affected by this Agreement:

- a. Assets titled in [Decedent's] name:

		<u>Current Value</u>	
		<u>DOD Value</u>	<u>"Date"</u>
#1	"Assets"		
	<b>Total</b>	<b>"Amount"</b>	<b>"Amount"</b>

- b. Assets titled in [Spouse's] name

- #2 Assets titled in both names:

		<u>Current Value</u>	
		<u>DOD Value</u>	<u>"Date"</u>
#3	"Assets"		
	<b>Total</b>	<b>"Amount"</b>	<b>"Amount"</b>

2. Total assets subject to this Agreement: \$"Amount"

Total value of assets to be allocated to [Decedent]'s name: \$"Amount"

Total value of assets to be allocated to [Spouse]'s name: \$"Amount"

3. The following assets shall be allocated to [Decedent's name]'s estate:

		<u>Current Value</u>	
		<u>DOD Value</u>	<u>"Date"</u>
#5	"Assets"		
	<b>Total</b>		<b>"Amount"</b>

4. The following assets shall be allocated to [Spouse's name]:

#6	"Assets"	<u>DOD Value</u>	<u>Current Value</u> "Date"
	<b>Total</b>		<b>"Amount"</b>

5. [Name of Personal Representative] in her/his capacity, individually and as Personal Representative of [Name of Decedent]'s estate, agrees to execute all necessary documents to carry out the terms of this Agreement upon an entry of an order of the \_\_\_\_\_ County Circuit Court approving this Agreement.

6. [Spouse's Name] and the Trustee agree that this exchange is intended to be a tax-free exchange under federal and Wisconsin tax laws, but are aware that there is some uncertainty regarding the tax-free status of the transaction for federal tax purposes. The parties agree that they shall have no claims against each other if the final determination of the taxability of this exchange is adverse to them.

7. This exchange shall be completed within ten (10) days following the entry of an order of the [County Name] County Circuit Court approving this exchange agreement (delete if court order not being obtained).

8. This Agreement shall be binding on the heirs, personal representatives, successors, and assigns of the parties hereto.

**IN WITNESS WHEREOF**, this Agreement has been executed in duplicate this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

**[Trustee Name], as  
Trustee of the [Trust Name] Trust**

By: \_\_\_\_\_  
**[Name of Personal Representative],  
 individually and as Personal  
 Representative of the Estate of  
 [Name of Decedent]**

## **XLI. Petition for Approval of Marital Property Exchange Agreement**

### **Commentary and Instructions for [Form 3.48](#)**

Note that the petition contains an assertion that those signing are all the interested persons. This eliminates the need for giving any notices. [Wis. Stat.](#) § 879.01 requires any petition in probate to include the names of all interested persons.

#### **Contents**

- #1 Insert name of spouse and personal representative
- #2 Insert name of Trustee

#### **Distribution**

Originals: Probate Registrar  
Confirmed Copy: Persons executing petition, and firm file

#### **References**

[Wis. Stat.](#) § 766.31(3)(b)



## **XLII. Order Approving Marital Property Exchange**

### **Commentary and Instructions for [Form 3.49](#)**

A conformed copy of the Order together with the Marital Property Exchange Agreement should be provided to the preparer of the income tax returns for the estate and the surviving spouse.

#### **Contents**

- #1 Insert name of spouse and personal representative
- #2 Insert name of trustee



---

**Form 3.49 Order Approving Marital Property Exchange Agreement  
(EST-0159)**

---

---

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

---

In the Matter of the Estate of

(Decedent's name),  
Deceased

**ORDER APPROVING  
MARITAL PROPERTY  
EXCHANGE AGREEMENT**

Case No. (Case No.)

---

The joint petition of (#1) and (#2), representing that they are the only persons interested in the above trust and requesting the court to approve a Marital Property Exchange Agreement pursuant to Wis. Stat. § 766.31(3)(b), having been filed, and

The Court being satisfied that the matter may be heard without notice, and being fully informed in the premises

**IT IS ORDERED** that the Marital Property Exchange Agreement attached to the petition for approval of the same be and hereby is approved in said form and the Personal Representative and the Trustee of the \_\_\_\_\_ Trust are authorized to take all necessary steps to consummate the Agreement.

## XLIII. Statement of Termination and Confirmation of Interest(s) in Property

### Commentary and Instructions for [Form 3.50](#)

[Wis. Stat.](#) § 865.20 permits the personal representative to file a verified statement describing property in which the decedent had an interest as a joint tenant or life tenant. Filing the statement terminates the joint tenancy or life estate. Similarly, [Wis. Stat.](#) § 865.201 authorizes filing a verified statement describing property in which the decedent had a marital property interest. Filing the statement confirms termination of the decedent's interest in survivorship marital property or an interest passing by nontestamentary disposition under a marital property agreement ([Wis. Stat.](#) § 766.58(3)(f)). [Form 3.50](#) can be used to file either statement.

If the property consists of real estate, it is recommended that a certified copy or duplicate original of [Form 3.50](#) be recorded in the register of deeds' office, so that title will be merchantable.

When preparing [Form 3.50](#), include any recording data. Valuations need not be included. [Form 3.52](#), *infra*, can be used in lieu of this form in an appropriate situation.

#### Contents

- #1 Indicate whether the decedent had an interest or interests in a joint tenancy, life estate, survivorship marital property, or property passing by nontestamentary disposition under [Wis. Stat.](#) § 766.58(3)(f).
- #2 Provide the required information.

#### Distribution

Original: Probate Registrar  
Conformed copies: Register of deeds (certified, or duplicate original), personal representative, and firm file

#### References

[Wis. Stat.](#) § 865.20



## **XLIV. Statement of Transfer of Interest in Property**

### **Commentary and Instructions for [Form 3.51](#)**

Under [Wis. Stat.](#) § 865.202, the personal representative may terminate the decedent's interest in property by filing with the probate registrar a verified statement describing the property and specifying the persons entitled to receive it. When this form is used to transfer an interest in real property, the personal representative must record a certified copy or duplicate original of the form in the register of deeds office in each county where real property is located.

#### **Contents**

- #1 Provide the required information.
- #2 Enter the name(s) of the distributee(s).

#### **Distribution**

Original(s): Probate registrar and register of deeds  
Conformed copies: Personal representative and firm file

#### **References**

[Wis. Stat.](#) § 865.202

# Form 3.51 Statement of Transfer of Interest in Property (EST-0161)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

## Statement of Transfer of Interest in Property Informal Administration (§865.202, Wis. Stats.)

Case No. \_\_\_\_\_ (Case No.)

### UNDER OATH, I VERIFY:

1. This estate was closed using a Personal Representative Statement to Close (PR-1816) form.
2. The decedent had an interest in property (**other than** an interest in joint tenancy, life estate, survivorship marital property, interest in real property with a designated transfer on death beneficiary or interest passing by nontestamentary disposition under a marital property agreement) and this interest was transferred pursuant to probate.
3. The decedent's property interest and the person receiving the property is as follows:  See attached

Description of Property and Recording Data from creating document (If any)	Person Receiving Property
(#1)	(#2)

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/ Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/ Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

▶ \_\_\_\_\_  
 Personal Representative  
 (PR's Name)  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (if any)

▶ \_\_\_\_\_  
 Personal Representative  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (if any)

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

**XLV. Termination of Decedent's Interest (HT-110/TOD-110)****Commentary and Instructions for [Form 3.52](#)**

Use [Form 3.52](#) to terminate a joint tenancy or life estate in real estate, a mortgage, or the vendor's interest in a land contract. The form can also be used to confirm transfer of property interest at death to a person or trust specified in a marital property agreement under [Wis. Stat. § 766.58\(3\)\(f\)](#), an interest in property that is survivorship marital property, a third-party confirmation, or a nonprobate transfer on death (T.O.D.) described in [Wis. Stat. § 705.10\(1\)](#). The form can also be used to allow transfer of real estate by T.O.D. designation. Upon recording, the application constitutes prima facie evidence of the facts recited and constitutes termination of the property interest with the same force and effect as if issued by the court assigned to exercise probate jurisdiction over the county of domicile of the decedent. [Wis. Stat. §§ 867.045\(4\), 867.046\(5\)](#). This form and instructions are available from the county register of deeds or through the website of the Wisconsin Register of Deeds Association at <https://www.wrdaonline.org>.

**Contents (Termination of Decedent's Interest)**

- #1 Check applicable box.
- #2 Attach the deed, mortgage, T.O.D. deed, or land contract.
- #3 If the attached document does not describe real estate, attach legal description.
- #4 Describe financial assets or personal property on attached pages.
- #5 Enter required information.

**Distribution**

Original: Register of deeds  
Copies: Personal representative and firm file

**References**

[Wis. Stat. §§ 867.045, 867.046, 705.10](#)

# Form 3.52 Termination of Decedent's Interest (HT-110/TOD-110) (EST-0162)

## TERMINATION OF DECEDENT'S INTEREST

DECEDENT'S NAME	DATE OF DEATH
DECEDENT'S ADDRESS AT DATE OF DEATH	CITY STATE ZIP

THE INTEREST OF THE DECEDENT IN THE PROPERTY LEGALLY DESCRIBED HEREIN IS TERMINATED PURSUANT TO THE FOLLOWING WISCONSIN STATUTE AND TRANSFERRED AS PROVIDED BY STATUTES:

- (#1)  **867.045** – real property in which the decedent was a joint tenant, had a vendor's or mortgagee's interest, or had a life estate.
- 867.046** - property of a decedent specified in a marital property agreement, survivorship marital property; a third party confirmation; or a nonprobate transfer on death as described in 705.10(1) or 705.15.

Recording Area \_\_\_\_\_  
Name and Return Address: \_\_\_\_\_

DOCUMENT UNDER WHICH DECEDENT'S INTEREST IN THE PROPERTY IS NOW TERMINATED – Copy(ies) of which is/are attached:

- (#2) Recorded Document No. \_\_\_\_\_ Volume \_\_\_\_\_ Page \_\_\_\_\_
- Deed  Transfer on Death  Land Contract  Mortgage
- Other \_\_\_\_\_
- Unrecorded Document:  Marital Property Agreement  Other \_\_\_\_\_

Parcel Identification Number: \_\_\_\_\_  
SEND TAX STATEMENT TO: \_\_\_\_\_

DESCRIPTION OF THE PROPERTY TRANSFERRED (check all that apply):

- REAL PROPERTY - legal description as set forth in the attached/referenced and previously recorded document
- (#3)  REAL PROPERTY - current legal description *if different* than the foregoing document
- (#4)  NON-REAL PROPERTY – property identified in the attached document, inc. digital property, bank accounts and securities

Name(s) and address of owner(s) of the property immediately after the decedent's death; <u>attach additional names &amp; addresses if more than one owner.</u>  (#5)	Interest of the signer of this document in the property:
	<input type="checkbox"/> joint tenant <input type="checkbox"/> remainder person if a life estate <input type="checkbox"/> mortgagee <input type="checkbox"/> land contract vendor <input type="checkbox"/> decedent's spouse <input type="checkbox"/> beneficiary of a marital property agreement <input type="checkbox"/> beneficiary of a transfer under 705.10(1) or 705.15 <input type="checkbox"/> other: _____

**DECLARATION:** To the best of undersigned's knowledge and belief, the undersigned declares that this document is true, accurate, complete and in conformity with the provisions and limitations of the Wisconsin Statutes.

DATE: \_\_\_\_\_

DECLARANT SIGNATURE

X \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Signed and sworn to (or affirmed) before me on \_\_\_\_\_  
by \_\_\_\_\_

THIS DOCUMENT WAS DRAFTED BY:

\_\_\_\_\_

Print Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission (is permanent) (expires \_\_\_\_\_).

THIS IS A STANDARD FORM. ANY MODIFICATIONS TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.  
TERMINATION OF DECEDENT'S INTEREST - Wisconsin Reg. of Deeds Association form HT-110 and TOD-110. Version 6.21.18

## XLVI. Letter Regarding Life Insurance and Life Insurance Statement for Insured Decedent (IRS Form 712)

### Commentary and Instructions for [Forms 3.53–3.54](#)

Use [Form 3.53](#) to ask the decedent's life insurance company to provide you with the necessary claim forms and a list of procedures to follow to file a claim.

For all policies that insured the life of a decedent, it is important to determine the name(s) of the owner(s), the primary beneficiaries, and the contingent beneficiaries, before any claims are filed. If claims are filed without the proper owners and beneficiaries having been determined, opportunities for tax and estate planning may be missed. It is also important to determine as early as possible whether an assignment of a policy has been made.

A copy of IRS Form 712 ([Form 3.54](#)) *must* be attached for each policy listed in MIL Section 17. Form 712 must also be included as an attachment to the Federal Estate Tax Return ([Form 6.5](#)). See sections [6.1–.19](#), *infra* (Estate and Income Taxes), for more information about tax returns. (Tax forms are available from the IRS's website at <https://www.irs.gov>.)

If the policy is payable to the estate or personal representative, the proceeds will be subject to administration.

The amount shown in line 24 or 25 should equal the total of lines 15 through 23. This total, minus postmortem dividends (line 22), is the amount to carry forward to Schedule D of the federal estate tax return.

Note that Part II of this form covers any policies owned by the decedent that insure someone else's life. The value included, as shown by the information supplied by the insurance company, is the cost of a comparable contract. If such contract is not available, the value is the interpolated terminal reserve plus the proportionate part of the last premium paid before the date of valuation. This value is included in MIL Section 15.

For federal estate tax purposes, the amount to carry forward to Schedule F of the federal estate tax return is the amount shown either at line 58f or 59e as applicable.

### Distribution

Original: Insurance company; attach completed IRS Form 712 received from insurance company to IRS Form 706  
Conformed copies: Personal representative and firm file

### References

IRS Form 706, Schedules D, F



## Form 3.53 Letter Regarding Life Insurance (EST-0164)

---

(Date)

(Life Insurance Company's Name)  
(Address)

Re: Estate of (Decedent's Name)  
Date of Death: (Date of Death)  
Policy No. (Policy No.)

To Whom It May Concern:

We are assisting (PR's Name) with the administration of (Decedent's Name)'s estate. We have in our possession the above-referenced policy from your company insuring the life of (Decedent's Name). Were any other policies issued by your company insuring (Decedent's Name)?

Please send me the necessary forms required to make a claim and inform me of any other documents that you will need to complete a claim. Also, we would like to know the following:

1. Who is the owner of the policy?
2. Who is named as primary beneficiary?
3. Who is named as contingent beneficiary?
4. Was any assignment made of the policy?

Finally, please prepare and deliver to me an IRS Form 712 for the policy.

Thank you for your assistance in this matter. If you have any questions or concerns, do not hesitate to contact me.

Sincerely,

(Firm Name)

---

(Attorney's Name)

# Form 3.54 Life Insurance Statement for Insured Decedent (IRS Form 712) (EST-0165)

Form **712**  
(Rev. April 2006)  
Department of the Treasury  
Internal Revenue Service

## Life Insurance Statement

OMB No. 1545-0022

**Part I Decedent—Insured** (To be filed by the executor with Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.)

<b>1</b> Decedent's first name and middle initial	<b>2</b> Decedent's last name	<b>3</b> Decedent's social security number (if known)	<b>4</b> Date of death
<b>5</b> Name and address of insurance company			
<b>6</b> Type of policy		<b>7</b> Policy number	
<b>8</b> Owner's name. If decedent is not owner, attach copy of application.	<b>9</b> Date issued	<b>10</b> Assignor's name. Attach copy of assignment.	<b>11</b> Date assigned
<b>12</b> Value of the policy at the time of assignment	<b>13</b> Amount of premium (see instructions)	<b>14</b> Name of beneficiaries	

<b>15</b> Face amount of policy	<b>15</b> \$
<b>16</b> Indemnity benefits	<b>16</b> \$
<b>17</b> Additional insurance	<b>17</b> \$
<b>18</b> Other benefits	<b>18</b> \$
<b>19</b> Principal of any indebtedness to the company that is deductible in determining net proceeds	<b>19</b> \$
<b>20</b> Interest on indebtedness (line 19) accrued to date of death.	<b>20</b> \$
<b>21</b> Amount of accumulated dividends	<b>21</b> \$
<b>22</b> Amount of post-mortem dividends	<b>22</b> \$
<b>23</b> Amount of returned premium	<b>23</b> \$
<b>24</b> Amount of proceeds if payable in one sum	<b>24</b> \$
<b>25</b> Value of proceeds as of date of death (if not payable in one sum)	<b>25</b> \$
<b>26</b> Policy provisions concerning deferred payments or installments. <b>Note.</b> If other than lump-sum settlement is authorized for a surviving spouse, attach a copy of the insurance policy.	
<b>27</b> Amount of installments	<b>27</b> \$
<b>28</b> Date of birth, sex, and name of any person the duration of whose life may measure the number of payments.	
<b>29</b> Amount applied by the insurance company as a single premium representing the purchase of installment benefits	<b>29</b> \$
<b>30</b> Basis (mortality table and rate of interest) used by insurer in valuing installment benefits.	
<b>31</b> Were there any transfers of the policy within the three years prior to the death of the decedent?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>32</b> Date of assignment or transfer: _____ / _____ / _____ Month Day Year	
<b>33</b> Was the insured the annuitant or beneficiary of any annuity contract issued by the company?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>34</b> Did the decedent have any incidents of ownership on any policies on his/her life, but not owned by him/her at the date of death?	<input type="checkbox"/> Yes <input type="checkbox"/> No
<b>35</b> Names of companies with which decedent carried other policies and amount of such policies if this information is disclosed by your records.	

The undersigned officer of the above-named insurance company (or appropriate federal agency or retirement system official) hereby certifies that this statement sets forth true and correct information.

Signature ▶ _____	Title ▶ _____	Date of Certification ▶ _____
For Paperwork Reduction Act Notice, see page 3.	Cat. No. 10170V	Form <b>712</b> (Rev. 4-2006)

**Part II Living Insured**

(File with Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return. May also be filed with Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States, where decedent owned insurance on life of another.)

**SECTION A—General Information**

<b>36</b> First name and middle initial of donor (or decedent)	<b>37</b> Last name	<b>38</b> Social security number
<b>39</b> Date of gift for which valuation data submitted		
<b>40</b> Date of decedent's death for which valuation data submitted		

**SECTION B—Policy Information**

<b>41</b> Name of insured	<b>42</b> Sex	<b>43</b> Date of birth
<b>44</b> Name and address of insurance company		
<b>45</b> Type of policy	<b>46</b> Policy number	<b>47</b> Face amount
		<b>48</b> Issue date
<b>49</b> Gross premium		<b>50</b> Frequency of payment
<b>51</b> Assignee's name		<b>52</b> Date assigned
<b>53</b> If irrevocable designation of beneficiary made, name of beneficiary	<b>54</b> Sex	<b>55</b> Date of birth, if known
		<b>56</b> Date designated
<b>57</b> If other than simple designation, quote in full. Attach additional sheets if necessary.		

<b>58</b> If policy is not paid up: <b>a</b> Interpolated terminal reserve on date of death, assignment, or irrevocable designation of beneficiary <b>b</b> Add proportion of gross premium paid beyond date of death, assignment, or irrevocable designation of beneficiary <b>c</b> Add adjustment on account of dividends to credit of policy <b>d Total.</b> Add lines 58a, b, and c. <b>e</b> Outstanding indebtedness against policy <b>f</b> Net total value of the policy (for gift or estate tax purposes). Subtract line 58e from line 58d	<b>58a</b>		
	<b>58b</b>		
	<b>58c</b>		
	<b>58d</b>		
	<b>58e</b>		
	<b>58f</b>		
<b>59</b> If policy is either paid up or a single premium: <b>a</b> Total cost, on date of death, assignment, or irrevocable designation of beneficiary, of a single-premium policy on life of insured at attained age, for original face amount plus any additional paid-up insurance (additional face amount \$ ) (If a single-premium policy for the total face amount would not have been issued on the life of the insured as of the date specified, nevertheless, assume that such a policy could then have been purchased by the insured and state the cost thereof, using for such purpose the same formula and basis employed, on the date specified, by the company in calculating single premiums.) <b>b</b> Adjustment on account of dividends to credit of policy <b>c Total.</b> Add lines 59a and 59b <b>d</b> Outstanding indebtedness against policy <b>e</b> Net total value of policy (for gift or estate tax purposes). Subtract line 59d from line 59c	<b>59a</b>		
	<b>59b</b>		
	<b>59c</b>		
	<b>59d</b>		
	<b>59e</b>		

The undersigned officer of the above-named insurance company (or appropriate federal agency or retirement system official) hereby certifies that this statement sets forth true and correct information.

Signature ▶

Title ▶

Date of Certification ▶

## **XLVII. Letter to Stockbroker, Letter of Instruction (Securities), and Affidavit of Domicile**

### **Commentary and Instructions for [Forms 3.55–3.57](#)**

Use [Form 3.55](#) to forward documents to a stockbroker when the estate needs to sell or transfer securities. Use [Form 3.56](#) to instruct the broker to sell a security. An Affidavit of Domicile ([Form 3.57](#)) and stock power is required for each person whose securities are being transferred. Note that the broker may prefer its own forms, many of which are available on the internet.

Check with the broker to see how many copies of death certificates and Domiciliary Letters ([Form 3.16](#)) are required. Some brokers require only one copy for the broker's records, but some transfer agents for a specific security may want these documents.

### **Contents (Letter to Stockbroker)**

#1 There can be more than one letter of instruction. See [Form 3.56](#).

### **Distribution**

Original: Broker  
Copy: Personal representative and firm file

## Form 3.55 Letter to Stockbroker (EST-0166)

---

(Date)

(Stockbroker's Name)  
(Brokerage)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Stockbroker's Name):

With regard to the above-named estate, enclosed are the following documents for processing:

1. Original stock certificates for the following:

(list issuers)

2. Letters of Instruction (#1)
3. Affidavit of Domicile
4. Stock powers
5. One certified copy of (Decedent's Name)'s death certificate
6. One certified copy of (PR's Name)'s Domiciliary Letters

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

---

(Attorney's Name)

Enclosures

**Form 3.56 Letter of Instruction (Securities) (EST-0167)**

---

(Date)

(Stockbroker's Name)  
(Brokerage)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Stockbroker's Name):

As personal representative of the above-named estate, I enclose the following stock certificate:

(list information)

Please sell the enclosed stock and any other shares in decedent's name. The sale proceeds should be made payable to:

Estate of (Decedent's Name)  
c/o (PR's Name)  
(PR's Address)  
Tax Identification No.  (Tax Identification No.)

Please forward the proceeds to:

(PR's Name)  
(PR's Address)

Thank you very much.

Sincerely,

\_\_\_\_\_  
(PR's Name)

**Form 3.57 Affidavit of Domicile (EST-0168)**

STATE OF WISCONSIN \_\_\_\_\_ COUNTY

**AFFIDAVIT OF DOMICILE**

I, (PR's Name), being sworn, state:

1. I reside at (PR's Address), (County Name), Wisconsin; I am personal representative of the estate of (Decedent's Name), deceased, and my appointment is in full force and effect as of this date;
2. At the time of *(her/his)* death, the decedent's domicile was (Decedent's Address), (County Name), Wisconsin and *(he/she)* had been a resident of the State of Wisconsin since \_\_\_\_\_;
3. This affidavit is made for the purpose of selling all funds in the following accounts:  
*(list accounts)*; and
4. The accounts at the time of (Decedent's Name)'s death were located in the *(City/Town/Village)* of (Municipality's Name), Wisconsin, and were not used in business outside the state of Wisconsin.

\_\_\_\_\_  
*(PR's Name)*

Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.

This notarial act involved the use of communication technology.

## XLVIII. Letter Forwarding Deed for Recording

### Commentary and Instructions for [Form 3.58](#)

When real property is distributed out of an estate, the conveyance is done by a personal representative's deed (State Bar Form 5). Use [Form 3.58](#) to forward the deed to the register of deeds. When real property is distributed from an estate, no transfer tax form is required.

Note that, before submitting the deed to the register of deeds, the DOR requires an electronic real estate transfer return to be completed online. See DOR, *Electronic Real Estate Transfer Fee*, <https://www.revenue.wi.gov/Pages/RETr/Home.aspx> (last visited Apr. 20, 2021). Once the attorney has completed the return, the attorney will receive a transfer receipt with a summary of all information entered.

#### Contents

#1 The current recording fee is \$30. [Wis. Stat.](#) § 59.43(2)(ag)1.

#### Distribution

Original: Register of deeds  
Copy: Personal representative and firm file

#### References

[Wis. Stat.](#) §§ 77.25(11), 77.255



## Form 3.58 Letter Forwarding Deed for Recording (EST-0169)

---

(Date)

(Name)  
Register of Deeds  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No.           (Case No.)          

Dear (Name):

With regard to the above-named estate, enclosed are the following items:

1. Personal Representative's Deed
2. \$           (#1)           for the recording fee

Please record the deed with your office and return the deed to me in the enclosed postage-paid envelope.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## **XLIX. Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir (MV2300), Wisconsin Title & License Plate Application (MV1), and Letter Forwarding Statement for Transfer of Vehicles and Title to DOT**

### **Commentary and Instructions for [Forms 3.59–3.61](#)**

By filing the Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir ([Form 3.59](#)), a surviving spouse, domestic partner, or heir can receive up to five motor vehicles registered in the deceased's name. [Wis. Stat.](#) § 342.17(4)(b)3. The form is available from the Department of Transportation's Division of Motor Vehicles. The statement does not affect any liens against the vehicle by a creditor or the DOR for inheritance taxes. The cost for a surviving spouse and domestic partner is \$0 per vehicle transferred, and \$164.50 for surviving heirs, and these costs are set forth in [Form 3.59](#). A completed certificate of title and a Wisconsin Title & License Plate Application ([Form 3.60](#)) must accompany the statement. Under certain circumstances, more than five vehicles can be transferred. See [Wis. Stat.](#) § 342.17(4)(b)3., 4.

➤ **Note.** The Statement of Transfer of Vehicles and the Wisconsin Title & License Plate Application are available through the Department of Transportation's website at Vehicle Registration Forms and Publications, <https://wisconsin.gov/Pages/dmv/vehicles/frms-pubs/veh-forms.aspx> (last visited Apr. 20, 2021).

Use [Form 3.61](#) to forward to the Department of Transportation the required materials, including the Statement of Transfer of Vehicles and the Wisconsin Title & License Plate Application.

### **Contents (Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir)**

#1 Identify the vehicles.

### **Contents (Wisconsin Title & License Plate Application)**

#1 Describe the vehicle being transferred.

#2 If the vehicle is being transferred to the surviving spouse or domestic partner, check the applicable box.

#3 If there is a lien on the motor vehicle, give the name of the secured party (lienholder).

### **Distribution**

Original: Department of Transportation  
P.O. Box 7949  
Madison, WI 53707-7949

Conformed copies: Surviving spouse, domestic partner, or heir and firm file



# Form 3.60 Wisconsin Title & License Plate Application (MV1) (EST-0171)

**WISCONSIN TITLE & LICENSE  
PLATE APPLICATION**  
MV1-1 10/2019  
Processor ID No. Received - Date - Opened



Title No. - New License Plate No.



Amount Received - Document No.  
Check Cash CC

DO NOT WRITE ABOVE THIS LINE. Complete form using BLUE or BLACK INK.

Check any that apply (see instructions)

Clear

Instructions

- Title Only
- Salvage
- Police
- Flood Damaged
- Hail Damaged
- Homemade
- Taxi
- Replica
- Street Modified
- Reconstructed

### Section A - New Vehicle Owner Information

Owner Legal Name (Last, First, Middle Initial OR Business Name)  Opt Out regarding open records laws (see instructions) Birth Date (D.O.B.)  
(Applicant's Name)

Owner Social Security Number - Required OR Wisconsin Driver License Number - Required OR FEIN Number (if company owned) - Required

Co-Owner Name (if any) (Last, First, Middle Initial) Birth Date Co-Owner Social Security # or Driver License # or FEIN Number - Required  
(check one)  OR  AND

Street Address (include P.O. Box if applicable) City State ZIP Code Owner Day time (Area Code) Telephone Number  
(Applicant's Address)

If this is a leased vehicle, list Lessee Name Lessee Social Security # or Driver License # or FEIN Number - Required

Lessee Street Address City State ZIP Code Lessee Day time (Area Code) Telephone Number

### Section B - Vehicle Information

Vehicle Identification Number (standard VIN has 17 characters) WI License Plate to Transfer or Temporary Plate Plate Type

(#1)

Year Make Type (Car, Truck, Van, etc.) Color Fleet No. (Optional) Date You First Drove This Vehicle in Wisconsin

Check box if plates transferred between spouses/domestic partners (Ch. 770). License plates cannot be transferred between other family members. (#2) OF: (County Name)    OF: (Municipality Name)

### Section C - Non-Operation

The vehicle described on this application has not been operated upon public highways between dates indicated. From: Through:

### Section D - Loan Information - Use this section if you are adding a new loan

Name of Lending Agency(s) or Person(s) Secured Party Number(s) (Area Code) Telephone Number

Street Address (include P.O. Box if applicable) City State ZIP Code

### Section E - Fees

Title Fee - \$164.50	\$ 164.50
Purchase Price	\$
Less trade-in allowance	\$
Amount subject to tax	\$
State Sales Tax	\$
Local Sales Tax	\$
Loan Filing Fee - \$10	\$
License Plate Fee - Required (check one)	\$
<input type="checkbox"/> Passenger Vehicle	\$85
<input type="checkbox"/> Light Truck (private operation only):	
4,500 pounds gross weight or less	\$100
6,000 pounds gross weight or less	\$100
8,000 pounds gross weight or less	\$106
<input type="checkbox"/> Other License Plate Types (see information at right)	
Miscellaneous Fees (see instructions to determine if any apply)	
Annual Electric or Hybrid Vehicle Surcharge	\$
Wheel Tax	\$
Motor Carrier Class Fee from Section F	\$
Temporary Plate Fee - \$3	\$
Counter Service Fee - \$5 (if you apply in person at WisDOT)	\$
Processing Fee	\$
<b>ENTER FEE TOTAL</b>	<b>\$ 164.50</b>

Pay title fee if you are changing the owner(s) on the title, or titling the vehicle in Wisconsin for the first time. To obtain a replacement title please use form MV2119, Replacement Title Application. See instructions to determine which taxes apply. If tax exempt, enter code. If tax exempt selected is: 1 Qualifying Family Member. Enter qualifying family member relationship. If other, list reason. For other plate types see Section F on back of this page. Enter plate type and gross weight if applicable and registration period. Note: For Heavy Vehicles that qualify for Consecutive Monthly or Quarterly registration, see back page of instructions for more information.

MAIL the original vehicle title (not a copy), application and check to:  
**WI Dept. of Transportation**  
**P.O. Box 7949**  
**Madison WI 53707-7949**  
**Make Check Payable To: Registration Fee Trust**

**PAGE 2 MUST ALSO BE COMPLETED**

MV1-2 10/2019

\*No charge to transfer current license plates. (See Section "B" of instructions)

Remember to print a copy for yourself.

Print



Section F – License Plate Types

Vehicle type and use determines the vehicle registration. Fees shown are annual unless otherwise indicated.

**Automobile**  AUT\* Passenger Vehicle/Auto Fee = \$85. Check if   
 TMP Intransit/Temporary Operation 30/90 day plate to operate a vehicle except buses, For Hire or IRP vehicles. Fee = \$3.

**Motorcycle**  CYC\* Motorcycle of less than 1,500 lbs. Two-year registration only. Plates expire in April of even numbered years. Fee = \$23   
 MPD Moped (a maximum speed of 30 mph, 50 cc or less if automatic transmission, 130 cc or less if operative pedals) Two-year registration only - plates expire in April of even numbered years. Fee = \$23

**Recreation**  MTM\* Motor Home used as temporary or recreational dwelling. Fee = Column "H" of fee schedule.   
 RVT RV Trailer (walls rigid, collapsible or non-collapsible - for human habitation.) Show length at right. Fee = \$15

**Farm**  FRM\* Farm Truck used primarily for transporting my farm produce and supplies and NOT for traveling to and from a non-farm occupation (if 38,000 pounds or more, truck must be used EXCLUSIVELY for transporting farm produce and supplies.) Fee = Column "E" of fee schedule.   
 Farm Truck Tractor used EXCLUSIVELY for transporting supplies, farm equipment and products. Annual Fee = Column "J" of fee schedule.   
 DPF\* Dual Purpose Farm (Farm and non-farm activity) register at gross wt. when used for non-farm occupation. Farm activity, maximum gross wt. is 12,000 lbs. Fee = Column "A" of fee schedule.   
 FTL Farm Trailer used exclusively for farm purposes. Fee = Column "F" of fee schedule.

**Truck and/or Tractor**  HTK Truck operated at 8,000 lbs. or more privately or under authority. } Fee = Column "A" of fee schedule.   
 LTK\* Truck operated at 8,000 lbs. or less privately or under authority. } Check Consecutive Monthly Registration block if applicable.   
 DPV\* Dual Purpose Truck changes between a truck and motor home. (Registered at gross wt. when used as a truck)   
 DAIRY Motor vehicle transporting Dairy Products EXCLUSIVELY. } Fee = Column "C" of fee schedule if truck-tractor, "D" if truck, "F" if trailer.   
 WOOD Vehicle transporting Raw Forest Products EXCLUSIVELY. } Must qualify by Wisconsin Statute   
 TOR Truck Tractor normally used with semi-trailer. Fee = Column "B" of fee schedule, or if used as road tractor, column "A" of fee schedule.

**Trailer**  SEMI Semi-trailer used with a Truck Tractor. Fee = \$50. for non-expiring, not transferable plates   
 TRL Trailer registration is optional for private operation 3,000 lbs. or less. Fee = \$50.00. If over 3,000 lbs., registration required. Fee = Column "G" of fee schedule. Trailer for rental or For Hire must be registered. Check Consecutive Monthly Registration block if applicable

**Bus**  BUS Bus capacity = 16 or more persons. Fee = Column "A" of fee schedule   
 BBX Urban Mass Transportation Bus Fee = \$5. (5 year plate)   
 BSB School Bus Fee = \$5. (5 year plate) Pre-sale inspection required

**GOV Plates**  Official (Star)  Municipal (Tan)  State Owned (Red) } Fee of \$5 for new plate issued, \$1 for plate transfer.   
 Unmarked (choose one):  Auto  Light Truck Weight \_\_\_\_\_ lbs.  Cycle

**Special Use**  HSV Human Service Vehicle Fee = \$85. Funded by WisDOT transportation assistance   
 DEV\* Driver Education Vehicle Fee = \$5. (5 year plate)   
 SPZ Vehicle owned privately and used exclusively for one of the following. Fee = Column "F" of fee schedule.   
 Seasonal hauling of carnival rides & equipment  Transporting grading, ditching, or excavating equipment   
 SUX Special Mobile Equipment – refer to form MV2953 for more information.   
 SPX Vehicle owned, operated and used exclusively for one of the following. Fee = \$5. (5 yr. plate)   
 Motor Bus for charitable purposes.  Motor Bus for parade participants  Other qualifying vehicles

**Special Plates** A full listing of special plates and applications is available at [wisconsin.gov/specialplates](http://wisconsin.gov/specialplates).   
 AMA Amateur Radio (FCC License) – [wisconsin.gov/specialplates](http://wisconsin.gov/specialplates)   
 CLS Vehicle Collector Special Plate used on a vehicle by a collector instead of regular plates. Fee = Regular registration plus \$15 issuance fee. Show Collector Plate #:   
 OTHER Special Plate (Other) - Attach Application

VEHICLE will be used "For Hire" Authority Number:

MOTORCYCLE/MOPED manufactured for highway use and displays required Federal Certification Label.   
 NOTE: If this box is not checked, the entire application will be returned.

RV TRAILER LENGTH:

**MOTOR CARRIER CLASS** Include \$5 permit fee if operating vehicle ONLY in Wisconsin. No permit fee is required for semi-trailers. Check one:   
 Private - No permit fees (1)   
 Rental - Private (5)   
 Rental - For Hire - \$5 (6)   
 Rental - Private & For Hire - \$5 (7)   
 Intrastate (operate inside Wisconsin only) For Hire, PC or LC - \$5 (8)   
 Interstate (operate outside Wisconsin) For Hire (9)   
 Interstate - Exempt For Hire (3)   
 Interstate - Exempt/Intrastate For Hire (4)   
 NOTE: All For Hire Carriers must show Authority Number(s) (LC, MC, PC, RC)

Authority Number(s):   
 Apply for a US DOT Number:   
 Phone: 1-800-632-5660   
 Internet: [www.safeftrucks.gov](http://www.safeftrucks.gov)

CONSECUTIVE MONTHLY REGISTRATION Used exclusively for one of the following:   
 • To transport concrete pipe or block and related materials, calcium chloride liquid, recycled metal salvage materials, logs or cutwood, dirt, fill or aggregates, fresh milk, perishable fresh fruits or vegetables for canning, freezing, dehydrating or storage prior to processing, including return of waste, petroleum products, or as a weight transfer machine for purposes associated with truck or tractor pulling competitions or events.   
 • To transport gravel, concrete or cement and bituminous road construction materials, or agricultural lime, feed, grain or fertilizer.   
 • As a Motor Truck or Truck-Tractor owned or leased by a retail lumberyard used exclusively to transport building construction materials from retail lumberyards to building construction sites.   
 • To tow stalled or disabled vehicles.

**PASSENGER CAPACITY**   
 Bus School Bus HSV   
 School Bus approved for registration:

**Section G – MAILED APPLICATIONS ONLY – eNotify Electronic Renewal Notification** [wisconsin.gov/enotify](http://wisconsin.gov/enotify)   
 Sign up to receive your renewal notices electronically! Instructions will be emailed to the address below:   
 \_\_\_\_\_   
 \_\_\_\_\_

**Section H – Consent to Purchase**

UNDER 18 YEARS OLD	I certify that I have legal custody of the person named as owner and consent to the purchase by such person and registration of the vehicle described in the applicant's name.	Date Signed	Signature (legal custodian, parent or guardian)
NOTARY PUBLIC	County _____ Date my commission expires _____ Date subscribed and sworn to before me _____		Notary Signature _____

Vehicle Owner Certification – If an owner is under 18 years old, complete Consent to Purchase (Section H) above.   
I (we) certify that the information and statements on this application are true and correct. Commercial Carrier: I further certify that I have knowledge of applicable federal and state motor carrier safety rules, regulations, standards, and orders, and declare that all operations will be conducted in compliance with such requirements.

X \_\_\_\_\_ (Owner/Lessee Signature) \_\_\_\_\_ (Date) X \_\_\_\_\_ (Co-Owner/Lessee Signature) \_\_\_\_\_ (Date)

**Form 3.61 Letter Forwarding Statement for Transfer of Vehicles and  
Title to DOT (EST-0172)**

---

(Date)

Wisconsin Department of Transportation  
P.O. Box 7949  
Madison, WI 53707-7949

Re: Estate of *(Decedent's Name)*

To Whom It May Concern:

With regard to the above-named estate, enclosed are the following items:

1. Wisconsin Title & License Plate Application (MV1)
2. Statement for Transfer of Vehicles to a Surviving Spouse (MV2300)
3. Wisconsin Certificate of Title
4. Our firm's check for \$ *(Amount)* for the transfer fee
5. Certified copy of *(Decedent's Name)*'s death certificate

If these documents meet with your approval, please issue a new vehicle title in the name of *(Surviving Spouse's Name)* and return it to me in the enclosed postage-paid envelope.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosures

## L. Petition and Order for Extension of Time and Letter Forwarding Petition and Order to Extend Time

### Commentary and Instructions for [Forms 3.62–3.64](#)

If the estate cannot be closed within the 18 months required by [Wis. Stat.](#) § 863.35, it is advisable to petition for an order extending the time to close the estate ([Form 3.62](#)) *before* the court inquires why the estate is still open. While some courts will initiate the process on delinquent estates with a letter, others will immediately issue an order to show cause as prescribed by the statute. It is advisable to petition for an extension before the court independently issues any letter or order.

Note that some counties require estates to be closed in one year regardless of the 18 months allowed by statute.

If the estate cannot be closed for more than one reason, all reasons should be shown in the petition. Local practice varies considerably. While most courts will allow the attorney to petition for extension, some courts require the personal representative to do so. Attorneys should contact the probate registrar to determine the practice in the county where the estate is being administered.

Courts rarely allow an extension for more than one year, and may require a shorter time. If the estate cannot be closed within the extension, another petition or petitions will be necessary.

If not e-filing, use [Form 3.64](#) to send a copy of the petition and order to the court and to request that the probate registrar return a conformed copy of the order ([Form 3.63](#)). If e-filing, note that the petition and proposed order are separately filed, and the signed order can be printed from the e-filing portal.

### Distribution

Original: Probate registrar  
Copy: Probate registrar, personal representative, firm file

### References

[Wis. Stat.](#) § 863.35

**Form 3.62 Petition for Extension of Time (EST-0173)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE MATTER OF THE ESTATE OF _____ _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <b>Petition for Extension of Time</b> <input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration Case No. _____ (Case No.)
--	--

1. I am the  attorney  personal representative  special administrator for this estate.
  
2. I request that the court extend the time to
  - file the Inventory for this estate until [Date] \_\_\_\_\_.
  - complete this estate until [Date] \_\_\_\_\_.
  
3. The reason(s) that the deadline(s) for this estate needs to be extended is
  - a. Tax clearances are outstanding:
    - Federal Tax returns were filed or will be filed on [Specific Date] \_\_\_\_\_.
    - Wisconsin Tax returns were filed or will be filed on [Specific Date] \_\_\_\_\_.
  - b. Civil Case Pending:
    - Case No. \_\_\_\_\_ County \_\_\_\_\_ Next hearing date is \_\_\_\_\_.
  - c. Real estate needs to be sold or problems with the sale/distribution of the land.
  - d. Deficit estate and unresolved claims or unsatisfied specific bequests are outstanding.
  - e. Disputes with heirs/beneficiaries are unresolved.
  - f. Contested issues pending – Next hearing date is \_\_\_\_\_.
  - g. Other: \_\_\_\_\_

Additional explanation for reason(s) indicated above: \_\_\_\_\_  See attached

Form completed by: (Name) _____ Address _____ Email Address _____ Telephone Number _____ Bar Number (if any) _____	_____ Attorney/Personal Representative/ Special Administrator _____ Name Printed or Typed _____ Address _____ Email Address Telephone Number _____ Date State Bar No. (if any)
---	---



**Form 3.63 Order for Extension of Time (EST-0174)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

---

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
 (Decedent's Name)  
 Name \_\_\_\_\_

**Order for Extension of Time**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.)

The court reviewed the Petition requesting the court extend the time to  file the inventory for this estate.  
 complete this estate.

**THE COURT ORDERS:**

- 1. The request for extension is approved until (Date) \_\_\_\_\_.
- 2. The Petition is denied.
- 3. Other: \_\_\_\_\_

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (if any)

**Form 3.64 Letter Forwarding Petition and Order for Extension of  
Time (EST-0175)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No. (Case No.)

Dear (Name):

Enclosed please find the original Petition for Extension of Time to close the above-named estate and the original and a copy of the proposed order. If the court grants the Petition, please return a conformed copy of the Order for Extension of Time to me in the enclosed postage-paid envelope.

If you have any questions about the proposed petition, please give me a call.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## LI. Estate Account

### Commentary and Instructions for [Form 3.65](#)

Instructions for preparing the Estate Account when closing the estate informally are given below. Note that the Estate Account need not be filed with, but only displayed to, the probate registrar. Note also that some counties do not require a Final Account in informal proceedings. However, it may be necessary for tax purposes.

[Form 3.65](#) illustrates how an Estate Account would be prepared using the Fact Pattern of the Hart Estate, found in [chapter 6](#), *infra*.

#### Contents

- #1 If a federal estate tax return was filed, the closing date must be set after the date the estate tax closing letter was received. The closing date should occur when the estate can be readily closed, pending payment of such items as attorney and personal representative's fees and distributions to residuary beneficiaries.
- #2 Interested persons are only those beneficiaries of the estate (or the GAL if the beneficiary is a minor or incompetent person or the attorney if the beneficiary is a person in the military service) who have not received their entire distribution from the estate. For example, if a specific bequest under the will has been distributed to the beneficiary (and is so reflected in the Final Account), that beneficiary is no longer an interested person. However, if the beneficiary receives a specific bequest and is also a remainderman of the estate, he or she remains an interested person for purposes of the Final Account.
- #3 The value of inventoried assets should be the gross value of property subject to administration as set forth on the Inventory ([Form 3.42](#)). Mortgages and liens on such property will be listed when paid under the debts schedule. See MIL Section 16. Accrued items from the Inventory (for example, interest and dividends) may be subtracted on the Final Account to avoid counting the same items twice. This can be done on inventoried assets or Final Account Schedule A and shown as a negative figure.
- #4 List the totals from the attached schedules.
- #5 Under [Wis. Stat.](#) § 857.05, the personal representative's fee is computed at two percent of the net inventory value of property subject to administration, plus any net corpus gains in the estate proceeding (or at a different rate agreed upon in writing). The court may allow the personal representative additional sums in cases of unusual difficulty or extraordinary services.
- #6 If a GAL, or an attorney for a person in the military service, was appointed, ask the GAL or attorney to submit a bill for services rendered to the estate.
- #7 Attach the appropriate schedules. The final schedule should be Schedule O, which summarizes the proposed distribution of the residue of the estate. See MIL Section 37. If necessary, break out totals between income and principal. The recapitulation of the schedule totals, on the front page of the Estate Account, should be filled out.
- #8 The signature of the personal representative on the Estate Account should be dated and notarized; the date must be after the closing date of the Estate Account.

**Distribution**

Original: Probate registrar

Conformed copies: Firm file, one sent with Wisconsin fiduciary income tax return, and one to each interested person.

**References**

[Wis. Stat.](#) § 865.16, ch. 863

**Form 3.65 Estate Account (EST-0176)**

STATE OF WISCONSIN, CIRCUIT COURT, DANE COUNTY

IN THE MATTER OF THE ESTATE OF

William O. Hart  
Name

Deceased

Amended

Interim

Final

Supplemental  
Estate Account

Informal Administration

Formal Administration

Case No. 20-PR-9999

**UNDER OATH I VERIFY:**

I am the  personal representative  special administrator of this estate and this estate account is true and correct. The following is my account of the administration of this estate from [Date of Death or Date of prior estate account] February 1, 2020 to [Date] (insert applicable date). **List interested persons on page 2.**

RECEIPTS	TOTAL	DISBURSEMENTS	TOTAL
Net Value of property, subject to administration from Inventory (or assets on hand as of last estate account)	5,086,700.00	Funeral Expenses Schedule (F)	10,500.00
Added Property to which the decedent was entitled to on Date of Death not included in Inventory or prior Estate Account, including refunds.			
Schedule (A)	0.00	Debts of Decedent (G)	1,250.00
Dividends (B)	1,125.00	Claims (including those by judgment) (H)	0.00
Interest (C)	80.00	Taxes Paid (I)	0.00
Capital Gains (Losses) (D)	0.00	Interest Paid (J)	0.00
Other Receipts (E)	0.00	Administration Expenses (K)	110,288.40
		Other Payments (L)	0.00
		Distributions Paid to Date (M)	5,048,616.60
		<b>TOTAL DISBURSEMENTS</b>	<b>5,082,855.00</b>
		<b>Assets on Hand (N)</b>	<b>5,050.00</b>
<b>TOTAL</b>	<b>5,087,905.00</b>	<b>TOTAL</b>	<b>5,087,905.00</b>

Totals in each column must be the same.	
Proposed distribution of Assets on Hand (Schedule O)	5,050.00
Total Fees paid during administration:	
Personal Representative:	
Guardian Ad Litem:	
Special Administrator:	
Attorney:	100,000.00

State of \_\_\_\_\_  
County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Personal Representative/Special Administrator

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

INFORMAL PROBATE

State of _____ County of _____ Subscribed and sworn to before me on _____ _____ Notary Public/Court Official _____ Name Printed or Typed My commission/term expires: _____ <input type="checkbox"/> This notarial act involved the use of communication technology.	_____ Personal Representative/Special Administrator _____ Name Printed or Typed _____ Address _____ Email Address _____ Telephone Number _____ _____ Date _____ State Bar No. (if any) _____
---	---

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

ESTATE ACCOUNT SUPPORTING SCHEDULE		
List of Interested Persons		
The names and mailing addresses of all interested persons are as follows: (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)		
Name	Mailing Address	If Minor, Date of Birth
Ruth Hart	1105 Fish Hatchery Road Madison, WI 53715	
Mary Hart	6061 North Third Street Racine, WI 53403	
Lewis Hart	McArthur AFB Okinawa, Japan	
Jane Hart	1105 Fish Hatchery Road Madison, WI 53715	01/15/2003

PR-1814, 05/20 Estate Account (Informal Administration and Formal Administration)      §§862.01, 862.05, 862.07, 862.11 and 865.16(1)(c), Wisconsin Statutes  
 This form shall not be modified. It may be supplemented with additional material.  
 Page 2 of 4

CHAPTER 3

Schedule (A - O)	Estate Account Supporting Schedules (List details of each schedule)	Amount
	RECEIPTS Net Value of property, subject to administration from Inventory	\$5,086,700.00
A	Added Property None Total Added Property	\$0.00 \$0.00
B	Dividends First Brokerage - Account No. XXX Second Brokerage - Account No. XXX Total Dividends	\$750.00 \$375.00 \$1,125.00
C	Interest Best Bank and Trust - Account XXX Total Interest	\$80.00 \$80.00
D	Capital Gains (Losses) None Total Capital Gain (Losses)	\$0.00 \$0.00
E	Other Receipts None Total Other Receipts	\$0.00 \$0.00
	TOTAL RECEIPTS	\$5,087,905.00
	DISBURSEMENTS	
F	Funeral Expenses Best Funeral Expenses Total Funeral Expenses	\$10,500.00 \$10,500.00
G	Debts Credit card debts (1/2) Miscellaneous bills (1/2) Total Debts	\$500.00 \$750.00 \$1,250.00
H	Claims None Total Claims	\$0.00 \$0.00
I	Taxes Paid None Total Taxes Paid	\$0.00 \$0.00
J	Interest Paid None Total Interest Paid	\$0.00 \$0.00
K	Administration Expenses Circuit Court of Dane County - probate filing fee BestEver Attorneys - attorney disbursements Best Newspapers - publication fee BestEver Attorneys - attorney's fees Total Administration Expenses	\$10,173.40 \$50.00 \$65.00 \$100,000.00 \$110,288.40
L	Other Payments None Total Other Payments	\$0.00 \$0.00





## LII. Estate Receipt and Letter Forwarding Estate Receipt to Probate Registrar

### Commentary and Instructions for [Forms 3.66–3.68](#)

[Form 3.66](#) illustrates a receipt for specific bequests, which are often distributed early in the administration of the estate. [Form 3.67](#) illustrates a receipt for residual bequests.

[Wis. Stat.](#) § 865.21 requires that receipts be filed. Many attorneys file receipts with the probate registrar as soon as practical after the receipts have been executed. Use [Form 3.68](#) to do so.

#### Contents (Estate Receipt: Specific Bequest)

- #1 Check the “personal representative” box.
- #2 Insert the bequest and the pertinent paragraph of the will (e.g., “stamp collection having a value of \$6,000, per Article III, paragraph 2”).
- #3 Check applicable box.
- #4 The recipient should sign and date the receipt.

#### Contents (Estate Receipt: Residual Bequest)

- #1 Check the “personal representative” box.
- #2 Insert the bequest and the pertinent paragraph of the will (e.g., “cash of \$63,294, per Article IV, paragraph 1”).
- #3 Check applicable box.
- #4 The recipient should sign and date the receipt.

#### Distribution

Original: Probate registrar  
Copy: Beneficiary, personal representative, and firm file

#### References

[Wis. Stat.](#) §§ 863.41, 863.45, 865.21

Form 3.66 Estate Receipt: Specific Bequest (EST-0177)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<input type="checkbox"/> Amended
IN THE MATTER OF THE ESTATE OF _____	<b>Estate Receipt</b>
(Decedent's Name) Name _____	<input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration
_____	Case No. _____ (Case No.)

(#1) 1. I received from the  personal representative  special administrator of this estate the following:

Describe items of property or monies received
(#2)

(#3)  2. This is a  partial  full distribution of my share of the estate.

3. This is a full satisfaction of the claim filed by \_\_\_\_\_ in the amount of \$\_\_\_\_\_.

4. This is a distribution of funds to trust. [Identify Trust] \_\_\_\_\_

5. Other: \_\_\_\_\_

Form completed by: (Name)	
Address	▶ _____ Signature (#4)
Email Address	_____ Name Printed or Typed
Telephone Number	_____ Address
Bar Number (If any)	_____ Email Address
	_____ Telephone Number                      Date

# Form 3.67 Estate Receipt: Residual Bequest (EST-0177)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<input type="checkbox"/> Amended
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name)	<b>Estate Receipt</b>
Name _____ _____	<input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration
Case No. _____ (Case No.)	

(#1) 1. I received from the  personal representative  special administrator of this estate the following:

Describe items of property or monies received
(#2)

(#3)  2. This is a  partial  full distribution of my share of the estate.

3. This is a full satisfaction of the claim filed by \_\_\_\_\_ in the amount of \$\_\_\_\_\_.

4. This is a distribution of funds to trust. [Identify Trust] \_\_\_\_\_

5. Other: \_\_\_\_\_

Form completed by: (Name) _____	▶	Signature _____
Address _____		(#4) Name Printed or Typed _____
Email Address _____		Address _____
Telephone Number _____ Bar Number (If any) _____		Email Address _____
		Telephone Number _____ Date _____

**Form 3.68 Letter Forwarding Estate Receipt to Probate Registrar  
(EST-0179)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No. (Case No.)

Dear (Name):

With regard to the above-named estate, enclosed are the following documents for filing:

1. Estate Receipt signed by (Recipient's Name).
2. Estate Receipt signed by (Recipient's Name).

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## **LIII. Letters Concerning Distribution**

### **Commentary and Instructions for [Form 3.69](#)**

Use [Form 3.69](#) to forward a distribution to a beneficiary. Make clear in the letter whether the distribution is a specific bequest, a partial residual distribution, or a final distribution. Include an Estate Receipt ([Form 3.66](#) or [3.67](#)) with the letter.

#### **Contents**

#1 Explain what the distribution is for (e.g., a specific bequest, etc.).

#### **Distribution**

Original: Beneficiary

Copy: Personal representative as needed, firm file

#### **References**

[Wis. Stat.](#) §§ 863.41, 865.21

**Form 3.69 Letter Concerning Distribution: Short Form (EST-0180)**

---

(Date)

(Beneficiary's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Beneficiary's Name):

With regard to the above-named estate, enclosed are the following items:

1. A check for \$ \_\_\_\_\_, representing \_\_\_\_\_ (#1)
2. Original and one copy of an Estate Receipt form

Please sign and date the Estate Receipt and return it to me in the enclosed postage-paid envelope. You may retain the client copy for your records.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## LIV. Personal Representative's Statement to Close Estate

### Commentary and Instructions for [Form 3.70](#)

The Personal Representative's Statement to Close Estate fulfills the requirements of [Wis. Stat. § 865.16](#), which requires the personal representative to swear that he or she has:

1. Given notice to interested persons and to creditors, and that the time for filing claims has passed;
2. Fully administered the estate; and
3. Sent a copy of the statement to all distributees, creditors, and claimants and has furnished a complete accounting to the affected distributees.

The personal representative should also acknowledge whether he or she has received assets from the estate.

If the personal representative's statement is not challenged within six months after it is filed, the claims of interested persons and creditors are barred, except claims based on fraud, misrepresentation, or inadequate disclosure.

#### Contents

- #1 Enter amount paid as attorney fees.
- #2 Add explanation as appropriate.

#### Distribution

Original: Probate registrar  
Conformed copies: Personal representative, one to each distributee, unpaid creditor or claimant, and firm file

#### References

[Wis. Stat. § 865.16](#)

# Form 3.70 Personal Representative's Statement to Close Estate (EST-0181)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) \_\_\_\_\_

Name \_\_\_\_\_

**Personal Representative's Statement to Close Estate (Informal Administration)**

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

**I VERIFY THAT I, OR A PRIOR PERSONAL REPRESENTATIVE WHOM I HAVE SUCCEEDED:**

1. Gave notice to interested persons and to creditors as required by law and the time for filing claims expired prior to the date of this statement.
2. Fully administered the estate by making payment, settlement, or other disposition of all claims presented, expenses of administration, reasonable funeral and burial expenses, death and other taxes, except as otherwise specified below.
3. Inventoried the assets of the estate, furnished a copy of the inventory to interested persons and distributed the assets to the persons entitled to them.
- (#2) 4.  Am aware of no unpaid claims, expenses or taxes outstanding.  
 Made the following detailed arrangements to accommodate any outstanding liabilities:  See attached \_\_\_\_\_
5. Sent a copy of this statement to all distributees of this estate and to all creditors or other claimants of whom I am aware whose claims are neither paid nor barred.
6. Furnished a full account of the administration, in writing, to all persons whose interests are affected.
7. The amount of attorney fees paid or to be paid from estate assets is \$ \_\_\_\_\_ (#1) \_\_\_\_\_.
8. Understand that if no proceedings challenging this statement or otherwise involving me as personal representative are pending in the court 6 months after this statement is filed, my appointment as the personal representative terminates.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
 Notary Public/Court Official

\_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶ \_\_\_\_\_  
 Personal Representative

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Email Address Telephone Number

\_\_\_\_\_  
 Date State Bar No. (if any)

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
 Notary Public/Court Official

\_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶ \_\_\_\_\_  
 Personal Representative

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Email Address Telephone Number

\_\_\_\_\_  
 Date State Bar No. (if any)

PR-1816, 05/20 Personal Representative's Statement to Close Estate (Informal Administration) §865.16, Wisconsin Statutes  
**This form shall not be modified. It may be supplemented with additional material.**



## **LV. Letter Forwarding Statement to Close Estate to Beneficiaries**

### **Commentary and Instructions for [Form 3.71](#)**

This letter should be sent to all distributees and creditors or other claimants who have not been paid in full.

#### **Distribution**

Original: Personal representative and one to each distributee, unpaid creditor, or claimant

#### **References**

[Wis. Stat.](#) § 865.16

**Form 3.71 Letter Forwarding Statement to Close Estate to  
Beneficiaries (EST-0182)**

---

*(Date)*

*(Beneficiary's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(Beneficiary's Name)*:

Enclosed please find a copy of the Personal Representative's Statement to Close Estate, which was recently filed with the Register in Probate. This completes all matters in the probate of the estate.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosure

## LVI. Letter Forwarding Closing Documents to Probate Registrar

### Commentary and Instructions for [Form 3.72](#)

If not e-filing, use this letter to forward documents used to close the estate to the probate registrar. Ordinarily, those documents include all Estate Receipts from any persons who had a claim against the estate ([Form 3.37](#)); a copy of the Closing Certificate for Fiduciaries that the personal representative has received from the DOR ([Form 6.15](#)); an Affidavit of Service ([Form 4.9](#)); and the Personal Representative's Statement to Close Estate ([Form 3.70](#)). If e-filing, note that a copy of the filed [Form 3.70](#) can be printed from the e-filing portal.

#### Contents

- #1 Enter number of receipts enclosed.
- #2 Enter the names of persons who signed each Estate Receipt.

#### Distribution

Original: Probate registrar  
Copy: Personal representative and firm file

**Form 3.72 Letter Forwarding Closing Documents to Probate Registrar (EST-0183)**

---

(Date)

(Name)  
Probate Registrar  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)  
Case No. (Case No.)

Dear (Name):

With regard to the above-named estate, enclosed are the following documents:

1. (#1) Estate Receipt forms, signed by:

\_\_\_\_\_ (#2)  
\_\_\_\_\_

2. Closing Certificate for Fiduciaries
3. Affidavit of Mailing
4. Personal Representative's Statement to Close Estate

Please send me a conformed copy of the Personal Representative's Statement to Close Estate when it is available. I have enclosed a postage-paid envelope for your convenience.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## **LVII. Final Letter to Personal Representative**

### **Commentary and Instructions for [Form 3.73](#)**

The personal representative's appointment will terminate six months from the date the Personal Representative's Statement to Close Estate ([Form 3.70](#)) has been filed with the court, unless proceedings challenging the statement or otherwise involving the personal representative are pending. The personal representative's attorney can use [Form 3.73](#) to notify the personal representative of these matters.

A copy of the Personal Representative's Statement to Close Estate must be sent to all residual beneficiaries. The letter to beneficiaries other than the personal representative ([Form 3.71](#)) should be sent before the statement is filed.

#### **Distribution**

Original: Personal representative or beneficiary

Copy: Firm file

**Form 3.73 Final Letter to Personal Representative (EST-0184)**

---

(Date)

(PR's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (PR's Name):

With regard to the above-named estate, enclosed is a copy of the Personal Representative's Statement to Close Estate, which was filed with the (County Name) County Circuit Court on (Date).

This Statement indicates that you have fully administered the decedent's estate. If no proceedings challenging the statement or otherwise involving you are pending in court six months after the statement is filed, your appointment as personal representative will be terminated as far as the (County Name) County Circuit Court is concerned. Because all estate matters that have been reviewed in these proceedings have been resolved, it is unlikely that other matters will arise.

Please keep the enclosed document for your records. This will be our final correspondence with regard to the estate. Should you have any questions or concerns, please feel free to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure

## LVIII. Demand for Formal Proceedings

### Commentary and Instructions for [Form 3.74](#)

Unless some matter requiring adjudication by the court arises during informal probate, it is unlikely that an attorney will need this form. Nevertheless, any interested person can demand that the informal administration cease or that formal proceedings be conducted for a portion of the estate administration. The statute suspends all the personal representative's powers upon the filing of the Demand for Formal Proceedings. At times, particularly if the personal representative has sought formal proceedings, it might be best to immediately ask the court to restore the personal representative's powers so that the estate administration can resume as to all but the matters in dispute.

#### Contents

- #1 Check applicable box.
- #2 Indicate whether the demand is for formal proceedings as to the entire subsequent administration of the estate or for formal proceedings as to only a particular issue in the estate. It is good practice to state the reason for the demand in *either* instance.
- #3 When appropriate, insert the following statement: Except for the matter in dispute, informal probate will continue.
- #4 The personal representative or interested person demanding formal proceedings should sign the form.
- #5 Note whether an attorney prepared the document. If the person is represented, the attorney should file a notice of appearance.

#### Distribution

Original: Probate registrar  
Conformed copies: Personal representative and firm file (within 10 days of receipt, personal representative must mail copy to each interested person (*see* [Wis. Stat. § 865.05\(3\)\)](#))

#### References

[Wis. Stat.](#) § 865.03(2)

**Form 3.74 Demand for Formal Proceedings (EST-0185)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	<input type="checkbox"/> Amended
IN THE MATTER OF THE ESTATE OF _____	<b>Demand for Formal Proceedings (Informal Administration)</b>
(Decedent's Name) Name _____	Case No. _____ (Case No.)
Date of Death _____	

1. I am  the personal representative in this estate.  
 an interested person in this estate.  
 (#1)  representatives of interested person.  
 a court official.
2. This matter is pending under informal administration and I demand formal proceedings for  
 (#2)  the remaining administration of the estate.  
 limited issue(s): [Explain] \_\_\_\_\_

(#3) \_\_\_\_\_

▶ \_\_\_\_\_  
Signature  
(#4)  
Name Printed or Typed

\_\_\_\_\_  
Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

The signer of this document is required to serve a copy of this document on the personal representative.

- If there is a personal representative, service of this document suspends:  
 the powers of the personal representative  
 the informal administration of this estate  
 until reinstated by the court.

Form completed by: [Name] _____ (#5)	
Address _____	
Email Address _____	
Telephone Number _____	Bar Number (if any) _____



# Chapter 4

## Formal Probate and Special Administration

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<a href="#">Outline of Formal Probate Procedures</a> .....	4-4
<a href="#">Procedural Guide to Initial Hearing on Petition for Administration</a> .....	4-27
<a href="#">Procedural Guide to Hearing on Final Account</a> .....	4-30
<a href="#">Forms and Letters</a> .....	4-33

### Introduction

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Chapter 4 focuses on formal probate and special administration. Many letters concerning informal probate, illustrated in [chapter 3](#), *supra*, will prove useful, with little adaptation, in formal probate. Procedures such as will construction and objections to a final account are beyond the scope of this book but will be required to complete the probate of some estates.<sup>1</sup>

There are several reasons for using formal probate procedures. The most common reason is to effectively manage the estate’s administration when a contest is expected over the decedent’s will. Formal probate procedures are usually called for when the personal representative knows that the beneficiaries are argumentative with each other or the personal representative. Sometimes the assets of an estate dictate that formal proceedings be used. If the estate will have to provide an allowance to support the decedent’s family, formal proceedings may be more appropriate.

Formal probate must be used if the decedent’s will prohibits informal probate. [Wis. Stat.](#) § 865.02(1)(a)1., (2). In addition, formal probate must be used in intestacy or if the will fails to name a personal representative, unless all interested persons consent in writing to the use of informal probate and to the appointment of the same person as personal representative and bond is furnished. [Wis. Stat.](#) § 865.02(1)(b).

Sometimes formal proceedings are used for only part of the estate administration. *See* [Wis. Stat.](#) § 865.03. For example, formal proceedings may be necessary to resolve a claim but not

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by acts through 2021 Wis. Act 24; all references to the Internal Revenue Code (I.R.C.) are current through Pub. L. No. 117-7 (Apr. 14, 2021); and all references to the Treasury regulations (Treas. Reg.) are current through 86 Fed. Reg. 19,787 (Apr. 15, 2021).

needed for anything else. Conversely, informal proceedings may be useful at times to close an estate informally even though formal proceedings were used initially. For example, if a personal representative's accounts cannot be sorted out because proper records were not kept, but the beneficiaries do not want to insist on a proper accounting, the beneficiaries can waive the accounting and the estate may be closed informally, given that the court is not obligated to review the final account in an informal probate.

Note that although the Outline of Formal Probate Procedures in this chapter briefly refers to ancillary administration, this book does not include the court-approved forms for ancillary administration; discussion of ancillary administration is beyond the scope of this book.

In addition, all the court-approved forms are available on the internet and can be downloaded as fill-in forms. A current list of the forms by title and number can be found at the back of the book under "Forms Index." All court-approved probate forms are available at Wis. Ct. Sys., *Circuit Court Forms: Probate*, <https://wicourts.gov/forms1/circuit/formcategory.jsp?Category=26> (last updated Sept. 25, 2020). The forms can be downloaded and saved in the client's file.

## Electronic Filing

Wisconsin attorneys must electronically file documents, except for documents requiring personal service, in probate actions that are initiated by mandatory users of the eFiling system. Wis. Stat. § 801.18(2), (3)(a); Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). Every Wisconsin attorney who files cases must create a registration and password, and the Wisconsin Court System provides instructions for creating the registration. Wis. Stat. § 801.18(3); Wis. Ct. Sys., *Creating an eCourts Account* (Mar. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/registercourts.pdf>.

The Wisconsin Court System provides instructions specific to electronically filing probate documents. Wis. Ct. Sys., *eFiling a New Probate Case* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileprobatecase.pdf>. An electronic filing fee of \$20 is due with the initial filing. See Wis. Stat. § 801.18(7)(c). The fee can be paid via credit card or an electronic check. The clerk of courts will charge a 2.75% fee for credit card payments and a flat fee of \$1.95 for electronic check payments.

Regarding documents particular to probate, the original will must still be physically delivered or sent to the probate court for filing. When the Inventory is filed, the inventory filing fee must be paid at the same time. The Wisconsin Court System provides detailed instructions for electronically filing the Inventory. Wis. Ct. Sys., *eFiling an Inventory or Exhibited Inventory* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibinventory.pdf>.

If the court accepts a document, the document is considered filed on the date the document is electronically submitted to the court, even though the attorney may receive electronic notice of the filing several days later. Wis. Stat. § 801.18(4). The eFiling system accepts submissions even when the clerk's office is not open, and a document is considered to have been filed on a particular calendar day as long as submission is complete by 11:59 p.m. Central Time. Wis. Stat. § 801.18(4)(d), (e). If payment is required, the document is not filed until payment is received. Wis. Stat. § 801.18(7)(b).

All parties that have opted into electronic filing will receive an email when the court accepts a filing. Except for documents requiring personal service, the electronically issued court notice of filed documents has the same effect as traditional service for parties that have opted into electronic filing because all such parties receive electronic notice of filings. [Wis. Stat.](#) § 801.18(6). Note that estate beneficiaries and claimants that are unrepresented and not registered users must still be served with paper copies. If a beneficiary or claimant obtains counsel, the attorney may be served via electronic filings.

Based on the author's experience and a panel discussion with the Milwaukee County Deputy Registers in Probate and Court Commissioner, cover letters are not needed for court filings, but they may be filed and should be filed if an explanation is required.

Local circuit courts cannot electronically issue certified copies (e.g., Domiciliary Letters). Certified copies must be requested in person or via traditional mail and the relevant fee paid with the request.

The Wisconsin Court System provides updated information for electronic filing on both general and probate topics. Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). The Wisconsin Court System eFiling Support Center can be contacted by phone at 1-800-462-8843, email, or online chat and is very helpful with questions. Wis. Ct. Sys., *Contact eFiling Support*, <https://www.wicourts.gov/ecourts/efilecircuit/efilefeedback.htm> (last updated Apr. 20, 2021). When filing in a new county, always check local rules and call the local register in probate to determine local practice and procedure.

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## Outline of Formal Probate Procedures

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- I. [Introduction](#) [§ 4.1]
  - A. [In General](#) [§ 4.2]
  - B. [Jurisdiction and Venue](#) [§ 4.3]
  - C. [Filing the Will](#) [§ 4.4]
  - D. [Determination of Heirship](#) [§ 4.5]
  - E. [Petition for Formal Administration](#) [§ 4.6]
  - F. [Appointment of Guardian ad Litem or Attorney](#) [§ 4.7]
  
- II. [Procedure for Opening the Estate](#) [§ 4.8]
  - A. [Overview](#) [§ 4.9]
  - B. [Initial Hearing](#) [§ 4.10]
  - C. [Required Documents](#) [§ 4.11]
  
- III. [Procedure for Determination and Inventory of Assets](#) [§ 4.12]
  - A. [Overview](#) [§ 4.13]
  - B. [Appraise Assets and File Inventory](#) [§ 4.14]
  - C. [Required Documents](#) [§ 4.15]
  
- IV. [Procedure for Disposing of Claims](#) [§ 4.16]
  - A. [Overview](#) [§ 4.17]
  - B. [Time Limits](#) [§ 4.18]
  - C. [Required Documents](#) [§ 4.19]
  
- V. [Procedure for Closing the Estate](#) [§ 4.20]
  - A. [Overview](#) [§ 4.21]
  - B. [Hearing on Final Account](#) [§ 4.22]
  - C. [Final Judgment](#) [§ 4.23]
  - D. [Distribution of Estate](#) [§ 4.24]
  - E. [Required Documents](#) [§ 4.25]
  
- VI. [Closing Matters](#) [§ 4.26]
  - A. [Time Limits](#) [§ 4.27]
  - B. [Recording](#) [§ 4.28]
  - C. [Receipts](#) [§ 4.29]
  - D. [Discharge of Personal Representative](#) [§ 4.30]
  
- VII. [Procedure for Conversion to Informal Probate](#) [§ 4.31]
  - A. [Overview](#) [§ 4.32]
  - B. [Required Documents](#) [§ 4.33]
  
- VIII. [Special Administration](#) [§ 4.34]
  - A. [Overview](#) [§ 4.35]
  - B. [Required Documents](#) [§ 4.36]

- IX. [Miscellaneous](#) [§ 4.37]
  - A. [Family Needs and Allowances: Overview](#) [§ 4.38]
  - B. [Family Needs and Allowances: Required Documents](#) [§ 4.39]
  - C. [Ancillary Probate and Related Procedures](#) [§ 4.40]

## I. Introduction [§ 4.1]

### A. In General [§ 4.2]

1. Pursuant to [Wis. Stat.](#) § 865.02(1)(a), formal probate mandated if
  - a. Will prohibits informal probate,
  - b. Will fails to name personal representative and interested persons do not consent to informal probate, or
  - c. Decedent died intestate and interested persons do not consent to informal probate, [Wis. Stat.](#) § 865.02(1)(b).
2. Formal probate desirable if
  - d. Significant questions about property classification or spousal election, or
  - e. Conflicts among beneficiaries or between beneficiary and personal representative.
3. Forms

Court-approved forms for formal probate procedures require signature of judge or circuit court commissioner.

### B. Jurisdiction and Venue [§ 4.3]

1. Generally, jurisdiction is in circuit court of county in which decedent was domiciled, even though decedent might have owned property in other counties. [Wis. Stat.](#) §§ 856.01(1), 753.03.
2. If decedent owned property in more than one county and appraisal is required, appraisers in each county may be appointed by court with primary jurisdiction over decedent. [Wis. Stat.](#) § 858.13.
3. If decedent was not domiciled in Wisconsin, first county obtaining jurisdiction over some property subject to probate in Wisconsin will have exclusive jurisdiction. [Wis. Stat.](#) § 856.01(2).

4. Any interested person with reason to believe that assigned judge will not be impartial may file request for substitution with probate registrar; subsequently, originally assigned judge will be disqualified, and probate registrar will request assignment of different judge. [Wis. Stat.](#) § 801.58.

### **C. Filing the Will [Testate Only] [§ 4.4]**

1. Should be done within 30 days of decedent's death even if formal or informal probate unnecessary (keep copies for parties). [Wis. Stat.](#) § 856.05(1).
2. Confer with client and obtain information sufficient to set first hearing (see MIL Sections 1–11).
3. Arrange to open and inventory safe deposit box.

### **D. Determination of Heirship [§ 4.5]**

1. Overview
  - a. Intestate estate or share passes to decedent's heirs as determined by statute. [Wis. Stat.](#) §§ 852.01, 852.03.
  - b. Surviving heirs entitled to intestate share will generally take that share per stirpes. [Wis. Stat.](#) §§ 852.03(1), 854.04.
  - c. Partial blood relatives take same share as if they had been whole blood relatives. [Wis. Stat.](#) §§ 852.03(3), 854.21(4).
  - d. Legal heir must survive decedent by at least 120 hours, or heir will be deemed to have predeceased decedent. [Wis. Stat.](#) §§ 852.01(2), 854.03.
2. Posthumous child may be legal heir even if born after decedent's death if conceived by decedent and other parent before decedent's death. [Wis. Stat.](#) §§ 852.03(4), 854.21(5).
3. Nonmarital child
  - a. Decedent's nonmarital child takes in same manner as marital child from same mother and also from father if paternity has been adjudicated in Wisconsin or another state or if putative father has either admitted paternity in open court or acknowledged paternity in signed writing. [Wis. Stat.](#) § 852.05(1).
  - b. Nonmarital child's property passes according to [Wis. Stat.](#) § 852.01 except that father or father's kindred may inherit only if putative father has been adjudicated as father in Wisconsin or another state. [Wis. Stat.](#) § 852.05(2).

4. Adopted child
  - a. Adopted child takes in same manner as biological child if conditions of statute are met. [Wis. Stat.](#) §§ 851.50, 854.20.
  - b. For inheritance purposes, adopted child ceases to be child of his or her biological parents except when biological parent marries or remarries and child is adopted by new stepparent.
5. Heir includes a surviving domestic partner. [Wis. Stat.](#) § 852.01(1).

## E. Petition for Formal Administration [§ 4.6]

Petition to initiate formal probate proceedings accompanied by will if decedent died testate. *See infra* [Form 4.1](#).

## F. Appointment of Guardian ad Litem or Attorney [§ 4.7]

1. Draft Order Appointing Guardian ad Litem (GAL) (for minor or incompetent persons) or Attorney (for person in military service) ([Form 4.2](#)) and Consent to Act ([Form 4.3](#)). [Wis. Stat.](#) §§ 879.23, 879.25.
2. GAL and guardian of the estate can waive all notices for incompetent persons. [Wis. Stat.](#) § 879.09.
3. Attorney for person in military cannot waive notice on behalf of anyone attorney represents for *any* hearing (hearing on waiver not possible). [Wis. Stat.](#) § 879.09.
4. GAL or attorney released when interest of person represented disappears. [Wis. Stat.](#) §§ 879.23(3), 879.25.
5. May be able to dispense with GAL. *See* [Wis. Stat.](#) § 879.23(5); *supra* [ch. 3](#).

## II. Procedure for Opening the Estate [§ 4.8]

### A. Overview [§ 4.9]

1. On waiver
  - a. Obtain signed Waiver, Consent and Approval ([Form 4.6](#)) from all interested persons entitled to receive notice. [Wis. Stat.](#) § 879.09.
    - *Note.* Consult MIL Section 5 (Heirs and Beneficiaries) for a list of persons entitled to receive notice. Attorneys for persons in the military cannot waive notice.
    - *Note.* Although the GAL of an incompetent person is still entitled to notice as an interested person, [Wis. Stat.](#) § 879.09 allows a GAL to waive the hearing for an incompetent person.

- b. Draft Order Limiting Time for Filing Claims ([Form 4.7](#)) and Proof of Heirship ([Form 4.12](#)). [Wis. Stat.](#) § 863.23.
  - (1) Check with court if hearing required on waiver by all interested persons.
  - (2) County may not require hearing if self-proving will and on waiver of all interested persons.
  - (3) Proof of Heirship ([Form 4.12](#)) is generally offered at initial hearing but may be made any time before final judgment.
2. On notice
  - a. Draft Proof of Heirship ([Form 4.12](#)) and Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims ([Form 4.5](#)) (Proof of Heirship is generally offered at hearing to admit will, but may be made any time before final judgment). [Wis. Stat.](#) §§ 856.11, 859.07, 863.23.
  - b. Publish order within 15 days after entry as a class 3 notice ([Wis. Stat.](#) ch. 895). [Wis. Stat.](#) §§ 859.07, 879.03, 879.05; *see infra* [Forms 4.6, 4.7](#).
    - **Note.** Publication alone is not sufficient notice to creditors. [Wis. Stat.](#) § 859.02.
3. After filing Petition for Formal Administration ([Form 4.1](#)) and Order Setting Time to Hear Petition for Administration and Deadline for Filing ([Form 4.5](#)) with court and after dates have been obtained:
  - a. Obtain Proof of Publication ([Form 3.19](#)) from newspaper to file with court for hearing. [Wis. Stat.](#) § 879.07(3).
  - b. If decedent was at any time a patient or inmate of a state or county hospital or institution, or was responsible for outstanding obligation to a state or county for specified services, or if decedent or decedent's spouse received services provided as a benefit under a long-term care program, medical assistance (MA), long-term community care services, or Wisconsin chronic disease program benefits, also send Probate Claims Notice ([Form 3.7](#)) by registered or certified mail to Wisconsin Department of Health Services (DHS), Department of Children and Families (DCF), or Department of Corrections and county clerk in decedent's domicile at least 30 days before expiration of time to file claims (if unsure, mail inquiry to state or county clerk). [Wis. Stat.](#) § 859.07; *see supra* [Form 3.6](#).
  - c. Mail Order Setting Time to Hear Petition and Deadline for Filing Claims ([Form 4.5](#)) and letters of explanation to all interested persons at least 20 days before hearing date. [Wis. Stat.](#) §§ 856.11, 879.03, 879.05(2).
    - (1) Include copy of will to all persons who have more than a specific bequest [testate only]. [Wis. Stat.](#) § 856.11; *see infra* [Form 4.10](#).



- (2) Persons with specific bequests must be notified of will provisions applying to them (sending copy of will satisfies requirement, but may be inadvisable) [testate only]. [Wis. Stat.](#) § 856.11; *see infra* [Forms 4.10, 4.11](#).
- d. Draft and execute Affidavit of Service ([Form 4.9](#)) for each item mailed. [Wis. Stat.](#) § 879.07(1).
- e. Publish order within 15 days after entry of order as class 3 notice. [Wis. Stat.](#) §§ 859.07, 879.03, 879.05; *see infra* [Forms 4.7, 4.8](#).
  - **Note.** Three full weeks must elapse from the first publication of the notice to the hearing if notice is used. The last publication must be one week before the hearing. Hearings are set on Tuesdays in most counties (check with the court).
- f. Corporate personal representative must advise beneficiaries receiving majority of estate of their right to select attorney for estate. [Wis. Stat.](#) § 856.31.

## B. Initial Hearing [§ 4.10]

- 1. Begins estate administration.
- 2. Prepare witness(es) for testimony on the following:
  - a. Proof of Will (rarely required) [testate only]. [Wis. Stat.](#) §§ 856.15, 856.13.
  - b. Proof of Heirship. [Wis. Stat.](#) § 856.15.
  - c. Proof of Publication and Affidavit of Service (when on notice).
  - d. Family allowances, if required (consider having family member prepare listing of assets, liabilities, income, and family budget). [Wis. Stat.](#) §§ 861.31, 861.33, 861.35.
    - **Note.** Consult the Procedural Guide to Initial Hearing on Petition for Administration, which immediately follows this outline.
- 3. Obtain court's prior approval for
  - a. Appointment of appraisers (give original Order Appointing Appraiser(s) ([Form 4.20](#)) to court and copies to appraisers). [Wis. Stat.](#) § 858.13.
  - b. Signature Bond ([Forms 4.17–4.18](#)) or Bond Application for personal representative, if required. [Wis. Stat.](#) § 856.25.
- 4. Apply for federal employer identification number (EIN) for estate.
- 5. Send thank-you letters to witness(es); include check for fees.

**C. Required Documents [§ 4.11]**

1. Will [testate only]
2. Proof of Will ([Form 4.14](#)), if using witnesses [testate only]
3. Petition for Formal Administration ([Form 4.1](#))
4. Order for Formal Administration ([Form 4.15](#))
5. Order Appointing Guardian ad Litem or Attorney ([Form 4.2](#))
6. Affidavit of Service ([Form 4.9](#))
7. Waiver, Consent and Approval ([Form 4.6](#))

and

Order Limiting Time for Filing Claims ([Form 4.7](#))

or

Order Setting Time to Hear Petition for Administration and Deadline for Filing a Claim ([Form 4.5](#))

8. Proof of Heirship, if taken at initial hearing ([Form 4.12](#))
9. Consent to Serve ([Form 4.22](#))
10. Domiciliary Letters ([Form 4.16](#))
11. Signature Bond ([Forms 4.17–4.18](#)) or Bond Application, if required for personal representative or trustee (amount and necessity at court’s discretion—check with register in probate, clerk, or judge)
12. Letters of Trust ([Form 4.19](#))
13. Petition for Allowance ([Form 4.58](#)) and Order for Allowance ([Form 4.59](#)), if appropriate
14. Order Appointing Appraiser(s) ([Form 4.20](#)), if required

### III. Procedure for Determination and Inventory of Assets [§ 4.12]

#### A. Overview [§ 4.13]

1. Give IRS Notice Concerning Fiduciary Relationship. [Form 6.3](#); *see infra* [ch. 6](#).
2. Send copy of death certificate and claim forms to each life insurance company within policy time limit (request IRS Form 712 from each company for federal estate tax return).
3. Endorse and cancel casualty, liability, and health insurance policies as appropriate.
  - a. Investigate possible claims against health or accident insurance.
  - b. Obtain refunds on canceled policies.
4. Assert claim to available pension, employee, veterans, or Social Security benefits (have employer submit relevant facts concerning taxability of employee benefits). *See supra* [Form 3.29](#).
5. Transfer outstanding bank and savings and loan accounts (present certified copies of Domiciliary Letters ([Form 4.16](#)) to institution to transfer accounts to personal representative).
6. Consider transfer of decedent's securities to personal representative or to street name.
7. Redeem or reissue U.S. bonds.
8. Check real estate titles for ownership, liens, possessory rights, and adverse possession. [Wis. Stat.](#) §§ 857.01, 860.01.
  - a. Title to all property passes to personal representative upon appointment.
  - b. Personal representative has power to sell, mortgage, or lease any property without court approval or notice.
9. Consider transfer of motor vehicles during probate. *See supra* [Form 3.59](#), *infra* [Form 5.3](#).
10. Manage digital property. *Digital property* is defined under [Wis. Stat.](#) § 711.03(1) to mean an electronic record in which a person has a right or interest, but does not include underlying property or underlying liability unless the property or liability itself is an electronic record. The personal representative has a right to disclosure of a catalogue of decedent's digital property, unless while alive the decedent prohibited disclosure or a court orders otherwise.
11. If necessary, use ancillary administration to complete probate, *see supra* § [4.40](#).

12. When possible, prepare decedent's final income tax return before preparing Inventory ([Form 4.26](#)), *see infra* [ch. 6](#).
13. Consider selection of estate's taxable year, *see infra* [ch. 6](#), and prepare Cash Requirements Worksheet, *see supra* [ch. 1](#), for administration costs, general taxes and debts, and beneficiaries' needs.
14. If decedent owned stock in corporation that has valid subchapter S election, election continues automatically. I.R.C. § 1362(d).
  - a. If estate is majority shareholder in subchapter S corporation, may choose to revoke election in writing within 75 days after beginning of corporation's taxable year (any revocation made afterward would be effective only for following taxable year).
  - b. Subchapter S election may be subsequently terminated for any number of reasons: more than 100 shareholders; more than one class of stock; corporation's stock owned by nonqualifying shareholder (certain trusts, nonresident aliens, etc.)—this should be monitored. I.R.C. § 1361; I.R.C. § 1362(d).
15. If decedent owned an interest in a partnership, consider an election under I.R.C. § 754 to adjust the basis of assets owned by the partnership.

## B. Appraise Assets and File Inventory [§ 4.14]

1. Help personal representative compile Inventory ([Form 4.26](#)) (include all property subject to administration, *see supra* [MIL §§ 11–16](#)). [Wis. Stat.](#) §§ 858.01, 858.07.
 

➤ *Practice Tip.* It is no longer necessary to report the decedent's interest in joint property, survivorship marital property, and other property not subject to administration, *see supra* [MIL §§ 17–21](#), on the Inventory. *See* 1997 Wis. Act 83. Nevertheless, it is a good idea to document this information in order to establish a new tax basis for such property.
2. Determine assets that must be appraised and identify assets in inventory whose value is determined by appraisal (*see* [Wis. Stat.](#) § 858.15).
3. Value of inventoried assets is offset by total values of encumbrances, liens, or other charges against each item of property. [Wis. Stat.](#) § 858.07.
4. File Inventory with court and pay filing fee based on size of inventory. [Wis. Stat.](#) §§ 858.01, 858.05, 814.66(1)(a).
  - a. Inventory must be filed within six months after personal representative's appointment, but court can lengthen or shorten time.
  - b. Failure to file is grounds for issuance of Order to File, punishable by contempt or removal of personal representative.

5. Within five days after filing Inventory, give spouse or domestic partner and interested parties copy of Notice of Inventory on File ([Form 4.27](#)). [Wis. Stat.](#) § 858.03.
  - a. Notice not necessary to persons interested only in monetary bequest.
  - b. Within five days, parties notified can demand copy of Inventory.
  - c. Right to notice can be waived. [Wis. Stat.](#) § 879.26; *see infra* [Form 4.28](#).
6. After filing Inventory, file spouse or domestic partner's Selection of Personal Property ([Form 4.57](#)) with court. [Wis. Stat.](#) § 861.33.

### C. Required Documents [§ 4.15]

1. Inventory ([Form 4.26](#))
2. Notice of Inventory on File ([Form 4.27](#))
3. Waiver of Right to Receive Inventory and Accounts: Waiver, Consent, and Approval ([Form 4.28](#)), if used
4. Affidavit of Service ([Form 4.9](#))

## IV. Procedure for Disposing of Claims [§ 4.16]

### A. Overview [§ 4.17]

1. Generally, all claims against decedent or decedent's estate must be filed with the court to be paid. *See* [Wis. Stat.](#) § 859.01.
2. Filed claims must be in writing and take form required by statute. [Wis. Stat.](#) § 859.13; [Form 4.23](#).
  - a. Claim based on written instrument must be accompanied by original or copy of writing. [Wis. Stat.](#) § 859.13.
  - b. Statute of limitation tolled by timely filing of claim. [Wis. Stat.](#) § 859.15.
  - c. Future, contingent, and tort claims not yet reduced to judgment should be filed to preserve payment priority. [Wis. Stat.](#) §§ 859.17, 859.21, 859.45.
  - d. Three-dollar filing fee required to file claim with court. [Wis. Stat.](#) § 814.66.
3. Exceptions to filing requirement are listed in [Wis. Stat.](#) §§ 859.02(2) and 859.03. [Wis. Stat.](#) § 859.02.

4. If claim is filed under [Wis. Stat. § 859.48](#), claimant should serve copy of claim on or mail copy to personal representative or attorney for estate within 10 days after filing claim. [Wis. Stat. §§ 859.33\(1\), 859.48](#).
  - *Note.* Mailing or service shortens the time for filing an objection to the claim, *see infra* para. 8.b., to 60 days after the claim was served or mailed.
5. Undisputed claims may be paid by personal representative without filing but paid within time period for filing; personal representative protected from liability if done in good faith. [Wis. Stat. § 859.47](#).
6. For filing with court, obtain receipts for claims paid.
7. Check claims in court file. [Wis. Stat. § 859.29](#).
  - a. Interested persons may make written request for listing of all claims after last day for filing claims.
  - b. Personal representative must comply with request within five days.
8. Action on filed claims
  - a. Compromise. [Wis. Stat. § 859.31](#).
    - (1) Personal representative and claimant may compromise claim if in best interests of estate.
    - (2) If objection to claim has been filed, objector's consent is required for compromise.
  - b. Formal objection
    - (1) Personal representative, GAL, or an interested person with leave of the court may object to claim. [Wis. Stat. § 859.33\(1\)](#).
    - (2) Objection to claim must be filed within 60 days from day of mailing to or service on personal representative or attorney. If claim has not been mailed to or served on personal representative or attorney, objection can be filed at any time before judgment. [Wis. Stat. § 859.33\(1\)](#).
    - (3) Claim may still be compromised if objector joins in compromise.
    - (4) There is no court-approved form for objection to a claim.

- c. Trial on claim
  - (1) Court or any party may move for trial. [Wis. Stat.](#) § 859.33(2).
  - (2) Court may require issues to be made more definite or pretrial hearing.
  - (3) Ordinarily, claims must be heard within one year after filing. [Wis. Stat.](#) § 859.35.
  
- 9. Judgment on claims. [Wis. Stat.](#) § 859.37.
  - a. Orders amount and time of payment (may be for amount of claim, reduced amount, or judgment against claimant).
  - b. For filing with court, obtain receipts for claims paid. [Wis. Stat.](#) § 863.27.
  
- 10. When inventoried assets are insufficient to pay claims;
  - a. Successful claimant may bring suit on behalf of other claimants to force sale and application of noninventoried assets (liable for debt payments) to pay claims. [Wis. Stat.](#) § 859.40.
  - b. Successful claimant may bring suit on behalf of other claimants to reach and subject to sale assets fraudulently conveyed by decedent. [Wis. Stat.](#) § 859.41.
  - c. If the estate is “underwater,” there is a statutory priority of claims. [Wis. Stat.](#) § 859.25.
    - **Practice Tip.** At the beginning of the representation, ask the personal representative about potential outstanding claims. If there is a chance that inventoried assets are insufficient, the personal representative must understand that payment of nonpriority claims during the pendency of administration could be a breach of fiduciary duty and generate personal liability.
  
- 11. Miscellaneous
  - a. Secured debts may be paid, extended, or satisfied without necessity of filing claim. [Wis. Stat.](#) § 859.43.
  - b. Personal representative may properly pay expenses of deceased spouse’s last illness and funeral even though surviving spouse could be held liable. [Wis. Stat.](#) § 859.49.
    - **Note.** MIL Section 27 summarizes funeral expenses. MIL Section 28 summarizes medical and other expenses related to the decedent’s last illness.
  - c. All claims barred if no administration commenced within six years after date of death. [Wis. Stat.](#) § 893.93(1)(c).

**B. Time Limits [§ 4.18]**

1. Time limit to file claims is set by the court, at not less than three nor more than four months after date of order of the court. [Wis. Stat.](#) § 859.01.
2. Publish notice of time limit to file within 15 days after the date of the order; obtain Proof of Publication ([Form 3.19](#)) from publisher. [Wis. Stat.](#) §§ 859.07(1), 879.07(3).  
  
➤ *Note.* Publication alone is insufficient notice to creditors. [Wis. Stat.](#) § 859.02.
3. The limit to file claims does not apply to known creditors or to creditors that would have been known with the exercise of reasonable diligence. If known creditors are sent notice of the final day to file claims, then the limit to file claims applies. The personal representative should send a copy of the order setting the deadline to all claims and research other potential creditors of decedent and send notice to all potential creditors. [Wis. Stat.](#) § 859.02(2).
4. If Probate Claims Notice ([Form 3.7](#)) required, *see supra* § 4.15, send notice by certified or registered mail to the DHS, DCF, or Department of Corrections, and county clerk, if not already done; this must be done at least 30 days before expiration of time to file claims. [Wis. Stat.](#) § 859.07(2); *see supra* [Form 3.6](#).

**C. Required Documents [§ 4.19]**

1. Claim Against Estate ([Form 4.23](#))
2. Objection to Allowance of Claim ([Form 4.24](#))
3. Affidavit of Service ([Form 4.9](#)) on known and potential creditors
4. Judgment on Claims ([Form 4.25](#))
5. Receipt and release. *See supra* [Forms 3.37, 3.66, 3.67](#).

**V. Procedure for Closing the Estate [§ 4.20]****A. Overview [§ 4.21]**

1. Prepare federal estate tax return if necessary, I.R.C. § 2001; *see infra* [ch. 6](#).
2. Prepare federal individual and estate income tax returns, *see infra* [ch. 6](#).
3. Prepare Wisconsin individual and estate income tax returns, *see infra* [ch. 6](#).



4. Wisconsin Department of Revenue will prepare Closing Certificate for Fiduciaries ([Form 6.15](#)) after examining personal and estate income tax returns (except final return) and determining that no taxes are due. The Closing Certificate is obtained by completing and filing a Schedule CC Request for a Closing Certificate for Fiduciaries. If decedent had unpaid state tax liability, this must be satisfied before the Closing Certificate is issued. The form is available at <https://www.revenue.wi.gov/TaxForms2020/2020-ScheduleCCf.pdf> (last revised Aug. 2020). The form can be filed electronically, and the Closing Certificate is usually mailed to the filer within a few days. See Wis. Dep't of Revenue, *Estates, Trusts, and Fiduciaries*, FAQ 2, <https://www.revenue.wi.gov/Pages/FAQS/ise-estate.aspx#estate2> (last updated Jan. 6, 2021).
5. Personal representative must account for all receipts and disbursements from estate while under his or her management and control (normally, only final account is given, but court can order additional accountings). [Wis. Stat.](#) § 862.01.

## B. Hearing on Estate Account [§ 4.22]

1. Notice of hearing
  - a. Personal representative petitions for final judgment at time of filing Estate Account. [Wis. Stat.](#) §§ 862.01(1), 863.25.
  - b. Unless notice is waived, Estate Account ([Form 4.36](#)) and Petition for Final Judgment ([Form 4.37](#)) must be on file at least three weeks before date set for final hearing. [Wis. Stat.](#) § 862.09.
    - (1) At hearing, provide Supplemental Estate Account ([Form 4.39](#)) if necessary. See *infra* [Form 4.37](#).
    - (2) If assets appear insufficient to pay all creditors in full, give notice to all outstanding creditors.
    - (3) Give copy of Estate Account and Petition to all residual beneficiaries. [Wis. Stat.](#) § 862.11.
  - c. At or before hearing, any interested party may file objections to account's completeness or accuracy. [Wis. Stat.](#) § 862.13.
2. Hearing on Estate Account and Petition
  - a. Before hearing, review court's file for completeness; file all documents necessary to close estate.
 

Court may require examination of all disbursements (canceled checks).
  - b. Prepare and present Estate Account ([Form 4.36](#)) and Petition for Final Judgment ([Form 4.37](#)); set date for hearing with clerk.

- c. Required notice. [Wis. Stat.](#) § 863.25.
  - (1) *On notice*: Mail or personally serve Order and Notice for Hearing on Petition for Final Judgment ([Form 4.38](#)) to interested parties; if beneficiaries' addresses unknown, publish Order and Notice, [Wis. Stat.](#) § 879.05;

or

  - (2) *On waiver*: Notice satisfied by Waiver, Consent and Approval ([Form 4.6](#)) of each interested party, [Wis. Stat.](#) § 879.09; and
  - (3) Prove notice by filing Affidavit of Service ([Form 4.9](#)) and Proof of Publication ([Form 3.19](#)) or by filing Waiver, Consent and Approval. [Wis. Stat.](#) § 879.07.
- d. Prepare for hearing (consult Procedural Guide to Hearing on Final Account, which appears after this outline).
- e. At hearing
  - (1) Determine heirship by filing Proof of Heirship ([Form 4.12](#)); take testimony if not done previously. [Wis. Stat.](#) § 863.23.
  - (2) Present Closing Certificate for Fiduciaries ([Form 6.15](#)). [Wis. Stat.](#) § 72.30(3).

➤ *Note*. Some courts will allow the hearing without tax clearances but will not sign the Final Judgment ([Form 4.40](#)) until clearances are received.
  - (3) Take testimony and review receipts for debts paid, claims paid, and expenses of administration.

### C. Final Judgment [§ 4.23]

1. Overview. [Wis. Stat.](#) § 863.27.
  - a. Terminates estate administration.
  - b. Determines property descent, approves distributions, terminates joint tenancies or survivorship marital property and life estates, and approves personal representative's final account.
  - c. May also confirm surviving spouse's marital property interest.

2. Petition for Final Judgment ([Form 4.37](#)) made as part of Estate Account ([Form 4.36](#)). [Wis. Stat.](#) § 863.25.
  - a. For notice and hearing provisions pertaining to these matters, see section [4.22](#), *supra*.
  - b. If additional income is collected between time Estate Account and Petition was prepared and time Final Judgment ([Form 4.40](#)) is scheduled to be entered, prepare Supplemental Estate Account ([Form 4.39](#)).

#### **D. Distribution of Estate [§ 4.24]**

1. Before Final Judgment, personal representative may distribute specific bequests and make one or more partial distributions of the remainder if remaining distributees' rights not jeopardized (specific bequests not paid within one year will draw interest); obtain and file receipts for all personal property distributed. [Wis. Stat.](#) §§ 863.01, 863.31.
2. Distribution may be
  - a. Disclaimed in whole or part by filing disclaimer with personal representative and court unless marital property, [Wis. Stat.](#) §§ 853.40, 854.13; or
  - b. Assigned in whole or part by filing with personal representative and court before entry of judgment, [Wis. Stat.](#) § 863.07.
3. If estate assets are insufficient to distribute per testator's wishes, shares abate in following order:
  - a. Property not disposed of by the will,
  - b. Residuary bequests,
  - c. General bequests, and
  - d. Specific bequests. [Wis. Stat.](#) §§ 863.11, 854.18.
4. Distributions to minor are to be made after 10-day prior notice to court that appointed guardian. [Wis. Stat.](#) §§ 863.43, 863.45.
  - a. Affidavit of Service ([Form 4.9](#)) must be filed before distribution is made; guardian files receipt with court.
  - b. In court's discretion, distributions of \$50,000 or less can be made to minor without appointment of guardian. [Wis. Stat.](#) § 54.12(1).
5. Any debts owing from distributee to decedent or estate may be set off from distributee's share. [Wis. Stat.](#) §§ 863.15, 854.12.

6. If distribution prohibited by law, order, or regulation, follow statute. [Wis. Stat. § 863.37](#).
7. Any portion of estate not disposed of by will considered intestate. [Wis. Stat. § 852.01](#).
8. For all personal property distributed, receipts must be filed within 120 days after signing of Final Judgment ([Form 4.40](#)). [Wis. Stat. § 863.41](#).
9. If necessary, court may order funds withheld from distribution to pay contingent claims, possible tax liability, miscellaneous disbursements, and other reasonable purposes. [Wis. Stat. § 863.25](#).
10. Property passing jointly or in common may be partitioned in Final Judgment if petition signed by all interested parties is filed with court. [Wis. Stat. § 863.17](#).
11. Final Judgment is conclusive determination of persons who are successors in interest to decedent's estate and of extent and character of their interest in estate. [Wis. Stat. § 863.31](#).

#### **E. Required Documents [§ 4.25]**

1. Closing Certificate for Fiduciaries ([Form 6.15](#))
2. Estate Account ([Form 4.36](#))
3. Petition for Approval of Final Judgment ([Form 4.37](#))
4. Order and Notice for Hearing on Petition for Final Judgment ([Form 4.38](#))
5. Supplemental Estate Account ([Form 4.39](#))
6. Judgment on Claims ([Form 4.25](#))
7. Final Judgment ([Form 4.40](#))
8. Receipt and release. *See supra* [Forms 3.66, 3.67](#).

### **VI. Closing Matters [§ 4.26]**

#### **A. Time Limits [§ 4.27]**

1. Distributions must be claimed within 120 days after entry of Final Judgment ([Form 4.40](#)) unless otherwise specified, or will escheat to state (escheats may be received by proof of right in petition filed with probate court that settled estate). [Wis. Stat. § 863.39\(1\), \(3\)](#).
2. Estates must be closed as soon as reasonably possible. [Wis. Stat. § 863.33](#).

3. Estates open 18 months without entry of Final Judgment are to be declared dormant; personal representative and attorney subject to order to show cause. [Wis. Stat. § 863.35](#).
4. Administration should be summarily discontinued by court if no papers are filed in five-year period. [Wis. Stat. § 863.49](#).

#### **B. Recording [§ 4.28]**

1. Record certified copies of Final Judgment ([Form 4.40](#)) or Abridgment ([Form 4.41](#)) with register of deeds in each county where real property of estate is situated. [Wis. Stat. § 863.29](#).
2. File either Proof of Recording ([Form 4.43](#)) or Abridgment ([Form 4.41](#)) showing recording information, depending on local practice.

#### **C. Receipts [§ 4.29]**

Within 120 days after entry of Final Judgment ([Form 4.40](#)), obtain and file with the court receipts for all personal property distributed. [Wis. Stat. § 863.41](#); *see supra* [Forms 3.66, 3.67](#).

#### **D. Discharge of Personal Representative [§ 4.30]**

1. After recording Final Judgment and filing all receipts, court will enter Order Discharging Personal Representative ([Form 4.45](#)) and canceling bond. [Wis. Stat. § 863.47](#).
2. Consider possible necessity of retaining personal representative in office to perform some necessary act.
3. Send bonding company certified copy of discharge to release bond.
4. If required, obtain Order Discharging GAL ([Form 4.44](#)).

### **VII. Procedure for Conversion to Informal Probate [§ 4.31]**

#### **A. Overview [§ 4.32]**

Informal proceedings may be commenced at any time after Petition for Administration has been filed if all interested persons agree. *See supra* [ch. 3](#).

#### **B. Required Documents [§ 4.33]**

1. Application for Informal Administration ([Form 4.46](#))
2. Notice of Application to Convert to Informal Administration ([Form 4.47](#))
3. Order Converting Proceeding to Informal Administration ([Form 4.48](#))

## VIII. Special Administration [§ 4.34]

### A. Overview [§ 4.35]

1. Special administration is available to anyone who may petition for administration. [Wis. Stat.](#) §§ 867.07, 867.09, 857.25. Grounds for appointment of special administrator are
  - a. That there is no estate, but some act needs doing on the decedent's part, which is important to petitioner or any other person;
  - b. When necessary for conservation or administration of estate before appointment of personal representative (e.g., to operate decedent's business), [Wis. Stat.](#) §§ 867.01, 867.02;
  - c. When cause of action exists against decedent or decedent's estate and some act is necessary in that respect before personal representative's appointment;
  - d. That there is need and estate can be summarily settled or assigned;
  - e. At hearing to appoint personal representative when personal representative's appointment is delayed, court must appoint special administrator;
  - f. The final judgment of distribution in the estate has been entered and an act remains unperformed in the estate, or that unadministered assets have been found belonging to the estate; or
  - g. When court in its discretion deems it necessary.
    - **Note.** Special administrator has only those powers expressly granted by the court, and the powers may be amended by the court as need arises. [Wis. Stat.](#) § 856.27.
2. Procedure for special administration. [Wis. Stat.](#) §§ 867.05(5), 867.07(2).
  - a. File Petition for Special Administration ([Form 4.49](#)) with court.
  - b. Draft and secure Order Setting Time to Hear Petition for Special Administration ([Form 4.50](#)) with notice under [Wis. Stat.](#) § 879.03 or without notice, as court directs. [Wis. Stat.](#) § 867.11.
  - c. Provide Signature Bond ([Forms 4.17–4.18](#)) for special administrator if court requires. [Wis. Stat.](#) § 867.13.
  - d. Draft and secure Order for Special Administration ([Form 4.51](#))
  - e. Draft Letters of Special Administration ([Form 4.52](#))
  - f. Draft Petition for Discharge of Special Administrator ([Form 4.53](#)) and Order Discharging Special Administrator ([Form 4.54](#))

3. Court determines special administrator’s powers, duties, and compensation. [Wis. Stat.](#) §§ 867.17, 867.19.
4. Court will discharge special administrator when satisfied that need has passed or when personal representative is appointed. [Wis. Stat.](#) § 867.21.
5. Before court grants Order Discharging Special Administrator, special administrator files account and delivers property to personal representative; if special administrator is personal representative, no separate accounting is required.

**B. Required Documents [§ 4.36]**

1. Petition for Special Administration ([Form 4.49](#))
2. Order Setting Time to Hear Petition for Special Administration ([Form 4.50](#))
3. Signature Bond ([Forms 4.17–4.18](#)) or Bond Application
4. Order for Special Administration ([Form 4.51](#))
5. Letters of Special Administration ([Form 4.52](#))
6. Petition for Discharge of Special Administrator ([Form 4.53](#)) and Order Discharging Special Administrator ([Form 4.54](#))

**IX. Miscellaneous [§ 4.37]**

**A. Family Needs and Allowances: Overview [§ 4.38]**

1. Family allowances. [Wis. Stat.](#) ch. 861.
  - a. Family allowances, special allowances for support and education of children, and spouse’s or domestic partner’s selection of property are treated as priority claims in estate.
  - b. Family needs and needs of spouse, domestic partner, minor children should be protected from claims during administration. [Wis. Stat.](#) §§ 861.31, 861.33, 861.35, 859.25; *see infra* para. 3.
 

➤ **Note.** Have the family prepare a budget of all family expenses, keeping in mind the family’s usual standard of living.
2. Procedure for determining allowances:
  - a. Determine whether income will be generated from property (if so, will be subject to probate).

- 
- b. Consider family assets and income from nonprobate property. MIL §§ 11–21.
    - (1) Income of remaining family members (Will they be able to continue working? Are they now on vacation or leave?)
    - (2) Decedent’s unpaid wages. [Wis. Stat.](#) § 109.03(3).
    - (3) Social Security, veterans, or employee benefits
    - (4) Independent incomes (rents, interests, etc.)
    - (5) Rebates on insurance premiums
    - (6) Cash on hand and demand deposits (for release of decedent’s accounts)
    - (7) Life insurance proceeds and cash values of life insurance held on another’s life; annuities
  - c. Consider amount and nature of real and potential claims against the estate under [Wis. Stat.](#) ch. 859 (must assets be set aside for family needs, free from claims of creditors?).
  - d. Evaluate possibility of and necessity for immediate conversion of nonliquid assets to provide for family needs; *see supra* §§ [4.35–.36](#), for powers of special administrator before appointment of personal representative.
3. Statutory provisions are available regardless of type of proceeding selected:
- a. Allowance to family during administration. [Wis. Stat.](#) § 861.31.
    - (1) Object is to substitute estate of deceased spouse or domestic partner for decedent.
    - (2) Initial order may not exceed one year but may be extended. [Wis. Stat.](#) § 861.31(3).
    - (3) When appropriate, separate allowances for spouse or domestic partner and children authorized. [Wis. Stat.](#) § 861.31(2).
    - (4) Under [Wis. Stat.](#) § 861.31(1m), court considers
      - (a) Size of probate estate,
      - (b) Other resources available for support,
      - (c) Family’s existing standard of living, and
      - (d) Other relevant factors.



- (5) Under [Wis. Stat.](#) § 861.31(4), court orders allowance to be charged against principal or interest, either
  - (a) As an advance, or
  - (b) Otherwise (usually on attorney’s recommendation).
  
- b. Selection of personalty by surviving spouse or domestic partner. [Wis. Stat.](#) § 861.33; *see infra* [Form 4.57](#).
  - (1) Decedent’s apparel and jewelry held for personal use
  - (2) One automobile
  - (3) Household furniture, furnishings, and appliances
  - (4) Other tangible personalty of a nonbusiness nature not exceeding \$3,000 in value
  - (5) Spouse or domestic partner can obtain items above \$3,000 in value if excess inventory value is paid to personal representative.
  - (6) Statute does not specify, but for ease of administration, selection should be made within time for filing claims.
    - *Note.* When it appears that claims may not be paid in full, selection of paragraphs (1)–(4), *supra*, may be limited to \$5,000 in aggregate value upon petition of creditor. [Wis. Stat.](#) § 861.33(2).
  
- c. Special allowance for support and education of minor children or for support of spouse or domestic partner. [Wis. Stat.](#) § 861.35.
  - (1) If support and education are not otherwise provided for, court may order them to be provided for minor children, spouse, or domestic partner out of estate.
  - (2) Court may set aside, in trust, property for such purpose, subject to court’s continuing jurisdiction.
  
- d. Exemption of property to be assigned to surviving spouse or domestic partner. [Wis. Stat.](#) § 861.41.
  - (1) Surviving spouse or domestic partner may petition to set aside as exempt from creditors’ claims up to \$10,000 in property depending on whether assignment ahead of creditors is reasonably necessary for support of spouse or domestic partner.
  - (2) Court determines amount after claims have been determined.

**B. Family Needs and Allowances: Required Documents [§ 4.39]**

1. Petition for Allowance ([Form 4.55](#))
2. Order for Allowance ([Form 4.56](#))
3. Surviving Spouse or Domestic Partner's Selection of Personal Property ([Form 4.57](#))
4. Petition for Special Allowance ([Form 4.58](#))
5. Order for Special Allowance ([Form 4.59](#))
6. Petition for Spouse's (and Domestic Partner's) Exemption from Creditors ([Form 4.60](#))
7. Order for Spouse's (and Domestic Partner's) Exemption from Creditors ([Form 4.61](#))
8. Spousal Election ([Form 4.62](#))

**C. Ancillary Probate and Related Procedures [§ 4.40]**

1. Generally used when another state has jurisdiction over decedent but decedent's real estate or tangible personal property is located in Wisconsin.
2. May use either ancillary probate, which provides Wisconsin venue to probate decedent's estate, *or* letting foreign executor settle estate.
3. Ancillary probate. [Wis. Stat.](#) ch. 868.
  - a. Purpose is to allow Wisconsin-appointed personal representative to collect assets, pay taxes, and transfer assets to primary personal representative for distribution to heirs or beneficiaries.
  - b. May be used if will is not admitted in other jurisdiction.
  - c. May be used to complete foreign probate that affects decedent's Wisconsin property when no administration was sought in Wisconsin within six years after decedent's date of death.
4. Alternative procedure involving foreign executor. [Wis. Stat.](#) § 877.16.

If personal representative has been appointed in another state, letters of office may be filed with proper circuit court, *see supra* [ch. 2](#).

➤ **Note.** Once letters of office have been filed, foreign executor may exercise any power over estate that Wisconsin-appointed personal representative could exercise.

## Procedural Guide to Initial Hearing on Petition for Administration (EST-0249)

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This is a procedural guide to a completely formal hearing at which the will is proved by witnesses and testimony is taken as to proof of heirship. Most estates will not require this procedure. Ordinarily, the appropriate forms are simply presented to the register in probate or the court.

### I. State Nature of Hearing and Appearances

#### A. Hearing on Petition for Administration in the Estate of     (Decedent's Name)

Petitioner requests that the court:

1. Admit will to probate (testate only),
2. Issue Domiciliary Letters ([Form 4.16](#)), and
3. Determine the decedent's heirs.

➤ *Note.* Although the petition requests determination of heirship, generally the court only takes testimony as to heirship and determines heirship when the final judgment is signed.

➤ *Note.* In many counties, proof of heirship can be taken before the register in probate or circuit judge at any time before the final judgment. If done before the initial hearing, recite the date the testimony was given.

#### B. Names of all interested parties and attorneys and the capacity or interest in which they appear

### II. Manner of Giving Notice or Waiver of Notice

#### A. Hearing on Notice

1. Refer to the Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims ([Form 4.5](#)) for the hearing date.
2. Present Proof of Publication ([Form 3.19](#)), indicating three dates of publication.
3. Present Affidavit of Service ([Form 4.9](#)).

#### B. Hearing on Waiver

1. Refer to Order Limiting Time for Filing Claims ([Form 4.7](#)) and its dates.
2. Present Waiver, Consent and Approval ([Form 4.6](#)) signed by all interested parties.

### III. Proof of Will (Will Without Attestation Clause or Contested Will)

- A. Ask witness(es) to will (and codicil): Name, age, address, and occupation.
- B. Give the witness original will (and codicil) so the witness may refer to it in testimony.

Ask witness(es) the following questions (expected answers are in parentheses):

1. I show you a document purporting to be the Last Will and Testament of (Decedent's Name), dated (Date of Will). Do you recognize it as such? (Yes)
2. Did you act as an attesting witness to this will? (Yes)
3. Did you witness the decedent's signature and execution of the will in your presence and in the presence of the other witness(es), (name) and (name)? (Yes)
4. Did you and the other witness(es) then in the presence of the decedent, and in the presence of each other, sign the will as attesting witnesses? (Yes)

➤ **Note.** Question 4 may need to be modified if the witnesses signed at different times.

5. To the best of your knowledge, was the decedent, at the time of execution of the will, of sound mind and of age? (Yes)
  6. To the best of your knowledge, was the decedent acting under any undue influence at the time of execution? (No)
  7. Do you know of any later will or codicil of the decedent? (No)
- C. Have the witness sign the Proof of Will ([Form 4.14](#)) and present it to the judge to sign. The judge will annex it to the will.

### IV. Proof of Heirship

Ask the witness the questions set forth in the Proof of Heirship ([Form 4.12](#)). Be sure to provide the witness with copies of the Proof of Heirship, the will, and any other document to refresh his or her memory. If the county requires more testimony, add the required questions. Have the witness sign the Proof of Heirship after questions are answered in the presence of the judge.

➤ **Note.** Be prepared to have the witness answer all questions about the beneficiaries named in the will and any testamentary trust. For instance, you may wish to ask whether there are circumstances that, if occurring today, would require the court to determine that there are other heirs to the estate (for example, when there is a unique survivorship interest in the will).

## V. Order for Formal Administration (Testate or Intestate)

Give the judge the appropriate order ([Form 4.15](#)) for his or her signature.

- A. Signature Bond ([Forms 4.17–4.18](#)): When bond for either the personal representative or trustee is required, make sure it is signed by the personal representative or trustee and sureties, and present it to the judge. Be prepared to have the witness testify as to the nature and value of assets so the court can pass on the amount of the bond.

➤ *Note.* Check with the register in probate in advance of the initial hearing to make sure the amount of the bond is sufficient.

- B. Domiciliary Letters ([Form 4.16](#)) and Letters of Trust ([Form 4.19](#)): Present these documents to the court for signature. Give two extra copies to the register in probate to get them certified, and deliver them to the personal representative and trustee, who may need certified copies to provide their authority.

- C. Order Appointing Appraiser(s) ([Form 4.20](#)), if required: Present the order to the judge for his or her signature, identifying the appraisers and stating their general qualifications.

## VI. Miscellaneous Matters

- A. The Probate Claims Notice ([Form 3.7](#)) required by DHS, DCF, or the Department of Corrections, [Wis. Stat.](#) § 859.07, can be presented to the court at this time, although notice need only be given 30 days before the hearing on claims. Notice should be sent to the department and any corresponding county department at the time the order is mailed to all interested parties. If mailed previously, refer to the date notice was mailed.

- B. Prepare the Petition for Allowance ([Form 4.55](#)) and Order for Allowance ([Form 4.56](#)) if necessary. Under [Wis. Stat.](#) § 861.31, the court, with or without notice, may order an allowance for the decedent’s family after considering the size of the probate estate, other resources available for their support, their standard of living, and other relevant factors. Be prepared to give testimony on these items, and prepare a budget to show needs of the family.

- C. Disburse checks for:

1. Witness (\$16 plus mileage, *see* [Wis. Stat.](#) §§ 885.05, 814.67; local practice may allow more), and
2. Register in probate (certified copies cost \$1 per page plus \$3 for certification, *see* [Wis. Stat.](#) § 814.66(1)(h)1.).

- D. Conform all file copies as to dates of execution.

- E. Pay witness fees.

- F. Obtain certified copies of Domiciliary Letters.

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## Procedural Guide to Hearing on Estate Account (EST-0250)

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The procedure for formally closing the estate with testimony to the court is outlined below. The documents listed in section I.C., *infra*, of this outline normally will be presented to the register in probate even if testimony is not required.

### I. Nature of Hearing and Appearances

A. Hearing on Estate Account in the Estate of \_\_\_\_\_

B. Witnesses: \_\_\_\_\_

C. Present (noting jurisdictional facts of interested parties and dates) and file with the court:

1. Estate Account ([Form 4.36](#)), Petition for Final Judgment ([Form 4.37](#)), and any supplement ([Form 4.39](#));
2. Order and Notice for Hearing on Petition for Final Judgment ([Form 4.38](#)) and Affidavits of Service for copy of Final Account, Petition for Final Judgment, and Order and Notice for Hearing on Petition for Final Judgment ([Form 4.9](#))

(or)

Waiver, Consent and Approval ([Form 4.6](#));

(continue)

3. Closing Certificate for Fiduciaries ([Form 6.15](#));
4. Perpetual Care Statement (prepared by cemetery);
5. Proof of Heirship ([Form 4.12](#)), if heirship not previously proved;
6. Judgment on Claims ([Form 4.25](#)), if not previously entered;
7. Final Judgment ([Form 4.40](#)); and
8. Abridgment of Final Judgment ([Form 4.41](#)).

### II. Testimony

- A. Review the Estate Account ([Form 4.36](#)) and any Supplemental Final Account ([Form 4.39](#)).
- B. The judge, register in probate, or clerk may wish to review all receipts for administration, expenses of the decedent's last illness, funeral claims, debts, and federal estate taxes if the review has not been done before the hearing.
- C. Testify as to previous distributions and final distributions schedule.
- D. Review any special will features.

**III. Disbursements**

A. Register in probate			\$ _____
B. Certified Copies			
Credit Unions	\$ _____	Securities	\$ _____
Banks	\$ _____	Others	\$ _____
Register of Deeds	\$ _____		\$ _____
C. Miscellaneous			\$ _____





## Forms and Letters

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- Opening the Estate

- [Form 4.1 Petition for Formal Administration \(EST-0186\)](#)
- [Form 4.2 Order Appointing Guardian ad Litem or Attorney \(EST-0118\)](#)
- [Form 4.3 Consent to Act \(EST-0187\)](#)
- [Form 4.4 Notification Letter to Guardian ad Litem or Attorney for Person in Military Service \(EST-0188\)](#)
- [Form 4.5 Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims \(EST-0189\)](#)
- [Form 4.6 Waiver, Consent and Approval \(EST-0190\)](#)
- [Form 4.7 Order Limiting Time for Filing Claims \(EST-0191\)](#)
- [Form 4.8 Letter to Newspaper Accompanying Notice for Publication \(EST-0192\)](#)
- [Form 4.9 Affidavit of Service \(EST-0193\)](#)
- [Form 4.10 Notification Letter to Heirs \(EST-0194\)](#)
- [Form 4.11 Notification Letter to Specific Legatee \(EST-0195\)](#)
- [Form 4.12 Proof of Heirship \(EST-0113\)](#)
- [Form 4.13 Letter to Attesting Witness Who Will Prove Will \(EST-0197\)](#)
- [Form 4.14 Proof of Will \(EST-0198\)](#)
- [Form 4.15 Order for Formal Administration \(EST-0199\)](#)
- [Form 4.16 Domiciliary Letters \(EST-0125\)](#)
- [Form 4.17 Signature Bond in Estate of Trust Proceedings \(EST-0201\)](#)
- [Form 4.18 Court Approval of Signature Bond in Estate or Trust Proceedings \(EST-0310\)](#)
- [Form 4.19 Letters of Trust \(EST-0202\)](#)

- Inventory

- [Form 4.20 Order Appointing Appraiser\(s\) \(EST-0203\)](#)
- [Form 4.21 Letter to Appraiser\(s\) \(EST-0204\)](#)
- [Form 4.22 Consent to Serve \(EST-0121\): Appointment of Resident Agent](#)
- [Form 4.23 Claim Against Estate \(EST-0206\)](#)
- [Form 4.24 Objection to Allowance of Claim \(EST-0207\)](#)
- [Form 4.25 Judgment on Claims \(EST-0208\)](#)
- [Form 4.26 Inventory \(EST-0152\)](#)
- [Form 4.27 Notice of Inventory on File \(EST-0210\)](#)
- [Form 4.28 Waiver of Right to Receive Inventory and Accounts: Waiver, Consent and Approval \(EST-0190\)](#)

- Classification and Management Rights

- [Form 4.29 Petition for Order Approving Classification of Property \(EST-0212\)](#)
- [Form 4.30 Objection to Property Classification \(EST-0213\)](#)
- [Form 4.31 Order for Hearing on Classification of Property \(EST-0214\)](#)
- [Form 4.32 Order Classifying Property \(EST-0215\)](#)
- [Form 4.33 Petition for Declaration of Rights of Management and Control and Interest in Property \(EST-0216\)](#)
- [Form 4.34 Order Declaring Interest in Property \(EST-0217\)](#)
- [Form 4.35 Order Declaring Rights of Management and Control \(EST-0218\)](#)

- Estate and Income Taxes

*See infra* [ch. 6](#)

- Closing the Estate

[Form 4.36 Estate Account \(EST-0176\)](#)

[Form 4.37 Petition for Final Judgment \(EST-0220\)](#)

[Form 4.38 Order and Notice for Hearing on Petition for Final Judgment \(EST-0221\)](#)

[Form 4.39 Supplemental Estate Account \(EST-0176\)](#)

[Form 4.40 Final Judgment \(EST-0223\)](#)

[Form 4.41 Abridgment of Final Judgment \(EST-0224\)](#)

[Form 4.42 Notice of Distribution to Ward \(EST-0225\)](#)

[Form 4.43 Proof of Recording \(EST-0226\)](#)

[Form 4.44 Order Discharging Guardian ad Litem \(EST-0227\)](#)

[Form 4.45 Order Discharging Personal Representative \(EST-0228\)](#)

- Conversion to Informal Administration

[Form 4.46 Application for Informal Administration \(EST-0110\)](#)

[Form 4.47 Notice of Application to Convert to Informal Administration \(EST-0230\)](#)

[Form 4.48 Order Converting Proceeding to Informal Administration \(EST-0231\)](#)

- Special Administration

[Form 4.49 Petition for Special Administration \(EST-0232\)](#)

[Form 4.50 Order Setting Time to Hear Petition for Special Administration \(EST-0233\)](#)

[Form 4.51 Order for Special Administration \(EST-0234\)](#)

[Form 4.52 Letters of Special Administration \(EST-0235\)](#)

[Form 4.53 Petition for Discharge of Special Administrator \(EST-0236\)](#)

[Form 4.54 Order Discharging Special Administrator \(EST-0237\)](#)

- Allowances and Elections

[Form 4.55 Petition for Allowance \(EST-0238\)](#)

[Form 4.56 Order for Allowance \(EST-0239\)](#)

[Form 4.57 Surviving Spouse's Selection of Personal Property \(EST-0240\)](#)

[Form 4.58 Petition for Special Allowance \(EST-0241\)](#)

[Form 4.59 Order for Special Allowance \(EST-0242\)](#)

[Form 4.60 Petition for Spouse's Exemption from Creditors \(EST-0243\)](#)

[Form 4.61 Order for Spouse's Exemption from Creditors \(EST-0244\)](#)

[Form 4.62 Spousal Election \(EST-0245\)](#)

[Form 4.63 Disclaimer of Interest \(EST-0246\)](#)

[Form 4.64 Assignment of Interest \(EST-0247\)](#)

[Form 4.65 Petition That Home Be Assigned to Spouse \(EST-0248\)](#)

## X. Petition for Formal Administration

### Commentary and Instructions for [Form 4.1](#)

The Petition for Formal Administration initiates the probate process. It names a personal representative (and trustee of a testamentary trust), requests the appointment of the named personal representative (and trustee), and requests a hearing to determine the decedent's heirs. The petition may be made by any interested person but is usually made by the nominated personal representative or, if none, by one of the decedent's heirs.

➤ **Caution.** The will must be filed within 30 days.

#### Contents

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 This figure may be an estimate. But it should be in excess of \$50,000 because some judges may require summary procedures if the estate's value is below \$50,000. Value only property *solely* held by the decedent at the time of death. Do not include property over which the decedent had a power of appointment (MIL Section 20), life insurance payable to beneficiaries other than the estate (MIL Section 17), property held in joint tenancy (MIL Section 18), or transfers made during the decedent's lifetime (MIL Section 19).
- #3 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, MA, long-term care services, Wisconsin chronic disease program benefits, or any of the other services described in [Wis. Stat.](#) § 859.07(2), send the Probate Claims Notice ([Form 3.7](#)) to DHS, DCF, or the Department of Corrections as appropriate and the county clerk. *See supra* [Form 3.6](#).
- #4 Check the appropriate boxes to indicate whether the decedent died intestate or testate and left a will and any codicil(s).
- #5 Interested persons include heirs, beneficiaries, named trustees, the named personal representative, and such additional persons as the court may order. If an interested person is a minor, so state and give the minor's date of birth. If an interested person is an incompetent person or a person in military service, so state.
- #6 Enter the name of the person who will make the petition. Any interested person may apply for informal administration, provided that formal administration has not commenced.

#### Distribution

Original: File with the court (usually at same time will is filed)  
 Conformed copies: Nominated personal representative, named trustee, and firm file (may also go to beneficiaries)

#### References

[Wis. Stat.](#) §§ 856.07, 856.09, 879.01

Form 4.1 Petition for Formal Administration (EST-0186)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name) \_\_\_\_\_  
Name \_\_\_\_\_

Petition for Formal Administration

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

UNDER OATH, I STATE:

1. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address)

2. I am interested as \_\_\_\_\_ (#1)

3. The estimated net value of decedent's property requiring administration is \$ \_\_\_\_\_ (#2)

4. The decedent

did  did not receive Medical Assistance/Medicaid.

did  did not receive Family Care and/or Partnership benefits (through a Managed Care Organization – MCO/CMO).

(#3)  did  did not receive benefits from the Community Options Program (COP).

did  did not receive benefits from the Wisconsin Chronic Disease Program.

was  was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county.

Explain: \_\_\_\_\_

The affiant lacks information to complete this section.

5. If the decedent was ever married, complete the following: (If more than one spouse,  See attached)

Name of spouse ( living or  deceased) \_\_\_\_\_

Married to decedent  Divorced from decedent at time of decedent's death.

The spouse  did  did not receive benefits from the Community Options Program (COP).

The spouse  did  did not receive benefits from the Wisconsin Chronic Disease Program.

The affiant lacks information to complete this section.

(Complete question 6 OR 7 below, whichever is applicable.)

6. The decedent died leaving a  will, dated \_\_\_\_\_ (Date of Will),  codicil(s) (if any), dated \_\_\_\_\_ (Date of Codicil(s)).

(#4) I believe these documents were executed properly and are valid. I made diligent inquiry and am unaware of any revocation by decedent.

The original will, including any codicil(s),

is in the possession of the court.

accompanies this application.

was probated elsewhere and an authenticated copy accompanies this application.

is en route to the court by mail or personal delivery (for eFilers only).

The personal representative(s) named by the decedent in the will or any codicil(s) is

[Name] \_\_\_\_\_ (PR's Name)

I nominate \_\_\_\_\_ to serve as personal representative(s).

The trustee(s) named by the decedent in the will or any codicil(s) is

[Name] \_\_\_\_\_ (Trustee's Name)

I nominate \_\_\_\_\_ to serve as trustee(s).

FORMAL PROBATE AND SPECIAL ADMINISTRATION

7. I made diligent inquiry and am unaware of any unrevoked will of the decedent and believe that the decedent died leaving no will.  
 I nominate \_\_\_\_\_ to serve as personal representative(s).

8. The names and mailing addresses of all interested persons are:  
 (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)

Name	Relationship <small>(e.g. Heir, Beneficiary, Fiduciary)</small>	Mailing Address	If Minor, Date of Birth
(#5)			

9. Other: \_\_\_\_\_

**I REQUEST:**

1. The Petition for administration be granted and the heirs determined.
2. The will, including any codicil(s), be admitted to probate.
3. Domiciliary letters be issued to \_\_\_\_\_.
4. Letters of trust be issued to \_\_\_\_\_  
 for the following trust: \_\_\_\_\_  
 Letters of trust be issued to \_\_\_\_\_  
 for the following trust: \_\_\_\_\_
5. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

▶ \_\_\_\_\_  
Petitioner  
(#6)  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
Email Address                      Telephone Number  
 \_\_\_\_\_  
Date                                      State Bar No. (if any)

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

## XI. Order Appointing GAL or Attorney (GF-131A), Consent to Act (GF-131B), and Notification Letter to Guardian ad Litem or Attorney for Person in Military Service

### Commentary and Instructions for [Forms 4.2–4.4](#)

Every person under legal disability because of minority or incompetency or who is in military service must be represented at any probate proceeding by a GAL. In most cases, the GAL must be an attorney. In some cases, a parent or child of the person to be represented may serve. See [Wis. Stat.](#) § 879.23. An existing guardian for a minor’s estate may appear on a ward’s behalf, but a GAL will be appointed when there is no such guardian or when the interests of the guardian and ward conflict. One attorney can serve as GAL for several persons, if their interests do not conflict.

The court may appoint a GAL any time before the initial hearing. It is most convenient to have the order ([Form 4.2](#)) prepared for the court’s signature at the same time the court would sign the order for the first hearing. Be sure that the attorney to be appointed will consent to act (*see* [Form 4.3](#)).

[Form 4.4](#) is a cover letter to the GAL or attorney for person in military service, which is intended to provide background information and notice of the initial hearing. The GAL or attorney should be reminded of the hearing the day before it is scheduled.

#### Contents (Order Appointing GAL or Attorney)

- #1 Enter names of individual requiring representation and GAL or attorney.
- #2 Check the appropriate box.
- #3 Enter GAL to be appointed.
- #4 Enter whether consent to act is required.
- #5 Court will enter if petition is denied.

#### Contents (Consent to Act)

If the court requires the Consent to Act form to be signed by the appointed guardian ad litem or attorney, fill out this form.

- #1 Check the box and have the GAL (or attorney) sign and fill out the remaining lines on the form.
- #2 Conform date to date of Order Appointing GAL or Attorney.

#### Contents (Notification Letter)

- #1 List each person’s name, address, relationship to decedent, and interest in the estate. See MIL Section 5.
- #2 Use this paragraph if the attorney appointed has not previously consented to act.
- #3 Include if appropriate.
- #4 Enter the date and time of hearing from [Form 4.5](#).
- #5 Some courts will allow the GAL to submit a written report in lieu of an appearance. Check with the court.

**Distribution**

Original: File with the court  
Conformed copies: Personal representative, appointed attorney, ward for whom attorney appointed, and firm file

**References**

[Wis. Stat.](#) §§ 879.23(1), (4), 879.25

**Form 4.2 Order Appointing Guardian ad Litem or Attorney (EST-0118)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

(Decedent's Name)

Amended

**Order Appointing  
Guardian ad Litem or Attorney**

Case No. \_\_\_\_\_ (Case No.)

A matter is pending in this court and [individual(s)] \_\_\_\_\_ (#1) require(s) the appointment of  
(#2)  a guardian ad litem.  
 an attorney.

**THE COURT ORDERS:**

(#3)  1. The appointment of the following person as  guardian ad litem  attorney for the above-named individual(s).

Name: \_\_\_\_\_ (Name of GAL/Attorney)

Address: \_\_\_\_\_ (Address)

Telephone Number: \_\_\_\_\_ (Telephone No.)

(#4) 2. Consent to Act  is  is not required to be signed.

(#5)  3. The Petition is denied because \_\_\_\_\_

4. Other: \_\_\_\_\_



**Form 4.3 Consent to Act (EST-0187)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

Case Caption: \_\_\_\_\_

(Decedent's Name) \_\_\_\_\_

**Consent to Act**  
Case No. (Case No.) \_\_\_\_\_

An Order Appointing Guardian ad Litem or Attorney was filed on [Date] \_\_\_\_\_.

(#1) I consent to my appointment as  guardian ad litem  attorney for (Name of Person Under Legal Disability).

▶ \_\_\_\_\_  
Signature  
(GAL/Attorney's Name)  
Name Printed or Typed  
(Address)  
Address  
(Email Address) (Telephone No.)  
Email Address Telephone Number  
(#2)  
Date State Bar No. (if any)

## Form 4.4 Notification Letter to Guardian ad Litem or Attorney for Person in Military Service (EST-0188)

---

(Date)

(Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Name):

We have been retained to probate the estate of (Decedent's Name). The court has appointed you as (*guardian ad litem/attorney for person in military service*) for the following interested person in the estate: (#1)

(Interested Person's Name)  
(Address)  
(Relationship to Decedent)  
(Interest in the Estate)

(#2) If you cannot accept the appointment, please contact us as soon as possible.

Enclosed you will find the Petition for Formal Administration and the Order Setting Time to Hear Petition for Administration and Heirship and Notice to Creditors (#3) (*and a copy of the decedent's Last Will and Testament*). The hearing is scheduled to be held on (#4) (Date) at (Time) (a.m./p.m.) at the courthouse at (Court's Address), Wisconsin. You will, of course, be required to be present at this hearing. (#5)

Please contact us if you have any questions.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

## XII. Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims

### Commentary and Instructions for [Form 4.5](#)

The Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims may be used for either testate or intestate administration. Once a Petition for Formal Administration ([Form 4.1](#)) is filed requesting that (1) the personal representative be appointed and issued Domiciliary Letters ([Form 4.16](#)) and (2) heirs be determined, the court must set a hearing date for the petition. The court will also set the date by which all creditors must file their claims against the estate (not less than three nor more than four months from the date of the order).

The court or register in probate will enter the dates at the time the order is signed by the court. A conformed copy, which includes the date of hearing, the date by which creditors must file claims, and the date the order is signed by the judge, should be delivered or sent as a notice to creditors and interested persons. The order must be published within 15 days after entry. [Wis. Stat. § 859.07\(1\)](#). When the names or addresses of interested persons are unknown, the notice must so state. [Wis. Stat. §§ 859.02 and 859.48](#) require that creditors be sent a copy of the notice to ensure that claims are cut off. Note that the form requires mailing a copy of the order to all known or reasonably ascertainable creditors within 30 days before the claim's filing date, although the statutes do not require it. In a testate estate, a copy of the will should be sent with the notice to any residual beneficiary. A specific beneficiary should be advised of the provisions of the will that contain the specific bequest.

Proof of publication of the Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims is required by statute. Most newspapers have their own forms for this purpose and will complete them without your help. If the newspaper does not offer to provide the form, use one such as that shown as [Form 3.19](#), *supra*. Provide the newspaper with a copy of the Order as well.

Proof of service to interested persons and creditors should be done by preparing an Affidavit of Service. See [Form 4.9](#).

### Contents

- #1 The court will insert the date and time of the hearing. If the time is not included, you will have to notify (when the time is known) all persons required to attend the hearing.
- #2 The court will insert the date (not less than three nor more than four months from the date of the order).
- #3 Enter the name(s) or address(es) of interested persons who are not known or reasonably ascertainable.
- #4 Enter the name of the newspaper designated for publication.

➤ **Note.** Conform all copies, especially the one to be used by the newspaper designated for publication of notice.

**Distribution**

Original: File with the court  
Conformed copies: Personal representative, known creditors and other interested persons,  
newspaper designated for publication of notice, and firm file

**References**

[Wis. Stat.](#) §§ 856.11, 859.02, 859.07, 859.48, 879.03(5), 879.07(3), 985.12

**Form 4.5 Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims (EST-0189)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims (Formal Administration)**

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

A Petition for Formal Administration was filed.

**THE COURT FINDS:**

The decedent, with date of birth (Date of Birth) \_\_\_\_\_ and date of death (Date of Death) \_\_\_\_\_ was domiciled in (County Name) County, State of (State Name) \_\_\_\_\_, with a mailing address of (Decedent's Address) \_\_\_\_\_.

**THE COURT ORDERS:**

1. The Petition be heard at the (County Name) County Courthouse, (Court's Address) \_\_\_\_\_, Wisconsin, Room (No.) \_\_\_\_\_, before Circuit Court Judge/Circuit Court Commissioner (Court Official's Name) on [Date] \_\_\_\_\_ (#1) at [Time] \_\_\_\_\_ (#1).

**You do not need to appear unless you object. The petition may be granted if there is no objection.**

2. The deadline for filing a claim against the decedent's estate is [Date] \_\_\_\_\_ (#2).
3. A claim may be filed at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Wisconsin, Room \_\_\_\_\_.
4. Heirship will be determined at the hearing on petition for final judgment.
5. Publication of this notice is notice to any persons whose names or addresses are unknown.

**\*DO NOT PRINT the following if left blank**

- The names or addresses of the following interested persons (if any) are not known or reasonably ascertainable:  
\_\_\_\_\_ (#3)

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with person named below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**DO NOT PRINT the following text when publishing this order.**

**Notice to Newspaper and Personal Representative:**

Notice must be given by publication of this order in the following newspaper: \_\_\_\_\_ (#4)  
once a week for three consecutive weeks; the first publication date must be within 15 days from the date of this order.

The personal representative is responsible for providing notice to all interested persons by

1. mailing, at least 20 days before the hearing, a copy of this order, and a copy of the will and codicils (if any) or notice of the nature and amount of devise or bequest; to every person entitled to notice; OR
2. personal service, at least 10 days before the hearing.

The personal representative is responsible for providing the deadline for filing a claim against the decedent's estate to all known or reasonably ascertainable creditors.

### **XIII. Waiver, Consent and Approval**

#### **Commentary and Instructions for [Form 4.6](#)**

The Waiver, Consent and Approval is used to have competent interested persons waive their right to service of notice and consent to the hearing of any matter without notice. In a routine probate, this waiver would be used for only two types of hearings: a hearing on a Petition for Formal Administration, or a hearing on a Final Account and Petition for Approval of Final Judgment.

Generally, GALs and guardians of the estate may waive notice on behalf of themselves and those whom they represent. However, an attorney or attorney-in-fact for a person in military service cannot waive notice on behalf of anyone he or she represents. Therefore, in an estate in which the court is to hear the Petition for Formal Administration and there are persons in military service who are interested persons, notice must be given under [Wis. Stat. § 879.05](#).

#### **Contents**

- #1 Choose the appropriate clause.
- #2 Check the boxes for the inventory.
- #3 Check the appropriate box.
- #4 Enter the exact names of those interested persons who will sign the waiver.
- #5 Enter the date that the interested persons sign the waiver.

#### **Distribution**

Original: File with the court  
 Conformed copies: Personal representative, person waiving notice, and firm file

#### **References**

[Wis. Stat. § 879.09](#)

**Form 4.6 Waiver, Consent and Approval (EST-0190)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <p style="text-align: center;"><b>Waiver, Consent and Approval (Formal Administration)</b></p> Case No. _____ (Case No.)
---	--

1. I am by law an interested person in this estate.
2. I am not a minor.
3. I have not been found incompetent and I do not have a guardian.
- (#1) 4. I waive any further notice of the hearing, enter my appearance in this matter, and consent to the granting of the
  - A. petition for formal administration.
  - B. petition for final judgment.
- (#2) 5. I acknowledge
  - A. receipt of a copy of the will dated \_\_\_\_\_ and codicil(s) (if any) dated \_\_\_\_\_.
  - B. receipt of a notice of the nature and amount of the bequest contained in the will dated \_\_\_\_\_ or codicil(s) (if any) dated \_\_\_\_\_.
  - C. decedent died leaving no will.
  - D. receipt of a copy of inventory or notice of inventory on file.
  - E. receipt of a copy of estate account dated \_\_\_\_\_.
- (#3) 6. I have no objection to
  - A. admission of the will, including any codicil(s), to probate.
  - B. intestate administration (without a will).
  - C. inventory.
  - D. entry of final judgment, including approval of the
    - 1) classification of assets and allocation of charges and debts.
    - 2) estate account(s).
    - 3) proposed distribution.
    - 4) proposed attorney, guardian ad litem and personal representative fees.
7. Other: \_\_\_\_\_

Name Printed or Typed	Signature	Date
(#4)		(#5)

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

PR-1902, 10/10 Waiver, Consent and Approval (Formal Administration)      §§856.11, 863.25, and 879.09, Wisconsin Statutes  
**This form shall not be modified. It may be supplemented with additional material.**



## XIV. Order Limiting Time for Filing Claims

### Commentary and Instructions for [Form 4.7](#)

If waivers are used for a Petition for Formal Administration ([Form 4.1](#)) or the Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims, use this [Form 4.7](#) instead of [Form 4.5](#), given that there is no need for publication of the time of hearing. The initial waivers are used so that an attorney can come in at any time to petition for formal administration. [Form 4.7](#) must be published in the same manner as [Form 4.5](#) and is used for both intestate and testate estates. Note the discussion in the commentary for [Form 4.5](#) regarding sufficient notice to creditors.

#### Contents

- #1 The court will insert the filing date, which will be three to four months from the date the judge signs the order unless the date falls on a Saturday, Sunday, or holiday.
- #2 Enter the name of the newspaper designated for publication.

➤ *Note.* Conform all copies, especially the one to be used by the newspaper for publishing notice.

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, known creditors, newspaper designated for publication of notice, and firm file

#### References

[Wis. Stat.](#) §§ 859.01, 859.02, 859.07, 859.48, 863.23

Form 4.7 Order Limiting Time for Filing Claims (EST-0191)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) **Order Limiting Time for Filing Claims**

Name \_\_\_\_\_ **(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

A Petition for Formal Administration was filed.

THE COURT FINDS:

- The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death) was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name) with a mailing address of \_\_\_\_\_ (Decedent's Address)
- All interested persons waived notice.

THE COURT ORDERS:

- The deadline for filing a claim against the decedent's estate is (Date) \_\_\_\_\_ (#1)
- A claim must be filed at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_, Wisconsin, Room \_\_\_\_\_.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

DO NOT PRINT the following text when publishing this order.

Notice to Newspaper and Personal Representative:

Notice must be given by publication of this order in the following newspaper: \_\_\_\_\_ (#2) once a week for three consecutive weeks; the first publication date must be within 15 days from the date of this order.

The personal representative is responsible for providing the deadline for filing a claim against the decedent's estate to all known or reasonably ascertainable creditors.

## **XV. Letter to Newspaper Accompanying Notice for Publication**

### **Commentary and Instructions for [Form 4.8](#)**

If competent interested persons have waived their right to service of notice, [Form 4.7](#) should be sent for publication. If the right to notice has not been waived, [Form 4.5](#) should be sent for publication. The letter reproduced at [Form 4.8](#) may accompany either form.

Before the initial hearing, ask the publisher to certify that the notice has been published. *See supra* [Form 3.19](#).

**Form 4.8 Letter to Newspaper Accompanying Notice for  
Publication (EST-0192)**

---

*(Date)*

*(Newspaper)*

*(Address)*

Re: Estate of *(Decedent's Name)*

To the Publisher:

Please publish the enclosed legal notice once each week for three successive weeks, forwarding your statement and affidavit of publication to our offices. If you are unable to forward the affidavit several days in advance, please call us so we can arrange to pick it up.

Sincerely,

*(Firm Name)*

\_\_\_\_\_  
*(Attorney's Name)*

Enclosure: Conformed Copy of Order for Hearing

## XVI. Affidavit of Service (EST-0193)

### Commentary and Instructions for [Form 4.9](#)

When waiver is not used, notice to interested persons is required, and when notice is given by mail, the person who deposits the notice in the mailbox must sign an Affidavit of Service stating when, where, and to whom these documents were mailed. The notice should be mailed at least 20 days before the hearing is scheduled.

#### Contents

- #1 Enter the name of the person who deposited the notice in the mailbox. This person is the affiant, who swears that the notice was mailed on a particular date and in a particular municipality and to whom he or she mailed it. (Although not required by statute, you may also want to send a copy of the Petition for Formal Administration ([Form 4.1](#)).)
- #2 Enter the address of the person signing the affidavit (may be law office address).
- #3 Enter the date that the notice was mailed.
- #4 Describe the documents constituting notice that were mailed to the persons listed in the affidavit (e.g., Last Will of the Decedent, dated     (Date)    , Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims, etc.).
- #5 Check the appropriate box. Usually, copies of the documents sent to interested persons as notice of a particular hearing or proceeding would be on file with the court, and thus the clause “a copy of which is attached” would not usually be used. If one or more of the documents have not been filed with the court, attach to the Affidavit of Service copies of the documents sent as notice.
- #6 In many counties, the surviving spouse would be appointed GAL for his or her minor children. It would therefore be appropriate to note this. See [Wis. Stat.](#) § 879.23(4), (5).
- #7 Notarize the affiant’s signature, and make sure that the date of notarization is on or after the date that notice was mailed. The person cannot swear that he or she has mailed something before the person has done so.

#### Distribution

Original: File with the court  
 Copies: Personal representative and firm file

#### References

[Wis. Stat.](#) § 879.07(1)

**Form 4.9 Affidavit of Service (EST-0193)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended  
 (Decedent's Name)  
 Name \_\_\_\_\_

**Affidavit of Service  
(Probate)**

Case No. \_\_\_\_\_ (Case No.)

I, [Name] \_\_\_\_\_ (#1) of [City] \_\_\_\_\_ (#2),  
 State of \_\_\_\_\_, being sworn, state that on [Date] \_\_\_\_\_ (#3), I provided copies of the following documents:

Documents Provided
(#4)

- the original of which is on file, OR  
 a copy of which is attached (no original on file) \_\_\_\_\_ (#5)

to the following named persons at the mailing address as listed:  See attached

NAME	MAILING ADDRESS	TYPE OF SERVICE***
	(#6)	

\*\*\* TYPE OF SERVICE: Refer to Wisconsin Statutes for proper manner of service.

**Type of Service:**  
 Personal Service  
 Mail  
 Certified mail return receipt requested

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_ (#7)  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶ \_\_\_\_\_ (#1)  
Signature  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
Date \_\_\_\_\_ State Bar No. (If any) \_\_\_\_\_

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (If any)

## **XVII. Notification Letter to Heirs**

### **Commentary and Instructions for [Form 4.10](#)**

This is a cover letter to heirs who are entitled to receive a copy of the will and notice of the initial hearing. If the person receiving this letter is in military service, include the second paragraph. If an heir is a minor or incompetent person, revise the letter and send it to his or her guardian. As with other cover letters to interested persons, send this letter by first-class mail, enclosing a copy of the will and Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims ([Form 4.5](#)).

#### **Contents**

- #1 Insert the date of the hearing. *See* [Form 4.5](#).
- #2 Add this sentence if appropriate.

#### **References**

[Wis. Stat.](#) § 856.11

**Form 4.10 Notification Letter to Heirs (EST-0194)**

---

(Date)

(Heir's Name)  
(Heir's Address)

Re: Estate of (Decedent's Name)

Dear (Heir's Name):

We have been retained to probate the estate of (Decedent's Name), deceased. Because you are an heir of the decedent, the law requires that you receive a copy of the will and notice of the hearing to admit the will to probate. We have enclosed a copy of (Decedent's Name)'s Last Will and Testament (and Codicil) for your information. Please read it over carefully, and if you have any questions about its meaning or effect, please feel free to contact us.

We have also enclosed a copy of the Order Setting Time to Hear Petition for Administration and Deadline for Filing Claims, setting a hearing on admitting this will (and codicil) to probate at the \_\_\_\_\_ County courthouse at (Court's Address), Wisconsin, on (#1) (Date) at (Time) (a.m./p.m.). (#2) (You need not attend this hearing unless you wish to object to the will (and codicil).)

(Add if appropriate)

Because you are in the military service, the court has appointed (Attorney's Name) to act as your legal representative to make sure your interests are protected. Because the appointment of the attorney to protect your interests is required by law, the estate rather than you will pay the attorney fees. (Attorney's Name) will attend the initial hearing on your behalf. If you have any questions, feel free to contact (him/her).

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)



## XVIII. Notification Letter to Specific Legatee

### Commentary and Instructions for [Form 4.11](#)

This letter applies solely to specific beneficiaries. The notice to specific beneficiaries must include only the nature and amount of the devise or bequest, rather than a copy of the entire will.

#### Contents

- #1 Insert paragraph in will describing bequest (e.g., “FOUR: I bequeath the sum of Five Thousand Dollars (\$5,000) to Gene General of Madison, Wisconsin.”)
- #2 Insert the date of the hearing. *See* [Form 4.5](#).

#### References

[Wis. Stat.](#) § 856.11

## Form 4.11 Notification Letter to Specific Legatee (EST-0195)

---

(Date)

(Legatee's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Legatee's Name):

We have been retained to probate the estate of (Decedent's Name). The decedent's Last Will and Testament (and Codicil) names you as a beneficiary. The provision of the will that is of interest to you is as follows:

(#1)

The hearing on admitting the will to probate will be held at the courthouse at (Court's Address), Wisconsin, on (#2), at (Time) (a.m./p.m.) as indicated by the enclosed copy of the Order Setting Time to Hear Petition for Administration and Heirship and Notice to Creditors. You may attend the hearing, but are not required to do so.

Please contact us if you should have any questions.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## **XIX. Proof of Heirship**

### **Commentary and Instructions for [Form 4.12](#)**

During the initial hearing for both testate and intestate estates, the court will hear testimony to determine the decedent's heirs. Ordinarily, some close relative, such as the surviving spouse, will give this testimony. The attorney should review the witness's testimony before the hearing. Although the facts necessary to complete this form can be found in the MIL, the questions should be discussed with the witness before the court appearance.

The form shown here is the same as the form used in informal administration. In formal probates, this form must be sworn to before the judge or circuit court commissioner, whereas in informal probates, it may be sworn to before the circuit court commissioner, probate registrar, or a notary public.

#### **Contents**

- #1 Answer only relevant questions. Relevant questions are those that must be answered to determine those heirs who would take in the estate if it was intestate. Designate irrelevant questions by writing in the answer space "not relevant."
- #2 Proof of heirship can be made by anyone having knowledge of the facts. The witness need not be related to the decedent.
- #3 Conform the date to the date of the initial hearing.

#### **Distribution**

Original: File with the court  
 Conformed copies: Personal representative (optional) and firm file

#### **References**

[Wis. Stat.](#) §§ 852.01, 852.03, 863.23, 854.03

**Form 4.12 Proof of Heirship (EST-0113)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

Name

**Proof of Heirship**

Informal Administration

Formal Administration

Case No. \_\_\_\_\_ (Case No.)

**UNDER OATH, I ANSWER THE FOLLOWING QUESTIONS: (#1)**

1. What is your name, mailing address and relationship to the decedent?

Name	Mailing Address	Relationship
(#2)		

2. Was the decedent survived by a spouse or domestic partner?

Yes  No

If YES, give name: \_\_\_\_\_

3. A. Did the decedent have any children? (Living or deceased; natural or adopted.)

Yes  No

If YES, list all names. (If deceased, indicate date of death.)

See attached

Name of Decedent's Children	If Deceased, Date of Death

B. For each deceased child listed in 3A., list his or her name and the names of his or her children (Living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants. (Living or deceased; natural or adopted.)

See attached

Name of Deceased Child in (3A)	Name of Deceased Child's Child(ren)	Date of Death

4. If there is a surviving spouse or domestic partner, are all of the decedent's children listed in 3A., also the children of the surviving spouse or domestic partner?

Yes  No

If NO, give details: \_\_\_\_\_

**Instructions:**

Are there living persons listed in answers to questions 2. through 4.?

- If Yes, skip to question 8.
- If No, continue with question 5.

5. Did the decedent leave surviving parents?

Yes  No

If YES, list names.

Name(s)

6. A. If no surviving parent, did the decedent have brothers or sisters? (Living or deceased; whole blood, half blood, adopted)

No  Yes

If YES, list all names. (If deceased, indicate date of death.)

Name of Decedent's Brothers or Sisters	If Deceased, Date of Death

B. For each deceased brother or sister listed in 6A., list his or her name and the names of his or her children (Living or deceased; natural or adopted). If any of his or her children is deceased, indicate the date of death of that child and the names of his or her descendants. (Living or deceased; natural or adopted)  See attached

Name of Deceased Brother or Sister in (6A)	Date of Death	Name of Deceased Brother's or Sister's Children

7. If there are **no living persons** listed in questions 2. through 6B., list names of maternal (mother) and paternal (father) grandparents and the descendants of any deceased grandparent and whether the person is living or deceased. Please continue listing children of deceased persons until a living person is named.  See attached

MATERNAL (Mother)	PATERNAL (Father)
Grandfather:	Grandfather:
Grandmother:	Grandmother:
Descendants:	Descendants:

8. Did any of the persons named in #2 through #7 die within 120 hours (5 days) after the death of the decedent?  No  Yes

If YES, list name(s), date of death and descendant(s).

Name	Date of Death	Descendant(s)

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_ (#3)

\_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (If any)

► \_\_\_\_\_ (#2)  
 Signature

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

## XX. Proof of Will and Letter to Attesting Witness Who Will Prove Will

### Commentary and Instructions for [Forms 4.13–4.14](#)

Most courts do not require a will to be proved if it is uncontested and contains an attestation clause showing compliance with [Wis. Stat.](#) § 853.03 or [Wis. Stat.](#) § 853.05. In addition, for decedents who have died on January 1, 1999, or later, [Wis. Stat.](#) § 853.04 provides methods to self-prove a will. When the will must be proved, however, one witness to the execution of the will is placed under oath at the initial hearing and questioned concerning the formalities of the will's signing and the competence of the testator. [Form 4.14](#) (the Proof of Will) is a written summary of the testimony taken at the hearing and must be signed in the presence of the judge, usually at the initial hearing.

[Form 4.13](#) is a letter to the witness who will prove the will. The letter should inform the witness of the date and time of hearing and the nature of the testimony he or she will be required to give in court. Consult the Procedural Guide to Initial Hearing, which follows the Outline of Formal Probate Procedures.

➤ *Note.* Amendments to [Wis. Stat.](#) § 853.03 have greatly reduced the formalities required to execute a will.

#### Contents (Letter to Attesting Witness)

#1 Modify the letter as appropriate, especially if the attorney wishes to meet with the witness before entering the hearing room.

#### Contents (Proof of Will)

- #1 Check the appropriate box. Note that a valid will needs two witnesses, but there may be more. Only one witness must testify.
- #2 The judge will enter the date.

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, witness, and firm file

#### References

[Wis. Stat.](#) §§ 853.03, 853.04, 856.13, 856.15

**Form 4.13 Letter to Attesting Witness Who Will Prove Will  
(EST-0197)**

---

(Date)

(Attesting Witness's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Attesting Witness's Name):

This letter is to confirm our telephone conversation regarding the estate of (Decedent's Name), deceased, and your willingness to testify that you witnessed (his/her) will.

Your testimony to prove the will of (Decedent's Name) will be taken at the courthouse at (Court's Address), Wisconsin, on (Date) at (Time) (a.m./p.m.). I will ask you the following questions about the circumstances surrounding the signing of the will as you witnessed it:

1. Your name, age, residence, and occupation.
2. Whether an instrument shown to you at the hearing, which will be the original will from which the enclosed copy was made, was signed by the decedent in your presence and on the date indicated on the will, and whether the decedent asked you to be a witness.
3. Whether you signed the will in the presence of the decedent and whether, when the will was signed, the decedent appeared to be of sound mind and not acting under undue influence or duress.
4. Decedent's approximate age at the time. (The decedent died on (Date of Death), at the age of (Age at Death).)

These questions are designed to satisfy the court that the decedent was aware of what (he/she) was doing in signing the will and did so without any unnatural influence by any other person.

Someone from our firm will call to remind you the day before the scheduled hearing. (#1) (I will meet you in front of the courthouse just before the time above.) If you have any questions, please do not hesitate to call. We appreciate your assistance in this important matter.

Sincerely yours,

(Firm Name)

---

(Attorney's Name)

Form 4.14 Proof of Will (EST-0198)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Proof of Will  
(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

**UNDER OATH, I STATE:**

1. I am one of the attesting witnesses to the document dated \_\_\_\_\_ (Date), presumed to be the last will and testament of \_\_\_\_\_ (Decedent's Name), deceased (testator), who resided in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).
2.  A. On that date,
  - 1) the testator signed;
  - (#1) 2) testator with the assistance of another person with the testator's consent signed the will, OR
  - 3) another person signed the will with the testator's name, at the testator's direction in the testator's conscious presence.
 At that time, I witnessed the signing and I signed the will in the conscious presence of the testator.
   
 B. I signed the will as witness within a reasonable time after witnessing any of the following:
  - 1) The testator's implicit or explicit acknowledgment of the testator's signature on the will in my conscious presence.
  - 2) The testator's implicit or explicit acknowledgment of the will in my conscious presence.
3. At the time of signing, the testator was of sound mind and of age to execute a will, and was not acting under any restraint or undue influence to my knowledge, information, or belief.
4. I do not know of any later will or codicil of the decedent.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶ \_\_\_\_\_

Witness

Name Printed or Typed

Address

Email Address

Telephone Number

(#2)  
Date

State Bar No. (if any)

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number



## XXI. Order for Formal Administration

### Commentary and Instructions for [Form 4.15](#)

After testimony has been taken to prove the will or if the court is satisfied that the will was correctly executed and not made under infirmity or duress, the court will issue this order admitting the will to probate. The order also directs that Domiciliary Letters ([Form 4.16](#)) be issued to the personal representative, giving that person official authority to conduct the probate.

If the court is satisfied that (1) the decedent died leaving no will (intestate) and (2) notice either has been given to or waived in writing by all persons entitled to notice, the court will issue this order for formal administration of the estate. The order also directs that Domiciliary Letters be issued to the personal representative, giving that person authority to conduct the probate.

#### Contents

- #1 Check the appropriate box.
- #2 Check the appropriate box(es) to indicate whether the decedent died testate or intestate. Provide the month, day, and year for any dated document.
- #3 Check the appropriate box.
- #4 Assume that no bond is required of the personal representative. If bond *is* required, check with the register in probate to ascertain whether the amount proposed is sufficient. You might not know the amount until the hearing because the court is not bound to a waiver of bond in the will.
- #5 Letters of Trust are issued only to a testamentary trustee, that is, when a trust is created by the will. No bond is ever required of a corporate trustee. Enter “NA” if there is no testamentary trust.

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative (optional) and firm file

#### References

[Wis. Stat.](#) §§ 856.19, 856.21, 856.25

Form 4.15 Order for Formal Administration (EST-0199)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

Order for Formal Administration

Case No. \_\_\_\_\_ (Case No.)

A Petition for Formal Administration was filed.

THE COURT FINDS:

- 1. The petitioner is an interested person.
2. This court has jurisdiction and is the proper venue.
3. The Petition was heard and notice was
(#1)  given to all persons entitled to notice.
 waived.
4. The decedent died on [Date] \_\_\_\_\_ (Date of Death) \_\_\_\_\_, leaving
(#2)  A. no will.
 B. a will dated \_\_\_\_\_ (Date of Will) \_\_\_\_\_; codicil(s) (if any) dated \_\_\_\_\_ (Date of Codicil(s)) \_\_\_\_\_; that
 is/are in possession of the court.
 accompanies the petition.
 was/were probated elsewhere and an authenticated copy accompanies the petition.
 The will including any codicil(s) is a valid uncontested document(s) executed in compliance with the statutes.
(#3)  One of the witnesses testified that the will including any codicil(s) was properly executed under the statutes.
 5. Other: \_\_\_\_\_

THE COURT ORDERS:

- 1. The Petition for Formal Administration granted.
 2. The will dated \_\_\_\_\_ is admitted.
 3. The codicil(s) (if any) dated \_\_\_\_\_ is/are admitted.
4. Domiciliary letters are issued to \_\_\_\_\_ (PR's Name)
(#4)  and no bond is required.
 upon filing and acceptance of a  signature bond  surety bond in the sum of \$ \_\_\_\_\_.

FORMAL PROBATE AND SPECIAL ADMINISTRATION

5. Letters of trust are issued to \_\_\_\_\_ (Trustee's Name)  
for the following trust: \_\_\_\_\_ (Name of Trust)
- (#5)  and no bond is required.  
 upon filing and acceptance of a  signature bond  surety bond in the sum of \$ \_\_\_\_\_.
6. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXII. Domiciliary Letters

### Commentary and Instructions for [Form 4.16](#)

Domiciliary Letters give the personal representative official authority to act. Upon issuance of these letters, title to the decedent's probate assets vests in the personal representative and, unless restricted by the provisions of the decedent's will, the personal representative has all the powers granted that office by statute.

Additional certified copies of the Domiciliary Letters may be obtained from the register in probate at any time during administration upon payment of the required certification fee. If the copies are to be mailed by the register in probate, include a postage-paid envelope.

#### Distribution

Original:	Probate registrar
Conformed copies:	Firm file and certified copies to use for release of bank accounts, transfer of securities, etc.

#### References

[Wis. Stat.](#) §§ 865.08, 860.01, 860.11

**Form 4.16 Domiciliary Letters (EST-0125)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
(Decedent's Name)  
Name \_\_\_\_\_

**Domiciliary Letters**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

To: \_\_\_\_\_ (PR's Name and Address)  
\_\_\_\_\_  
\_\_\_\_\_

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).

You are granted domiciliary letters with general powers and duties of a personal representative.

You are authorized to administer the estate as required by law.

Other: \_\_\_\_\_

*(COURT SEAL)*

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)

## XXIII. Signature Bond in Estate or Trust Proceedings and Court Approval of Signature Bond in Estate or Trust Proceedings

### Commentary and Instructions for [Forms 4.17–4.18](#)

The information on the Signature Bond must conform with the Order for Formal Administration ([Form 4.15](#)) as to the necessity and amount of bond. Generally, the personal representative's bond must cover the value of personal property that will come into his or her control.

If the court approves, individual sureties can be used instead of the corporate surety, but individuals must own property, in the county, of sufficient value to cover the amount of the bond. Corporate sureties qualified in Wisconsin need not sign the bond's affidavit. Corporate fiduciaries that are also the personal representative are not required to post bond if they have complied with the statutory fiduciary requirements. If the personal representative causes a loss to the estate by something he or she does or fails to do, the sureties can be required to reimburse the estate for the amount of the loss.

➤ *Note.* Most corporate sureties have their own form of bond that is acceptable and can be used in lieu of this form.

#### Contents (Signature Bond in Estate or Trust Proceedings)

- #1 Enter the personal representative's name.
- #2 Enter the names of either the bonding company or the two real estate owners who will be the sureties.
- #3 Conform to the amount set by the court in [Form 4.15](#).
- #4 Check the appropriate box.
- #5 Provide signature of the personal representative.
- #6 Enter the names of witnesses to the signatures.
- #7 Enter the county or counties in which the individual sureties reside.
- #8 Individual sureties should sign the bond and provide their addresses.
- #9 Enter the current date.

#### Contents (Court Approval of Signature Bond in Estate or Trust Proceedings)

- #1 Enter the date on which court approves the bond (usually, the date of the initial hearing).

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, trustee, if any, surety company, if any, and firm file

#### References

[Wis. Stat.](#) §§ 856.25, 878.01

**Form 4.17 Signature Bond in Estate or Trust Proceedings (EST-0201)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY  IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____  For the following trust:  Date of Birth _____	<input type="checkbox"/> Amended  <b>Signature Bond In Estate or Trust Proceedings</b>  Case No. _____ (Case No.)
---	---

I/we [Names] \_\_\_\_\_ (#1), principal(s)  
 and [Names] \_\_\_\_\_ (#2), surety(ies)  
 are liable to the Circuit Court in the sum of \$ \_\_\_\_\_ (#3) for which payment I/we bind my/ourselves and my/our  
 estate(s), jointly and severally.

If the principal faithfully performs duties as \_\_\_\_\_ (#4)  
 personal representative;  special administrator;  testamentary trustee;  
 petitioner in summary settlement/assignment;  
 assignee in summary assignment, to satisfy liability to creditors or other persons interested in the estate;  
 Other: \_\_\_\_\_  
 then this bond obligation shall be void; otherwise it shall remain in full force and effect.

Witnessed By:

_____ (#6) Signature	_____ (#5) Signature of Principal
_____ Signature	_____ Signature of Principal

I, being sworn as a surety, state that I am an adult resident of Wisconsin, residing in \_\_\_\_\_ (#7)  
 County. I am financially responsible for the actions of the principal(s) in the amount of this bond. I shall provide  
 satisfactory evidence to the designated court officer.

State of _____ County of _____ Subscribed and sworn to before me on _____ (#9)  _____ Notary Public/Court Official  _____ Name Printed or Typed	_____ (#8) Signature of Surety _____ (#B) Name Printed or Typed  _____ Address
---	--

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

\_\_\_\_\_ Email Address:  
 \_\_\_\_\_ Telephone Number \_\_\_\_\_ Date \_\_\_\_\_  
 \_\_\_\_\_ Signature of Surety  
 \_\_\_\_\_ Name Printed or Typed  
 \_\_\_\_\_ Address  
 \_\_\_\_\_ Email Address:  
 \_\_\_\_\_ Telephone Number \_\_\_\_\_ Date \_\_\_\_\_

Form completed by: [Name]	
Address	
Email Address	
Telephone Number	Bar Number (if any)

---

## Form 4.18 Court Approval of Signature Bond in Estate or Trust Proceedings (EST-0310)

---

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

### Court Approval of Signature Bond In Estate or Trust Proceedings

For the following trust:

Case No. \_\_\_\_\_ (Case No.)

A Signature Bond In Estate or Trust Proceedings was filed on [Date] \_\_\_\_\_.

Satisfactory evidence as to financial responsibility of surety has been reviewed by the designated court officer.

Date Bond Approved: \_\_\_\_\_ (#1)

**DISTRIBUTION:**

1. Court
2. Personal Representative/Attorney



## XXIV. Letters of Trust

### Commentary and Instructions for [Form 4.19](#)

A testamentary trust (one created by will) could remain under the court's continuing supervision if ordered by the court. Before commencing his or her duties, the trustee must secure the court's authority. This authority is extended by issuing Letters of Trust. Persons holding assets to be transferred to the trust might require the trustee to show certified copies of the Letters of Trust before they transfer their assets.

#### Contents

#1 Identify the trust.

#### Distribution

Original:	File with the court
Certified copies:	For personal representative to use for release/close of bank accounts, securities, etc. (obtain from court as needed)
Conformed copies:	Firm file

#### References

[Wis. Stat.](#) § 856.29

Form 4.19 Letters of Trust (EST-0202)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

Letters of Trust

Informal Administration

Formal Administration

For the following trust:

\_\_\_\_\_  
(#1)

Case No. \_\_\_\_\_ (Case No.)

To: \_\_\_\_\_  
(Trustee's Name and Address)  
\_\_\_\_\_  
\_\_\_\_\_

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death),  
was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).

The decedent's will was admitted to probate. You are granted Letters of Trust with the general powers and duties of trustee(s). You are authorized to administer the trust as required by law.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (if any)

(COURT SEAL)

## XXV. Order Appointing Appraiser(s)

### Commentary and Instructions for [Form 4.20](#)

Some estate assets (e.g., bank accounts and homesteads) can be valued without a professional appraisal. A few estates may consist solely of these assets and thus do not require appraisers. If appraisers are necessary to value an estate's assets, contact the appraisers before their appointment to get their approval to serve. Consult with the register in probate before drafting the Order Appointing Appraiser(s). Although the statutes no longer require two appraisers, several specialized appraisers may be necessary (for instance, one to value art and one to value livestock).

#### Contents

- #1 Check with the probate court to determine whether appraisers will be necessary and, if so, the identities of the appraisers to be appointed. Contact the appraisers before their appointment to get their approval to serve.
- #2 If a specialized appraiser is appointed, strike through the word "property" and insert the asset to be appraised (e.g., "stamp collection").

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, one to each appraiser, and firm file

#### References

[Wis. Stat.](#) § 858.13

**Form 4.20 Order Appointing Appraiser(s) (EST-0203)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
 (Decedent's Name)  
 Name

**Order Appointing Appraiser(s)  
 (Probate)**

Case No. \_\_\_\_\_ (Case No.)

**IT IS ORDERED:**

The following are appointed appraiser(s) of this estate and directed to appraise the property and certify its value. (#2)

Name(s)	Mailing Address	Description of Property to be Appraised
(#1)		

Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXVI. Letter to Appraiser(s)

### Commentary and Instructions for [Form 4.21](#)

Certain inventory items must be appraised by independent appraiser(s) before the Inventory ([Form 4.26](#)) can be filed. This cover letter instructs the appraiser(s) to arrange a convenient time and place to view the property, preferably in the presence of the attorney and personal representative. Although the appraiser(s) will not actually sign the Inventory, a signed copy of the appraisal can be attached to the Inventory to verify property values.

#### References

[Wis. Stat.](#) § 858.13

#### Distribution

Original: Appraiser  
Copies: Firm file, personal representative

## Form 4.21 Letter to Appraiser(s) (EST-0204)

---

(Date)

(Name of Appraiser(s))  
(Address(es))

Re: Estate of (Decedent's Name)

To Whom It May Concern:

You have been appointed as appraiser(s) in the estate of (Decedent's Name), deceased. We are enclosing a copy of the Inventory for this estate for each of you that you can use as a worksheet and that you can retain for your records.

Please contact (PR's Name) to arrange for a time when you can view the property. If possible, I would like to accompany you to view the property.

Upon completion of the appraisal, kindly send the appraisal to our office along with a statement of fees for your services.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosure

cc: Personal Representative

## **XXVII. Consent to Serve: Appointment of Resident Agent**

### **Commentary and Instructions for [Form 4.22](#)**

Whenever an out-of-state resident is appointed personal representative in formal probate proceedings, a Wisconsin resident must be named as agent for service of process. Some counties prefer that the register in probate or probate registrar be named. This form can be used for this purpose. Other counties prefer that the attorney for the estate be named.

#### **Contents**

- #1 Check appropriate box.
- #2 Check box if applicable and enter the name of the proposed agent. Some probate registrars may require that they be named resident agent.

#### **Distribution**

Original: File with the court  
Conformed copies: Personal representative, firm file, and agent if other than probate court officer or attorney for the estate

#### **References**

[Wis. Stat.](#) § 856.23(1)(d)

## Form 4.22 Consent to Serve (EST-0121): Appointment of Resident Agent

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____	<input type="checkbox"/> Amended <b>Consent to Serve</b> <input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration Case No. _____ (Case No.) _____

- (#1) 1. I consent to serve as  personal representative  special administrator of this estate. I accept the duties, submit personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person and agree to be bound by the laws of Wisconsin.
2. I will file any required bond.
- (#2)  3. I am a nonresident of Wisconsin.
- I appoint [Name] \_\_\_\_\_ (#2) \_\_\_\_\_ as resident agent to accept service of process.

Signature
Name Printed or Typed
Address
Email Address
Telephone Number
Date
State Bar No. (if any)

### Acceptance by Resident Agent

I accept appointment as resident agent for this estate to accept service of process.

Form completed by: (Name)	▶	
Address		Resident Agent (#2)
Email Address		Name Printed or Typed
Telephone Number	Bar Number (if any)	Address
		Email Address
		Telephone Number
		Date
		State Bar No. (if any)



## XXVIII. Claim Against Estate

### Commentary and Instructions for [Form 4.23](#)

Claims for any amounts owed to a creditor must be filed with the court by the claims deadline set by the court if the creditor has been given appropriate notice. If the claim is also mailed to or served upon the personal representative or attorney for the estate, the time to object to the claim is limited to 60 days after such notice, which can be before the claims-filing deadline. If the claim is simply filed with the court, objection can be made at any time before entry of judgment on the claim. Thus, better practice is to mail or serve the claim in addition to filing it.

The current filing fee is \$3 per claim.

#### Contents

- #1 Enter the claimants' names and addresses.
- #2 Describe the nature of the claim, the date the property was sold or date(s) services were rendered, and the amount of the claim.
- #3 Check the appropriate box.
- #4 Enter the amount of the claim and check the appropriate box.
- #5 Provide an explanation of partial payments or offsets; otherwise, insert "None."

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative and firm file

#### References

[Wis. Stat.](#) ch. 859

# Form 4.23 Claim Against Estate (EST-0206)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Claim Against Estate**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.)

**UNDER OATH I STATE:**

1. The name and address of the claimant is:

Name \_\_\_\_\_ (#1)  
Address [Street, City, State, Zip] \_\_\_\_\_  
Phone Number \_\_\_\_\_

2. The nature and amount of this claim is: *(If claim is based on a written document, attach a complete copy.)*

See attached

Nature of Claim	Amount of Claim
(#2)	\$ (#4)
<b>TOTAL</b>	\$

3. This amount is  due.  
 not yet due and will or may become due on (Date) \_\_\_\_\_

- (#5) 4. No payments were made on this claim which is not credited, and there were no offsets except:

5. If the decedent was survived by a spouse, the classification of the obligation under §766.55(2), Wis. Stats., is as follows:

- (#3)  A. Support obligation owed spouse or child.  
 B. Obligation incurred in the interest of the marriage.  
 C. Obligation incurred prior to marriage or prior to January 1, 1986.  
 D. Tort.  
 E. Other: \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (If any)

▶ \_\_\_\_\_ (#1)  
Claimant or Claimant's Representative

Name Printed or Typed

Address

Email Address

Telephone Number

Date

State Bar No. (if any)

**NOTE:** A statutory filing fee of \$3.00 shall accompany each claim filed.

## XXIX. Objection to Allowance of Claim

### Commentary and Instructions for [Form 4.24](#)

If a claim has been filed with the court, but not mailed to or served on the personal representative or the attorney for the estate, an objection to the claim may be made at any time before entry of judgment on the claim. If the claim has been mailed to or served on the personal representative or attorney for the estate, then any objection must be made within 60 days after such mailing or service. File the objection to the claim with the court and mail or serve a copy on the claimant. If the objection is mailed, file an Affidavit of Service ([Form 4.9](#)) with the court. If the objection is served, file an affidavit of service.

Some courts routinely schedule a hearing to resolve a claim, while others expect the attorneys to obtain a hearing date and send notices of the hearing to the claimant. When a claim is disputed, the initial hearing is often a pretrial conference. Sometimes the court will then require formal pleadings like those used in a collection action and will set deadlines for any discovery the parties indicate will be necessary.

#### Contents

- #1 State the reason for objecting to the claim (e.g., “She believes the amount of the claim has been paid or will be paid by the decedent’s insurer or by Medicare.”).

#### Distribution

Original: File with the court  
Conformed copies: Claimant, personal representative, and firm file

#### References

[Wis. Stat.](#) § 859.33



## XXX. Judgment on Claims

### Commentary and Instructions for [Form 4.25](#)

After the deadline for filing claims set by the court has expired and if there are no objections to any claims, prepare the Judgment on Claims. If no claims have been filed, check the appropriate box. It is not unusual for the personal representative to pay undisputed debts or claims in advance of court approval. But there is some risk of disallowance, and thus some potential personal liability. If a claimant is not given notice, see [Wis. Stat.](#) § 859.48 for filing, notice, and payment procedures.

Although not required, give all creditors notice of entry of judgment in any situation other than making payment in full.

Check with the register in probate to find out under what circumstances the Judgment on Claims is required in a particular county.

After a claim has been paid, the creditor should be required to execute a receipt for payment and release the personal representative from any further liability. See [Form 3.37](#), *supra*, for information on preparing the Estate Receipt.

### Contents

- #1 Check the appropriate box.
- #2 Enter the claimant's name, the amount of the claim, and the decision on the claim. If the claim is allowed, then insert in the "Decision on Claim" column the language "Allowed in Full." If there has been an adjustment of the claim by compromise, court order, or failure of the claimant to contest an objection, then insert the dollar amount of the claim that has been allowed or the word "Disallowed," whatever the case may be.
- #3 Check with the register in probate or judge to determine the general rule for the time in which to pay claims after judgment has been rendered.

### Distribution

Original: File with the court  
 Conformed copies: Personal representative, creditors (optional), and firm file

### References

[Wis. Stat.](#) §§ 859.01, 859.37, 859.48, 863.41, 865.21

Form 4.25 Judgment on Claims (EST-0208)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

**Judgment on Claims  
(Formal Administration)**

Name

Case No. \_\_\_\_\_ (Case No.)

1. There are no claims filed. (#1)

2. The court enters judgment on claims as follows:

Name of Claimant	Amount of Claim	Decision on Claim
(#2)	\$	

3. The personal representative must pay the allowed claims by (Date) \_\_\_\_\_ (#3)

4. All claims were paid.

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXXI. Inventory

### Commentary and Instructions for [Form 4.26](#)

The Inventory lists all property subject to administration that was owned by the decedent, as valued at the date of the decedent's death. The personal representative must verify that the Inventory includes all such property. The Inventory must be exhibited to the probate registrar, but need not be filed. The Master Information List: Property Passing Through Probate Estate provides an orderly way of collecting information on assets and values. MIL Schedules 11–16 can be attached to the Inventory. *See supra* [ch. 1](#).

The informal probate statutes require furnishing a copy of the Inventory to all interested persons. In some counties the court may allow the formal probate proceeding of Notice of Inventory on File to be used (the personal representative sends a notice that the Inventory is on file and that a copy of the Inventory will be sent on request). *See* [Form 4.27](#). Although not specifically required by statute, an Affidavit of Mailing is often prepared and filed when the Inventory or the notice is sent to the interested persons. *See* [Form 4.9](#) for an example of how to prepare the Affidavit of Service.

[Form 3.41](#), *supra*, illustrates how an inventory, attachments, and summary of schedules would be prepared using the Fact Pattern of the Hart Estate found in [chapter 6](#), *infra*.

### Distribution

Original: File with the court  
Conformed copies: All interested parties and firm file

### References

[Wis. Stat.](#) §§ 862.09, 862.11, 879.26, ch. 858

# Form 4.26 Inventory (EST-0152)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

### Inventory

Name \_\_\_\_\_

Informal Administration

Formal Administration

Case No. \_\_\_\_\_ (Case No.)

#### UNDER OATH, I STATE:

As personal representative, I certify that to the best of my knowledge this inventory with schedules includes:

1. All property subject to administration.
2. Any encumbrance, lien or other charge against each item of property.
3. Identification of marital property, if any.

I will furnish a copy of this inventory to all persons interested as required by law.

SUMMARY OF PROPERTY SUBJECT TO ADMINISTRATION (Value of Decedent's Interest on date of death)	Date of Death
Total value of property subject to administration	\$ _____
Minus total value of encumbrances, liens or other charges against each item of property	(\$ _____ )
Net Value of Property Subject to Administration (cannot be less than \$0)	\$ _____

**Provide itemized lists on attached schedules and clearly designate any marital property interests.**

**NOTE:** A statutory filing fee must accompany this form.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

► \_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
State Bar No. (if any)

► \_\_\_\_\_  
Personal Representative

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
State Bar No. (if any)



FORMAL PROBATE AND SPECIAL ADMINISTRATION

<b>Number</b>	<b>Supporting Inventory Schedules</b> (Description of property including digital property as defined under §711.03(10), Wis. Stats., legal description of real estate, and related encumbrances, liens or other charges against each item.) <b>Clearly designate marital property.</b>	<b>Value of Decedent's Interest on Date of Death</b>

## XXXII. Notice of Inventory on File

### Commentary and Instructions for [Form 4.27](#)

Within five days after filing the Inventory, the personal representative must notify all interested persons, other than those who receive only a specific bequest, that the Inventory is on file and that they may request a copy or a summary of the Inventory. This requirement may be waived by use of the Waiver of Right to Receive Inventory and Accounts: Waiver, Consent and Approval ([Form 4.28](#)).

Prepare an Affidavit of Service ([Form 4.9](#)) to file with this notice. Decide whether a copy of the Inventory will be mailed to all interested parties, and prepare the affidavit accordingly.

#### Contents

- #1 Enter the date the Inventory was filed.
- #2 Enter the date the notice is signed by the personal representative.

#### Distribution

Original: File with the court  
Conformed copies: Personal representative, all interested parties entitled, and firm file

#### References

[Wis. Stat.](#) § 858.03

**Form 4.27 Notice of Inventory on File (EST-0210)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name	<input type="checkbox"/> Amended <b>Notice of Inventory on File (Formal Administration)</b> Case No. _____ (Case No.)

TO: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**PLEASE TAKE NOTICE:**

1. An inventory of this estate was filed with the court on [Date] \_\_\_\_\_ (#1).
2. You may obtain a copy or summary of the inventory by making a written request to the personal representative.
3. Upon receipt of the written request, the personal representative must provide you with a copy or summary within five (5) days.

Form completed by: (Name)	
Address	Personal Representative
Email Address	Name Printed or Typed
Telephone Number	Address
Bar Number	Email Address Telephone Number
	(#2) Date State Bar No. (if any)

## XXXIII. Waiver of Right to Receive Inventory and Accounts: Waiver, Consent and Approval

### Commentary and Instructions for [Form 4.28](#)

The Waiver, Consent and Approval is used to have competent interested persons waive their right to service of notice and consent to the hearing of any matter without notice. It can be used to obtain consent of the beneficiaries to the inventory.

Generally, GALs and guardians of the estate may waive notice on behalf of themselves and those whom they represent. However, an attorney or attorney-in-fact for a person in military service cannot waive notice on behalf of anyone whom he or she represents. Therefore, in an estate in which the court is to hear the Petition for Formal Administration and there are persons in military service who are interested persons, notice must be given under [Wis. Stat.](#) § 879.05.

### Contents

- #1 Choose the appropriate clause.
- #2 Check the boxes for the inventory.
- #3 Check the appropriate box.
- #4 Enter the exact names of those interested persons who will sign the waiver.
- #5 Enter the date the interested persons sign the waiver.

### Distribution

Original: File with the court  
Conformed copies: Personal representative, person waiving notice, and firm file

### References

[Wis. Stat.](#) § 879.09

## Form 4.28 Waiver of Right to Receive Inventory and Accounts: Waiver, Consent and Approval (EST-0190)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF THE ESTATE OF (Decedent's Name) _____ Name _____	<input type="checkbox"/> Amended <b>Waiver, Consent and Approval (Formal Administration)</b> Case No. _____ (Case No.)

1. I am by law an interested person in this estate.
2. I am not a minor.
3. I have not been found incompetent and I do not have a guardian.
- (#1) 4. I waive any further notice of the hearing, enter my appearance in this matter, and consent to the granting of the
  - A. petition for formal administration.
  - B. petition for final judgment.
5. I acknowledge
  - A. receipt of a copy of the will dated \_\_\_\_\_ and codicil(s) (if any) dated \_\_\_\_\_
  - B. receipt of a notice of the nature and amount of the bequest contained in the will dated \_\_\_\_\_ or codicil(s) (if any) dated \_\_\_\_\_
- (#2)  C. decedent died leaving no will.
- D. receipt of a copy of inventory or notice of inventory on file.
- E. receipt of a copy of estate account dated \_\_\_\_\_.
6. I have no objection to
  - A. admission of the will, including any codicil(s), to probate.
  - B. intestate administration (without a will).
- (#3)  C. inventory.
- D. entry of final judgment, including approval of the
  - 1) classification of assets and allocation of charges and debts.
  - 2) estate account(s).
  - 3) proposed distribution.
  - 4) proposed attorney, guardian ad litem and personal representative fees.
7. Other: \_\_\_\_\_

Name Printed or Typed	Signature	Date
(#4)		(#5)

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXXIV. Petition for Order Approving Classification of Property, Objection to Property Classification, Order for Hearing, and Order Classifying Property

### Commentary and Instructions for [Forms 4.29–4.32](#)

Although the Petition for Approval of Final Account and Final Judgment ([Form 4.40](#)) contains a general petition for classification of assets, at times the court will have to determine property classification to resolve a dispute between interested parties or between the personal representative and the Wisconsin Department of Revenue.

[Form 4.29](#) (Petition for Order Approving Classification of Property) is used by the personal representative to obtain an order approving the classification of property set forth in the Inventory ([Form 4.26](#)). [Form 4.30](#) (Objection to Property Classification) is used by a beneficiary who disagrees with the classification used by the personal representative in preparing the Inventory.

The court normally orders a hearing to determine the classification of property ([Form 4.31](#)). A Waiver, Consent and Approval ([Form 4.6](#)) can be used if all interested persons approve the Order Classifying Property ([Form 4.32](#)) and are willing to waive notice. Following the hearing, the court may ask the attorney for the prevailing party to prepare the appropriate order.

#### Contents (Petition for Order Approving Classification of Property)

- #1 Enter the date the Domiciliary Letters were issued.
- #2 Enter the date the Inventory was filed.
- #3 Choose appropriate alternative(s).
- #4 Enter the number of the disputed item from the Inventory.
- #5 Enter the names of all persons who would be affected by the classification.

#### Contents (Objection to Property Classification)

- #1 Enter the name of the beneficiary who is making the objection.
- #2 State the beneficiary's interest (e.g., specific beneficiary, general beneficiary).
- #3 Enter the item number from the Inventory whose classification is in dispute.
- #4 List the item (e.g., "Fishing equipment (\$200)") and its classification (e.g., "Decedent's individual property").
- #5 You may wish to include a statement clarifying the issue for the court. For example, the following statement might appear in the sample form: "The decedent purchased the fishing equipment on December 29, 1985, and never used it. He also purchased identical equipment on July 1, 1986, which he gave the petitioner as a gift."
- #6 Enter the names of all persons who would be affected by the classification.

#### Contents (Order for Hearing on Classification of Property)

- #1 Choose the applicable language.
- #2 The court will insert the time and date of hearing.

**Contents (Order Classifying Property)**

- #1 List the assets (e.g., “Fishing equipment valued at \$200”).
- #2 Use this phrase only if property is found to be the surviving spouse’s separate property.

**Distribution**

Original: File with the court  
Conformed copies: Interested persons, personal representative, and firm file

**References**

[Wis. Stat.](#) §§ 858.01, 858.09, 857.01, 879.03





Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.

This notarial act involved the use of communication technology.

\_\_\_\_\_  
*(Attorney's Name)*

\_\_\_\_\_  
*(Attorney's State Bar No.)*

\_\_\_\_\_  
*(Attorney's Email Address)*

\_\_\_\_\_  
*(Firm Name/Address)*

\_\_\_\_\_  
*(Firm Telephone No.)*



Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.

This notarial act involved the use of communication technology.

\_\_\_\_\_  
*(Attorney's Name)*

\_\_\_\_\_  
*(Attorney's State Bar No.)*

\_\_\_\_\_  
*(Attorney's Email Address)*

\_\_\_\_\_  
*(Firm Name/Address)*

\_\_\_\_\_  
*(Firm Telephone No.)*

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**Form 4.31 Order for Hearing on Classification of Property  
(EST-0214)**

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STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

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In the Matter of the Estate of

(Decedent's name),

Deceased

**ORDER FOR HEARING  
ON CLASSIFICATION  
OF PROPERTY**

Case No. (Case No.)

---

(#1) *(A Petition for Order Approving Classification of Property/An Objection to Property Classification)* was filed.

IT IS ORDERED THAT:

1. The *(petition/objection)* be heard at the courthouse at (Court's Address), Wisconsin, at (#2) (Date), (Time) (a.m./p.m.), before the Honorable (Judge's Name), or as soon after as the matter may be heard.
2. Notice of the hearing shall be given to every person entitled to notice whose post office address is known, by a copy of the Petition and this Order, or notice as provided in Wis. Stat. § 856.11, at least 20 days before the hearing.

**Form 4.32 Order Classifying Property (EST-0215)**

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of

**ORDER CLASSIFYING  
PROPERTY**

(Decedent's name),

Deceased

Case No. (Case No.)

The court heard on (Date) (a *Petition for an Order Approving Classification of Property/an Objection to Property Classification*). (Attorney for Petitioner) appeared for the petitioner, (Petitioner's Name). The other appearances were as follows:

(List all appearances)

Having heard testimony, the court finds that:

1. The following assets are appropriately classified from the classification shown in the Inventory to (marital property/decedent's individual property/the sole property of (Surviving Spouse's Name)):

(#1)

2. All other classification of assets in the Inventory is appropriate.

IT IS ORDERED THAT:

1. The assets listed in paragraph 1 of the findings are reclassified consistent with those findings.
2. All other classification of assets in the Inventory is approved and confirmed.
3. (#2) The personal representative is directed to turn the property found to be the separate property of (Surviving Spouse's Name) over to *(her/him)*.

## XXXV. Petition and Orders for Rights of Management and Control

### Commentary and Instructions for [Forms 4.33–4.35](#)

The classification of marital property creates the possibility of a dispute between the personal representative and the surviving spouse. The personal representative has the same rights under [Wis. Stat.](#) ch. 766 as the decedent had. The personal representative has a duty under [Wis. Stat.](#) § 857.03 to collect, inventory, and possess the decedent's property and may have to bring a petition to force the spouse's cooperation. See [chapter 2, supra](#), for a summary of the types of conflicts that may arise between the personal representative's duties and the surviving spouse's interests.

[Form 4.33](#) is a sample petition. [Form 4.34](#) is a sample order for declaration of interest, and [Form 4.35](#) is a sample order declaring rights of management and control.

#### Distribution

Original: File with the court  
Conformed copies: Personal representative, surviving spouse, and firm file

#### References

[Wis. Stat.](#) § 857.01





Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.

This notarial act involved the use of communication technology.

\_\_\_\_\_  
*(Attorney's Name)*

\_\_\_\_\_  
*(Attorney's State Bar No.)*

\_\_\_\_\_  
*(Attorney's Email Address)*

\_\_\_\_\_  
*(Firm Name/Address)*

\_\_\_\_\_  
*(Firm Telephone No.)*



IT IS ORDERED that

*(Choose appropriate alternative)*

(Spouse's Name) turn over to (PR's Name), personal representative of the decedent's estate, the decedent's one-half interest in the property shown at paragraph 1 of the above findings within 30 days after the date of this order.

*(or)*

(PR's Name), personal representative of the decedent's estate, turn over to (Spouse's Name) *(his/her)* one-half interest in the property shown at paragraph 1 of the above findings within 30 days after the date of this order.

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**Form 4.35 Order Declaring Rights of Management and Control  
(EST-0218)**

---

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of  
(Decedent's name),  
Deceased

**ORDER DECLARING  
RIGHTS OF  
MANAGEMENT  
AND CONTROL**

Case No. (Case No.)

The court heard a petition on (Date) for an order declaring rights of management and control and interest in property. (Attorney for Petitioner) appeared for the petitioner, (Petitioner's Name). The other appearances were as follows:

(List appearances)

Having heard testimony, the court finds that:

1. The following assets of the decedent are marital property:  
(List assets)
2. The petitioner (Petitioner's Name) is entitled to joint management and control in those assets.

IT IS ORDERED that (Spouse's Name) is directed to give (PR's Name) joint rights of management and control over assets listed in paragraph 1 of the above findings.

## XXXVI. Estate Account and Petition for Final Judgment

### Commentary and Instructions for [Forms 4.36–4.37](#)

In formal probate, the Estate Account and the Petition for Final Judgment are not prepared until after the federal estate tax return is filed, all claims have been paid, and all receipts have been filed with the court. The attorney should maintain regular communication with the personal representative to keep track of receipts and disbursements.

See [Form 3.65](#), *supra*, for sample attachments and schedules to the Estate Account.

#### Contents (Final Account)

- #1 If a federal estate tax return was filed, the closing date must be set after the date the estate tax closing letter was received. The closing date should occur when the estate can be readily closed pending payment of such items as attorney and personal representative's fees, and distributions to residuary beneficiaries.
- #2 Interested persons are only those beneficiaries of the estate (or the GAL if the beneficiary is a minor or incompetent person or the attorney if the beneficiary is a person in military service) who have not received their entire distribution from the estate. If the entire disbursement has been made and that has been recorded as a disbursement on this form, the beneficiary has ceased to be an interested person. However, if a beneficiary receives a specific bequest and is also a remainderman of the estate, he or she remains an interested person for purposes of the Estate Account.
- #3 The value of inventoried assets should be the value of property subject to administration as set forth on the Inventory ([Form 4.26](#)). Mortgages and liens on such property will be listed when paid under the debts schedule. See MIL Section 16. Accrued items from the Inventory (for example, interest and dividends) may be subtracted on the Estate Account. This can be done on inventoried assets or Estate Account Schedule A and shown as a negative figure.
- #4 List the totals from the attached schedules.
- #5 Attorney fees should be negotiated with the personal representative, making allowances for any special work required by the estate. The court must approve the amount of the attorney fees before the personal representative disburses the final amount. See MIL Section 36.
- #6 Under [Wis. Stat.](#) § 857.05, the personal representative's fee is to be computed at two percent of the net inventory value of property subject to administration, plus any net corpus gains in the estate proceeding. The court may allow the personal representative additional sums in cases of unusual difficulty or extraordinary services. The court must approve the amount of the commission before the personal representative may disburse the final amount.
- #7 If a GAL or attorney for a person in military service was appointed, ask the GAL or attorney to submit a bill for services rendered to the estate. The court must approve the amount requested.
- #8 Attach the appropriate schedules. Items specifically bequeathed that remain undistributed appear on Schedule O. The Final Schedule should be Schedule O, which summarizes the proposed distribution of the residue of the estate. See MIL Section 37. If necessary, break out totals between income and principal. The front page of the Final Account includes a recapitulation of the schedule totals, which should be filled out.
- #9 The personal representative's signature on the Estate Account should be dated and notarized; the date must be after the closing date of the Estate Account.

**Contents (Petition for Final Judgment)**

- #1 See Item #1 in the final Estate Account, *supra*.
- #2 The personal representative's signature on the petition should be dated and notarized; the date must be after the closing date of the petition.

**Distribution**

Original: File with the court  
Conformed copies: Personal representative, one each to all interested persons, one with final income tax return (Wis. Dep't of Revenue), and firm file

**References**

[Wis. Stat.](#) ch. 862

**Form 4.36 Estate Account (EST-0176)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  
 (Decedent's Name)  
 Name \_\_\_\_\_

Amended  
 Interim  
 Final  
 Supplemental  
**Estate Account**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.)

**UNDER OATH I VERIFY:**

I am the  personal representative  special administrator of this estate and this estate account is true and correct. The following is my account of the administration of this estate from [Date of Death or Date of prior estate account] \_\_\_\_\_ (Date of Death) to [Date] \_\_\_\_\_ (#1). **List interested persons on page 2.** (#2)

RECEIPTS	TOTAL	DISBURSEMENTS	TOTAL
Net Value of property, subject to administration from Inventory (or assets on hand as of last estate account)	(#3)	Funeral Expenses Schedule (F)	(#4)
Added Property to which the decedent was entitled to on Date of Death not included in Inventory or prior Estate Account, including refunds.	(#4)		
Schedule (A)		Debts of Decedent (G)	
Dividends (B)		Claims (including those by judgment) (H)	
Interest (C)		Taxes Paid (I)	
Capital Gains (Losses) (D)		Interest Paid (J)	
Other Receipts (E)		Administration Expenses (K)	
		Other Payments (L)	
		Distributions Paid to Date (M)	
		<b>TOTAL DISBURSEMENTS</b>	
		<b>Assets on Hand (N)</b>	
<b>TOTAL</b>		<b>TOTAL</b>	

Totals in each column must be the same.	
<b>Proposed distribution of Assets on Hand (Schedule O)</b>	(#8)
<b>Total Fees paid during administration:</b>	
Personal Representative:	(#6)
Guardian Ad Litem:	(#7)
Special Administrator:	
Attorney:	(#5)

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Personal Representative/Special Administrator  
 \_\_\_\_\_  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (if any)

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_ (#9)

\_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

\_\_\_\_\_  
 Personal Representative/Special Administrator

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

\_\_\_\_\_  
 Email Address Telephone Number

\_\_\_\_\_  
 Date State Bar No. (if any)

**ESTATE ACCOUNT SUPPORTING SCHEDULE**

**List of Interested Persons**

The names and mailing addresses of all interested persons are as follows:  
 (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)

Name	Mailing Address	If Minor, Date of Birth





# Form 4.37 Petition for Final Judgment (EST-0220)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

## Petition for Final Judgment (Formal Administration)

Name

Case No. \_\_\_\_\_ (Case No.)

### UNDER OATH, I STATE:

1. I am the personal representative in this estate.
2. I filed the final account of the administration of this estate from [Date of Death or Date of prior account] (Date of Death) to [Date] \_\_\_\_\_ (#1) \_\_\_\_\_ and this estate is ready for final judgment.
3. All allowances, debts, taxes, funeral expenses, and expenses of administration as shown in the final account were paid.
4. Any unfiled claims against this estate which I paid in good faith were just demands against this estate and were paid on or before the deadline for filing claims or with the consent of the heirs or beneficiaries affected by the payment, as shown in the final account.
5. In addition to any property subject to administration, the decedent had the following interests in property as a life tenant, joint tenant in marital property or in property passing by nontestamentary disposition under §§705.15 or 766.58(3)(f), Wis. Stats., for which a certificate has not been issued:  See attached

Description of Property <small>(include legal description of real estate, WI county where the property is located and Recording Data from creating document)</small>	Decedent's Interest	Person Receiving Property and Nature of Interest

6. Other: \_\_\_\_\_

### I REQUEST:

1. A hearing on the Petition be set, if required.
2. Heirship be determined by the court.
3. The account be allowed.
4. A final judgment be entered assigning the assets of the estate according to law and making the necessary finding of fact to:
  - terminate any life estate or joint tenancy interest of the decedent;
  - certify the ownership of any survivorship marital property;
  - grant any petition filed by the surviving spouse for the confirmation of surviving spouse's one-half interest in marital property immediately before the death of decedent, AND
  - grant any petition filed by a designated person, trust or other entity under §766.58(3)(f), Wis. Stats. or a transfer on death beneficiary under §§705.15 or 766.58(3)(f), Wis. Stats.
5. Other: \_\_\_\_\_

FORMAL PROBATE AND SPECIAL ADMINISTRATION

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_ (#2)

\_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

▶ \_\_\_\_\_  
 Personal Representative

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

▶ \_\_\_\_\_  
 Personal Representative

\_\_\_\_\_  
 Name Printed or Typed

\_\_\_\_\_  
 Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

## XXXVII. Order and Notice for Hearing on Petition for Final Judgment

### Commentary and Instructions for [Form 4.38](#)

If the estate's administration has been proceeding on notice rather than on waiver, the court must hold a hearing on the Estate Account. Some counties will require the hearing even if the administration has been proceeding on waiver.

Normally, publication of the Order and Notice for Hearing on Petition for Final Judgment is not required, but notice must be mailed to all interested persons, including creditors whose claims remain outstanding, and an Affidavit of Service must be filed with the court. See [Form 4.9](#) for instructions on preparing the affidavit. If publication is required, a conformed copy of the Order and Notice for Hearing on Petition for Final Judgment, including the date of the hearing and the date of the judge's signature of the order, should be delivered or sent to the newspaper publisher that will publish the order as a notice to interested persons. The order must be published within 15 days after entry.

#### Contents

- #1 The court will insert the date and time of hearing. If the time is not included, you will have to notify (when the time is known) all persons required to attend the hearing.
- #2 Check Item 3 or 4, if applicable.
- #3 Enter the name of the newspaper designated for publication (this should be the same one used to publish the order for the initial hearing).

#### Distribution

Original: File with the court  
Conformed copies: Personal representative, newspaper designated for publication, interested persons (unless waived), and firm file

#### References

[Wis. Stat.](#) §§ 879.05, 879.07

# Form 4.38 Order and Notice for Hearing on Petition for Final Judgment (EST-0221)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Order and Notice for Hearing on Petition for Final Judgment (Formal Administration)**

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

A Petition for Final Judgment was filed.

**THE COURT FINDS:**

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death) was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_

**THE COURT ORDERS:**

1. The Petition will be heard at the \_\_\_\_\_ County Courthouse, \_\_\_\_\_ Wisconsin, Room \_\_\_\_\_, before \_\_\_\_\_, Court Official, on [Date] \_\_\_\_\_, at [Time] \_\_\_\_\_.

**You do not need to appear unless you object. The Petition may be granted if there is no objection.**

2. Notice by publication is required.
- (#2) Publication of this notice is notice to any persons whose names or addresses are unknown.

**\*DO NOT PRINT the following if left blank:**

The names or addresses of the following interested persons (if any) are not known or reasonably ascertainable:

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with the person named below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**(DO NOT PRINT the following text when publishing this notice.)**

**Notice to Newspaper and Personal Representative:**

If publication is required, notice must be given by publication of this notice in the following newspaper:

(#3)

---

once a week for three consecutive weeks with publication being completed prior to the hearing date.

The personal representative is responsible for providing a copy of this notice to all interested persons (including any attorney or attorney in fact for an interested person who is in the military service and any creditor who filed a claim against this estate and whose claim was not disallowed and was not paid in full because the assets of the estate are insufficient to pay all creditors in full.)

- a. by mailing at least 20 days before the hearing; OR
- b. by personal service at least 10 days before the hearing.

## XXXVIII. Supplemental Estate Account

### Commentary and Instructions for [Form 4.39](#)

Often the personal representative will collect additional estate income between the time the Final Account is prepared and the time the Final Judgment ([Form 4.40](#)) is entered. Sometimes there are additional expenses. The Supplemental Estate Account is used to record the additional income and expenses. Unless the items are unusually large, the court will not require evidence that the Supplemental Estate Account has been sent to interested persons.

#### Contents

- #1 Use Estate Account ([Form 4.36](#)), and check the box for “Supplemental.”
- #2 Enter the date of the Estate Account ([Form 4.36](#)).
- #3 Enter the date the form is being signed (usually, the date of the Final Judgment).
- #4 Enter the receipts balancing total from the Estate Account.
- #5 Enter new data for the income and expense items as appropriate.
- #6 Enter the total disbursement from the Estate Account.
- #7 This data should be the same as that recorded on the Estate Account.
- #8 Include revised distribution schedules.
- #9 Date and notarize the personal representative’s signature. The date should normally be the date the Final Judgment is entered.

#### Distribution

Original: File with the court  
Conformed copies: Personal representative, one each to all interested persons, and firm file

#### References

[Wis. Stat.](#) ch. 862

# Form 4.39 Supplemental Estate Account (EST-0176)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_ (#1)  Amended  
 (Decedent's Name) \_\_\_\_\_  Interim  
 Name \_\_\_\_\_  Final  
 \_\_\_\_\_  Supplemental  
**Estate Account**  
 Informal Administration  
 Formal Administration

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

**UNDER OATH I VERIFY:**

I am the  personal representative  special administrator of this estate and this estate account is true and correct. The following is my account of the administration of this estate from [Date of Death or Date of prior estate account] \_\_\_\_\_ (#2) to [Date] \_\_\_\_\_ (#3). **List interested persons on page 2.**

RECEIPTS	TOTAL	DISBURSEMENTS	TOTAL
Net Value of property, subject to administration from Inventory (or assets on hand as of last estate account)	(#4)	Funeral Expenses Schedule (F)	(#5)
Added Property to which the decedent was entitled to on Date of Death not included in Inventory or prior Estate Account, including refunds.			
Schedule (A)		Debts of Decedent (G)	
Dividends (B)		Claims (including those by judgment) (H)	
Interest (C)	(#5)	Taxes Paid (I)	
Capital Gains (Losses) (D)		Interest Paid (J)	
Other Receipts (E)		Administration Expenses (K)	
		Other Payments (L)	(#6)
		Distributions Paid to Date (M)	
		<b>TOTAL DISBURSEMENTS</b>	
		<b>Assets on Hand (N)</b>	
<b>TOTAL</b>		<b>TOTAL</b>	

Totals in each column must be the same.	
Proposed distribution of Assets on Hand (Schedule O)	
Total Fees paid during administration:	(#7)
Personal Representative:	
Guardian Ad Litem:	(#8)
Special Administrator:	
Attorney:	

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed  
 My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

\_\_\_\_\_  
 (#9)  
 Personal Representative/Special Administrator  
 \_\_\_\_\_  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (if any)



FORMAL PROBATE AND SPECIAL ADMINISTRATION

State of _____ County of _____ Subscribed and sworn to before me on _____ _____ Notary Public/Court Official _____ Name Printed or Typed My commission/term expires: _____ <input type="checkbox"/> This notarial act involved the use of communication technology.	_____ Personal Representative/Special Administrator _____ Name Printed or Typed _____ Address _____ Email Address Telephone Number _____ Date State Bar No. (if any)
---	---

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number (if any)

**ESTATE ACCOUNT SUPPORTING SCHEDULE**

**List of Interested Persons**  
 The names and mailing addresses of all interested persons are as follows:  
 (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)

Name	Mailing Address	If Minor, Date of Birth



## XXXIX. Final Judgment

### Commentary and Instructions for [Form 4.40](#)

The Final Judgment reflects information contained in the Final Account ([Form 4.36](#)) and indicates the remaining distributions to be made to close the estate. Present the Final Judgment to the court at the same time as the Estate Account is approved. Record either the Final Judgment or the Abridgment of Final Judgment ([Form 4.41](#)) when there is real estate or a secured interest in real estate.

#### Contents

- #1 Complete Item 1a if the decedent was domiciled in Wisconsin. Complete Item 1b if the decedent was domiciled in another state but owned real property in Wisconsin.
- #2 Check the appropriate box; if the decedent left a will, enter the date of the will and any codicils.
- #3 List the heirs at law (consult MIL Section 5). Refer to the Proof of Heirship ([Form 4.12](#)), and be certain that the heirs and not the beneficiaries are listed.
- #4 Check the appropriate box(es) if you want to use a Final Judgment to terminate any of the interests indicated.
- #5 Provide information as appropriate.
- #6 If applicable, provide information. For example, this item will apply in an intestate estate with more than one beneficiary.
- #7 See MIL Section 37. List property according to categories. Give the legal description of real estate, describe interest and security in secured interests in real estate, and so on.
- #8 Check Items 3, 4, or 5 as applicable.
- #9 List the property to be distributed to each beneficiary with its value as listed, for example:  
     Ruth Hart: 1000 shares ABC Corp. common stock \$10,000  
     Cash: \$9,500

#### Distribution

Original: File with the court  
 Conformed copies: Record with register of deeds in county where real property or secured interest in real property located (only if *not* recording an Abridgment of Final Judgment), personal representative, and firm file

#### References

[Wis. Stat.](#) § 863.27

## Form 4.40 Final Judgment (EST-0223)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) <small>Name</small>	<input type="checkbox"/> Amended <b>Final Judgment</b> <b>(Formal Administration)</b>
_____	Case No. _____ (Case No.)

A Petition for Final Judgment was filed.

### THE COURT FINDS:

- (#1) 1. The decedent died on [Date] \_\_\_\_\_, domiciled in \_\_\_\_\_ County, State of \_\_\_\_\_ and owned property located in \_\_\_\_\_ County, Wisconsin.
- (#2) 2. The decedent had  
 a will dated \_\_\_\_\_  a codicil(s) dated \_\_\_\_\_ which was admitted to probate.  
 no will.
3. The Petition was heard upon  notice and appearance.  
 waiver of notice.
4. Notice was published for determination of heirship.
5. The heirs (persons entitled to intestate succession) of the decedent are as follows:  See attached  
 \_\_\_\_\_  
 (#3)
6. The payment of all required taxes, claims and charges are stated in the final account.
7. At the time of death, the decedent had an interest in real property.
- (#4)  8. The decedent had a life estate, or an interest as a joint tenant in property for which a certificate of termination was not previously issued. The life estate or joint tenancy interest terminated upon death and any surviving joint tenants have a right of survivorship in such property.
- (#4)  9. The decedent had an interest in marital property for which a certificate was not previously issued.
- (#4)  10. The surviving spouse filed a Petition for the confirmation of surviving spouse's one-half interest in marital property immediately before the death of decedent and this interest is confirmed.

11. A designated person trust or other entity under §766.58(3)(f), Wis. Stats., or a transfer on death beneficiary under §705.15, Wis. Stats., filed a petition for confirmation of an interest in property passing by nontestamentary disposition under §705.15 or §766.38(3)(f), Wis. Stats., and this interest is confirmed.

12. The property referred to in 7. through 11. above is as follows:  See attached

	Description of Property <small>(Include legal description of real estate, WI county where the property is located and Recording Data from creating document)</small>	Person Receiving Property and Nature of Interest
(#5)		

(#6)  13. Principal and income require apportionment as provided in §701.20, Wis. Stats.  See attached

(#7) 14. Property remains for distribution as shown in the final account.

15. Other: \_\_\_\_\_

**THE COURT ORDERS:**

- (#8) 1. The Petition for final judgment is granted including approval of
- A. the classification of assets as shown in the inventory;
  - B. the payment of claims and debts as stated in the account(s) filed;
  - C. the fees of attorney(s), personal representative(s), and guardian(s) ad litem; AND
  - D. the distributions paid to date described in the account(s).

2. The property remaining for distribution is assigned as follows:  See attached

	Person(s) Entitled to Receive	Description of Property	Value
(#9)			\$

3. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XL. Abridgment of Final Judgment

### Commentary and Instructions for [Form 4.41](#)

An Abridgment of Final Judgment may be prepared at the same time as the Final Judgment, but it is signed only after the court signs the Final Judgment. When there is real property or when secured interests in real property are being transferred from the estate, the instrument denoting the transfer must be recorded. To avoid recording the entire final judgment, consider recording only the Abridgment of Final Judgment.

#### Contents

- #1 If an interest in real estate is being transferred and the Abridgment of Judgment will be recorded, include the name and address of the person to whom the register of deeds should return the abridgment.
- #2 Obtain the parcel identification number from the most recent real estate tax bill (necessary only if an interest in real estate is being transferred).
- #3 Refer to the Final Judgment ([Form 4.40](#)) (Item #10 under Contents).
- #4 Refer to the Final Judgment ([Form 4.40](#)). List only real property and secured interests in real property and the names of the distributees of these items of property.

#### Distribution

Original:	File with the court
Conformed copies:	Record with register of deeds in county where real property or secured interest in real property located, personal representative, and firm file

#### References

[Wis. Stat.](#) § 863.29

**Form 4.41 Abridgment of Final Judgment (EST-0224)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

**Abridgment of Final Judgment**  
(Formal Administration)

---

*Register of deeds recording area*  
*Name and return address*

(#1)

\_\_\_\_\_  
(#2)  
*parcel identification number*

- Final judgment in the above estate, \_\_\_\_\_ County, case number \_\_\_\_\_ was entered on [Date] \_\_\_\_\_ (#3).
- The final judgment terminates, certifies or assigns interest in real property including interests in debt secured by real estate as follows:  See attached

Legal Description	Name to Whom Assigned
(#4)	

I certify that this abridgment of final judgment is true and accurate.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XLI. Notice of Distribution to Ward

### Commentary and Instructions for [Form 4.42](#)

Use these forms when a guardian of the estate has been appointed. As distinguished from a GAL, the guardian of the estate looks after a minor or incompetent person's interest in the estate. The guardianship of the estate proceeds separately from the estate proceedings, and the guardian of the estate is required to post bond.

Note that guardianship may be in a different county from the estate. If this is true, send two copies of the notice to the guardianship court. The court will certify both copies, keeping one in the guardianship file and returning one to the court that is handling the estate.

Any distribution made to any beneficiary should be accompanied by a receipt signed by the beneficiary. Receipts accounting for all distributions from the estate must be filed with the court in order to discharge the personal representative. See [Forms 3.66](#) and [3.67](#) for sample receipt forms.

When preparing the receipt, enter the appropriate description, for example: "specific bequest pursuant to the decedent's Last Will"; "partial residuary distribution pursuant to the decedent's Last Will"; "remainder of residuary distribution pursuant to the decedent's Last Will"; or "residuary distribution pursuant to the decedent's Last Will." If the distribution is a partial distribution, add the words "to the extent of such distribution only" to the text.

### Contents

- #1 Specify the county court that appointed the guardian of the ward's estate (e.g., "Circuit").
- #2 Enter the name of the guardian of the ward's estate.
- #3 Enter the name of the minor or incompetent person (i.e., the ward).
- #4 Describe the property comprising the distributive share of the estate to be received by the ward and enter the value of such property. See the will if the distribution is in advance of final judgment, or see the Final Judgment ([Form 4.40](#)).
- #5 Enter the date.

### Distribution

Original: Send two copies to personal representative (copy returned should be filed with the court)

Conformed copies: Personal representative, guardian of ward, and firm file

### References

[Wis. Stat.](#) §§ 863.41, 863.43, 863.45



**Form 4.42 Notice of Distribution to Ward (EST-0225)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <b>Notice of Distribution to Ward</b> <input type="checkbox"/> Informal Administration <input type="checkbox"/> Formal Administration Case No. _____ (Case No.)

To: [Name of Court] \_\_\_\_\_ (#1) the court that appointed the guardian of estate for  
 [Name of Ward] \_\_\_\_\_ (#3).

**PLEASE TAKE NOTICE:**

As personal representative, I will distribute from this estate proceeding to [Name of guardian of estate] \_\_\_\_\_ (#2),  
 guardian of estate for [Name of Ward] \_\_\_\_\_ (#3) the following property:  See attached

Description of Property	Value
(#4)	\$

I am providing this notice to you **at least ten (10) days** prior to the distribution.

Form completed by: (Name) _____ Address _____ Email Address _____ Telephone Number _____ Bar Number (if any) _____	► _____ Personal Representative (PR's Name) Name Printed or Typed _____ Address _____ Email Address _____ Telephone Number _____ (#5) Date _____ State Bar No. (if any) _____
---	--

## XLII. Proof of Recording

### Commentary and Instructions for [Form 4.43](#)

After recording the Final Judgment ([Form 4.40](#)) (or Abridgment ([Form 4.41](#))), a Proof of Recording must be filed with the court for each county in which the estate's real property is located.

➤ *Note.* In lieu of the Proof of Recording, some courts will accept a copy of the recorded document with recording information in it.

#### Contents

#1 Insert the name of the county in which the document was recorded.

#### Distribution

Original:	File with the court
Conformed copy:	Firm file

#### References

[Wis. Stat.](#) § 863.29

**Form 4.43 Proof of Recording (EST-0226)**

<b>STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY</b>	
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <b>Proof of Recording (Formal Administration)</b> Case No. _____ (Case No.)

A certified copy of the final judgment or a certified abridgment of final judgment was recorded on [Date] \_\_\_\_\_ (Date) \_\_\_\_\_, in vol. \_\_\_\_\_ (Vol. No.), on page \_\_\_\_\_ (Page No.) in \_\_\_\_\_ (#1) \_\_\_\_\_ County, Wisconsin.

Form completed by: (Name)	_____
Address	_____
Telephone Number	_____
Bar Number (if any)	_____

Register of Deeds/Deputy  
Title (Print or Type Name if not eSigned)  
Date

## XLIII. Order Discharging Guardian ad Litem

### Commentary and Instructions for [Form 4.44](#)

Generally, the GAL is discharged as soon as is practical after the need for his or her service ends. For example, a minor heir may require representation only until paid in an early distribution. Confirm the status of minor or incompetent interested persons with the attorney periodically during probate. A discharge is not ordinarily necessary if the GAL serves until the end of the probate proceedings.

#### Contents

- #1 The motion to discharge the GAL is made by the attorney for the estate.
- #2 The amount of compensation is approved by the court. Check with the clerk or register in probate for this amount.

#### Distribution

Original: File with the court  
Conformed copies: GAL, ward, personal representative, and firm file

#### References

[Wis. Stat.](#) § 879.23

**Form 4.44 Order Discharging Guardian ad Litem (EST-0227)**

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of

      (Decedent's name)      ,  
Deceased

**ORDER  
DISCHARGING  
GUARDIAN AD LITEM**

Case No.       (Case No.)      

It appears to the court that the legal necessity for       (Guardian ad litem's Name)       to continue to act as guardian ad litem in the above estate has terminated and that the guardian ad litem has performed the services for which *(he/she)* was appointed.

THEREFORE, on the motion of       (#1)      ,

IT IS ORDERED THAT:

1.       (Guardian ad litem's Name)       is discharged as guardian ad litem in the estate and released of any further duty to appear in the estate as such guardian ad litem.

2.       (Guardian ad litem's Name)       is entitled to receive the sum of       (specify amount) (#2)       dollars as compensation for *(his/her)* services as guardian ad litem.

## XLIV. Order Discharging Personal Representative

### Commentary and Instructions for [Form 4.45](#)

In informal probate, the personal representative is automatically discharged six months after the personal representative's statement to close the estate is filed. In formal probate, the personal representative must be discharged by order after the Final Judgment ([Form 4.40](#)) has been entered and all receipts for property have been filed with the court. Hold the receipts until all have been received, and then prepare the Order Discharging Personal Representative and file the order and the receipts with the register in probate at the same time. If a bond was required for the personal representative, obtain a certified copy of the Order Discharging Personal Representative and forward it to the bonding company so the bond may be released.

#### Contents

#1 Check the box if bond was required of the personal representative. If no bond was required, leave the box unchecked.

#### Distribution

Original: File with the court  
Conformed copies: Personal representative, bonding company (certified copy), and firm file

#### References

[Wis. Stat.](#) § 863.47

**Form 4.45 Order Discharging Personal Representative (EST-0228)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended  
 (Decedent's Name)  
 Name \_\_\_\_\_

**Order Discharging Personal Representative  
 (Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

**THE COURT FINDS:**

1. Final judgment was entered.
2. A certified copy of the final judgment, or certified abridgment was recorded, if required.
3. Receipts for all other property assigned in the final judgment, or other evidence of transfer satisfactory to the court was filed.
4. Other: \_\_\_\_\_

**THE COURT ORDERS:**

1. The personal representative(s) [Name] \_\_\_\_\_ (PR's Name) discharged.
2. The bond of the personal representative(s) cancelled. (#1)
3. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)

## XLV. Application for (Conversion to) Informal Administration

### Commentary and Instructions for [Form 4.46](#)

In some situations, it may be desirable to convert the estate administration from formal probate to informal probate. The standard Application for Informal Administration ([Form 3.1](#)) may be used to do this. Except as specifically modified in the following form, the data on the application will be identical to the Petition for Formal Administration ([Form 4.1](#)) with the possible exception of data regarding interested persons if the estate administration was started formally for the purpose of determining who the interested persons were and that issue has now been decided. Similarly, if the proceedings are converted after admission of a will to probate, heirs at law who are not beneficiaries are no longer interested persons.

Check with the register in probate to determine the procedure used. Many counties will use the Notice Setting Time to Hear Application and Deadline for Filing Claims ([Form 3.22](#)) and Statement of Informal Administration ([Form 3.15](#)) rather than [Forms 4.50](#) and [4.51](#).

In most situations, all interested persons will consent to the conversion. Therefore, a waiver and consent should accompany the petition. If consent cannot be obtained, all interested persons must be given 20 days' notice of the hearing date.

Remember that if the requirements for informal probate set forth in [Wis. Stat.](#) § 865.02 are not met, conversion will not be allowed.

### Contents

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 This figure may be an estimate. But it should be in excess of \$50,000 because some judges may require summary procedures if the estate's value is below \$50,000. Value only property *solely* held by the decedent at the time of death. Do not include property over which the decedent had a power of appointment (MIL Section 20), life insurance payable to beneficiaries other than the estate (MIL Section 17), property held in joint tenancy (MIL Section 18), or transfers made during the decedent's lifetime (MIL Section 19).
- #3 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, MA, long-term care services, Wisconsin chronic disease program benefits, or any of the other services described in [Wis. Stat.](#) § 859.07(2), send the Probate Claims Notice ([Form 3.7](#)) to DHS, DCF, or the Department of Corrections as appropriate and the county clerk. *See supra* [Form 3.6](#).
- #4 Include names of interested persons, and their relationship and date of birth if a minor. *See supra* [Form 3.1](#).
- #5 Enter the petitioner's name and address.



**Distribution**

Original: Probate registrar

Copy: All interested persons, personal representative, and firm file

**References**

[Wis. Stat.](#) § 865.05(2)

Form 4.46 Application for Informal Administration (EST-0110)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

Application for Informal Administration

Name

Case No. (Case No.)

UNDER OATH, I STATE:

1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death), was domiciled in (County Name) County, State of (State Name), with a mailing address of (Decedent's Address).

2. I am interested as (#1)

3. Other proceedings concerning the estate of the decedent are are not pending in this state or elsewhere. Explain:

4. The estimated net value of decedent's property requiring administration is \$ (#2)

5. The decedent

- did did not receive Medical Assistance/Medicaid.
did did not receive Family Care and/or Partnership benefits (through a Managed Care Organization - MCO/CMO).
did did not receive benefits from the Community Options Program (COP).
did did not receive benefits from Wisconsin Chronic Disease Program.
was was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county.

Explain:

I lack information to complete this section.

(#3) 6. If the decedent was ever married, complete the following: (If more than one spouse See attached.)

Name of spouse (living or deceased)

- Married to decedent Divorced from decedent at time of decedent's death.
The spouse did did not receive benefits from the Community Options Program (COP).
The spouse did did not receive benefits from the Wisconsin Chronic Disease Program.
I lack information to complete this section.

(Complete question 7 OR 8 below, whichever is applicable.)

7. The decedent died leaving a will, dated (Date of Will) codicil(s) (if any), dated (Date of Codicil)

I believe these documents were executed properly and are valid. I made diligent inquiry and am unaware of any revocation by decedent.

The original will, including any codicil(s),

- is in the possession of the court.
accompanies this application.
was probated elsewhere and an authenticated copy accompanies this application.
is en route to the court by mail or personal delivery (for eFilers only).

The personal representative(s) named by the decedent in the will and/or any codicil is:

Name(s) (PR's Name)

I nominate to serve as personal representative(s).

The trustee(s) named by the decedent in the will and/or codicil is:

Name(s)

I nominate to serve as trustee(s).

FORMAL PROBATE AND SPECIAL ADMINISTRATION

8. I made diligent inquiry and am unaware of any unrevoked will of the decedent and believe that the decedent died leaving no will.  
I nominate \_\_\_\_\_ to serve as personal representative(s).

(#4) 9. The names and mailing addresses of all interested persons are:  
(For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)  See attached

Name	Relationship <small>[e.g. Heir, Beneficiary, Fiduciary]</small>	Mailing Address <small>[Street, City, State, Zip]</small>	If Minor, Date of Birth

10. Other: \_\_\_\_\_

**I REQUEST:**

1. A statement of informal administration be issued.
2. The will, including any codicil(s), be admitted to informal administration.
3. Domiciliary letters be issued to \_\_\_\_\_
4. Letters of trust be issued to \_\_\_\_\_  
for the following trust: \_\_\_\_\_  
Letters of trust be issued to \_\_\_\_\_  
for the following trust: \_\_\_\_\_
5. Other: \_\_\_\_\_

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Subscribed and sworn to before me on \_\_\_\_\_  
\_\_\_\_\_  
Notary Public/Court Official  
\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

▶  
Applicant  
(#5)  
Name Printed or Typed  
(#5)  
Address  
\_\_\_\_\_  
Email Address: \_\_\_\_\_ Telephone Number  
\_\_\_\_\_  
Date: \_\_\_\_\_ State Bar No. (if any)

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	State Bar Number (if any)

## **XLVI. Notice of Application to Convert to Informal Administration and Order Converting Proceeding to Informal Administration**

### **Commentary and Instructions for [Forms 4.47–4.48](#)**

If the interested persons are unable or unwilling to provide a waiver and consent to the conversion of formal proceedings to informal proceedings, they must be given 20 days' notice that the Application for Informal Administration ([Form 4.46](#)) will be filed. The statute seems to anticipate a hearing before the register in probate or court to consider the application to convert. Ask the court for a specific time and date for the hearing so that anyone who wishes to object may appear.

Formal probate proceedings must be terminated by order before informal administration can proceed.

### **Distribution**

Original: Probate registrar

Copy: All interested persons, personal representative, and firm file

### **References**

[Wis. Stat.](#) § 865.05(2)

**Form 4.47 Notice of Application to Convert to Informal  
Administration (EST-0230)**

---

---

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

---

In the Matter of the Estate of

      (Decedent's name)      ,  
Deceased

**NOTICE OF  
APPLICATION TO  
CONVERT TO  
INFORMAL  
ADMINISTRATION**

Case No.       (Case No.)      

---

To: All Persons Interested in the Above-Named Estate

PLEASE TAKE NOTICE that an application to convert the proceedings in the above-named estate to informal probate proceedings will be filed with the Register in Probate for       (County Name)       County, Wisconsin, at Room       (Room No.)      , on       (Date)      , at       (Time)       (a.m./p.m.).

---

**Form 4.48 Order Converting Proceeding to Informal  
Administration (EST-0231)**

---

---

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

---

In the Matter of the Estate of

      (Decedent's name)      ,  
Deceased

**ORDER CONVERTING  
PROCEEDING TO  
INFORMAL  
ADMINISTRATION**

Case No.       (Case No.)      

---

An application to convert the proceedings in this matter to informal probate having been made and the court being fully apprised in the premises;

IT IS ORDERED THAT:

1. The proceedings are converted to informal probate.
2. The Domiciliary Letters previously issued to       (Spouse's Name)       remain in full force and effect.

## XLVII. Petition for Special Administration and Order Setting Time to Hear Petition for Special Administration

### Commentary and Instructions for [Forms 4.49–4.50](#)

Special administration may replace or supplement probate, depending on the ground on which the Petition for Special Administration ([Form 4.49](#)) is based. Grounds for the appointment of a special administrator are limited and specified by statute, *see supra* § [4.35](#). Anyone who can petition for probate can initiate a special administration. Depending on the circumstances, the petition is timely before or after probate.

The court has the discretion to order notice of the hearing or, if this is inexpedient, to hear the petition without notice. If notice is required, prepare the Order Setting Time to Hear Petition for Special Administration ([Form 4.50](#)) and proceed according to [Wis. Stat.](#) § 879.03.

The special administrator may be required to post a bond to ensure the proper completion of his or her duties. If a bond is required, see the commentary and instructions for [Forms 4.17–4.18](#).

#### Contents (Petition for Special Administration)

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 Enter the statutory grounds.
- #3 Check the appropriate box indicating whether the special administrator will have the general powers of a personal representative or only specific powers. List exceptions (if any) to the general powers, or list the specific powers to be granted, as appropriate.
- #4 Enter the proposed special administrator's name and address.
- #5 Enter the petitioner's name (see [Wis. Stat.](#) § 856.07 for persons qualified to petition).

#### Contents (Order Setting Time to Hear Petition for Special Administration)

- #1 Arrange with the clerk for a hearing date.
- #2 The date is important. Publication must begin within 15 days after this date, and the hearing cannot occur until three weeks of publication have been completed and one week has elapsed since last publication. Confirm the date with the court or ask the court to enter the date.
- #3 Enter appropriate publication and publish the order in the official newspaper for the court's jurisdiction.

#### Distribution

Original: File with the court  
 Conformed copies: Special administrator, personal representative, if any, and firm file (also send conformed copy of order to newspaper designated for publication)

#### References

[Wis. Stat.](#) §§ 867.07, 867.09, 867.11, 985.01

Form 4.49 Petition for Special Administration (EST-0232)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Petition for  
Special Administration  
(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

UNDER OATH, I STATE:

1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death), was domiciled in (County Name) County, State of (State Name), with a mailing address of (Decedent's Address).

2. I am interested as (#1).

3. Other proceedings concerning the estate of the decedent
are not pending
are currently pending
were previously completed
in Wisconsin or elsewhere.
Explain:

4. The decedent
did did not receive Medical Assistance/Medicaid.
did did not receive Family Care and/or Partnership benefits (through a Managed Care Organization - MCO/CMO).
did did not receive benefits from the Community Options Program (COP).
did did not receive benefits from Wisconsin Chronic Disease Program.
was was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county
Explain:
The petitioner lacks information to complete this section.

5. If the decedent was ever married, complete the following: (If more than one spouse, See attached)
Name of spouse: (living or deceased)
Married to decedent.
Divorced from decedent.
The spouse did did not receive benefits from the Community Options Program (COP)
The spouse did did not receive benefits from the Wisconsin Chronic Disease Program.
The petitioner lacks information to complete this section.

6. The decedent died leaving a will, dated codicil(s) (if any), dated

7. The names and mailing addresses of all interested persons are: (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)

Table with 4 columns: Name, Relationship, Mailing Address, If Minor, Date of Birth

(#2) 8. It is necessary to appoint a special administrator because
A. there is no estate to be administered and an act should be performed on the part of the decedent, the performance of which affects or is of importance to the petitioner or any other person.



- B. the final judgment of distribution in the estate has been entered and an act remains unperformed in the estate, or unadministered assets have been found or may be found belonging to the estate.
- C. the estate can be settled under summary settlement or summary assignment.
- D. it is necessary to conserve or administer the estate of a decedent before letters can be issued to a personal representative.
- E. circumstances provided in §867.05(5)&(6), Wis. Stats., exist.
- F. a cause of action exists for or against the decedent or the decedent's estate and it is necessary that some act be performed before letters can be issued to a personal representative.
- G. other circumstances exist which in the discretion of the court require the appointment of a special administrator.
- H. Other: \_\_\_\_\_

- (#3) 9. The special administrator requires
- A. only these specific powers: \_\_\_\_\_
  - B. all the general powers, duties and liabilities as personal representative.  
 Except: \_\_\_\_\_
10. Other: \_\_\_\_\_

**I REQUEST THE COURT:**

- 1. Set a hearing on the Petition.
- 2. Order notice, if required by the court.
- 3. Grant the Petition authorizing powers, duties and liabilities of special administrator as stated above.

- (#4) 4. Issue Letters of Special Administration to \_\_\_\_\_,  
 mailing address \_\_\_\_\_
5. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

▶ **(#5)**  
 \_\_\_\_\_  
Petitioner  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
Email Address                      Telephone Number  
 \_\_\_\_\_  
Date                                      State Bar No. (if any)

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

# Form 4.50 Order Setting Time to Hear Petition for Special Administration (EST-0233)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) **Order Setting Time to Hear Petition for Special Administration (Formal Administration)**

Name \_\_\_\_\_ Case No. \_\_\_\_\_ (Case No.)

A Petition for Appointment of a Special Administrator was filed.

**THE COURT FINDS:**

The decedent, with date of birth (Date of Birth) and date of death (Date of Death) was domiciled in (County Name) County, State of (State Name), with a mailing address of (Decedent's Address).

**THE COURT ORDERS:**

1. The petition be heard at the (County Name) County Courthouse, (Court's Address) Wisconsin, Room (No.), before \_\_\_\_\_, Court Official, on (Date) (Time) (#1) at (Time) (#2).

**You do not need to appear unless you object. The petition may be granted if there is no objection.**

2. Notice by publication is required. Publication of this notice is notice to any interested persons whose names or addresses are unknown.

**\*DO NOT PRINT the following if left blank:**

\* The names or addresses of the following interested persons (if any) are not known or reasonably ascertainable:

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with person named below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**DO NOT PRINT the following text when publishing this notice.**

**Notice to Newspaper and Personal Representative:**

If publication is required, notice must be published once a week for three consecutive weeks in the following newspaper:

(#3)

---

The petitioner is responsible for providing a copy of this notice to all interested persons

- a. by mailing at least 20 days before the hearing; OR
- b. by personal service at least 10 days before the hearing.

## XLVIII. Order for Special Administration and Letters of Special Administration

### Commentary and Instructions for [Forms 4.51–4.52](#)

The Order for Special Administration ([Form 4.51](#)) effectuates the Petition for Special Administration.

The Letters of Special Administration ([Form 4.52](#)) are the official authorization for the special administrator to proceed. Multiple certified copies may be needed depending on what the special administrator is required to do and with whom. A certified copy of the Letters of Special Administration is available from the court for \$4 (*see* [Wis. Stat.](#) § 814.61).

#### Contents (Order for Special Administration)

- #1 See the information for [Form 4.50](#). Notice must either be given or be waived by the court.
- #2 Enter the name and address of the special administrator.
- #3 The court will set the amount and the type of bond.
- #4 The court may waive the bond. No bond will be required if the special administrator is a corporate fiduciary.
- #5 Check appropriate box(es). The special administrator can have only those powers specified by the court, but those can be the same powers as a personal representative if the court agrees.

#### Contents (Letters of Special Administration)

- #1 Enter the name of the special administrator.
- #2 See Item #5 in the Order for Special Administration, *supra*. The powers must be specified.

#### Distribution

Original: File with the court  
Conformed copies: Special administrator, personal representative, if any, and firm file

#### References

[Wis. Stat.](#) §§ 867.07, 867.15, 867.17

**Form 4.51 Order for Special Administration (EST-0234)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY  
 IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended  
 \_\_\_\_\_ (Decedent's Name) **Order for Special Administration**  
Name **(Formal Administration)**  
 \_\_\_\_\_ Case No. \_\_\_\_\_ (Case No.)

A Petition for Special Administration was filed or the court acts on its own motion.

**THE COURT FINDS:**

1. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death) was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address).
2. The court has jurisdiction, is the proper venue and there is a statutory basis for appointment of a special administrator.
3. Notice was
  - given to all persons entitled to notice. (#1)
  - waived.
  - deemed unnecessary by the court and the appointment should be made without delay.
4. Other: \_\_\_\_\_

**THE COURT ORDERS:**

1. Letters of special administration be issued to \_\_\_\_\_ (#2), mailing address \_\_\_\_\_ (#2).
- (#4) 2.  A signature bond  A surety bond in the sum of \$ \_\_\_\_\_ is required. (#3)  
 No bond is required.
- (#5) 3. The special administrator is granted
  - A. only these specific powers and duties: \_\_\_\_\_
  - B. (following a hearing on notice to, or waiver of notice by, all interested parties) all the same powers, duties and liabilities as a personal representative.  
 Except: \_\_\_\_\_
4. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**Form 4.52 Letters of Special Administration (EST-0235)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY \_\_\_\_\_

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
(Decedent's Name)  
Name

**Letters of Special Administration  
(Formal Administration)**

\_\_\_\_\_  
Case No. \_\_\_\_\_ (Case No.)

To: \_\_\_\_\_ (#1)

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death),  
was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).

You are granted \_\_\_\_\_ (#2)

only these specific powers: \_\_\_\_\_

all the same powers, duties and liabilities as a personal representative.

Except: \_\_\_\_\_

Other: \_\_\_\_\_

***(COURT SEAL)***

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## **XLIX. Petition for Discharge of Special Administrator and Order Discharging Special Administrator**

### **Commentary and Instructions for [Forms 4.53–4.54](#)**

Once the duties of the special administrator are complete, the special administrator must be discharged by the court. To do this, prepare the Petition for Discharge of Special Administration and Order Discharging Special Administrator.

➤ *Note.* Although the petition asks for a list of items received and disbursed, often the special administrator simply performs a needed act and receives nothing.

#### **Contents (Petition for Discharge of Special Administrator)**

#1 Complete as necessary.

#### **Contents (Order Discharging Special Administrator)**

#1 Insert Special Administrator's name.

#### **Distribution**

Original: File with the court  
Conformed copies: Special administrator and firm file

#### **References**

[Wis. Stat.](#) §§ 867.17, 867.21



## Form 4.53 Petition for Discharge of Special Administrator (EST-0236)

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended	<b>Petition for Discharge of Special Administrator (Formal Administration)</b> Case No. _____ (Case No.)
---	----------------------------------	---

**UNDER OATH, I STATE:**

1. I am the special administrator of this estate.
2. I completed the assigned duties.
3. I have attached my Estate Account (PR-1814) form for the administration of this estate from [Date of Death or Date of prior account] \_\_\_\_\_ (#1) to [Date] \_\_\_\_\_ (#1).
4. Other: \_\_\_\_\_

**I REQUEST THE COURT:**

1. Discharge me as special administrator and cancel my bond, if any.
2. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

▶ \_\_\_\_\_  
Special Administrator  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_  
 \_\_\_\_\_  
Date \_\_\_\_\_ State Bar No. (if any) \_\_\_\_\_

My commission/term expires: \_\_\_\_\_  
 This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

**Form 4.54 Order Discharging Special Administrator (EST-0237)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
 (Decedent's Name)  
 Name

**Order Discharging Special Administrator  
 (Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

**THE COURT FINDS:**

- 1. The special administrator performed the authorized duties and filed any required accounts, reports or receipts.
- 2. Other: \_\_\_\_\_

**THE COURT ORDERS:**

- 1. The special administrator [Name] \_\_\_\_\_ (#1) \_\_\_\_\_ is discharged.
- 2. The bond of the special administrator is cancelled.
- 3. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## L. Petition for Allowance and Order for Allowance

### Commentary and Instructions for [Forms 4.55–4.56](#)

The decedent’s surviving spouse or domestic partner and any minor children may be left temporarily without the income to meet their living expenses. Several months may pass before their share of the estate becomes available to them. During administration, the court can order that an allowance be paid out of the estate if a need is shown. The court can also order separate allowances for minor children if the court deems it advisable. An initial order is limited to one year but can be extended. The sample form is designed for use by a surviving spouse.

#### Contents (Petition for Allowance)

- #1 Obtain values directly from the surviving spouse or domestic partner or the guardian of any minor child. *This information is not contained in the Master Information List.*
- #2 Remember that the allowance is for ordinary living expenses and must be reasonable.
- #3 Choose the appropriate designation of the allowance. The designation will probably control for income tax purposes and distribution of net income.

#### Contents (Order for Allowance)

- #1 See the instructions for the Petition for Allowance.
- #2 Insert the name of the individual to whom the allowance should be paid.
- #3 Choose the appropriate designation of the allowance. The designation will probably control for income tax purposes and distribution of net income.

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, surviving spouse or domestic partner, guardian for minor children (if any), and firm file

#### References

Treas. Reg. § 1.661(a)-2(e); [Wis. Stat.](#) § 861.31



\_\_\_\_\_  
*(Petitioner's Name)*  
*(Address)*

Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.  
 This notarial act involved the use of communication technology.

\_\_\_\_\_  
*(Attorney's Name)*

\_\_\_\_\_  
*(Attorney's State Bar No.)*

\_\_\_\_\_  
*(Attorney's Email Address)*

\_\_\_\_\_  
*(Firm Name/Address)*

\_\_\_\_\_  
*(Firm Telephone No.)*

**Form 4.56 Order for Allowance (EST-0239)**

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of

(Decedent's name),

Deceased

**ORDER FOR  
ALLOWANCE**

Case No. (Case No.)

A petition for allowance during administration was filed. The court finds that:

1. The decedent was survived by *(his/her)* spouse and minor child $(ren)$  as follows:

\_\_\_\_\_  
*(Surviving Spouse's Name)*

\_\_\_\_\_  
*(Minor Child(ren)'s Name(s))*

2. The sum of \$ (#1) monthly is necessary or appropriate for their support during such administration.

IT IS ORDERED that \$ (#1) monthly be paid commencing on (Date), to continue during the administration of the estate, but not to exceed one year or until further order of the court, and that the personal representative pay the same to (#2) for that purpose, the allowance to be charged against the (#3) *(income/principal)* of the estate; and unless modified in the final judgment, (#3) *(the allowance be deducted from the estate before the shares of persons interested are determined/the allowance be advanced from the shares of the estate that are to be assigned to the petitioner and the minor child(ren) respectively).*

## LI. Surviving Spouse's or Surviving Domestic Partner's Selection of Personal Property

### Commentary and Instructions for [Form 4.57](#)

In addition to other allowances and distributions, the surviving spouse is entitled to select certain items of the decedent's personal property. Selection is limited to the decedent's clothing, personal jewelry, one car, household furniture and appliances, and up to \$3,000 in other personal property. The selection may not include items left by will to someone else except for normal household goods. The sample form is designed for use by a surviving spouse.

If the estate will not be able to pay its creditors in full, creditors may petition the court to limit the selection to \$5,000 worth of property. Also, if the spouse or domestic partner wants other personal property exceeding the \$3,000 limit, he or she may take it provided that the excess value is paid to the personal representative. This can be particularly useful in an insolvent estate. The personal representative can execute appropriate documents for transfer of title.

### Contents

- #1 Take descriptions and values from the Inventory. See [Form 4.26](#).
- #2 Use the filing date.

### Distribution

Original: File with the court  
Conformed copies: Personal representative, surviving spouse or domestic partner, and firm file

### References

[Wis. Stat.](#) § 861.33





## LII. Petition for Special Allowance and Order for Special Allowance

### Commentary and Instructions for [Forms 4.58–4.59](#)

If it can be shown that support of the surviving spouse or domestic partner or support and education of the decedent’s minor children have not been or will not be adequately provided for, the court may order a special allowance. The amount necessary for this allowance will be set aside from the estate and, if the court requires, placed in trust. When the allowance is no longer needed, any amount remaining in trust is distributed by the trustee as directed by the will or the intestate laws. If the decedent is not survived by a spouse or domestic partner, the court can give the children household goods outright under this section. If the children’s guardian is legally responsible for their education and can afford it, the allowance will be denied. Choose the appropriate clauses in the Petition for Special Allowance ([Form 4.58](#)), depending on whether support for the spouse or domestic partner or children or both is sought. The sample form is designed for use by a surviving spouse.

The Order for Special Allowance ([Form 4.59](#)) effectuates the Petition for Special Allowance. If the petition is agreeable to the court, the order can be prepared and submitted to the court for signature. Choose the appropriate clauses in the order depending on the persons to whom the order applies.

#### Contents (Petition for Special Allowance)

- #1 Consult with the spouse or domestic partner or the guardian before determining the amount of allowance requested.
- #2 Choose the appropriate alternative(s). Choose the second alternative for payment-to-guardian situations.
- #3 Estimate these items with reasonable accuracy.
- #4 This item must be estimated because the petition normally will be completed before the Inventory.
- #5 This affects taxes. See [Wis. Stat.](#) § 861.31(4).
- #6 Enter the date the petition is executed.

#### Contents (Order for Special Allowance)

- #1 Unless modified by the court, this amount will be the same as Item #1 in the Petition.
- #2 Check with the court for a convenient date.
- #3 Generally, the trustee will be either the surviving spouse or the guardian of the children. If the allowance is only for the spouse, no trustee is necessary.
- #4 Insert the amount of the allowance.

#### Distribution

Original: File with the court  
 Conformed copies: Personal representative, recipient(s) of allowance, and firm file (provide trustee with copy of order)

**References**

[Wis. Stat.](#) § 861.35



(Choose appropriate alternative)

3. Such support will require the expenditure of approximately \$ (#1) monthly.

(or)

3. Such support and education will require the expenditure of approximately \$ (#1) monthly.

(Continue)

4. My separate estate is (#2) (insufficient to provide for the education and support of the minor child(ren)/not legally responsible for the education and support of the minor child(ren)/insufficient to provide for my support), the separate estate does not exceed in value the sum of \$ (#3), my annual income does not exceed \$ (#3), and I have no other means of maintaining (myself/the minor child(ren)) as specified in this petition.

5. The decedent's estate consists of a total net value not exceeding \$ (#4).

6. The names and addresses of interested persons are:

(Interested Persons' Names and Addresses)

WHEREFORE, I request a special allowance out of the estate of the decedent at a rate of \$ (#1) per month, or such sum as the court may deem expedient and reasonable, to be charged to the (#5) (income/principal) of the estate, and for my appointment as trustee for this allowance.

Dated: (#6)

(Petitioner's Name)  
(Address)

Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_.

This notarial act involved the use of communication technology.

\_\_\_\_\_  
(Attorney's Name)

\_\_\_\_\_  
(Attorney's State Bar No.)

\_\_\_\_\_  
(Attorney's Email Address)

\_\_\_\_\_  
(Firm Name/Address)

\_\_\_\_\_  
(Firm Telephone No.)



IT IS ORDERED THAT:

1. \$ (#1) per month is necessary and appropriate for the *(support of the spouse/support and education of the minor child(ren)/support of the spouse and support and education of the minor child(ren))*.

2. \$ (#1) monthly be paid commencing on (#2) to (#3), who is named trustee for the administration of this allowance. *(Specify whether this allowance is to be taken from principal or income.)*

*(Add if appropriate)*

3. Unless modified by this court, the allowance shall continue until *(the/each)* child reaches the age of 18 years. For this purpose the sum of \$ (#4), anticipated to be necessary to pay the allowance, shall be set aside from distribution and held in trust.

### **LIII. Petition for Spouse or Domestic Partner’s Exemption from Creditors and Order for Spouse’s Exemption from Creditors**

#### **Commentary and Instructions for [Forms 4.60–4.61](#)**

A spouse or domestic partner may petition for an exemption from creditors ([Form 4.60](#)), if the estate cannot otherwise provide this exemption after paying claims and other allowances. Consequently, the exemption cannot be obtained until the amount of claims has been determined. The exemption is also restricted to “an amount ... reasonably necessary for the support of the spouse.” [Wis. Stat.](#) § 861.41(1). The sample form is designed for use by a surviving spouse.

The court must determine whether the exemption is necessary, and, if the court does find it necessary, may allow up to \$10,000 for the exemption, but must determine the exact amount. The exemption may include the home. If the value of the home is greater than the amount of the exemption determined by the court, the spouse or domestic partner can still include the home by paying the excess value to the personal representative.

The Order for Spouse’s Exemption from Creditors ([Form 4.61](#)) effectuates the Petition for Spouse’s Exemption from Creditors. If the petition is agreeable to the court, the order can be prepared and submitted to the court for signature.

#### **Contents (Petition for Spouse’s (or Domestic Partner’s) Exemption from Creditors)**

- #1 Include mortgage principal, interest, taxes, and insurance.
- #2 These sums must reflect need.
- #3 Include the final sentence if the spouse or domestic partner wants the home exempted.
- #4 Include if applicable.
- #5 The court will date the petition.

#### **Contents (Order for Spouse’s (or Domestic Partner’s) Exemption from Creditors)**

- #1 Insert the sum of the exemption.
- #2 Insert the amount of the withdrawal.

#### **Distribution**

Original: File with the court  
 Conformed copies: Surviving spouse or surviving domestic partner, personal representative, and firm file

#### **References**

[Wis. Stat.](#) §§ 861.41, 859.25(1)(h)

## Form 4.60 Petition for Spouse's Exemption from Creditors (EST-0243)

STATE OF WISCONSIN    CIRCUIT COURT    \_\_\_\_\_ COUNTY  
BRANCH \_\_\_\_\_

In the Matter of the Estate of  
      (Decedent's name)      ,  
Deceased

**PETITION FOR  
SPOUSE'S  
EXEMPTION FROM  
CREDITORS**

Case No.       (Case No.)      

I,       (Petitioner's Name)      , being sworn, state that the following is true:

1. I am the decedent's surviving spouse.
2. My estate will be insufficient after payment of claims and allowances to provide an amount, as requested in this petition, reasonably sufficient to support me.
3. I *(do not have the use of a home/have the use of a home upon which monthly payments of \$       (#1)       are due)*.
4. My personal assets and resources are insufficient to provide for my support. My separate estate does not exceed in value the sum of \$       (#2)      , my annual income does not exceed \$       (#2)      , and I have no other means of support.

5. The names and addresses of interested persons are:

      (Interested Persons' Names and Addresses)      

WHEREFORE, I request an exemption from creditors to be used for my reasonable support in the sum of \$       (#2)      , or such sum as the court may deem expedient and reasonable. *(#3) (I also request that the decedent's interest in the home be included in this exemption) (#4) (with any excess value over the amount of the exemption as determined by the court to be paid by me to the personal representative).*



Dated: \_\_\_\_\_ (#5) \_\_\_\_\_

\_\_\_\_\_  
(Petitioner's Name)  
(Address)

Signed and sworn to before me  
on \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My commission \_\_\_\_\_  
 This notarial act involved the use of communication technology.

\_\_\_\_\_  
(Attorney's Name)

\_\_\_\_\_  
(Attorney's State Bar No.)

\_\_\_\_\_  
(Attorney's Email Address)

\_\_\_\_\_  
(Firm Name/Address)

\_\_\_\_\_  
(Firm Telephone No.)

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**Form 4.61 Order for Spouse's Exemption from Creditors (EST-0244)**


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STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_

\_\_\_\_\_ COUNTY

In the Matter of the Estate of

(Decedent's name),

Deceased

**ORDER FOR  
SPOUSE'S  
EXEMPTION FROM  
CREDITORS**Case No. (Case No.)

A petition for a spouse's exemption from creditors was filed. The court finds that:

1. The petitioner is the decedent's surviving spouse.
2. The decedent's estate will be insufficient after payment of claims and allowances to provide an amount reasonably sufficient to support the petitioner.
3. The petitioner's separate estate is likewise insufficient to provide for the petitioner's support.

IT IS ORDERED that \$ (#1) be set aside from claims of creditors in this estate to be retained by the personal representative, and that such be expended for the reasonable and necessary support of decedent's spouse. The petitioner is authorized to withdraw from this exemption at the rate of \$ (#2) per month until further order of this court.

## LIV. Spousal Election

### Commentary and Instructions for [Form 4.62](#)

A spouse can elect to receive 50% of the decedent's augmented marital property estate.

The augmented marital property estate consists of the property set forth in [Wis. Stat.](#) §§ 861.02–.04. Note that [Wis. Stat.](#) § 861.04 includes certain property of the surviving spouse. Satisfaction of the election is governed by [Wis. Stat.](#) § 861.06. Nonetheless, the surviving spouse's election will be effectively barred if the election is satisfied by property described in [Wis. Stat.](#) § 861.06(2).

Each election is made by filing a notice of election with the court and delivering a copy of the instrument to the personal representative. [Wis. Stat.](#) § 861.08(1). If the surviving spouse is a minor or incompetent person, the election may be made by the guardian or GAL. An election may also be filed by someone acting under the spouse's power of attorney. [Wis. Stat.](#) § 861.09. Election must be made within six months after the date of death. But, upon a showing of cause, the court can extend the time to make the election upon petition for extension of time filed by the spouse or the spouse's guardian, GAL, or attorney-in-fact. [Wis. Stat.](#) § 861.08(1), (3).

The right to make elections under [Wis. Stat.](#) § 861.02 is lost if the spouse dies before making an election. [Wis. Stat.](#) § 861.09. If the spouse's conservator, guardian, GAL, attorney-in-fact, or agent has filed the election, the elective right may be enforced. *Id.*

#### Contents

- #1 Choose "a.," "b.," or both as appropriate for the particular estate.
- #2 The court will enter the date.

#### Distribution

Original: File with the court  
Conformed copies: Surviving spouse, personal representative, and firm file

#### References

[Wis. Stat.](#) §§ 861.01–.11



## LV. Disclaimer of Interest and Assignment of Interest

### Commentary and Instructions for [Forms 4.63–4.64](#)

In some cases, an heir in an intestate estate or a beneficiary in a testate estate may not want to receive all or part of his or her share. A beneficiary may disclaim all or part of his or her share for tax purposes or to aid distribution to others.

The Disclaimer of Interest ([Form 4.63](#)) officially renounces the share and avoids any tax problems to the declarant. It must be filed within nine months after the decedent’s death, unless additional time is granted by the court for good cause. [Wis. Stat.](#) §§ 853.40, 854.13(4). The court’s extension of the time to file the disclaimer does not grant extra time for federal gift tax purposes (if the disclaimer is filed after the nine-month deadline, the disclaimer will result in a taxable gift).

The disclaimer must be delivered to the personal representative, and a copy filed with the court. [Wis. Stat.](#) § 854.13(5)(a)2., (c).

The heir or beneficiary of an estate may wish to assign all or part of his or her share to someone else. One reason for doing this is to avoid paying a creditor.

➤ **Note.** There are significant limits on using a disclaimer to avoid creditors immediately before and during bankruptcy. The Assignment of Interest ([Form 4.64](#)) must be made before entry of Final Judgment ([Form 4.40](#)).

#### Contents (Disclaimer of Interest)

- #1 Choose the appropriate alternative.
- #2 Indicate the specific part of the beneficiary’s interest that is being disclaimed (e.g., “a stamp collection bequeathed by the decedent”).
- #3 Choose the appropriate alternative; for the second alternative, cause must be shown.
- #4 The disclaimant should date the form.

#### Contents (Assignment of Interest)

- #1 Select the appropriate wording. If less than a full share is assigned, specify the percent or dollar amount.
- #2 Enter the current date.

#### Distribution

Original: File one with the court; give other to personal representative  
 Conformed copies: Declarant and firm file (disclaimer); assignee, assignor, and firm file (assignment)

#### References

[Wis. Stat.](#) §§ 853.40, 854.13, 863.07

Form 4.63 Disclaimer of Interest (EST-0246)

STATE OF WISCONSIN CIRCUIT COURT COUNTY
BRANCH

In the Matter of the Estate of

(Decedent's name)

Deceased

DISCLAIMER

Case No. (Case No.)

I, (Disclaimant's Name), am a beneficiary of the estate of, who died (#1) (testate) (intestate) on, 20.

I hereby absolutely, irrevocably, and without qualification disclaim, renounce, surrender and refuse to accept all right and interest in the following: (#2).

This Disclaimer is made (#3) (within nine (9) months following the Decedent's death) (beyond the time normally allowed for making a Disclaimer, but upon good cause for extending such time).

I affirm that I have not accepted any interest in or benefit from the interests hereby disclaimed, and that I have not received and will not receive any consideration in money or money's worth for making this disclaimer.

I intend that this disclaimer be a qualified disclaimer pursuant to Wis. Stat. § 854.13 and I.R.C. § 2518.

Dated: (#4)

(Disclaimant's Name)
(Address)

Signed and sworn to before me
on, 20
by.

Notary Public, State of Wisconsin
My commission

This notarial act involved the use of communication technology.

**RECEIPT**

The undersigned, \_\_\_\_\_, as Personal Representative of the Estate of \_\_\_\_\_, hereby acknowledges receipt of the above Disclaimer.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Personal Representative)





## LVI. Petition That Home Be Assigned to Spouse or Domestic Partner

### Commentary and Instructions for [Form 4.65](#)

The surviving spouse or domestic partner can have the decedent's interest in a home assigned to himself or herself if the surviving spouse occupied or intended to occupy the home when the decedent died, and either (1) the decedent had a marital property interest in the home or (2) the decedent died intestate. [Wis. Stat.](#) §§ 852.09, 861.21. The petition for such assignment must be made within six months after death, unless the court extends the time. The interest in the home can be paid by taking the home in lieu of other property from the estate, or paid for in cash, in which case the surviving spouse or domestic partner has one year from decedent's death to pay the value of the assigned interest. [Wis. Stat.](#) § 861.21(2)–(4). The sample form is designed for use by a surviving spouse.

If all the decedent's children are also the surviving spouse or domestic partner's children, the surviving spouse or domestic partner receives the entire intestate estate under [Wis. Stat.](#) § 852.01(1)(a)1.

#### Contents

#1 Enter the current date.

#### Distribution

Original: File with the court  
 Conformed copies: Surviving spouse or domestic partner, personal representative, and firm file

#### References

[Wis. Stat.](#) §§ 852.09, 861.21



# Chapter 5

## Summary Procedures

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<a href="#">Introduction</a> .....	5-1
<a href="#">Outline of Summary Procedures</a> .....	5-3
<a href="#">Forms and Letters</a> .....	5-15

### Introduction

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This chapter describes summary procedures in estate administration, generally used for small estates. The text covers transfer by affidavit, summary settlement, summary assignment, termination of life estate, termination and transfer of joint tenancy, determination of descent of property, and a few miscellaneous procedures.<sup>1</sup>

➤ *Note.* In unusual circumstances it might be best to first discuss the procedure to be used with the register in probate before proceeding.

In some circumstances, execution of a particular summary procedure requires a form that appears in another part of this book. The outline and commentary in this chapter include cross-references to such forms as appropriate.

The increase in the amount subject to the Transfer by Affidavit ([Forms 5.1A–5.1D](#)) to \$50,000 means that summary assignment and summary settlement will likely be limited to situations in which court supervision is desired or the estate is insolvent.

### Electronic Filing

Wisconsin attorneys must electronically file documents, except for documents requiring personal service, in probate actions that are initiated by mandatory users of the eFiling system. [Wis. Stat.](#) § 801.18(2), (3)(a); Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). Every Wisconsin attorney who files cases must create a registration and password and the Wisconsin Court System provides instructions for creating the registration. [Wis. Stat.](#) § 801.18(3); Wis. Ct. Sys., *Creating an eCourts Account* (Mar. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/registercourts.pdf>.

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by acts through 2021 Wis. Act 24.

The Wisconsin Court System provides instructions specific to electronically filing probate documents. Wis. Ct. Sys., *eFiling a New Probate Case* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileprobatecase.pdf>. An electronic filing fee of \$20 is due with the initial filing. See Wis. Stat. § 801.18(7)(c). The fee can be paid via credit card or an electronic check. The clerk of courts will charge a 2.75% fee for credit card payments and a flat fee of \$1.95 for electronic check payments.

Regarding documents particular to probate, the original will must still be physically delivered or sent to the probate court for filing. When the Inventory is filed, the inventory filing fee must be paid at the same time. The Wisconsin Court System provides detailed instructions for electronically filing the Inventory. Wis. Ct. Sys., *eFiling an Inventory or Exhibited Inventory* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibinventory.pdf>.

If the court accepts a document, the document is considered filed on the date the document is electronically submitted to the court, even though the attorney may receive electronic notice of the filing several days later. Wis. Stat. § 801.18(4). The eFiling system accepts submissions even when the clerk's office is not open, and a document is considered to have been filed on a particular calendar day as long as submission is complete by 11:59 p.m. Central Time. Wis. Stat. § 801.18(4)(d), (e). If payment is required, the document is not filed until payment is received. Wis. Stat. § 801.18(7)(b).

All parties that have opted into electronic filing will receive an email when the court accepts a filing. Except for documents requiring personal service, the electronically issued court notice of filed documents has the same effect as traditional service for parties that have opted into electronic filing because all such parties receive electronic notice of filings. Wis. Stat. § 801.18(6). Note that estate beneficiaries and claimants that are unrepresented and not registered users must still be served with paper copies. If a beneficiary or claimant obtains counsel, the attorney may be served via electronic filings.

Based on the author's experience and a panel discussion with the Milwaukee County Deputy Registers in Probate and Court Commissioner, cover letters are not needed for court filings, but they may be filed and should be filed if an explanation is required.

Local circuit courts cannot electronically issue certified copies (e.g., Domiciliary Letters). Certified copies must be requested in person or via traditional mail and the relevant fee paid with the request.

The Wisconsin Court System provides updated information for electronic filing on both general and probate topics. Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). The Wisconsin Court System eFiling Support Center can be contacted by phone at 1-800-462-8843, email, or online chat and is very helpful with questions. Wis. Ct. Sys., *Contact eFiling Support*, <https://www.wicourts.gov/ecourts/efilecircuit/efilefeedback.htm> (last updated Apr. 20, 2021). When filing in a new county, always check local rules and call the local register in probate to determine local practice and procedure.

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## Outline of Summary Procedures

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- I. [Transfer by Affidavit](#) [§ 5.1]
  - A. [Overview](#) [§ 5.2]
  - B. [Procedure](#) [§ 5.3]
- II. [Summary Settlement](#) [§ 5.4]
  - A. [Overview](#) [§ 5.5]
  - B. [Procedure](#) [§ 5.6]
- III. [Summary Assignment](#) [§ 5.7]
  - A. [Overview](#) [§ 5.8]
  - B. [Procedure](#) [§ 5.9]
- IV. [Termination of Joint Tenancy and Life Estate by Petition to Court](#) [§ 5.10]
  - A. [Overview](#) [§ 5.11]
  - B. [Procedure](#) [§ 5.12]
- V. [Summary Transfer of Property Interests](#) [§ 5.13]
  - A. [Overview](#) [§ 5.14]
  - B. [Procedure](#) [§ 5.15]
- VI. [Determination of Descent of Property](#) [§ 5.16]
  - A. [Overview](#) [§ 5.17]
  - B. [Procedure for Judgment Determining Descent](#) [§ 5.18]
  - C. [Procedure for Certificate of Descent](#) [§ 5.19]
- VII. [Special Summary Procedures](#) [§ 5.20]
  - A. [Summary Settlement of Small Estate of Ward](#) [§ 5.21]
  - B. [P.O.D. Bonds, Debts, and Accounts](#) [§ 5.22]
  - C. [Direct Payment of Decedent–Employee’s Wages to Dependents](#) [§ 5.23]
  - D. [Direct Payment of Decedent–Employee’s Cash Bond to Dependents](#) [§ 5.24]
  - E. [Transfer of Securities](#) [§ 5.25]

### I. Transfer by Affidavit [§ 5.1]

#### A. Overview [§ 5.2]

1. Simplified procedure that secures immediate transfer to heir of decedent, person who was guardian of the decedent at the time of decedent’s death, or trustee of a revocable trust created by the decedent, *if* value of estate property is \$50,000 or less. [Wis. Stat.](#) § 867.03(1g).
  - **Note.** For estates of decedents who died before April 11, 2006, this simplified procedure applies to estate property with a value of \$20,000 or less. See [Wis. Stat.](#) § 867.03(1g) (2003–04).

2. Transferor is released from liability as if transfer had been to personal representative, but tax lien is on property in transferee's hands. [Wis. Stat. § 867.03\(2\)](#).
3. By accepting the decedent's property under the affidavit, the recipient assumes a duty to apply the property for the payment of obligations according to priorities established under [Wis. Stat. § 859.25](#) and to distribute any balance to those persons designated in an appropriate governing instrument, if any, or, if none, according to the rules of intestate succession under [Wis. Stat. ch. 852](#). An heir or guardian may publish a Notice to Creditors ([Form 3.8](#)) in the same manner and with the same effect as under [Wis. Stat. § 701.0508](#). Administration may still be requested under [Wis. Stat. § 856.07](#) or [Wis. Stat. ch. 865](#). [Wis. Stat. § 867.03\(2g\)](#).

## B. Procedure [§ 5.3]

1. Draft Transfer by Affidavit ([Forms 5.1A–5.1D](#)). [Wis. Stat. § 867.03\(1g\)](#).
2. Give Probate Claims Notice ([Form 3.7](#)) to Department of Health Services (DHS), if required. [Wis. Stat. § 867.03\(1m\)](#).
3. Send duplicate originals of Affidavit with Probate Claims Notice, if required, to custodian of property sought to be transferred.
4. If the affidavit transfers an interest in real estate, record the affidavit with the register of deeds of the county in which the property is located. [Wis. Stat. § 867.03\(2m\)](#).
5. Draft Statement for Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir (MV2300) ([Form 5.3](#)), if necessary.

## II. Summary Settlement [§ 5.4]

### A. Overview [§ 5.5]

1. Settles estate without appointing personal representative when net estate value does not exceed
  - a. Sum of costs, expenses, allowances, and claims; or
  - b. \$50,000 (not including nonprobate property) and decedent is survived by spouse or domestic partner or minor children or both. [Wis. Stat. § 867.01\(1\)](#).

➤ **Note.** Some estates may not be able to use summary settlement because of the decedent's interest in property titled in the name of the surviving spouse. Some courts will forgo inquiring into the existence of such property for the sake of convenience.

2. Once court signs Order on Petition for Summary Settlement ([Form 5.10](#)), transferor is released from liability as if transfer had been to Personal Representative. [Wis. Stat.](#) § 867.01(4).
3. Estate commenced under [Wis. Stat.](#) ch. 856 may be concluded under summary settlement if statutory requirements are met. [Wis. Stat.](#) § 867.01(2).
4. Person qualified to petition for administration may petition for summary settlement. [Wis. Stat.](#) §§ 867.01(3)(ac), 856.07.
5. Notice of disposition not required if no assets available to satisfy unsecured creditors, but court may order petitioner to inform known unsatisfied creditors as to final disposition. [Wis. Stat.](#) § 867.01(3)(g).
6. Procedure must be approved by court.

## B. Procedure [§ 5.6]

1. Draft documents.
  - a. Petition for Summary Settlement ([Form 5.4](#)). [Wis. Stat.](#) § 867.01(3)(am).
  - b. Waiver or Hearing
    - (1) Waiver and Consent ([Form 5.5](#)), or
    - (2) Order and Notice for Hearing ([Form 5.6](#)), if required
  - c. Signature Bond in Estate or Trust Proceedings ([Forms 5.8–5.9](#)), if required. [Wis. Stat.](#) § 867.01(3)(c).
  - d. Letter to interested persons ([Form 5.7](#)). [Wis. Stat.](#) § 867.01(3)(d).
  - e. Probate Claims Notice ([Form 3.7](#)), if required. [Wis. Stat.](#) § 867.01(3)(d).
  - f. Order on Petition for Summary Settlement ([Form 5.10](#)). [Wis. Stat.](#) § 867.01(3)(f).

➤ **Note.** A signed order may, in addition to transferring ownership of the decedent's property, terminate outstanding joint tenancies or life estates. It may also require persons who are indebted to the decedent to pay any debt owed to the decedent's distributees.

2. File Petition for Summary Settlement ([Form 5.4](#)).

3. Attend hearing on petition.
  - *Note.* The hearing may be with or without notice, as the court directs. If on notice, give interested persons notice by publication, mailing, or personal service and obtain Proof of Publication ([Form 3.19](#)). The notice requirement may be satisfied if all interested persons sign a Waiver and Consent ([Form 5.5](#)). [Wis. Stat. § 867.01\(3\)\(d\)](#); *supra* [Form 4.9](#).
  - *Note.* The court may require the appointment of a special administrator. *See* [Wis. Stat. § 867.01\(3\)\(b\)](#); *supra* §§ [4.34–36](#).
  - a. Present Petition for Summary Settlement ([Form 5.4](#)) (and pay filing fee).
  - b. Prepare and sign Signature Bond ([Form 5.8](#)), if required.
  - c. Present Order on Petition for Summary Settlement ([Form 5.10](#)).
4. Close estate.
  - a. Record certified copy or duplicate original of Order on Petition for Summary Settlement ([Form 5.10](#)) (or abridgment) with register of deeds in each county where affected real property is located. [Wis. Stat. § 867.01\(3\)\(h\)](#).
  - b. File Proof of Recording ([Form 4.43](#)) with court.
  - c. Distribute property and secure receipts.
  - d. Release petitioner’s bond, if any.
  - e. Transfer motor vehicle (MV2300) ([Form 5.3](#)).

### III. Summary Assignment [§ 5.7]

#### A. Overview [§ 5.8]

1. Facilitates transfer of estates not qualifying for summary settlement, without appointing a personal representative, when the estate value, minus debts secured by estate property, does not exceed \$50,000. [Wis. Stat. § 867.02\(1\)](#).
2. Protects creditors and other interested persons because assignment is subject to rights of creditors and interested persons who were not assigned property to which they were entitled (such persons have three months from publication of notice to creditors to bring action against distributees/assignees). [Wis. Stat. § 867.02\(4\)](#).
3. Estate commenced under [Wis. Stat. ch. 865](#) or [Wis. Stat. § 867.01](#) may be concluded under summary assignment at any time provided statutory requirements are met. [Wis. Stat. § 867.02\(1\)](#).



4. Person qualified to petition for administration may petition for summary assignment. [Wis. Stat.](#) §§ 867.02(2), 856.07.

## B. Procedure [§ 5.9]

1. Have property appraised, if necessary. [Wis. Stat.](#) § 858.15.
2. Draft documents.
  - a. Petition for Summary Assignment ([Form 5.12](#)) or Petition and Affidavit of Additional Property and/or Creditor for Summary Assignment ([Form 5.15](#)), with contents as required by statute. [Wis. Stat.](#) § 867.02(2)(am).
  - b. Proof of Heirship ([Form 4.12](#)) or Proof of Will ([Form 4.14](#)) if decedent died testate (not required if will has attestation clause). [Wis. Stat.](#) §§ 867.02(2)(b), 863.23.
  - c. Signature Bond of Petitioner ([Forms 5.8–5.9](#)) or Signature Bond of Assignee ([Forms 5.16–5.17](#)), if required. [Wis. Stat.](#) § 867.02(2)(c).
  - d. Notice to Creditors for Summary Assignment ([Form 5.13](#)). [Wis. Stat.](#) § 867.02(2)(d).
  - e. Probate Claims Notice ([Form 3.7](#)), if required. [Wis. Stat.](#) § 867.02(2)(d).
  - f. Waiver ([Form 5.5](#)) or Hearing
    - (1) Waiver and Consent, or
    - (2) Order and Notice of Hearing Petition on Summary Assignment ([Form 5.14](#)), if required. [Wis. Stat.](#) § 867.02(2)(d).
  - g. Order on Petition for Summary Assignment ([Form 5.18](#)). [Wis. Stat.](#) § 867.02(2)(g).
3. File Petition for Summary Assignment ([Form 5.12](#)) (and pay filing fee).

➤ **Note.** If any asset or creditor information is not included in the petition, follow the Petition with the Affidavit of Additional Property and/or Creditor Summary Assignment ([Form 5.15](#)) before entry of the Order.
4. Publish Notice to Creditors for Summary Assignment ([Form 5.13](#)). [Wis. Stat.](#) § 879.03.

5. Attend hearing on petition; be prepared to prove heirs.
  - *Note.* The hearing may be with or without notice, as the court directs. If on notice, give interested persons notice by publication, mailing, or personal service and obtain Proof of Publication ([Form 3.19](#)). The notice requirement may be satisfied if all interested persons sign a Waiver and Consent ([Form 5.5](#)). [Wis. Stat. § 867.02\(2\)\(d\)](#); [Form 4.9](#).
  - *Note.* The court may require the appointment of a special administrator. See [Wis. Stat. §§ 867.02\(2\)\(f\), 867.07\(3\)](#); *supra* §§ [4.34–.36](#).
    - a. Present will, if decedent died testate. [Wis. Stat. § 867.02\(2\)\(b\)](#).
    - b. Present Proof of Will ([Form 4.14](#)) if decedent died testate and will had no attestation clause, or take testimony on proof of will. [Wis. Stat. § 856.15](#).
    - c. Present Signature Bond of Petitioner and/or Assignee ([Forms 5.8–5.9, 5.16–5.17](#)), if required.
    - d. Present Order on Petition for Summary Assignment ([Form 5.18](#)).
      - *Note.* A signed order may, in addition to transferring ownership of the decedent’s property, terminate outstanding joint tenancies or life estates. It may also require persons indebted to the decedent to pay any debt owed to the decedent’s distributees. [Wis. Stat. § 867.02\(2\)\(g\)](#).
6. Close estate
  - a. Record certified copy or duplicate original of Order on Petition for Summary Assignment ([Form 5.18](#)) with register of deeds in each county where affected real property is located. [Wis. Stat. § 867.02\(2\)\(h\)](#).
  - b. File Proof of Recording ([Form 4.43](#)) with court.
  - c. Mail or deliver copy of Order on Petition for Summary Assignment ([Form 5.18](#)) to each interested party. [Wis. Stat. § 867.02\(2\)\(i\)](#).
  - d. Distribute property no sooner than 30 days after Notice to Creditors for Summary Assignment ([Form 5.13](#)) is published and secure receipts.

## IV. Termination of Joint Tenancy and Life Estate by Petition to Court [§ 5.10]

### A. Overview [§ 5.11]

1. Clears record title of life estate between petitioner (usually remainder beneficiary) and decedent (life tenant) when no other probate proceeding capable of including termination of life estate is contemplated; or

2. Converts record title to conform to actual ownership for surviving joint tenant (usually, person with interest in joint property or spouse who succeeds to survivorship marital property) when no other probate proceeding capable of including termination of joint tenancy is contemplated. [Wis. Stat. § 867.04](#).

➤ **Note.** Because the certificate is prima facie evidence only, it is not conclusive as would be a final judgment received in a challenge by a lienholder or creditor.

## B. Procedure [§ 5.12]

1. Draft Petition for Termination of Joint Tenancy or Life Estate ([Form 5.19](#)) and Certificate of Termination of Joint Tenancy or Life Estate ([Form 5.20](#)). [Wis. Stat. §§ 867.04, 867.046](#).
2. File petition (and pay filing fee) with court in decedent's county of domicile or in any county where property with life estate interest or joint property is located if decedent was not domiciled in Wisconsin.
3. Attend hearing.
  - a. Establish factual basis for petition.
  - b. Prove decedent's death by testimony or by certified copy of death certificate.
  - c. Establish existence of life estate and petitioner's right of survivorship (may use warranty deed creating life estate) or prove title to joint tenancy.
4. Close estate.
  - a. After court signs Certificate of Termination of Joint Tenancy or Life Estate ([Form 5.20](#)), record certified copy or duplicate original of certificate with register of deeds in each county where affected real property is located. *See infra* [Form 5.22](#).
  - b. File Proof of Recording ([Form 4.43](#)) with court.
  - c. Distribute personal property and secure receipts. *See supra* [Forms 3.66, 3.67](#).
  - d. Review whether estate tax or income tax returns must be filed.

## V. Summary Transfer of Property Interests [§ 5.13]

### A. Overview [§ 5.14]

The Termination of Decedent's Interest form ([Form 5.23](#)) allows for nonprobate transfers of real estate and other assets under applicable circumstances with the same force and effect as if issued by the probate court.

The Termination of Decedent's Interest form terminates a decedent's interest in real property in which the decedent was a joint tenant, had a vendor's or mortgagee's interest, or had a life estate (each a transfer pursuant to [Wis. Stat.](#) § 867.045) or confirms a recipient's interest in property specified in a marital property agreement, survivorship marital property, a third-party confirmation, or a nonprobate transfer on death as described in [Wis. Stat.](#) § 705.10(1) or 705.15.

## B. Procedure [§ 5.15]

1. Obtain full legal description of property *and* a copy of the recorded deed or all recording information from deed that created joint tenancy or survivorship marital property (depends on local practice—consult register of deeds). [Wis. Stat.](#) § 867.045(1)(j), (k).
2. Obtain the preceding year's tax bill for proof of value (depends on local practice—consult register of deeds).
3. Submit documents in paragraphs 1.–2., *supra*, and record Termination of Decedent's Interest ([Form 5.23](#)) with register of deeds.
4. If the interest being confirmed is an interest passing to a recipient specified in a marital property agreement under [Wis. Stat.](#) § 766.58(3)(f), there are two alternative procedures for transferring assets. The first procedure, described in [Wis. Stat.](#) § 867.046(1m), permits a beneficiary of a marital property agreement to petition the court (use [Form 5.21](#)) of the county where the decedent was domiciled (or if the decedent was not domiciled in Wisconsin, of any county in which the property is located) for a certificate under the seal of the court ([Form 5.22](#)). This certificate, among other things, recites that title to certain assets in which the decedent had an interest passed to the beneficiary upon the decedent's death, as stated in the marital property agreement. The certificate is prima facie evidence of the facts recited. [Wis. Stat.](#) § 867.045(4). This procedure has the benefit of obtaining a document under the court's seal but may require the payment of the inventory filing fee on the value of the assets passing under the petition and certificate.

The second procedure for transferring assets to a beneficiary of a marital property agreement is described in [Wis. Stat.](#) § 867.046(2)–(5). Upon the decedent's death, the recipient as a beneficiary of a marital property agreement may complete the Termination of Decedent's Interest form ([Form 5.23](#)) and have the form recorded with the register of deeds of the county in which the property is located, or if no interest in real property is being confirmed, the county of residence of the decedent. Upon being recorded, the form constitutes prima facie evidence that the decedent's interest in the property terminated at death and passed to the recipient as stated in the marital property agreement. This procedure has the benefit of avoiding the inventory filing fee on the value of the assets passing under the petition and certificate of the first procedure, but it does not produce a certificate under the court's seal, with which third parties and transfer agents may be more comfortable.

➤ *Note.* Upon recording, the Termination of Decedent's Interest form is presumed to be evidence of the facts recited but will not constitute evidence of payment of any death tax that might be due.

## VI. Determination of Descent of Property [§ 5.16]

### A. Overview [§ 5.17]

1. Clears record title to real and personal property so that heirs may legally claim and transfer property of decedent.
2. May be used by any party interested in estate if no valid will is known to exist and no administration has been commenced within six years after decedent's date of death. [Wis. Stat.](#) § 867.05(1).
3. May obtain Judgment Determining Descent ([Form 5.27](#)), *see infra* § [5.18](#), or Certificate of Descent ([Form 5.26](#)), *see infra* § [5.19](#).

### B. Procedure for Judgment Determining Descent [§ 5.18]

1. Obtain property appraisal if necessary or use current assessment or assessed value on most recent tax bill.
2. Draft documents.
  - a. Petition for Certificate of Descent/Judgment Determining Descent ([Form 5.24](#)). [Wis. Stat.](#) § 867.05(1).
  - b. Order and Notice for Hearing on Petition for Judgment Determining Descent ([Form 5.25](#)). [Wis. Stat.](#) § 867.05(3).
  - c. Judgment Determining Descent ([Form 5.27](#)). [Wis. Stat.](#) § 867.05(3).

➤ *Note.* After appeal periods expire, judgment is conclusive on issues litigated.
3. Give notice of hearing. [Wis. Stat.](#) § 879.03.
  - a. Obtain proof of service, [Wis. Stat.](#) § 879.05; or
  - b. Obtain and file Waiver and Consent ([Form 4.6](#)), [Wis. Stat.](#) § 879.07.
4. Attend hearing.
5. Close estate.
  - a. After court signs Judgment Determining Descent ([Form 5.27](#)), record certified copy or duplicate original of judgment with register of deeds in each county where affected real property is located. [Wis. Stat.](#) § 867.05(4).

- b. File Proof of Recording ([Form 4.43](#)) with court.
- c. Distribute personal property and secure receipts. *See supra* [Forms 3.66, 3.67](#).

### C. Procedure for Certificate of Descent [§ 5.19]

1. Draft documents.
  - a. Petition for Certificate of Descent/Judgment Determining Descent ([Form 5.24](#)). [Wis. Stat.](#) § 867.05(2).
  - b. Certificate of Descent ([Form 5.26](#)).
    - *Note.* Because the certificate is prima facie evidence only, it is not conclusive as would be a final judgment received in a challenge by a lienholder or creditor.
2. File Petition for Certificate of Descent/Judgment Determining Descent ([Form 5.24](#)) (and pay filing fee).
3. Attend hearing.
  - a. Notice not required. [Wis. Stat.](#) § 867.05(2).
  - b. Use testimony or documentary evidence to satisfy court as to heirs and their rights and interests.
4. Close estate.
  - a. After court signs Certificate of Descent ([Form 5.26](#)), record certified copy or duplicate original of certificate with register of deeds in each county where affected real property is located. [Wis. Stat.](#) § 867.05(4).
  - b. File Proof of Recording ([Form 4.43](#)) with court.
  - c. Distribute personal property and secure receipts. *See supra* [Forms 3.66, 3.67](#).

## VII. Special Summary Procedures [§ 5.20]

### A. Summary Settlement of Small Estate of Ward [§ 5.21]

1. Court may approve settlement of small estate under [Wis. Stat.](#) § 867.01 and distribution by guardian without appointing personal representative. [Wis. Stat.](#) § 54.66(4).
2. Used to settle estate of ward (incompetent person, spendthrift person, or minor) when estate qualifies for summary settlement.

## B. Payable on Death (P.O.D.) Bonds, Debts, and Accounts [§ 5.22]

1. Sums remaining on deposit when party to joint account dies belong to surviving party or parties as against decedent's estate unless clear and convincing evidence indicates that parties had contrary intent at time account was created (if two or more surviving parties, right of survivorship continues between them). [Wis. Stat. § 705.04\(1\)](#).
2. For P.O.D. accounts, sums remaining on deposit belong to the surviving P.O.D. beneficiary. If there is more than one P.O.D. beneficiary, and all survive, they are entitled to payment in equal shares, unless written instructions on account from owner provide otherwise. [Wis. Stat. § 705.04\(2\)](#).
3. Subject to rights of the financial institution, if a P.O.D. beneficiary predeceases the original payee (owner), the interest of the deceased beneficiary passes to his or her heirs. If no heirs survive, then the interest passes to the surviving P.O.D. beneficiaries. [Wis. Stat. § 705.04\(2\)\(d\), \(e\)](#).

➤ **Note.** These sections coordinate provisions for P.O.D. beneficiaries with the general anti-lapse provisions of [Wis. Stat. § 854.06](#).

➤ **Note.** The statute does not provide direction on how to establish rights of the issue of a deceased P.O.D. beneficiary. The authors presume that the financial institution will accept a death certificate and an affidavit regarding proper beneficiaries.

4. Any sums in the P.O.D. account may be paid to the P.O.D. beneficiary, or beneficiaries, upon presenting to the financial institution proof of death of original payee (owner). Sums may be paid to the beneficiary or beneficiaries without regard to claims by the issue of a predeceased beneficiary under [Wis. Stat. § 705.04\(2\)\(d\)](#). If no beneficiaries survive, the account is payable to the estate of the last owner to die. If the account is a marital account, only the 50% of the account not owned by the surviving spouse (assuming he or she is named as a party on the account) passes to named P.O.D. beneficiary or beneficiaries. [Wis. Stat. § 705.06\(1\)\(c\)](#).

➤ **Note.** Most P.O.D. provisions apply only to contracts entered into after August 1, 2006.

## C. Direct Payment of Decedent-Employee's Wages to Dependents [§ 5.23]

1. If employee to whom wages are due dies, spouse, domestic partner, child, or other dependent living with employee at time of death may make demand for wages. [Wis. Stat. § 109.03\(3\)](#).
2. Employer must make payment no sooner than five days after employee's death.
3. If decedent-employee leaves no relatives, employer may apply payment to debts owed by decedent-employee to creditors in order of preference. [Wis. Stat. § 859.25](#).

4. Payment releases employer as to amount of payment.

#### **D. Direct Payment of Decedent-Employee's Cash Bond to Dependents** [§ 5.24]

1. If employee for whom cash bond has been deposited dies before bond is withdrawn, employer and employee's relative, as determined by statute, may make withdrawal of bond, together with principal and interest, no sooner than five days after employee's death and before filing of Petition for Formal Administration or testamentary letters. [Wis. Stat.](#) § 103.165(3).
2. If decedent-employee leaves no relatives, employer may apply bond to debts owed by decedent-employee to creditors in order of preference. [Wis. Stat.](#) § 859.25.
3. Withdrawal releases employer as to amount of payment.

#### **E. Transfer of Securities** [§ 5.25]

1. Subject to the rights of the registering entity, ownership of securities registered in beneficiary form passes to beneficiary or beneficiaries who survive all owners upon death of sole owner or last to die of multiple owners and to any predeceased beneficiary's heirs under the anti-lapse provisions of [Wis. Stat.](#) § 854.06(3). [Wis. Stat.](#) §§ 705.27–.28.  
  
➤ *Note.* See Notes to section [5.22](#), *supra*, for similar issues related to P.O.D. beneficiaries.
2. If no beneficiary survives, security belongs to estate of deceased sole owner or estate of last to die of multiple owners.



## Forms and Letters

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- Transfer by Affidavit

[Form 5.1A Instructions for Completing Wisconsin's Transfer by Affidavit \(\\$50,000 Gross and Under\) \(EST-0314\)](#)

[Form 5.1B Transfer by Affidavit \(EST-0251\)](#)

[Form 5.1C Affidavit of Heirship – Addendum to Transfer by Affidavit \(EST-0312\)](#)

[Form 5.1D Affidavit of Service OR Waiver of Notice – Addendum to Transfer by Affidavit \(EST-0313\)](#)

[Form 5.2 Letter Requesting Execution of Initial Summary Procedure Documents \(EST-0252\)](#)

[Form 5.3 Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir \(MV2300\) \(EST-0170\)](#)

- Summary Settlement

[Form 5.4 Petition for Summary Settlement \(EST-0253\)](#)

[Form 5.5 Waiver and Consent \(EST-0254\)](#)

[Form 5.6 Order and Notice for Hearing on Petition for Summary Settlement \(EST-0255\)](#)

[Form 5.7 Letter to Interested Person Regarding Summary Settlement \(EST-0256\)](#)

[Form 5.8 Signature Bond in Estate or Trust Proceedings \(EST-0201\)](#)

[Form 5.9 Court Approval of Signature Bond in Estate or Trust Proceedings \(EST-0310\)](#)

[Form 5.10 Order on Petition for Summary Settlement \(EST-0258\)](#)

[Form 5.11 Letter to Register of Deeds to Record Order on Petition for Summary Settlement \(EST-0259\)](#)

- Summary Assignment

[Form 5.12 Petition for Summary Assignment \(EST-0260\)](#)

[Form 5.13 Notice to Creditors for Summary Assignment \(EST-0261\)](#)

[Form 5.14 Order and Notice of Hearing Petition on Summary Assignment \(EST-0262\)](#)

[Form 5.15 Affidavit of Additional Property and/or Creditor for Summary Assignment \(EST-0263\)](#)

[Form 5.16 Signature Bond in Estate or Trust Proceedings \(EST-0201\)](#)

[Form 5.17 Court Approval of Signature Bond in Estate or Trust Proceedings \(EST-0310\)](#)

[Form 5.18 Order on Petition for Summary Assignment \(EST-0265\)](#)

- Termination of Life Estate and Joint Tenancy

[Form 5.19 Petition for Termination of Joint Tenancy or Life Estate \(EST-0266\)](#)

[Form 5.20 Certificate of Termination of Joint Tenancy or Life Estate \(EST-0267\)](#)

- Summary Confirmation of Interest in Property

[Form 5.21 Petition for Summary Confirmation of Interest in Property \(EST-0268\)](#)

[Form 5.22 Certificate of Summary Confirmation of Interest in Property \(EST-0269\)](#)

[Form 5.23 Termination of Decedent's Interest \(TOD-110/HT-110\) \(EST-0162\)](#)

■ Determination of Descent of Property

[Form 5.24](#) [Petition for Certificate of Descent/Judgment Determining Descent \(EST-0271\)](#)

[Form 5.25](#) [Order and Notice for Hearing on Petition for Judgment Determining Descent \(EST-0272\)](#)

[Form 5.26](#) [Certificate of Descent \(EST-0273\)](#)

[Form 5.27](#) [Judgment Determining Descent \(EST-0274\)](#)

## VIII. Transfer by Affidavit (\$50,000 and Under)

### Commentary and Instructions for [Forms 5.1A–5.1D](#)

When a decedent leaves an estate of \$50,000 or less in property subject to administration, any heir, guardian of the decedent at the time of decedent’s death, or trustee of a revocable trust created by the decedent may receive the decedent’s property upon furnishing the Transfer by Affidavit ([Form 5.1B](#)) to any person who has custody of the decedent’s property. If the decedent’s estate includes an interest in (or lien upon) real property, the heir, guardian, or trustee of the decedent’s revocable trust must record the Transfer by Affidavit (and related forms, if needed) in the register of deeds’ office for each county in which the real property is located.

In 2019, the Transfer by Affidavit form was revised; two optional forms were also added. [Form 5.1A](#) is the instruction sheet for completing the form(s). See <https://www.wisbar.org/forPublic/INeedInformation/Documents/Transfer%20by%20Affidavit%20Instructions.pdf> (last updated July 17, 2019). [Form 5.1B](#) is the Transfer by Affidavit form. See <https://www.wisbar.org/forPublic/INeedInformation/Documents/Transfer%20by%20Affidavit.PDF> (last updated July 17, 2019). [Form 5.1C](#) is an Affidavit of Heirship. See <https://www.wisbar.org/forPublic/INeedInformation/Documents/Affidavit%20of%20Heirship%20-%20addendum%20to%20Transfer%20by%20Affidavit.pdf> (last updated July 17, 2019). [Form 5.1D](#) is an Affidavit of Service OR Waiver of Notice. See <https://www.wisbar.org/forPublic/INeedInformation/Documents/Affidavit%20of%20Service%20or%20Waiver%20of%20Notice.pdf> (last updated July 17, 2019). These forms are also available on the Wisconsin Register of Deeds Association website, <https://www.wrdaonline.org/forms> (last visited Apr. 22, 2021).

- **Note.** If transferring an interest in real estate, submit the following items with the transfer by affidavit to the register of deeds:
  - Affidavit of Heirship
  - Affidavit of Service OR Waiver of Notice
  - If required, proof of Certified Mail Delivery to Estate Recovery Program showing the delivery date
  - Legal description of the real estate to be transferred
  - Completed Wisconsin Electronic Real Estate Transfer Receipt
  
- **Note.** If the recipient wants title insurance or the property will be sold under the standard offer to purchase form, confirm that a title insurance company will provide title insurance based on the real estate transfer via a transfer by affidavit. If the parcel will be sold under the standard offer to purchase form, the title commitment should be received before signing the offer to purchase.

### Contents (Transfer by Affidavit – \$50,000 and Under)

- **Note.** Complete the form, using black ink only, if transferring an interest in real estate for recording purposes.
- #1 If an interest in real estate is being transferred and the affidavit will be recorded, include the person and address to which the register of deeds should return the affidavit.

- #2 Obtain the parcel identification number from the most recent real estate tax bill (necessary only if an interest in real estate is being transferred).
- #3 The person seeking the transfer of property must be an heir, a trustee of a revocable trust created by the decedent, the decedent's former guardian, or the person identified in the decedent's will as a personal representative. Note that if the person is signing as personal representative, the affidavit cannot be used to transfer the decedent's interest in real estate.
- #4 Accurately state the amount.
- #5, #6 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, medical assistance (MA), long-term care services, Wisconsin chronic-disease-program benefits, or any of the other services described in [Wis. Stat. § 859.07\(2\)](#), send the Probate Claims Notice to the DHS, DCF, or the Department of Corrections, as appropriate, and the county clerk. *See supra* [Forms 3.6–3.7](#). Attach proof of delivery of the notice showing a delivery date at least 10 days before the date the Transfer by Affidavit is delivered to the transferee.
- #7 Describe the property to be transferred and enter the property's value.
- #8 Enter the name of the person seeking the transfer of property.

### **Contents (Affidavit of Heirship)**

This form is used to establish the identity of the decedent's heirs.

### **Contents (Affidavit of Service OR Waiver of Notice)**

This form is used to prove notice of the Transfer by Affidavit form was given (or waived) by heirs, thereby allowing the Transfer by Affidavit to be immediately recorded in the office of the register of deeds in each county in which the decedent had an interest in real estate.

### **Distribution**

Originals:	File with the custodian; record with register of deeds in county where real property or secured interest in real property located
Duplicate originals:	Transferee
Conformed copies:	Petitioner and firm file

### **References**

[Wis. Stat. § 867.03](#)

## Form 5.1A Instructions for Completing Wisconsin's Transfer by Affidavit (EST-0314)

### INSTRUCTIONS FOR COMPLETING WISCONSIN'S TRANSFER BY AFFIDAVIT (\$50,000 gross and under)

#### WHEN YOU MAY USE THE TRANSFER BY AFFIDAVIT ("Affidavit"):

Pursuant to §867.03, Wis. Stats., when a deceased person ("decedent") dies with Wisconsin property subject to probate administration which does not exceed \$50,000 in gross value, a person entitled to sign the Affidavit (as set forth below) (the "Affiant") may collect, receive, and have the decedent's interest in property transferred to the Affiant. **By accepting the decedent's property, the Affiant assumes a duty to pay the decedent's debts and distribute any balance to the decedent's beneficiaries designated in the appropriate governing instrument (such as a will) or, if the decedent did not have a will or other governing instrument, to the decedent's heirs (as set forth below).**

#### WHAT PROPERTY MAY BE TRANSFERRED USING THE TRANSFER BY AFFIDAVIT:

All property which would otherwise be subject to a probate administration. This includes real property (an interest in real estate) and non-real property. Examples of non-real property which may be transferred using the Affidavit include, but are not limited to, interests in the following: a bank account, a certificated or uncertificated security, promissory note, digital property as defined in §711.03(10), Wis. Stats., and property that would otherwise be distributed to the decedent's estate via beneficiary designation.

#### WHO MAY BE AN AFFIANT AND SIGN THE AFFIDAVIT:

If the Affidavit is being used to transfer the decedent's interest in real estate or evidence of interest, obligation to, or right of the decedent in real estate (i.e. a mortgagee's interest or lien), then the Affiant must be: (i) an heir of the decedent (as set forth below), (ii) a trustee of a revocable trust created by the decedent, or (iii) a person who was guardian of the decedent at the time of the decedent's death.

If the Affidavit is being used to transfer the decedent's interest in only non-real property, then the Affiant must be: (i) an heir of the decedent (as set forth below), (ii) a trustee of a revocable trust created by the decedent, (iii) a person who was guardian of the decedent at the time of the decedent's death, or (iv) a person named in the decedent's will to act as personal representative.

#### WHO IS AN HEIR:

Section 852.01, Wis. Stats. defines who is an heir. See the Affidavit of Heirship form included as an addendum to the Affidavit form for additional help in determining a decedent's heir(s).

#### NOTICE TO THE STATE OF WISCONSIN:

If the decedent and/or the decedent's spouse ever received any of the services specified below, then the Affiant must send a copy of the Affidavit by certified mail, return receipt requested, to the Estate Recovery Program for the State of Wisconsin, Department of Health Services, along with proof of the certified mail delivery showing the delivery date, prior to furnishing the Affidavit to any party holding property of the decedent included in the Affidavit or recording the Affidavit with the Register of Deeds Office in any county in which an interest in real estate or a lien on real estate included in the Affidavit is located. The services are:

- Medical Assistance/Medicaid
- Family Care and/or Partnership benefits (through a Managed Care Organization)
- Community Options Program
- Wisconsin Chronic Disease Program
- Patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county

Address for Estate Recovery Program:  
Wisconsin Department of Health Services  
Estate Recovery Program  
P.O. Box 309  
Madison, WI 53701-0309

#### NOTICE TO DECEDENT'S HEIRS (30-DAY NOTICE FOR REAL ESTATE):

If the Affiant is transferring the decedent's interest in real estate, or a lien on real estate, then the Affiant must first provide the following to the decedent's heirs at least 30 days before recording the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located: (i) a copy of the Affidavit (including the Affidavit of Heirship and Affidavit of Service or Waiver of Notice forms), and (ii) notice that the Affiant intends to record the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located. Notice to the decedent's heirs must be given by either: (i) certified mail, return receipt requested or (ii) personal service (see §867.03(1p), Wis. Stats.).

#### WHAT TO DO WITH THE AFFIDAVIT:

If the Affiant is not transferring the decedent's interest in real estate, or a lien on real estate, then, after complying with any required notice to the State of Wisconsin, Department of Health Services Estate Recovery Program, the Affiant may furnish the Affidavit to any party holding property of the decedent included in the Affidavit to implement the transfer(s) to the Affiant. **NOTE:** if the Affiant is a person named in the decedent's will to act as personal representative, the holder of the decedent's property may not transfer the property included in the Affidavit until 30 days after the day on which the Affidavit is received. If, within such 30-day period, the holder of the decedent's property receives an Affidavit for the same decedent from another person, then the holder is prohibited from transferring the decedent's property unless ordered to do so by a court (see §867.03(1j), Wis. Stats.).

If the Affiant is transferring the decedent's interest in real estate, or a lien on real estate, then 30 days after the Affiant provides the required notice to the decedent's heirs (or earlier if all of the heirs waive notice), and after complying with any required notice to the State of Wisconsin, Department of Health Services Estate Recovery Program, the Affiant may record the Affidavit with the Register of Deeds Office in each county in which the subject real estate is located. The recording of the Affidavit transfers the decedent's interest in the real estate (including lien rights) to the Affiant. **NOTE:** the Register of Deeds may require additional documentation, including a completed Wisconsin Electronic Real Estate Transfer Receipt (see §867.03(1p), Wis. Stats.).

#### OBLIGATIONS OF AFFIANT:

By signing the Affidavit, the Affiant is certifying that the contents of the Affidavit are true and correct, that the Affiant will pay the debts of the decedent according to Wisconsin law, and that the Affiant will distribute any balance to those persons designated in the appropriate governing instrument (such as a will), or if none, to the decedent's heirs.

#### MORE QUESTIONS?

The transfer by affidavit form and related instructions are not a substitute for legal advice. Please contact your attorney if you have any questions about how to complete this form.

**REMINDER:** If transferring an interest in real estate, do you have all attachments to submit to the Register of Deeds?

- Affidavit of Heirship
- Affidavit of Service OR Waiver of Notice
- If required, proof of Certified Mail Delivery to Estate Recovery Program showing the delivery date
- Legal Description of the real estate to be transferred
- Completed Wisconsin Electronic Real Estate Transfer Receipt

This form is maintained by the Real Property, Probate, and Trust Section of the State Bar of Wisconsin.

§867.03, Wis. Stats. (7.17.19)

# Form 5.1B Transfer by Affidavit (EST-0251)

### TRANSFER BY AFFIDAVIT

Amended (if Transfer by Affidavit form previously recorded, amending recorded Document No. \_\_\_\_\_)

**§867.03, Wis. Stats. – Estates with property worth \$50,000 or less (gross value)**

Estate of \_\_\_\_\_ (Decedent's Name) (the "Decedent").

**UNDER OATH, I STATE:**

1. The Decedent was born on (Date of Birth) and died on (Date of Death) domiciled in the County of (County Name) State of (State Name) and with a mailing address of (Decedent's Address)

(#3) 2. I am signing this Transfer by Affidavit in the following capacity:  
 an heir having the following relationship with the Decedent:  
 trustee of a revocable trust created by the Decedent.  
 a person who was the guardian of the Decedent at the time of the Decedent's death.  
 the person identified in the Decedent's Will to act as personal representative.  
NOTE: Per §867.03(1h), Wis. Stats., if you are signing as nominated personal representative in the Decedent's Will, then this Affidavit may not be used to transfer the Decedent's interest in real estate.

(#4) 3. The total gross value of the Decedent's property subject to administration in Wisconsin on the date of the Decedent's death was \$\_\_\_\_\_.  
NOTE: All property of the Decedent subject to administration must be included in the total gross value and on this Affidavit, which may not exceed \$50,000 gross value.

Register of Deeds recording area  
Name and return address  
  
(#1)

Parcel No(s): \_\_\_\_\_ (#2)

4. If the Transfer by Affidavit is being used to transfer the Decedent's interest in real estate, the heirs of the Decedent are identified on the Affidavit of Heirship attached.  
5. I ask that the following property of the Decedent be transferred to me pursuant to §867.03(1g), Wis. Stats:

**DESCRIPTION OF ALL PROPERTY TO BE TRANSFERRED**  
If real estate, list legal description and tax parcel number. If personal property (including digital property as defined under §711.03(10), Wis. Stats.), specifically describe property including name of financial institutions and account type.  
  
(#7)  
  
 See attached for additional property

SUMMARY PROCEDURES

6. **Real Estate – Requirement to notify heirs - 30 days:** If this Affidavit proposes to transfer the Decedent’s interest in real estate, then pursuant to §867.03(1p), Wis. Stats., I understand that I must provide a copy of this Affidavit, along with notice of my intention to record this Affidavit with the register of deeds office for each county in which the Decedent had an interest in real estate, to the Decedent’s heirs at least 30 days before recording.
- I hereby confirm that I provided a copy of this Affidavit to the Decedent’s heirs at least 30 days prior to recording or have obtained waivers from the heirs. The required Affidavit of Service OR Waiver of Notice form is attached hereto.
- (#6) 7. **Decedent’s Spouse(s):** If the Decedent was ever married, complete the following (if more than one spouse, check here and provide same information for additional spouses(s)  see attached):
- Name of Spouse(s): \_\_\_\_\_ ( living or  deceased)
- Married to Decedent     Divorced from Decedent at time of Decedent’s death
- The affiant lacks information to complete this section.
- (#5) 8. **Government Services – requirement to notify State of Wisconsin:** I understand that §867.03(1m), Wis. Stats. states that if the Decedent or the Decedent’s spouse(s) ever received the following services, then I must notify the Estate Recovery Program for the State of Wisconsin prior to transferring the Decedent’s property. I hereby certify that the Decedent and/or the Decedent’s spouse(s) (either alive or deceased) received the following services:

Service	Decedent Received the Service	Decedent’s Spouse Received the Service	I Don’t Know
Medical Assistance/Medicaid			
Family Care and/or Partnership benefits (through Managed Care Organization)			
Community Options Program benefits			
Wisconsin Chronic Disease Program			
Patient or inmate of a State of Wisconsin or Wisconsin County hospital or institution or responsible for any person owing an obligation to the State of Wisconsin or County in the State of Wisconsin			

- If the Decedent or the Decedent’s spouse(s) received any of the services identified above, I hereby confirm that I provided a copy of this Affidavit to the Department of Health Services Estate Recovery Program and have attached the required proof of certified mail delivery showing the delivery date.
9. I understand that by accepting the Decedent’s property under this Affidavit, I assume a duty to apply the property transferred for the payment of obligations according to priorities established under §859.25, Wis. Stats., and to distribute any balance to those persons designated in the appropriate governing instrument, as defined in §854.01, Wis. Stats., or if there is no governing instrument, according to the rules of intestate succession under Chapter 852, Wis. Stats.

DECLARATION: To the best of my knowledge and belief, I declare that this document is true, accurate, complete, and in conformity with the provisions and limitations of the Wisconsin Statutes.

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Court

\_\_\_\_\_  
Name printed or typed

My commission/term expires: \_\_\_\_\_

This document was drafted by: \_\_\_\_\_

\_\_\_\_\_  
Signature (#8)

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Address

# Form 5.1C Affidavit of Heirship (Addendum to Transfer by Affidavit) (EST-0312)

## AFFIDAVIT OF HEIRSHIP

Addendum to Transfer by Affidavit

Estate of \_\_\_\_\_ (the "Decedent")

UNDER OATH, I ANSWER THE FOLLOWING QUESTIONS:

1. What is your name, mailing address, and relationship to the Decedent?

Name	Mailing Address	Relationship

2. Was the Decedent survived by a spouse or domestic partner?  Yes  No

If YES, give name: \_\_\_\_\_

3. Did the Decedent have any children (living or deceased; natural or adopted)?  Yes  No

If YES, list all names and if deceased indicate date of death.  See attached

Name of Decedent's children	If deceased, date of death

For each deceased child listed above, list his or her name and the names of his or her children (living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants (living or deceased; natural or adopted).  See attached

Name of Deceased Child	Name of Deceased Child's Children	Date of Death

4. If there is a surviving spouse or domestic partner, are all of the decedent's children listed in Section 3 above also the children of the surviving spouse or domestic partner?  Yes  No

If NO, give details: \_\_\_\_\_<sup>1</sup>

5. If no surviving children, spouse, or domestic partner, did the Decedent leave surviving parents?  Yes  No  NA

If YES, list names: \_\_\_\_\_

<sup>1</sup> **INSTRUCTIONS:** If there are LIVING persons listed in answers to Questions 2, 3, and 4, then skip to Question 8. If no such LIVING persons, continue with Question 5.



SUMMARY PROCEDURES

6. If no surviving parent, did the Decedent have brothers or sisters (living or deceased; whole blood, half blood, adopted)?  
 Yes  No  NA

If YES, list all names and if deceased indicate date of death.  See attached

Name of Decedent's Brothers or Sisters:	If deceased, date of death:

For each deceased brother or sister listed above, list his or her name and the names of his or her children (living or deceased; natural or adopted). If any of his or her children are deceased, indicate the date of death of that child and the names of his or her descendants (living or deceased; natural or adopted).  See attached

Name of Deceased Brother or Sister	Name of Deceased Brother's or Sister's Children	Date of Death

7. If no surviving brothers or sisters, then list the names of maternal (mother) and paternal (father) grandparents and the descendants of any deceased grandparent and whether the person is living or deceased. Please continue listing children of deceased persons until a living person is named.

See attached

Maternal (mother)	Paternal (father)
Grandfather: _____	Grandfather: _____
Grandmother: _____	Grandmother: _____
Descendants: _____	Descendants: _____

8. Did any of the persons named in Questions 2-7, inclusive, die within 120 hours (5 days) after the death of the Decedent?  Yes  No

If YES, list name, date of death, and descendant(s).

Name	Date of Death	Descendant(s)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Court

\_\_\_\_\_  
Name printed or typed

My commission/term expires: \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name printed or typed

\_\_\_\_\_  
Address

Form 5.1D Affidavit of Service OR Waiver of Notice (Addendum to Transfer by Affidavit) (EST-0313)

Affidavit of Service OR Waiver of Notice

Addendum to Transfer by Affidavit

Estate of \_\_\_\_\_ (the "Decedent")

AFFIDAVIT OF SERVICE

I, [Name] \_\_\_\_\_, of [City] \_\_\_\_\_, State of \_\_\_\_\_, being sworn, state that on [Date] \_\_\_\_\_ I provided a copy of the Transfer by Affidavit form for the Decedent to the following named persons at the mailing address as listed:

☐ See attached for additional heirs

Table with 3 columns: NAME OF HEIR, MAILING ADDRESS, TYPE OF SERVICE\*. It contains 6 empty rows for listing heirs.

\* TYPE OF SERVICE: Refer to §867.03, Wis. Stats., for proper manner of service. Type of service may include personal service or certified mail return receipt requested.

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court \_\_\_\_\_

Name printed or typed \_\_\_\_\_

My commission/term expires: \_\_\_\_\_

Signature \_\_\_\_\_

Name printed or typed \_\_\_\_\_

Address \_\_\_\_\_

## WAIVER OF NOTICE

I am an heir of the Decedent. I am not a minor, have not been found to be incompetent, and do not have a guardian. I have received a copy of the Transfer by Affidavit form for the Decedent and I hereby consent to its immediate recording in the office of the register of deeds office in each county in which the Decedent had an interest in real estate.

See attached for additional heirs

NAME OF HEIR (PRINTED OR TYPED)	SIGNATURE	DATE

## IX. Letter Requesting Execution of Initial Summary Procedure Documents

### Commentary and Instructions for [Form 5.2](#)

Use [Form 5.2](#) to send summary documents to the person who is petitioning for the summary proceeding.

#### **Distribution**

Original:           Petitioner  
Conformed copies: Firm file

**Form 5.2 Letter Requesting Execution of Initial Summary  
Procedure Documents (EST-0252)**

---

*(Date)*

*(Petitioner's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(Petitioner's Name)*:

This letter will confirm our telephone conversation. We have prepared the following documents for your signature:

*(Choose appropriate alternative)*

Transfer by Affidavit  
Petition for Summary Settlement  
Petition for Summary Assignment  
Petition for Summary Confirmation of Interest in Property  
Petition for Determination of Descent

*(Continue)*

Enclosed please find draft copies of the above referenced documents. Please review them carefully and let me know if you have any changes, corrections, or questions. If they are satisfactory, please call for an appointment to come in and sign them.

Sincerely,

*(Firm Name)*

---

*(Attorney's Name)*

**Enclosures**

## **X. Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir (MV2300)**

### **Commentary and Instructions for [Form 5.3](#)**

The Statement of Transfer of Vehicles to a Surviving Spouse, Domestic Partner or Heir is used to transfer motor vehicles to the spouse, domestic partner, or any heir when the value of the decedent's estate is less than \$50,000.

Use this form to transfer up to five vehicles. The transfer fee per vehicle, which is stated on the form, is \$0 for a surviving spouse or domestic partner and \$164.50 for other surviving heirs.

#### **Contents**

- #1 Enter the surviving spouse or domestic partner's or heir's name.
- #2 Enter the surviving spouse or domestic partner's or heir's address.
- #3 Enter the value of property held in the decedent's sole name.

#### **References**

[Wis. Stat.](#) § 867.03



## XI. Petition for Summary Settlement

### Commentary and Instructions for [Form 5.4](#)

Summary settlement may be used to probate small estates without appointing a personal representative. The estate must be one in which the value of the estate either (1) does not exceed the estate's costs, expenses, allowances, and claims; or (2) does not exceed \$50,000 and the decedent is survived by a spouse, domestic partner, or minor children. An estate proceeding commenced under some other procedure may be terminated under summary settlement whenever the requirements for summary settlement are met. Use the Petition for Summary Settlement to initiate summary settlement proceedings.

#### Contents

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 Check the applicable box.
- #3 Check the applicable box to indicate why the estate qualifies for summary settlement.
- #4 The statement of property is similar to the inventory in formal probate and is subject to a filing fee. Refer to the instructions for [Form 4.26](#), *supra*.
- #5 Interested persons include heirs, beneficiaries, named trustees, named personal representatives, and additional persons as the court may order.
- #6 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, MA, long-term care services, Wisconsin chronic-disease-program benefits, or any of the other services described in [Wis. Stat.](#) § 859.07(2), send the Probate Claims Notice to the DHS, DCF, or the Department of Corrections, as appropriate, and the county clerk. *See supra* [Forms 3.6–3.7](#).
- #7 If the appointment of a special administrator is necessary or required by the court, check the applicable boxes and list the powers granted to the special administrator. (For more information on special administration, see sections [6.7](#), [6.8](#), *infra*, and the commentary and instructions for [Forms 4.49 through 4.54](#), *supra*.)
- #8 The petitioner may be any person who has standing to petition for probate of an estate under [Wis. Stat.](#) § 856.07.

#### Distribution

Original: File with the court  
 Conformed copies: Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.01



**Form 5.4 Petition for Summary Settlement (EST-0253)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY	
IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____	<input type="checkbox"/> Amended <b>Petition for Summary Settlement</b> <input type="checkbox"/> <b>with Special Administration (Formal Administration)</b>
Case No. _____ (Case No.) _____	

**UNDER OATH, I STATE:**

1. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address).
2. The petitioner is interested as \_\_\_\_\_ (#1).
3. The estate of the decedent
  - qualifies for summary settlement without appointment of a personal representative.
  - (#2)  was started under formal administration, meets the requirements for termination under summary settlement of small estates.
4. The estate is one properly settled under summary settlement in that (Select either A or B below.)
  - (#3)  A. the estate, less the amount of the debts for which any property in the estate is security, does not exceed in value the costs, expenses, allowances, and claims under §859.25(1)(a) to (g), Wis. Stats.
  - B. the estate, less the amount of the debts for which any property in the estate is security, does not exceed \$50,000 in value and the decedent is survived by a spouse or domestic partner, or one or more minor children.
5. A detailed statement of all property subject to administration including any encumbrance, lien, or other charge against each is as follows:  See attached

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value of Decedent's Interest at Date of Death
A. <u>Total value of property subject to administration</u>  (#4)	\$
B. <u>Minus total value of encumbrances, liens or other charges against each item of property</u>	(\$ )
C. <u>Net value of property subject to administration</u>	
<b>TOTAL</b>	\$
<small>(Value from Section A less total from Section B)</small>	

6. The decedent had a life estate or interest as a joint tenant or there is property which is security for a debt in which decedent had such interests for which a certificate has not been issued. Any real estate in which the decedent had this interest is described as follows:  See attached

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Decedent's Interest

7. The names and mailing addresses of all creditors of the decedent or the decedent's estate of whom the

petitioner has knowledge and the amounts of their claims are as follows:  See attached

Name of Creditor	Mailing Address	Claim Amount
		\$

8. The names and mailing addresses of all interested persons (including children of decedent who are not children of the surviving spouse or domestic partner), so far as known to petitioner or ascertainable by the petitioner with reasonable diligence are as follows: (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)  See attached

Name	Relationship	Mailing Address	If Minor, Date of Birth
(#5)			

9. The decedent  
 did  did not receive Medical Assistance/Medicaid.  
 did  did not receive Family Care and/or Partnership benefits (through a Managed Care Organization MCO/CMO).  
 (#6)  did  did not receive benefits from the Community Options Program (COP).  
 did  did not receive benefits from Wisconsin Chronic Disease Program.  
 was  was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county

Explain: \_\_\_\_\_  
 The affiant lacks information to complete this section.

10. If the decedent was ever married, complete the following: (If more than one spouse, provide the same information on a separate page.)  See attached  
 Name of spouse ( living or  deceased) \_\_\_\_\_  
 Married to decedent  Divorced from decedent at time of decedent's death.  
 (#6) The spouse  did  did not receive benefits from the Community Options Program (COP).  
 The spouse  did  did not receive benefits from the Wisconsin Chronic Disease Program.  
 The affiant lacks information to complete this section.

11. It is necessary to appoint a special administrator with the following powers:  
 (#7) \_\_\_\_\_

12. Other: \_\_\_\_\_

**I REQUEST THE COURT:**

Assign the property to the persons entitled to it as follows:  See attached

Person(s) Entitled to Receive	Description of Property <small>(Include real estate, stocks or bonds, licensed motor vehicles and all other property including digital property as defined under §711.03(10), Wis. Stats.)</small>	Value
		\$

1. Order any person indebted to or holding money or other property of the decedent to pay the indebtedness or deliver the property to the persons found to be entitled to receive it.

SUMMARY PROCEDURES

- 2. Certify the termination of any life estate or the right of survivorship of any joint tenant in the property described.
- 3. Order termination of any estate commenced under Chapter 856, discharge the personal representative and cancel any bond.
- 4. Appoint [Name] \_\_\_\_\_  
mailing address \_\_\_\_\_  
as special administrator with the powers requested.
- 5. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
Notary Public/Court Official  
 \_\_\_\_\_  
Name Printed or Typed

(#8)  
 \_\_\_\_\_  
Petitioner  
 \_\_\_\_\_  
Name Printed or Typed  
 \_\_\_\_\_  
Address  
 \_\_\_\_\_  
Email Address                      Telephone Number  
 \_\_\_\_\_  
Date                                      State Bar No. (if any)

My commission/term expires; \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

## XII. Waiver and Consent

### Commentary and Instructions for [Form 5.5](#)

This form is used for waivers and consents in summary procedures.

➤ *Note.* Because the court is authorized to proceed with summary procedures with or without notice, the form might not be required. Check with your clerk of court.

#### Contents

- #1 Check the applicable block.
- #2 Insert name of interested person.
- #3 Insert date the interested person signs.

#### Distribution

Original: File with the court  
Conformed Copies: Petitioner and firm file  
Person waiving notice

#### References

(Summary settlement) [Wis. Stat.](#) §§ 867.01, 879.09  
(Summary assignment) [Wis. Stat.](#) §§ 867.02, 879.09

Form 5.5 Waiver and Consent (EST-0254)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) \_\_\_\_\_

Name \_\_\_\_\_

**Waiver and Consent  
(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

1. I am an interested person in this proceeding.
2. I am not a minor.
3. I have not been found incompetent and I do not have a guardian.
4. I received a copy of the Petition for
  - A. special administration.
  - B. summary settlement of small estate.
  - (#1)  C. summary assignment of small estate.
  - D. termination of trust.
  - E. Other: \_\_\_\_\_
5. I waive any further notice of the hearing on the Petition. I enter my appearance in this matter, and consent to the requests made in the Petition.
6. Other: \_\_\_\_\_

<p>▶ _____ (#2) Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>(#3) Date _____ State Bar No. (if any) _____</p> <p>▶ _____ Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>Date _____ State Bar No. (if any) _____</p> <p>▶ _____ Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>Date _____ State Bar No. (if any) _____</p>	<p>▶ _____ Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>Date _____ State Bar No. (if any) _____</p> <p>▶ _____ Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>Date _____ State Bar No. (if any) _____</p> <p>▶ _____ Signature</p> <p>_____ Name Printed or Typed</p> <p>_____ Address</p> <p>Email Address _____ Telephone Number _____</p> <p>Date _____ State Bar No. (if any) _____</p>
---	---

▶ \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
State Bar No. (if any)

▶ \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Date

\_\_\_\_\_  
State Bar No. (if any)

Form completed by: (Name)	
Address	
Email Address	
Telephone	Bar Number

### XIII. Order and Notice for Hearing on Petition for Summary Settlement

#### Commentary and Instructions for [Form 5.6](#)

When a Petition for Summary Settlement has been filed, the court will set a date to hear the petition. The hearing may be without notice if so ordered by the court or if the interested persons waive notice. If the hearing is held without notice, an Order and Notice for Hearing is customarily not required. The court may require notice by mail, personal service, or publication. Notice requirements may differ significantly from county to county.

The Order and Notice for Hearing serves for hearings with or without notice. If the hearing follows publication of notice, publication must take place within 15 days after the date of the order.

#### Contents

- #1 The court will insert the date and time.
- #2 Enter the name of the newspaper designated for publication of legal notices.

#### Distribution

Original: File with the court  
Conformed copies: Newspaper designated for publication of notice, petitioner, and firm file

#### References

[Wis. Stat.](#) § 867.01(3)(d)

# Form 5.6 Order and Notice for Hearing on Petition for Summary Settlement (EST-0255)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Order and Notice for Hearing  
on Petition for Summary Settlement  
(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

A Petition for Summary Settlement was filed.

**THE COURT FINDS:**

The decedent, with date of birth (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address).

**THE COURT ORDERS:**

The Petition be heard at the \_\_\_\_\_ (County Name) County Courthouse, \_\_\_\_\_ (Court's Address), Wisconsin, Room \_\_\_\_\_ (Room No.), before \_\_\_\_\_ (Court Official's Name), Court Official, on [Date] \_\_\_\_\_ (#1), at [Time] \_\_\_\_\_ (#1).

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with attorney/petitioner below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**DO NOT PRINT the following text when publishing this notice.**

**Notice to Newspaper and Petitioner:**

Notice must be given by publication of this notice in the following newspaper: \_\_\_\_\_ (#2) once a week for three consecutive weeks; the first publication date must be within 15 days from the date of this notice.

The petitioner is responsible for providing a copy of this notice to all interested persons:

1. by mailing at least 20 days before the hearing; OR
2. by personal service at least 10 days before the hearing.



## XIV. Letter to Interested Person Regarding Summary Settlement

### Commentary and Instructions for [Form 5.7](#)

Once the Petition for Summary Settlement has been filed with the court and if the court requires notice, the Petition and the Order and Notice for Hearing must be served on all parties at least 20 days before the hearing. [Wis. Stat.](#) § 879.05. If service is by mail, prepare an Affidavit of Service and a copy of the affidavit and file these with the court. See [Form 4.9](#), *supra*, for an example of how to prepare the affidavit. In any event, it is good practice to provide all interested persons with copies of all pertinent documents.

#### Distribution

Originals: Interested persons  
Conformed copies: Firm file

#### References

[Wis. Stat.](#) § 867.01(3)(d)

**Form 5.7 Letter to Interested Person Regarding Summary  
Settlement (EST-0256)**

---

(Date)

(Interested Person's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (Interested Person's Name):

Enclosed is a copy of a Petition for Summary Settlement in the Estate of (Decedent's Name). Please read it over carefully, and if you have any questions about its meaning or effect, please contact us.

Also enclosed is a copy of the Order and Notice for Hearing Petition for Summary Settlement scheduling. A hearing on this petition will be held in Room (Room No.) of the \_\_\_\_\_ County courthouse at (Court's Address), Wisconsin, on (Weekday), (Date), at (Time) (A.M./P.M.). It will not be necessary for you to be present unless you want to object to the proceedings.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

## **XV. Signature Bond in Estate or Trust Proceedings and Court Approval of Signature Bond in Estate or Trust Proceedings**

### **Commentary and Instructions for [Forms 5.8–5.9](#)**

Because summary settlement is accomplished without a personal representative who could be held liable for misdeeds, the court is entitled to require a bond of the petitioner in an amount the court deems sufficient to indemnify the petitioner. Note that bonding companies may have forms that will serve in place of this court-approved form.

#### **Contents (Signature Bond in Estate or Trust Proceedings)**

- #1 Enter the principal's name.
- #2 Enter the name of either the bonding company or the individual surety.
- #3 The court will set the bond amount. Check with the clerk or the register in probate before completing this line.
- #4 Check the applicable box to indicate the principal's role in connection with the estate.
- #5 Provide signature of the petitioner.
- #6 Enter the names of witnesses to the signatures.
- #7 Enter the county of the surety's legal residence.
- #8 Provide signatures and addresses for individual sureties.
- #9 Signature must be notarized.

#### **Contents (Court Approval of Signature Bond in Estate or Trust Proceedings)**

- #1 The court will enter the date.

#### **Distribution**

Original: File with the court  
Conformed copies: Petitioner, bonding company, and firm file

#### **References**

[Wis. Stat.](#) § 867.01(3)(c)

# Form 5.8 Signature Bond in Estate or Trust Proceedings (EST-0201)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name) \_\_\_\_\_

Name

## Signature Bond In Estate or Trust Proceedings

For the following trust:

Case No. \_\_\_\_\_ (Case No.)

Date of Birth \_\_\_\_\_

I/we [Names] \_\_\_\_\_ (#1) \_\_\_\_\_, principal(s)  
and [Names] \_\_\_\_\_ (#2) \_\_\_\_\_, surety(ies)  
are liable to the Circuit Court in the sum of \$ \_\_\_\_\_ (#3) for which payment I/we bind my/ourselves and my/our  
estate(s), jointly and severally.

If the principal faithfully performs duties as

- personal representative;  special administrator;  testamentary trustee;
- (#4)  petitioner in summary settlement/assignment;
- assignee in summary assignment, to satisfy liability to creditors or other persons interested in the estate;
- Other: \_\_\_\_\_

then this bond obligation shall be void; otherwise it shall remain in full force and effect.

Witnessed By:

\_\_\_\_\_  
(#6)  
Signature

\_\_\_\_\_  
(#5)  
Signature of Principal

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of Principal

I, being sworn as a surety, state that I am an adult resident of Wisconsin, residing in \_\_\_\_\_ (#7)  
County. I am financially responsible for the actions of the principal(s) in the amount of this bond. I shall provide  
satisfactory evidence to the designated court officer.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_ (#9)

\_\_\_\_\_  
Notary Public/Court Official

\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

\_\_\_\_\_  
(#8)  
Signature of Surety

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number Date

Form completed by: [Name]	
Address	
Email Address	
Telephone Number	Bar Number (if any)

\_\_\_\_\_  
Signature of Surety

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number Date

---

## Form 5.9 Court Approval of Signature Bond in Estate or Trust Proceedings (EST-0310)

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STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

### Court Approval of Signature Bond In Estate or Trust Proceedings

For the following trust:

Case No. \_\_\_\_\_ (Case No.)

A Signature Bond In Estate or Trust Proceedings was filed on [Date] \_\_\_\_\_.

Satisfactory evidence as to financial responsibility of surety has been reviewed by the designated court officer.

Date Bond Approved: \_\_\_\_\_ (#1)

**DISTRIBUTION:**

1. Court
2. Personal Representative/Attorney

## XVI. Order on Petition for Summary Settlement

### Commentary and Instructions for [Form 5.10](#)

When the court is satisfied that the estate can properly be settled by summary settlement, and after hearing, the court will sign and date the Order on Petition for Summary Settlement. If a Probate Claims Notice to DHS ([Form 3.7](#)) was required, the order cannot be entered until 30 days after such notice was given. This will conclude the probate. The order will transfer all assets, settle all claims and debts, terminate joint and life tenancies, and make any special allowances provided by statute.

#### Contents

- #1 Interested persons include heirs, beneficiaries, named trustees, named personal representatives, and such additional persons as the court may order.
- #2 Check the applicable box.
- #3 Check the applicable box indicating why the estate qualifies for summary settlement.
- #4 Repeat the information listed in the Petition for Summary Settlement. See the instructions for [Form 5.4](#) (item 4).
- #5 List the payments to be made.
- #6 If a special administrator is appointed, describe the powers granted to the special administrator. See the instructions for [Form 5.4](#) (item 7).
- #7 List the beneficiaries and the property each will receive.

#### Distribution

Original: File with the court  
Conformed copies: Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.01(3)(f)

Form 5.10 Order on Petition for Summary Settlement (EST-0258)

STATE OF WISCONSIN, CIRCUIT COURT, COUNTY
IN THE MATTER OF THE ESTATE OF
(Decedent's Name)
Name
Order on Petition for Summary Settlement
with Order Appointing Special Administrator (Formal Administration)
Case No. (Case No.)

A Petition for Summary Settlement was filed.

THE COURT FINDS:

- 1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death), was domiciled in (County Name) County, State of (State Name), with a mailing address of (Decedent's Address).
2. The court has jurisdiction and is the proper venue.
(#2) 3. Notice to interested persons was given as required by the court, waived, or not required.
(#1) 4. The petitioner is an interested person.
5. Notice, if required, was given to the Department of Health Services and more than 30 days have elapsed since notice was given.
6. The estate is one properly settled under summary settlement in that (Select either A or B below.)
A. the estate, less the amount of the debts for which any property in the estate is security, does not exceed in value the costs, expenses, allowances, and claims under §859.25(1)(a) to (g), Wis. Stats.
B. the estate, less the amount of the debts for which any property in the estate is security, does not exceed \$50,000 in value and the decedent is survived by a spouse or domestic partner, or one or more minor children.
7. A detailed statement of all property subject to administration including any encumbrance, lien, or other charge against each is as follows: See attached

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value of Decedent's Interest at Date of Death
A. <u>Total value of property subject to administration</u>  (#4)	\$
B. <u>Minus total value of encumbrances, liens or other charges against each item of property</u>	(\$ )
C. <u>Net value of property subject to administration</u>	
<b>TOTAL</b> <small>(Value from Section A less total from Section B)</small>	\$

8. Complete section A or B below.

- (#5)  A. The estate is appropriate to be settled under §867.01(1)(a), Wis. Stats. The priority claims against the estate under §859.25, Wis. Stats., and the persons entitled to payment are as follows:  **See attached**

Persons(s) Entitled to Payment	Amount
(1) <u>Costs and expenses of administration</u>	\$
(2) <u>Funeral and burial expenses</u>	\$
(3) <u>Provisions for the family of the decedent under §§861.31, 861.33 and 861.35, Wis. Stats.</u>	\$
(4) <u>All other claims in order of priority under §859.25, Wis. Stats.</u>	\$

- B. The estate may be settled under §867.01(1)(b), Wis. Stats. Any property not otherwise assigned shall be assigned as an allowance under §861.31, Wis. Stats., to
- the surviving spouse or domestic partner.
  - the minor children.
  - both the surviving spouse or domestic partner and the minor children.

9. The decedent had a life estate or interest as a joint tenant or there is property which is security for a debt in which decedent had such interests for which a certificate has not been issued. Any real estate in which the decedent had this interest is described as follows:  **See attached**



SUMMARY PROCEDURES

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Decedent's Interest

10. It is necessary to appoint a special administrator with the following powers:  
(#6) \_\_\_\_\_

11. Other: \_\_\_\_\_

**THE COURT ORDERS:**

1. The property is assigned to the persons entitled to it as follows:  See attached

Person(s) Entitled to Receive	Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value
(#7)		\$

2. Any person indebted to or holding money or other property of the decedent pay the indebtedness or deliver the property to the persons found to be entitled to receive it.

3. The decedent immediately prior to death had an estate for life or an interest as a joint tenant in property for which a certificate of termination was not issued and the court certifies that such interests terminated at death.

4. The estate started under Chapter 856 is terminated; upon filing of any account or receipts required by the court, the personal representative is discharged and any bond is cancelled.

5. The petitioner must inform known unsatisfied creditors as to the final disposition of the estate.

6. Letters of special administration are issued to \_\_\_\_\_ upon filing a \_\_\_\_\_ bond of \$ \_\_\_\_\_, with the following powers:  
 \_\_\_\_\_

7. Other: \_\_\_\_\_

**THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## **XVII. Letter to Register of Deeds to Record Order on Petition for Summary Settlement**

### **Commentary and Instructions for [Form 5.11](#)**

Record the Order on Petition for Summary Settlement ([Form 5.10](#)) in all counties in which real property affected by the order is located. Use [Form 5.11](#) to mail a certified copy or original of the Order on Petition for Summary Settlement to the registers of deeds in the counties involved.

#### **Distribution**

Original: Register(s) of deeds  
Conformed copies: Petitioner and firm file

#### **References**

[Wis. Stat.](#) § 867.01(3)(h)

**Form 5.11 Letter to Register of Deeds to Record Order on Petition  
for Summary Settlement (EST-0259)**

---

(Date)

(Name)  
Register of Deeds  
(County Name) County Courthouse  
(Address)

Re: Estate of (Decedent's Name)

Dear (Name):

Please record the enclosed Order on Petition for Summary Settlement, which affects title to real estate in your county. We have also enclosed a check in the amount of \$ (Amount) for recording fees. Thank you for your cooperation in this matter.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

## XVIII. Petition for Summary Assignment

### Commentary and Instructions for [Form 5.12](#)

Summary assignment is used to probate estates that do not exceed \$50,000 in value and cannot be summarily settled. Summary assignment is a short form of probate in which no personal representative is involved. Use the Petition for Summary Assignment to initiate summary assignment proceedings.

➤ **Practice Tip.** Some courts require actual appearances when summary assignment is used. On the other hand, a court, even the same court, may allow use of informal probate procedures entirely by mail even when the estate otherwise qualifies for summary assignment.

Creditors have three months after publication of notice to file claims. Nevertheless, the court may distribute the estate 30 days after publication of notice, and assignees will thereby become liable to creditors. The court may require the petitioner or assignee to post bond.

#### Contents

- #1 State the relationship or interest of the petitioner to the decedent.
- #2 Check the applicable box.
- #3 Verify that the estate qualifies for summary assignment.
- #4 Check the applicable box to indicate whether the decedent died testate or intestate.
- #5 The statement of property is similar to the Inventory in formal probate and is subject to a filing fee. Refer to the instructions for [Form 4.26](#), *supra*.
- #6 Interested persons include heirs, beneficiaries, named trustees, named personal representatives, and such additional persons as the court may order.
- #7 Check all boxes that apply. If the decedent was a resident of a state or county hospital or institution, or was responsible for an outstanding obligation to the state or county for specified services, or if the decedent or the decedent's spouse received long-term community support services, MA, long-term care services, Wisconsin chronic-disease-program benefits, or any of the other services described in [Wis. Stat.](#) § 859.07(2), send the Probate Claims Notice to DHS, DCF, or the Department of Corrections, as appropriate, and the county clerk. *See supra* [Forms 3.6–3.7](#).
- #8 If a special administrator is appointed, check the box and list the powers granted to the special administrator. (For more information on special administration, see sections [4.34–.36](#), *supra*, and the commentary and instructions for [Forms 4.49–.54](#), *supra*.)
- #9 If necessary, check the box and insert the name and address of the special administrator.
- #10 The petitioner may be any person who has standing to petition for probate of an estate under [Wis. Stat.](#) § 856.07.

#### Distribution

Original: File with the court  
 Conformed copies: Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.02

**Form 5.12 Petition for Summary Assignment (EST-0260)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY  IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended  <p style="text-align: center;"><b>Petition for Summary Assignment</b></p> <input type="checkbox"/> <b>with Special Administration (Formal Administration)</b>  Case No. _____ (Case No.)
---	--

- UNDER OATH, I STATE:**
1. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address).
  2. The petitioner is interested as \_\_\_\_\_ (#1).
  3. The estate is one properly settled under summary assignment in that the estate, less the amount of the debts for which any property in the estate is security, does not exceed \$50,000 in value and cannot be summarily settled under §867.01, Wis. Stats. (#3)
  4. The estate of the decedent started under formal administration or summary settlement, meets the requirements for termination under summary assignment of small estates. (#2)
  5. After reasonable search
    - A. a will dated \_\_\_\_\_ was filed or accompanies this petition.
    - B. no will of the decedent was found. (#4)
  6. A detailed statement of all property subject to administration including any encumbrance, lien, or other charge against each is as follows:  See attached

Description of Property	Value of Decedent's Interest at Date of Death
Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.	
A. Total value of property subject to administration  (#5)	\$
B. Minus total value of encumbrances, liens or other charges against each item of property	(\$ )
C. Net value of property subject to administration	
<b>TOTAL</b>	\$
(Value from Section A less total from Section B)	

- Property will be provided by affidavit at a later date.
- 7. The decedent had a life estate or interest as a joint tenant or there is property which is security for a debt in which decedent had such interests for which a certificate has not been issued. Any real estate in which the decedent had this interest is described as follows:  See attached

Description of Property	Decedent's Interest

8. The names and mailing addresses of all creditors of the decedent or the decedent's estate of whom the petitioner has knowledge and the amounts of their claims are as follows:  See attached

Name of Creditor	Mailing Address	Claim Amount
		\$

Creditors will be named by affidavit at a later date.

9. The names and mailing addresses of all persons interested, so far as known to petitioner or ascertainable by the petitioner with reasonable diligence are as follows:  See attached  
 (Indicate persons with disabilities, also list any guardian of estate; for any person in the military; also list attorney or attorney in fact; and for any minor, list date of birth.)

Name	Relationship	Mailing Address	If Minor, Date of Birth

10. The decedent  
 did  did not receive Medical Assistance/Medicaid.  
 did  did not receive Family Care and/or Partnership benefits (through a Managed Care Organization—MCO/CMO).  
 (#7)  did  did not receive benefits from the Community Options Program (COP).  
 did  did not receive benefits from Wisconsin Chronic Disease Program.  
 was  was not a patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county.

Explain: \_\_\_\_\_

The affiant lacks information to complete this section.

11. If the decedent was ever married, complete the following: (If more than one spouse,  See attached.)  
 Name of spouse [ living or  deceased] \_\_\_\_\_  
 Married to decedent  Divorced from decedent at time of decedent's death.  
 The spouse  did  did not receive benefits from the Community Options Program (COP).  
 The spouse  did  did not receive benefits from the Wisconsin Chronic Disease Program.  
 The affiant lacks information to complete this section.

12. It is necessary to appoint a special administrator with the following powers:  
 (#8) \_\_\_\_\_

13. Other: \_\_\_\_\_

**I REQUEST THE COURT:**

1. Assign the property to the persons entitled to it as follows:  See attached

Person(s) Entitled to Receive	Description of Property	Value
	Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.	\$

2. Order any person indebted to or holding money or other property of the decedent to pay the indebtedness or deliver the property to the persons found to be entitled to receive it.

SUMMARY PROCEDURES

---

3. Certify the termination of any life estate or the right of survivorship of any joint tenant in the property described.
4. Order termination of the estate commenced under Chapter 856, discharge the personal representative and cancel any bond.
5. Appoint (Name) \_\_\_\_\_ (#9) \_\_\_\_\_, whose mailing address is \_\_\_\_\_ as special administrator with the powers requested.
6. Other: \_\_\_\_\_

State of \_\_\_\_\_  
 County of \_\_\_\_\_  
 Subscribed and sworn to before me on \_\_\_\_\_  
 \_\_\_\_\_  
 Notary Public/Court Official  
 \_\_\_\_\_  
 Name Printed or Typed

▶

Petitioner  
 (#10)  
 \_\_\_\_\_  
 Name Printed or Typed  
 \_\_\_\_\_  
 Address  
 \_\_\_\_\_  
 Email Address Telephone Number  
 \_\_\_\_\_  
 Date State Bar No. (if any)

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

## **XIX. Notice to Creditors for Summary Assignment**

### **Commentary and Instructions for [Form 5.13](#)**

Give notice to creditors in summary assignment proceedings by publishing the Notice to Creditors for Summary Assignment. Creditors have three months from the date of publication to file claims against the estate or the recipients of the estate's property. Publication should be made as a class 1 notice under [Wis. Stat.](#) ch. 985 (one insertion in newspaper).

[Wis. Stat.](#) §§ 859.02 and 859.48 require that creditors be sent a copy of the notice to ensure that claims are cut off.

#### **Distribution**

Original:	File with the court
Conformed copies:	Petitioner, each known creditor, newspaper designated for publication of notice, and firm file

#### **References**

[Wis. Stat.](#) §§ 859.02, 859.48, 867.02(2)(d)



**Form 5.13 Notice to Creditors for Summary Assignment (EST-0261)**

STATE OF WISCONSIN, CIRCUIT COURT, _____ COUNTY IN THE MATTER OF THE ESTATE OF _____ (Decedent's Name) Name _____ _____	<input type="checkbox"/> Amended <p style="text-align: center;"><b>Notice to Creditors for Summary Assignment (Formal Administration)</b></p> Case No. _____ (Case No.) _____
---	--

**PLEASE TAKE NOTICE:**

1. A Petition for Summary Assignment was filed.
2. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), with a mailing address of \_\_\_\_\_ (Decedent's Address), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name).
3. The right of a creditor to bring an action terminates three months after the date of publication of this order. Creditors may bring an action by
  - A. filing a claim in the \_\_\_\_\_ (County Name) County Circuit Court before the property is assigned.
  - B. bringing a suit against the assignee(s) after the property is assigned.
4. The property may be assigned to the creditors and interested persons after 30 days have elapsed following the publication of this notice.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

**DO NOT PRINT this text when publishing notice.**

**Notice to Newspaper and Petitioner:**

**Notice must be given by publication of this notice one time in the following newspaper:** \_\_\_\_\_

**Publish this notice only once**

## XX. Order and Notice of Hearing of Petition on Summary Assignment

### Commentary and Instructions for [Form 5.14](#)

The court may or may not require notice to interested persons. When notice is required, the petitioner must do so by mail and publication or personal service. See [Wis. Stat.](#) §§ 879.03, 879.05.

#### Contents

- #1 The court determines the date, but the date must be at least 30 days after publication of Notice to Creditors for Summary Assignment.
- #2 The court will enter the date and time. Check with the clerk or register in probate.
- #3 Enter the name of the newspaper designated for publication of legal notices. See [Wis. Stat.](#) § 985.03.

#### Distribution

Original: File with the court  
Conformed copies: Petitioner, each known creditor, all interested persons, newspaper designated for publication of notice, and firm file

#### References

[Wis. Stat.](#) § 867.02(2)(d)

# Form 5.14 Order and Notice of Hearing Petition on Summary Assignment (EST-0262)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name)  
Name \_\_\_\_\_

**Order and Notice of Hearing Petition  
On Summary Assignment  
(Formal Administration)**

Case No. \_\_\_\_\_ (Case No.)

A Petition for Summary Assignment was filed.

**THE COURT FINDS:**

1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death) was domiciled in (County Name) County, State of (State Name) with an address of (Decedent's Address).
2. Creditors may bring an action by
  - A. filing a claim in the (#1) County Circuit Court before the property is assigned.
  - B. bringing a suit against the assignee(s) after the property is assigned. The right of a creditor to bring an action terminates three months after the date of publication of this order.
3. The property may be assigned to the creditors and interested persons after 30 days have elapsed following the first publication of this notice.

**THE COURT ORDERS:**

1. The Petition be heard and heirship be determined at the (County Name) County Courthouse, (Court's Address), Wisconsin, Room (No.), before (Court Official's Name), Court Official, on (Date) (#2), at (Time) (#2).
2. Publication of this notice is notice to any persons whose names or addresses are unknown.

**\*DO NOT PRINT the following if left blank:**

The names or addresses of the following interested persons (if any) are not known/reasonably ascertainable:

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with person named below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

**DO NOT PRINT the following text when publishing notice.**

**Notice to Newspaper:**

Notice must be published once a week for three consecutive weeks in the following newspaper: \_\_\_\_\_ (#3)

The petitioner is responsible for providing a copy of this notice to all interested persons (including creditors)

1. by mailing at least 20 days before the hearing; OR
2. by personal service at least 10 days before the hearing.

## **XXI. Affidavit of Additional Property and/or Creditor for Summary Assignment**

### **Commentary and Instructions for [Form 5.15](#)**

The Affidavit of Additional Property and/or Creditor for Summary Assignment lists the decedent's property and creditors. It is statutorily permissible for this information to be contained in the Petition for Summary Assignment ([Form 5.12](#)). The affidavit would be used if the information on the petition were inaccurate; otherwise, the affidavit is unnecessary. When the affidavit is filed, the court will require a filing fee as specified in [Wis. Stat.](#) § 814.66.

#### **Contents**

- #1 The detailed description is similar to the Inventory in formal probate. Refer to the instructions for [Form 4.26](#), *supra*.
- #2 See MIL Section 28.
- #3 Enter the petitioner's name.

#### **Distribution**

Original: File with the court  
Conformed copies: Petitioner and firm file

#### **References**

[Wis. Stat.](#) § 867.02(2)(am)

# Form 5.15 Affidavit of Additional Property and/or Creditor for Summary Assignment (EST-0263)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_

Amended

(Decedent's Name)  
Name \_\_\_\_\_

## Affidavit of Additional Property and/or Creditor for Summary Assignment (Formal Administration)

Case No. \_\_\_\_\_ (Case No.)

**FILE ONLY TO REPORT ADDITIONAL information NOT INCLUDED IN THE PETITION.**

**UNDER OATH, I STATE:**

1. The property subject to administration, including any encumbrance, lien, or other charge against each item, and not previously included in the petition for summary assignment is as follows:  See attached

(#1)	Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value of Decedent's Interest at Date of Death
A. Total value of property subject to administration		\$ _____
B. Minus total value of encumbrances, liens or other charges against each item of property		(\$ _____ )
C. Net value of property subject to administration		
<b>TOTAL</b>		\$ _____
<small>(Value from Section A less total from Section B)</small>		

2. The name and mailing address of any additional creditor of the decedent or the decedent's estate and the amount of the claim not previously included in the petition, is as follows:  See attached

Name of Creditor	Mailing Address	Claim Amount
(#2)		\$ _____

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Court Official

\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name) \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Telephone Number \_\_\_\_\_ Bar Number \_\_\_\_\_

▶ \_\_\_\_\_  
Petitioner

(#3) \_\_\_\_\_

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address Telephone Number

\_\_\_\_\_  
Date State Bar No. (if any)

## XXII. Signature Bond in Estate or Trust Proceedings and Court Approval of Signature Bond in Estate or Trust Proceedings

### Commentary and Instructions for [Forms 5.16–5.17](#)

Under summary assignment, the assignees of the decedent’s estate are liable to creditors who have legal claims against the estate. This liability is up to the amount assigned to them. The court may require the assignees to be bonded in such amount. The court may also require a signature bond. See [Forms 5.8–5.9](#). Check with the court before preparing bonds.

#### Contents (Signature Bond in Estate or Trust Proceeding)

- #1 Enter the principal’s name.
- #2 Enter the name of either the bonding company or the individual surety.
- #3 The court will set the bond amount. Check with the clerk or the register in probate before completing this line.
- #4 Check the applicable box to indicate the principal’s role in connection with the estate.
- #5 Provide signature of the petitioner.
- #6 Enter the names of witnesses to the signatures.
- #7 Enter the county of the surety’s legal residence.
- #8 Provide signatures and addresses for individual sureties.
- #9 Signature must be notarized.

#### Contents (Court Approval of Signature Bond in Estate or Trust Proceeding)

- #1 The court will enter the date.

#### Distribution

Original: File with the court  
Conformed copies: Sureties, principal, and firm file

#### References

[Wis. Stat.](#) § 867.02(2)(c)

# Form 5.16 Signature Bond in Estate or Trust Proceedings (EST-0201)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

\_\_\_\_\_  
(Decedent's Name)

Name

For the following trust:

\_\_\_\_\_  
Date of Birth

Amended

## Signature Bond In Estate or Trust Proceedings

Case No. \_\_\_\_\_ (Case No.)

I/we [Names] \_\_\_\_\_ (#1) \_\_\_\_\_, principal(s)  
and [Names] \_\_\_\_\_ (#2) \_\_\_\_\_, surety(ies)  
are liable to the Circuit Court in the sum of \$ \_\_\_\_\_ (#3) for which payment I/we bind my/ourselves and my/our  
estate(s), jointly and severally.

If the principal faithfully performs duties as

- personal representative;  special administrator;  testamentary trustee;
- (#4)  petitioner in summary settlement/assignment;
- assignee in summary assignment, to satisfy liability to creditors or other persons interested in the estate;
- Other: \_\_\_\_\_

then this bond obligation shall be void; otherwise it shall remain in full force and effect.

Witnessed By:

\_\_\_\_\_  
(#6)  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(#5)  
Signature of Principal

\_\_\_\_\_  
Signature of Principal

I, being sworn as a surety, state that I am an adult resident of Wisconsin, residing in \_\_\_\_\_ (#7)  
County. I am financially responsible for the actions of the principal(s) in the amount of this bond. I shall provide  
satisfactory evidence to the designated court officer.

State of \_\_\_\_\_  
County of \_\_\_\_\_  
Subscribed and sworn to before me on \_\_\_\_\_ (#9)

\_\_\_\_\_  
Notary Public/Court Official

\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

\_\_\_\_\_  
(#8)  
Signature of Surety

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number                      Date

Form completed by: [Name]	
Address	
Email Address	
Telephone Number	Bar Number (if any)

\_\_\_\_\_  
Signature of Surety

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address

\_\_\_\_\_  
Telephone Number                      Date



---

## Form 5.17 Court Approval of Signature Bond in Estate or Trust Proceedings (EST-0310)

---

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

\_\_\_\_\_  
(Decedent's Name)

Name

### Court Approval of Signature Bond In Estate or Trust Proceedings

For the following trust:

Case No. \_\_\_\_\_ (Case No.)

A Signature Bond In Estate or Trust Proceedings was filed on (Date) \_\_\_\_\_.

Satisfactory evidence as to financial responsibility of surety has been reviewed by the designated court officer.

Date Bond Approved: \_\_\_\_\_ (#1)

**DISTRIBUTION:**

1. Court
2. Personal Representative/Attorney

## XXIII. Order on Petition for Summary Assignment

### Commentary and Instructions for [Form 5.18](#)

The Order on Petition for Summary Assignment is the legal determination of rights to the estate. The rights are assigned in the sequence that the court determines that persons are entitled to the property. The order legally transfers property ownership.

#### Contents

- #1 Interested persons include heirs, beneficiaries, named trustees, named personal representatives, and such additional persons as the court may order.
- #2 Check the applicable box.
- #3 Refer to the Proof of Publication ([Form 3.19](#)) for date.
- #4 Check the applicable box indicating why the estate qualifies for summary assignment.
- #5 Check the applicable box to indicate whether the decedent died testate or intestate.
- #6 Repeat the information listed in the Summary Assignment Petition. See the instructions for [Form 5.12](#) (item 5), *supra*.
- #7 List the payments to be made.
- #8 List the beneficiaries, as appropriate, and the property each receives.
- #9 If a special administrator is appointed, describe the powers granted to the special administrator. See the instructions for [Form 5.12](#) (item 8), *supra*.
- #10 List the beneficiaries and the property they will receive.
- #11 If necessary, check the box and insert the name of the special administrator and the appropriate bond information. See *supra* [Forms 5.16–5.17](#).

#### Distribution

Original: File with the court  
Conformed copies: All assignees and firm file; record a duplicate or certified copy with the register of deeds in affected counties

#### References

[Wis. Stat.](#) § 867.02(2)(g)

Form 5.18 Order on Petition for Summary Assignment (EST-0265)

STATE OF WISCONSIN, CIRCUIT COURT, COUNTY
IN THE MATTER OF THE ESTATE OF (Decedent's Name)
Order on Petition for Summary Assignment
with Order Appointing Special Administrator (Formal Administration)
Case No. (Case No.)

A Petition for Summary Assignment was filed.

THE COURT FINDS:

- 1. The decedent, with date of birth (Date of Birth) and date of death (Date of Death), was domiciled in (County Name) County, State of (State Name), with a mailing address of (Decedent's Address).
2. The court has jurisdiction and is the proper venue.
3. Notice to interested persons was given as required by the court, waived, or not required.
4. The petitioner is an interested person.
5. The first publication of notice to creditors was made on [Date] and more than 30 days has elapsed since that date.
6. Notice was given to the Department of Health Services and more than 30 days has elapsed since that notice was given.
7. The estate is properly settled under summary assignment in that (Select either A or B below.)
8. The decedent
9. A detailed statement of all property subject to administration including any encumbrance, lien, or other charge against each is as follows: See attached

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value of Decedent's Interest at Date of Death
A. <u>Total value of property subject to administration</u>  (#6)	\$
B. <u>Minus total value of encumbrances, liens or other charges against each item of property</u>	(\$ )
C. <u>Net value of property subject to administration</u>	
<b>TOTAL</b>	\$
<small>(Value from Section A less total from Section B)</small>	

10. The estate is appropriate to be settled under summary assignment. The priority claims against the estate under §859.25, Wis. Stats., are as follows:  See attached

Creditors Entitled to Payment	Amount
(A) <u>Costs and expenses of administration</u>  (#7)	\$
(B) <u>Funeral and burial expenses</u>	\$
(C) <u>Provisions for the family of the decedent under §§861.31, 861.33 and 861.35, Wis. Stats.</u>	\$
(D) <u>Other claims in order of priority under §859.25, Wis. Stats.</u>	\$

11. The decedent had a life estate or interest as a joint tenant or there is property which is security for a debt in which decedent had such interests for which a certificate has not been issued. Any real estate in which the decedent had this interest is described as follows:  See attached

SUMMARY PROCEDURES

Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Decedent's Interest
(#8)	

12. It is necessary to appoint a special administrator with the following powers:  
(#9) \_\_\_\_\_  
\_\_\_\_\_

13. Other: \_\_\_\_\_

**THE COURT ORDERS:**

1. The property is assigned to the persons entitled to it as follows:  See attached

Person(s) Entitled to Receive	Description of Property <small>Includes real estate, stocks or bonds, licensed motor vehicles and all other property, including digital property as defined under §711.03(10), Wis. Stats.</small>	Value
(#10)		\$

2. Any person indebted to or holding money or other property of the decedent pay the indebtedness or deliver the property to the persons found to be entitled to receive it.

3. Certification that any interest of the decedent immediately prior to death in an estate for life or as a joint tenant in any property for which a certificate of termination was not issued terminated at death.

4. The estate commenced under Chapter 856 is terminated; upon filing of any account or receipts, required by the court, the personal representative is discharged and any bond is cancelled.

5. The petitioner mail or deliver a copy of this order to all interested persons in the estate whose mailing address is known to the petitioner or can be ascertained with reasonable diligence.

6. Letters of special administration are issued to \_\_\_\_\_ upon filing a \_\_\_\_\_ bond of \$ \_\_\_\_\_, with the following powers:

(#11) \_\_\_\_\_  
\_\_\_\_\_

7. Other: \_\_\_\_\_

**THIS IS FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.**

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXIV. Petition for Termination of Joint Tenancy or Life Estate and Certificate of Termination of Joint Tenancy or Life Estate

### Commentary and Instructions for [Forms 5.19](#) and [5.20](#)

If the decedent's estate includes joint tenancy property, the surviving joint tenants automatically become the legal owners of the jointly held property. However, without some legal indication that the joint tenancy interest has ended, the surviving joint tenant may find it difficult to convey the property. A legal termination of the joint tenancy property interest must therefore be obtained.

If the spouses took title to property as joint tenants before January 1, 1986, the property is still owned as joint tenancy. Property acquired by spouses as joint tenants after January 1, 1986, will be considered survivorship marital property in the absence of a marital property agreement. [Wis. Stat. § 766.31\(8\)](#).

Use the Petition for Termination of Joint Tenancy or Life Estate to petition the court for a Certificate (see [Form 5.19](#)) in recordable form that terminates the special interest.

The Certificate of Termination of Joint Tenancy or Life Estate (PR-1927), issued by the court, constitutes legal notice that the joint ownership has been terminated and the surviving joint tenant(s) is now the legal owner of the property. If the termination affects real property, the certificate should be recorded with the register of deeds.

The form may also be used to terminate a life estate. A *life estate* is a person's right to use some property for the term of his or her life. The life estate gives the person no control over the ultimate disposition of that property. The person who has created the life estate will have determined who will succeed to the property upon the life tenant's death.

This termination procedure puts the remainderman (the person to whom the remainder is devised) in complete ownership and control of the property and clears the record title to the property. The certificate, issued by the court, is the legal indication that the life estate has ended and that the remainderman is entitled to full ownership of the property. Therefore the certificate will be recorded with the register of deeds.

### Contents (Petition for Termination of Joint Tenancy or Life Estate)

- #1 State the petitioner's interest in the property.
- #2 Enter the legal description of the property, designate the type of property interest of the decedent being terminated (joint tenancy or life estate) or vested (survivorship marital property), and enter recording data.
- #3 The petitioner should be either the remainderman or the surviving joint tenant or the surviving spouse.

**Distribution**

Original: File with the court and provide certified copies or duplicate original to the register of deeds  
Conformed copies: Petitioner and firm file

**References**

[Wis. Stat.](#) § 867.04

# Form 5.19 Petition for Termination of Joint Tenancy or Life Estate (EST-0266)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name)

Name

## Petition for Termination of Joint Tenancy or Life Estate (§867.04, Wis. Stats.)

Case No. \_\_\_\_\_ (Case No.)

### UNDER OATH, I STATE:

1. I am a person interested in the property as \_\_\_\_\_ (#1), and my mailing address is \_\_\_\_\_ (Petitioner's Address)

2. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address)

3. At the time of death the decedent had the following interests(s) in property in Wisconsin:  See attached

Description of Property (Legal Description of Real Estate and Recording Data of Document creating Decedent's Interest.)	Decedent's Interest (Joint Tenant or Life Estate)
(#2)	

4. The names and interest of any surviving joint tenant or other person interested in the property is as follows:

See attached

Name of any Surviving Joint Tenant or Others Interested in Property (If more than one item of property described, specify in which property person has an interest.)

### I REQUEST THE COURT:

Certify the decedent's death, the termination of the joint tenancy interest or life estate, the right of survivorship of any joint tenant and any other facts essential to determine the rights of persons interested as stated in this petition.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

Notary Public/Court Official

Name Printed or Typed



(#3)

Petitioner

Name Printed or Typed

Address

My commission/term expires: \_\_\_\_\_

Email Address

Telephone Number

This notarial act involved the use of communication technology.

Form Drafted by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

Date

State Bar No. (if any)



**Form 5.20 Certificate of Termination of Joint Tenancy or Life Estate  
(EST-0267)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

Name \_\_\_\_\_

**Certificate of Termination of Joint Tenancy  
or Life Estate  
(§867.04, Wisconsin Statutes)**

Case No. \_\_\_\_\_

Based on the Petition for Termination of Joint Tenancy or Termination of Life Estate,

**THE COURT CERTIFIES:**

- The decedent's date of death was \_\_\_\_\_.
- The decedent's interests held at the time of death as a joint tenant or as a tenant for life in the following property(ies) in Wisconsin terminated.  See attached

Description of Property <small>(include legal description of real estate, WI county where the property is located and Recording Data from creating document)</small>	Decedent's Interest <small>(Joint tenant or Life estate)</small>

- The names and interest of any surviving joint tenant or other person interested in the property is as follows:  See attached

Name of any Surviving Joint Tenant or Others Interested in Property <small>(If more than one item of property described, specify in which property person has an interest.)</small>

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

*(COURT SEAL)*

## XXV. Petition for Summary Confirmation of Interest in Property, Certificate of Summary Confirmation of Interest in Property, and Termination of Decedent's Interest

### Commentary and Instructions for [Forms 5.21](#), [5.22](#), and [5.23](#)

A variety of property interests can be transferred through the register of deeds at the death of the owner of the interests. The register of deeds can be used to terminate a decedent's interest in real property in which the decedent was a joint tenant, had a vendor's or mortgagee's interest, or had a life estate (each a transfer pursuant to [Wis. Stat. § 867.045](#)). The register of deeds can also be used to confirm a recipient's interest in property specified in a marital property agreement, survivorship marital property, a third-party confirmation, or a nonprobate transfer on death as described in [Wis. Stat. § 705.10\(1\)](#).

[Wis. Stat. § 867.045](#) pertains to the decedent's interest as a joint tenant or life tenant in real property, in the vendor's interests in land contracts, and in a mortgagee's interests in mortgages.

[Wis. Stat. § 867.046\(2\)](#) pertains to interests of the decedent in real and personal property (including but not limited to, savings and checking accounts, securities, and money and other benefits due as noted in [Wis. Stat. § 705.10](#)) that are held as survivorship marital property, or noted in insurance policies, employment contracts, bonds, mortgages, promissory notes, certificated or uncertificated securities, account agreements, custodial agreements, deposit agreements, compensation plans, pension plans, individual retirement accounts, employee benefit plans, trusts, conveyances, deeds of gift, marital property agreements, vendor interests in land contracts, mortgagee interests in mortgages, or other written instruments of similar nature.

The Termination of Decedent's Interest form ([Form 5.23](#)) can be used by persons entitled to receive any of these property interests from a decedent under [Wis. Stat. § 867.045\(1\)](#) or [Wis. Stat. § 867.046\(2\)](#).

If the decedent had an interest in real estate, a land contract, or a mortgage, the form should be recorded with the register of deeds in the county in which the real estate is located. If the transfer does not involve an interest in real estate, record the form with the register of deeds of the county in which the decedent lived at the time of his or her death.

If an interest in real estate is being transferred by the form, the following should be submitted with the form: a copy of the document that shows joint tenancy, life estate, survivorship marital property, vendor's interest, or mortgagee's interest or other interest noted above; and a copy of the real estate tax bill for each parcel for the year immediately preceding the decedent's death (check with the local county, since practice varies with regard to the need to include real estate tax bills).

If the form is conveying an interest in personal property, include on an attachment (1) the name of the company, the last three digits only of the certificate or serial numbers, if any, and the ownership interest (such as the number of shares of stock, percentage interest or number of units in a partnership or limited liability company); (2) for savings and checking accounts, the name and address of the financial institution in which the savings and checking accounts are located along with the last three digits only in the account number; or (3) for a vendor's interest in land contract and mortgagee's interest in mortgage, a copy of the land contract or mortgage containing a legal description of the real estate affected.

Use of the Termination of the Decedent's Interest form is prima facie evidence of the transfer ([Wis. Stat.](#) § 867.046(5)). However, this form does not produce the certificate under the court's seal described in [Wis. Stat.](#) § 867.046(1m) and discussed immediately below, a procedure with which third parties and transfer agents may be more comfortable.

As an alternative to using the Termination of the Decedent's Interest, the procedure described in [Wis. Stat.](#) § 867.046(1m) may be used. This procedure permits the beneficiary entitled to the property interest to petition the court ([Form 5.21](#)) of the county in which the decedent was domiciled (or if the decedent was not domiciled in Wisconsin, of any county in which the property is located) for a certificate under the seal of the court ([Form 5.22](#)). This certificate, among other things, recites that title to certain assets in which the decedent had an interest passed to the beneficiary upon the decedent's death, as stated in the marital property agreement. The certificate is prima facie evidence of the facts recited. This procedure has the benefit of obtaining a document under the court's seal but may require payment of the inventory filing fee on the value of the assets passing under the petition and certificate.

# Form 5.21 Petition for Summary Confirmation of Interest in Property (EST-0268)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF

Amended

(Decedent's Name) \_\_\_\_\_

Name \_\_\_\_\_

## Petition for Summary Confirmation of Interest in Property

Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

### UNDER OATH, I STATE:

- I am  the decedent's spouse  
 a beneficiary of a marital property agreement  
 a TOD beneficiary or  
 a beneficiary of a transfer under §705.10(1), Wis. Stats.,  
 and my mailing address is \_\_\_\_\_

- The decedent, with date of birth \_\_\_\_\_ and date of death \_\_\_\_\_, was domiciled in \_\_\_\_\_ County, State of \_\_\_\_\_, with a mailing address of \_\_\_\_\_

- At the time of death the decedent had  
 survivorship marital property;  
 an interest in property transferable under a marital property agreement;  
 an interest in real property with a designated TOD beneficiary, OR  
 an interest in property subject to disposition under a controlling instrument governed by §705.10(1), Wis. Stats., (controlling instrument or copy of other documentation attached) which is located in \_\_\_\_\_ County, Wisconsin:  See attached

Description of Property <small>(Include legal description of real estate, WI county where the property is located and Recording Data from creating document)</small>	Decedent's Interest

- The names and addresses of the interested persons are:

Names	Address

### I REQUEST THE COURT:

Issue a certificate certifying the decedent's death, the termination or transfer of the decedent's interest in the property and my interest in the property as stated in this Petition.

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Court Official

\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name)	
Address	
Email Address	
Telephone Number	Bar Number

▶ \_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email Address Telephone Number

\_\_\_\_\_  
Date State Bar No. (if any)

**Form 5.22 Certificate of Summary Confirmation of Interest in Property (EST-0269)**

*(COURT SEAL)*

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended  
 (Decedent's Name)  
 Name \_\_\_\_\_

**Certificate of Summary Confirmation  
of Interest in Property**

Case No. \_\_\_\_\_ (Case No.)

Based on the Petition for Summary Confirmation of Interest in Property,

**THE COURT CERTIFIES:**

- The decedent's date of death was \_\_\_\_\_.
- The decedent's interests held at the time of death in the following property in Wisconsin is terminated or transferred:  See attached

Description of Property <small>(include legal description of real estate, WI county where the property is located and Recording Data from creating document)</small>	Decedent's Interest <small>(from Petition)</small>

- The name and interest of the person entitled to the property as stated in the Petition is:  See attached

Name and Interest of the Person entitled to the Property <small>(as stated in the Petition)</small>

- The names and addresses of the interested persons are:

Names	Address

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

# Form 5.23 Termination of Decedent's Interest (HT-110/TOD-110) (EST-0162)

## TERMINATION OF DECEDENT'S INTEREST

DECEDENT'S NAME	DATE OF DEATH
DECEDENT'S ADDRESS AT DATE OF DEATH	CITY STATE ZIP

THE INTEREST OF THE DECEDENT IN THE PROPERTY LEGALLY DESCRIBED HEREIN IS TERMINATED PURSUANT TO THE FOLLOWING WISCONSIN STATUTE AND TRANSFERRED AS PROVIDED BY STATUTES:

- 867.045 – real property in which the decedent was a joint tenant, had a vendor's or mortgagee's interest, or had a life estate.
- 867.046 - property of a decedent specified in a marital property agreement, survivorship marital property; a third party confirmation; or a nonprobate transfer on death as described in 705.10(1) or 705.15.

Recording Area \_\_\_\_\_  
 Name and Return Address: \_\_\_\_\_

DOCUMENT UNDER WHICH DECEDENT'S INTEREST IN THE PROPERTY IS NOW TERMINATED – Copy(ies) of which is/are attached:

- Recorded Document No. \_\_\_\_\_ Volume \_\_\_\_\_ Page \_\_\_\_\_
- Deed  Transfer on Death  Land Contract  Mortgage
  - Other \_\_\_\_\_
- Unrecorded Document:
- Marital Property Agreement  Other \_\_\_\_\_

Parcel Identification Number: \_\_\_\_\_  
**SEND TAX STATEMENT TO:** \_\_\_\_\_

DESCRIPTION OF THE PROPERTY TRANSFERRED (check all that apply):

- REAL PROPERTY - legal description as set forth in the attached/referenced and previously recorded document
- REAL PROPERTY - current legal description *if different* than the foregoing document
- NON-REAL PROPERTY – property identified in the attached document, inc. digital property, bank accounts and securities

Name(s) and address of owner(s) of the property immediately after the decedent's death; attach additional names & addresses if more than one owner.	Interest of the signer of this document in the property:
	<input type="checkbox"/> joint tenant <input type="checkbox"/> remainder person if a life estate <input type="checkbox"/> mortgagee <input type="checkbox"/> land contract vendor <input type="checkbox"/> decedent's spouse <input type="checkbox"/> beneficiary of a marital property agreement <input type="checkbox"/> beneficiary of a transfer under 705.10(1) or 705.15 <input type="checkbox"/> other: _____

**DECLARATION:** To the best of undersigned's knowledge and belief, the undersigned declares that this document is true, accurate, complete and in conformity with the provisions and limitations of the Wisconsin Statutes.

DATE: \_\_\_\_\_

DECLARANT SIGNATURE

X \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ )

Signed and sworn to (or affirmed) before me on \_\_\_\_\_  
by \_\_\_\_\_

THIS DOCUMENT WAS DRAFTED BY:

\_\_\_\_\_

Print Name: \_\_\_\_\_  
Notary Public, State of \_\_\_\_\_  
My Commission (is permanent) (expires \_\_\_\_\_).

THIS IS A STANDARD FORM. ANY MODIFICATIONS TO THIS FORM SHOULD BE CLEARLY IDENTIFIED.  
TERMINATION OF DECEDENT'S INTEREST - Wisconsin Reg. of Deeds Association form HT-110 and TOD-110. Version 6.21.18

## XXVI. Petition for Certificate of Descent/Judgment Determining Descent

### Commentary and Instructions for [Form 5.24](#)

In rare cases, long periods may pass between the death of a property owner and the commencement of any estate proceeding. When six years have passed without the commencement of any action, any person interested in the estate may petition for a Certificate of Descent or a Judgment Determining Descent to establish the legal ownership of the property constituting the estate. A certificate is granted after a hearing without notice, while a judgment may be obtained only after hearing with notice.

#### Contents

- #1 Check the box if the decedent was not domiciled in Wisconsin but had property in the county in which the petition is being filed.
- #2 State the petitioner's interest defined in [Wis. Stat.](#) § 851.21.
- #3 See MIL Section 5 for a list of the decedent's heirs.
- #4 The estate may be subject to an inheritance tax but only if the decedent died before January 1, 1992. Check the applicable box.
- #5 Provide exact legal descriptions of the property, when available.
- #6 Enter the name of each heir and specify that person's interest in the property.
- #7 Enter the petitioner's name.

#### Distribution

Original: File with the court  
Conformed copies: Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.05

# Form 5.24 Petition for Certificate of Descent/Judgment Determining Descent (EST-0271)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

\_\_\_\_\_  
(Decedent's Name)  
Name

**Petition for**  
 **Certificate of Descent**  
 **Judgment Determining Descent**

Case No. \_\_\_\_\_ (Case No.)

- UNDER OATH, I STATE:**
- The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death),  
 was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address) or  
 had no domicile in Wisconsin. Property of decedent is located in this county.
  - The time and place of decedent's death as known or as can be ascertained with due diligence is as follows:  
 \_\_\_\_\_
  - I am interested as \_\_\_\_\_ (#2).
  - The decedent died intestate.
  - The estate was not administered and six years or more have elapsed since the decedent's death.
  - The names and mailing addresses of all heirs of decedent or their grantees entitled to an interest in the property are as follows: (For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)  See attached

Name	Relationship	Mailing Address	If Minor, Date of Birth
(#3)			

- This estate is not subject to an inheritance tax, OR  
 (#4)  This estate may be subject to an inheritance tax. A petition was filed for Appointment of a Special Administrator with powers to determine the tax.
- Decedent left the following described property for which a determination of descent is sought.  See attached

Legal Description
(#5)



9. The heirs or their grantees respective rights and interests in the property are as follows:  See attached

Name of Heir or Grantee	Interest in Property
(#6)	

10. Other: \_\_\_\_\_

**I REQUEST THE COURT:**

1. Determine the heirs of decedent and descent of the property and issue.

- a certificate of descent.
- a judgment determining descent.

2. Other: \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me on \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Court Official

\_\_\_\_\_  
Name Printed or Typed

My commission/term expires: \_\_\_\_\_

This notarial act involved the use of communication technology.

Form completed by: (Name) \_\_\_\_\_

Address \_\_\_\_\_

Email Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

Bar Number (If any) \_\_\_\_\_

▶ \_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
Address

Email Address \_\_\_\_\_ Telephone Number \_\_\_\_\_

Date \_\_\_\_\_ State Bar No. (If any) \_\_\_\_\_

## XXVII. Order and Notice for Hearing on Petition for Judgment Determining Descent

### Commentary and Instructions for [Form 5.25](#)

If a Certificate of Descent ([Form 5.26](#)) or Judgment Determining Descent ([Form 5.27](#)) will be necessary, prepare this order and request a hearing date. The clerk or the register in probate will set a time for the hearing and will order publication.

#### Contents

- #1 Check the box if the decedent was not domiciled in Wisconsin but had property in the county in which the petition was filed.
- #2 The court will enter the date and time.
- #3 Enter the name(s) or address(es) of interested persons who are not known or reasonably ascertainable.
- #4 Enter the name of the newspaper designated for publication of notice.

#### Distribution

Original: File with the court  
Conformed copies: Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.05(3)

**Form 5.25 Order and Notice for Hearing on Petition for Judgment Determining Descent (EST-0272)**

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) **Order and Notice for Hearing on Petition for Judgment Determining Descent**

Name \_\_\_\_\_ Case No. \_\_\_\_\_ (Case No.)

A Petition for Judgment Determining Descent of the Property of the Decedent was filed.

**THE COURT FINDS:**

The decedent, with date of birth \_\_\_\_\_ (Date of Birth) and date of death \_\_\_\_\_ (Date of Death), was domiciled in \_\_\_\_\_ (County Name) County, State of \_\_\_\_\_ (State Name), with a mailing address of \_\_\_\_\_ (Decedent's Address)

(#1)  Decedent had no domicile in Wisconsin. Property of decedent is located in this county.

**THE COURT ORDERS:**

1. The Petition be heard at the \_\_\_\_\_ (County Name) County Courthouse, \_\_\_\_\_ (Court's Address), Wisconsin, Room \_\_\_\_\_ (No.), before \_\_\_\_\_ (Court Official's Name) Court Official, on [Date] \_\_\_\_\_ (#2) at [Time] \_\_\_\_\_ (#2).

2. Publication of this Order is notice to any persons whose names or addresses are unknown.

**\*DO NOT PRINT the following if left blank:**

The names or addresses of the following interested persons (if any) are not known or reasonably ascertainable: \_\_\_\_\_ (#3)

If you require reasonable accommodations due to a disability to participate in the court process, please call \_\_\_\_\_ prior to the scheduled court date. Please note that the court does not provide transportation.

Please check with person named below for exact time and date.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)

**DO NOT PRINT the following text when publishing this order.**  
**Notice to Newspaper and Petitioner:**

CHAPTER 5

---

Notice must be given by publication of this order in the following newspaper: \_\_\_\_\_ (#4) \_\_\_\_\_  
once a week for three consecutive weeks.

The petitioner is responsible for providing notice to all interested persons

1. by mailing, at least 20 days before the hearing, a copy of this order to every person entitled to notice; **OR**
2. by personal service, at least 10 days before the hearing.

## XXVIII. Certificate of Descent

### Commentary and Instructions for [Form 5.26](#)

The Certificate of Descent is prima facie evidence of the facts it contains. Record a certified copy or a duplicate original of the certificate with the register of deeds when real property or a debt in real property is involved.

#### Contents

- #1 Check the box if the decedent was not domiciled in Wisconsin but had property in the county in which the petition is being filed.
- #2 State the petitioner's interest defined in [Wis. Stat.](#) § 851.21.
- #3 See MIL Section 5 for a list of the decedent's heirs.

#### Distribution

Original:	File with the court
Certified copy:	Register of deeds, if applicable
Conformed copies:	Petitioner and firm file

#### References

[Wis. Stat.](#) § 867.05(2)

Form 5.26 Certificate of Descent (EST-0273)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) \_\_\_\_\_ **Certificate of Descent**

Name \_\_\_\_\_ Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

A Petition for a Certificate of Descent of Property was filed. A hearing was held without notice.

THE COURT FINDS:

Based upon the evidence presented,

1. The decedent, with date of birth \_\_\_\_\_ (Date of Birth) \_\_\_\_\_, and date of death \_\_\_\_\_ (Date of Death) \_\_\_\_\_, was domiciled in \_\_\_\_\_ (County Name) \_\_\_\_\_ County, State of \_\_\_\_\_ (State Name) \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (Decedent's Address) \_\_\_\_\_.
- (#1)  Decedent has no domicile in Wisconsin. Property of decedent is located in this county.
2. The decedent died intestate.
- (#2) 3. This estate was not administered, and six years or more have elapsed since the decedent's death.  The Department of Revenue's Certificate Determining Inheritance Tax, is on file with the court.
4. Other: \_\_\_\_\_

THE COURT CERTIFIES DESCENT AS FOLLOWS:

See attached description

Name of Heir/Grantee	Interest in Property
(#3)	

Other: \_\_\_\_\_

Form completed by: (Name)	
Address	
Telephone Number	Bar Number

## XXIX. Judgment Determining Descent

### Commentary and Instructions for [Form 5.27](#)

If a Judgment Determining Descent is desired, a hearing must be held following notice. Record a duplicate original or certified copy of the judgment with the register of deeds when real property or a debt secured by real property is involved. Some courts require proof of recording. *See supra* [Form 4.43](#).

#### Contents

- #1 Check the box if the decedent was not domiciled in Wisconsin but had property in the county in which the petition is being filed.
- #2 State the petitioner's interest defined in [Wis. Stat.](#) § 851.21.
- #3 See MIL Section 5 for a list of the decedent's heirs.

#### Distribution

Original: File with the court  
Conformed copies: Petitioner, firm file, and register of deeds, if applicable

#### References

[Wis. Stat.](#) § 867.05(3)

Form 5.27 Judgment Determining Descent (EST-0274)

STATE OF WISCONSIN, CIRCUIT COURT, \_\_\_\_\_ COUNTY

IN THE MATTER OF THE ESTATE OF \_\_\_\_\_  Amended

(Decedent's Name) \_\_\_\_\_ **Judgment Determining Descent**

Name \_\_\_\_\_ Case No. \_\_\_\_\_ (Case No.) \_\_\_\_\_

A Petition for a Judgment Determining Descent of Property of the Decedent was filed and a hearing held on notice.

THE COURT FINDS:

Based upon the evidence presented,

- The decedent, with date of birth \_\_\_\_\_ (Date of Birth) \_\_\_\_\_, and date of death \_\_\_\_\_ (Date of Death) \_\_\_\_\_, was domiciled in \_\_\_\_\_ (County Name) \_\_\_\_\_ County, State of \_\_\_\_\_ (State Name) \_\_\_\_\_, with a mailing address of \_\_\_\_\_ (Decedent's Address) \_\_\_\_\_.
- Decedent has no domicile in Wisconsin. Property of decedent is located in this county.
- The decedent died intestate.
- This estate was not administered and six years or more have elapsed since the decedent's death.  The Department of Revenue's Certificate Determining Inheritance Tax is on file with the court.
- Other: \_\_\_\_\_

THE COURT ENTERS JUDGMENT DETERMINING DESCENT AS FOLLOWS:  See attached description

Name of Heir/Grantee	Interest in Property
(#3)	

Other: \_\_\_\_\_

THIS IS A FINAL ORDER FOR THE PURPOSE OF APPEAL IF SIGNED BY A CIRCUIT COURT JUDGE.

Form completed by: (Name)	
Address	
Telephone Number	Bar Number



# Chapter 6

## Estate and Income Taxes

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➤ *Note.* Very special thanks are extended to Reinhart attorney Brett Erdmann for his help in updating this chapter. Mr. Erdmann is with the Milwaukee office and is an attorney in the firm’s trusts and estates practice. He received his law degree (magna cum laude) from Marquette University and his undergraduate degree from the University of Wisconsin-Madison.

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### Introduction

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Chapter 6 focuses on estate and income taxes and the various tax returns that may need to be filed on behalf of the decedent and the estate. The personal representative must ensure that all necessary tax returns are completed and filed on behalf of the decedent and the estate. These necessary tax returns may include the decedent’s last income tax return, the estate’s fiduciary income tax returns, and the estate tax return.<sup>1</sup>

This chapter begins with a discussion of the estate tax. An estate tax return must be filed only if the estate has assets valued over a certain threshold, which means that only large estates have a duty to file such returns (indexed for inflation, the federal threshold is currently \$11.7 million for 2021 and scheduled to revert to \$5 million in 2026). The second part of this chapter discusses income taxes, both for the decedent individually and for the estate.

Samples of the federal estate tax returns and fiduciary income tax returns (for both federal and Wisconsin purposes), are provided. The tax returns are based on the William O. Hart fact pattern in this chapter.

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<sup>1</sup> Unless otherwise indicated, all references in this chapter to the Wisconsin Statutes are to the 2019–20 Wisconsin Statutes, as affected by acts through 2021 Wis. Act 24; all references to the Internal Revenue Code (I.R.C.) are current through Pub. L. No. 117-7 (Apr. 14, 2021); and all references to the Treasury regulations (Treas. Reg.) are current through 86 Fed. Reg. 19,787 (Apr. 15, 2021).

Tax forms and instructions are available online at <https://www.irs.gov> (federal) and <https://www.revenue.wi.gov> (Wisconsin) (both last visited Apr. 13, 2021).

## Electronic Filing

Wisconsin attorneys must electronically file documents, except for documents requiring personal service, in probate actions that are initiated by mandatory users of the eFiling system. Wis. Stat. § 801.18(2), (3)(a); Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). Every Wisconsin attorney who files cases must create a registration and password and the Wisconsin Court System provides instructions for creating the registration. Wis. Stat. § 801.18(3); Wis. Ct. Sys., *Creating an eCourts Account* (Mar. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/registercourts.pdf>.

The Wisconsin Court System provides instructions specific to electronically filing probate documents. Wis. Ct. Sys., *eFiling a New Probate Case* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileprobatecase.pdf>. An electronic filing fee of \$20 is due with the initial filing. *See* Wis. Stat. § 801.18(7)(c). The fee can be paid via credit card or an electronic check. The clerk of courts will charge a 2.75% fee for credit card payments and a flat fee of \$1.95 for electronic check payments.

Regarding documents particular to probate, the original will must still be physically delivered or sent to the probate court for filing. When the Inventory is filed, the inventory filing fee must be paid at the same time. The Wisconsin Court System provides detailed instructions for electronically filing the Inventory. Wis. Ct. Sys., *eFiling an Inventory or Exhibited Inventory* (Sept. 2018), <https://www.wicourts.gov/ecourts/efilecircuit/docs/fileinventoryexhibinventory.pdf>.

If the court accepts a document, the document is considered filed on the date the document is electronically submitted to the court, even though the attorney may receive electronic notice of the filing several days later. Wis. Stat. § 801.18(4). The eFiling system accepts submissions even when the clerk's office is not open, and a document is considered to have been filed on a particular calendar day as long as submission is complete by 11:59 p.m. Central Time. Wis. Stat. § 801.18(4)(d), (e). If payment is required, the document is not filed until payment is received. Wis. Stat. § 801.18(7)(b).

All parties that have opted into electronic filing will receive an email when the court accepts a filing. Except for documents requiring personal service, the electronically issued court notice of filed documents has the same effect as traditional service for parties that have opted into electronic filing because all such parties receive electronic notice of filings. Wis. Stat. § 801.18(6). Note that estate beneficiaries and claimants that are unrepresented and not registered users must still be served with paper copies. If a beneficiary or claimant obtains counsel, the attorney may be served via electronic filings.

Based on the author's experience and a panel discussion with the Milwaukee County Deputy Registers in Probate and Court Commissioner, cover letters are not needed for court filings, but they may be filed and should be filed if an explanation is required.

Local circuit courts cannot electronically issue certified copies (e.g., Domiciliary Letters). Certified copies must be requested in person or via traditional mail and the relevant fee paid with the request.

The Wisconsin Court System provides updated information for electronic filing on both general and probate topics. Wis. Ct. Sys., *Circuit Court eFiling*, <https://www.wicourts.gov/ecourts/efilecircuit/index.jsp> (last updated Sept. 25, 2020). The Wisconsin Court System eFiling Support Center can be contacted by phone at 1-800-462-8843, email, or online chat and is very helpful with questions. Wis. Ct. Sys., *Contact eFiling Support*, <https://www.wicourts.gov/ecourts/efilecircuit/efilefeedback.htm> (last updated Apr. 20, 2021). When filing in a new county, always check local rules and call the local register in probate to determine local practice and procedure.

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## Outline of Estate and Income Taxes

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- I. [Estate Taxes](#) [§ 6.1]
  - A. [Overview](#) [§ 6.2]
  - B. [Special Note on Estate Tax](#) [§ 6.3]
  - C. [Tax Identification Number, Notice Concerning Fiduciary Relationship, and Filing Deadlines, Thresholds, and Extensions](#) [§ 6.4]
  - D. [Property Included in Decedent's Estate for Tax Purposes](#) [§ 6.5]
  - E. [Estate Tax Deductions](#) [§ 6.6]
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  - I. [Other Income Tax Considerations](#) [§ 6.19]

### I. Estate Taxes [§ 6.1]

#### A. Overview [§ 6.2]

1. Personal representative is personally liable for payment of estate taxes. I.R.C. § 6901; [Wis. Stat.](#) § 72.21.
2. Once personal representative has paid tax that personal representative has determined to be due, personal representative can request to be discharged from personal liability for any deficiency in taxes thereafter found to be due. I.R.C. § 2204; *infra* [Form 6.13](#).
  - a. If request filed, IRS must notify personal representative of estate tax due within nine months after filing request; if no IRS notice filed, personal representative is released from personal liability.
  - b. Personal representative's release from liability does not release estate or beneficiaries from liability.
3. The personal representative can request prompt assessment of the estate tax. Once prompt assessment is requested, the tax must be assessed within 18 months. I.R.C. § 6501(d); *infra* [Form 6.12](#).

## B. Special Note on Estate Tax [§ 6.3]

### 1. Wisconsin's estate tax

Wisconsin's estate tax expired on January 1, 2008. For the year 2007, Wisconsin imposed an estate tax for taxable estates over \$675,000. The future of the Wisconsin estate tax is uncertain. Even though there is currently no such tax, it might reappear in the future.

### 2. Federal estate tax

On December 17, 2010, the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010 (TRA) came into effect, which reinstated the estate tax. The estate tax rate for 2011 and 2012 was 35%. The American Taxpayer Relief Act of 2012, Pub. L. No. 112-240, 126 Stat. 2313, raised the rate to 40%. The federal estate tax rate has remained at 40% since then.

The TRA also introduced the concept of *portability* of the federal estate tax exemption for married couples. Under the American Taxpayer Relief Act of 2012, portability of the estate tax exemption was made permanent for 2013 and future years. Portability means that when a spouse dies, any unused estate tax exclusion transfers to his or her surviving spouse. For example, if Bob is married to Jane and he dies with \$3 million of his \$11.58 million 2020 exclusion unused, Jane's exclusion would typically total \$14.58 million—the total of Bob's \$3 million unused exclusion and her own full exclusion—upon her death.

As noted previously, only large estates are subject to federal estate tax. The TRA implemented an estate tax exemption of \$5 million, as indexed for inflation. On December 22, 2017, the Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), doubled the estate tax exemption amount temporarily. Under this act, beginning in 2018 the exemption amount is \$10 million, indexed for inflation (\$11.58 million in 2020, \$11.7 million in 2021), and will revert to \$5 million, indexed for inflation, in 2026.

To take advantage of portability, the deceased spouse's personal representative should elect portability on the federal estate tax return. This is true even when no estate tax return needs to be filed because the decedent's estate did not exceed the exemption amount. This is the only way portability may be elected.

## C. Tax Identification Number, Notice Concerning Fiduciary Relationship, and Filing Deadlines, Thresholds, and Extensions [§ 6.4]

### 1. Tax identification number (EIN)

- a. Personal representative will use decedent's Social Security number on federal and Wisconsin estate tax returns.

➤ **Note.** For decedents dying on January 1, 2008, and after, there is no Wisconsin estate tax.

- b. However, attorney or personal representative should obtain EIN as soon as possible and should provide EIN to financial institutions at which decedent maintained solely owned accounts and at which estate accounts are opened and instruct institutions to accrue interest under EIN after decedent's date of death so that income will be attributed to estate. *See infra* [Forms 6.1, 6.2](#).
  2. Notice Concerning Fiduciary Relationship: IRS requires that personal representative give Notice Concerning Fiduciary Relationship so that personal representative will receive notice of any tax deficiencies. I.R.C. § 6903; *infra* [Forms 6.3, 6.4](#).
    - **Note.** If no notice is filed, correspondence will be sent to the decedent's last known address.
  3. Federal deadlines
    - a. Federal estate tax return is due nine months from decedent's date of death or by the date of any extension received for filing. I.R.C. § 6075; *infra* para. 7., [Forms 6.5, 6.6](#).
    - b. Federal estate taxes owing are due on the due date of estate tax return (determined without extensions of time to file), which is exactly nine months from decedent's date of death, unless extension for payment of estate tax has been granted; check or money order should be included with federal estate tax return or with request for extension of time to file. I.R.C. § 6151(a).
      - (1) IRS has discretion to grant extensions of time to pay the tax for "reasonable cause." I.R.C. § 6161(a)(2); *see infra* para. 8.
      - (2) Taxpayer may be entitled to defer tax attributable to closely held businesses. I.R.C. § 6166.
    - c. Timely mailing is considered timely filing, and timely filing is important because some elections are available only if made on timely filed return. I.R.C. § 7502(a)(1).
    - d. Timely mailing may be proven by certified or registered mail receipt. I.R.C. § 7502.
  4. Federal filing threshold

Federal estate tax return must be filed when total taxable assets (*after* adding back taxable lifetime gifts and *before* deductions) exceeds applicable exemption amount, which are as follows:

<u>Year of Death</u>	<u>Amount</u>
2009	\$3,500,000
2010–11	\$5,000,000
2012	\$5,120,000
2013	\$5,250,000
2014	\$5,340,000
2015	\$5,430,000
2016	\$5,450,000
2017	\$5,490,000
2018	\$11,180,000
2019	\$11,400,000
2020	\$11,580,000
2021	\$11,700,000

I.R.C. § 6018; I.R.C. § 2010(c), *as amended by* Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, §§ 521, 542, 901, 115 Stat. 38, 71, 76–86; Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act of 2010, Pub. L. No. 111-312, § 302, 124 Stat. 3296, 3301; American Tax Payer Relief Act of 2012, Pub. L. No. 112-240, § 101(c), 126 Stat. 2013; Tax Cuts and Jobs Act, Pub. L. No. 115-97, § 11061, 131 Stat. 2091 (2017).

#### 5. Extension of time to file

- a. Federal: Application may be made for extension of time to file estate tax return; application must be filed before due date of return. I.R.C. § 6081(a); IRS Form 4768.

- (1) Extension will be automatic if requested on IRS Form 4768; the application for extension must include an estimate of the full estate and generation-skipping transfer tax due. Treas. Reg. § 20.6075-1; Treas. Reg. § 20.6081-1.
- (2) Application for extension must be filed with the IRS Service Center where the return will be filed; if the return will be hand-delivered to the local IRS District Office, the application should be filed with the Service Center designated for returns filed by mail or private delivery service rather than with the local District Office.

➤ **Note.** For information regarding filing locations, see [Form 6.5](#) (commentary and instructions) and [Form 6.6](#).

- (3) Include payment of any estimated tax due with application for extension unless application for extension of time to pay is simultaneously being requested. *See infra* para. 8.
- (4) Late-filed applications for extension of time to file may be granted for good cause. Treas. Reg. § 20.6081-1(c).

## 6. Extension of time to pay federal estate tax

Extension of up to 12 months may be granted for time to pay estate tax as determined by taxpayer on estate tax return. I.R.C. § 6161(a)(1).

- a. If good cause can be shown, IRS may extend time for making payment for reasonable period not exceeding 10 years. I.R.C. § 6161(a)(2).
- b. Use same form as application for extension of time to file.
- c. Interest on extensions accrues at federal underpayment rate. I.R.C. § 6621.

## 7. Penalty for failure to timely file. I.R.C. § 6651(a)(1).

Federal: Penalty for failure to timely file estate tax return is equal to 5% of tax due each month or fraction thereof that return is late (maximum penalty is 25%).

## 8. Penalty and interest for failure to timely pay estate tax. I.R.C. § 6651(a)(2).

Federal: Penalty for failure to timely pay estate tax is equal to 0.5% of tax due each month or fraction thereof that return is late at quarterly published rate (maximum penalty is 25%); interest on underpayment is determined under IRS published rate tables.

**D. Property Included in Decedent's Estate for Tax Purposes [§ 6.5]**

1. Value of gross estate includes value of all property to extent of decedent's interest in property at time of decedent's death, Treas. Reg. § 20.2031-1(a):
  - a. Interests in property passing through decedent's probate estate (consult MIL Sections 11–16), I.R.C. § 2033;
  - b. Certain interests in property transferred by decedent during lifetime (consult MIL Section 19), I.R.C. § 2035;
  - c. Certain transfers under which beneficial enjoyment of property could be enjoyed only by decedent during life (consult MIL Section 19), I.R.C. § 2036;
  - d. Transferred property over which decedent had power at time of death to change beneficial enjoyment (consult MIL Section 19), I.R.C. § 2038;
  - e. Annuities (consult MIL Section 21), I.R.C. § 2039;
  - f. Jointly held property (consult MIL Section 18), I.R.C. § 2040;
  - g. Certain powers of appointment held by decedent, I.R.C. § 2041;
  - h. Life insurance (consult MIL Section 17), I.R.C. § 2042; and



- i. Powers held by decedent over beneficial enjoyment of property not originating with decedent (consult MIL Section 20), I.R.C. § 2041.

➤ **Note.** The gross estate may also include property in which the decedent did not have an interest at death. Treas. Reg. § 20.0-2(b)(2).

2. Marital property

- a. Generally one-half of all marital property is included in gross estate.
- b. All deferred marital property in decedent's name is included in gross estate (if surviving spouse exercises deferred marital property rights, marital deduction will be available).
- c. Failure to make deferred marital property election may result in effective disclaimer when deferred marital property succeeds to person other than surviving spouse; ordinarily, disclaimer of interest in deferred marital property may be used to avoid having property in disclaimant's estate or to create tax in donor's estate because transfer to disclaimant would have been exempt. I.R.C. § 2518.
- d. Exchanges of former marital property after death of first spouse to die may constitute sale that triggers taxable gain, although basis adjustment at death may reduce effect.

3. Valuation

- a. Gross value of estate usually determined at fair market value, generally defined as price at which willing seller would sell to willing buyer, neither party being under compulsion to buy or sell and both parties with reasonable knowledge of relevant facts. Treas. Reg. § 20.2031-1(b).
  - (1) Assets must be valued at gross market value without any reduction for liens or encumbrances.
  - (2) Special rules for valuation of stocks and bonds, interests in business, notes, cash on hand or on deposit, household and personal effects, certain life insurance and annuity contracts, and shares in open-end investment companies. Treas. Reg. § 20.2031-2; Treas. Reg. § 20.2031-3; Treas. Reg. § 20.2031-4; Treas. Reg. § 20.2031-5; Treas. Reg. § 20.2031-6; Treas. Reg. § 20.2031-8.
- b. Property may be valued either on decedent's date of death or on date exactly six months from decedent's date of death (alternative valuation date). I.R.C. § 2032.
  - (1) Alternative valuation date may be elected by checking appropriate box on federal estate tax return.

- (2) Election is irrevocable and may be made only if it decreases both value of gross estate and amount of income tax liability.
- (3) Marital deduction eliminates cost of alternative valuation with respect to property for which marital deduction is taken.
- (4) Alternative valuation may affect qualification of distributions in redemption of stock to pay death taxes. I.R.C. § 303.
- (5) Alternative valuation may affect whether installment method may be used to pay income taxes. I.R.C. § 6166.

➤ *Note.* When the alternative valuation date is used, any property sold or distributed before the six-month period must be valued on the date of transfer. The personal representative should balance the advantages of alternative valuation, which lowers the value of the estate, against the possible increase in income taxable to beneficiaries when the property is sold.

c. Special valuations

- (1) Farm and small business property. I.R.C. § 2032A.
- (2) Crops and livestock. Rev. Rul. 58-436, 1958-2 C.B. 366.
- (3) Closely held business in which decedent owned preferred stock or preferred partnership interest or where business is to be evaluated according to terms of buy-sell agreement. I.R.C. § 2701; I.R.C. § 2703.
- (4) Limitations on decreases in property valuation resulting from special use valuations. I.R.C. § 2032A(a)(2).

4. Federal estate tax penalty for undervaluation

- a. Underpayment due to negligence, disregard of rules or regulations, or substantial understatement of estate tax valuation: 20% of underpayment. I.R.C. § 6662(a), (b).
- b. Gross valuation misstatement: 40%. I.R.C. § 6662(h).

## E. Estate Tax Deductions [§ 6.6]

1. Value of taxable estate is calculated by subtracting allowable deductions from value of gross estate (certain deductions are also allowed against income taxes; in some cases, personal representative must choose which tax against which to take deduction). Treas. Reg. § 20.0-2(b)(3).
  - a. Administration expenses. I.R.C. § 2053.

- (1) To be deductible, administration expenses must be allowable under applicable state law and incurred only for estate administration, preservation, or distribution. I.R.C. § 2053(a); Treas. Reg. § 20.2053-3.
  - (2) Wisconsin law allowing personal representative's expenses and fees to be charged to estate meets state law factor for federal deductibility. [Wis. Stat.](#) §§ 857.05, 857.07.
- b. Debts of decedent. I.R.C. § 2053.
  - c. Casualty losses. I.R.C. § 2054.
  - d. Marital deduction. I.R.C. § 2056.
  - e. Charitable deduction. I.R.C. § 2055.
2. Deductions for federal estate tax only
    - a. Funeral expenses
    - b. Marital deduction
    - c. Federal income tax due as of date of death (may be deducted on estate tax return but not on estate's income tax return). I.R.C. § 691(b)(1); I.R.C. § 164.
      - **Note.** As of 2005, state death taxes (if any) would be an estate tax deduction, rather than a credit. I.R.C. § 2058.

## F. Deductions for Federal Estate Tax and Estate Income Tax [§ 6.7]

1. Some taxes and expenses that are deductible for income tax purposes may also be deductible for estate tax purposes (double deductions).
  - a. Real estate taxes levied but unpaid as of time of death. Treas. Reg. § 20.2053-6(b).
  - b. Real estate taxes deductible on estate income tax return in which the tax payment was made. I.R.C. § 691(b)(1); I.R.C. § 164.
    - **Note.** The Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), limits the aggregate deduction for state and local real property taxes and state and local personal property taxes to a maximum of \$10,000 per year. This limitation is temporary and will expire December 31, 2025.

- c. State income taxes due as of date of death, including taxes owed on decedent's final income tax return. I.R.C. § 691(b)(1); I.R.C. § 164.  
  
➤ **Note.** The Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), limits the aggregate deduction for state and local income taxes to a maximum of \$10,000 per year. This limitation is temporary and will expire December 31, 2025.
  - d. Accrued interest due on decedent's obligations as of date of death may be deducted as part of decedent's debt on estate tax return and also on estate's income tax return in fiscal year in which fiduciary pays interest. I.R.C. § 691(b)(1); I.R.C. § 163.
  - e. Decedent's trade or business expenses due as of date of death (may be deducted on estate tax return and also on estate's income tax return in fiscal year in which paid). I.R.C. § 691(b)(1); I.R.C. § 162.
  - f. Expenses for producing income (e.g., investor's expenses and legal fees) accrued to date of death to extent otherwise allowable for income tax purposes. I.R.C. § 212.
2. When calculating administration expenses, following items may only be deducted on either estate tax return or fiduciary income tax return (i.e., cannot be used as double deductions), I.R.C. § 642(g):
    - a. Selling expenses;
    - b. Fees for personal representative, attorney, appraiser, and accountant;
    - c. Court costs, filing fees, and personal representative's bond premiums;
    - d. Losses incurred because of fire, storm, theft, or other casualty during estate proceedings and not compensated by insurance; and
    - e. Interest expense accruing after date of death.  
  
➤ **Note.** Interest on federal estate tax deferred under I.R.C. § 6166 cannot be deducted on either return. I.R.C. § 2053(c)(1)(D).
  3. If estate must pay federal estate tax, personal representative must determine whether deductions for administration expenses will be more valuable if used against estate tax or income tax (business expenses, interest, taxes, or expenses for production of income owned by decedent at time of death are deductible on either estate tax return or income tax return). Rev. Rul. 5324, 1953-2 C.B. 79; I.R.C. § 162; I.R.C. § 163; I.R.C. § 164; I.R.C. § 212; Rev. Rul. 71-442, 1971-2 C.B. 336.

4. When considering value of deducting administration expenses on estate tax return, personal representative should consider effect of deduction on marital deduction and marital share, as well as on estate's qualification under I.R.C. § 303 or I.R.C. § 6166 and amount of charitable deduction.
  - a. If estate elects fiscal year ending on December 31 or earlier, personal representative may be able to make distributions to surviving spouse before end of calendar year so that distributable net income may be reported on joint return.
  - b. Personal representative should compare estate's tax rate for taxable year in which administration expenses are paid and residuary beneficiaries' tax brackets (if administration expenses are paid and deducted on estate's final income tax return, any excess of deductions over income in final tax period flows through to succeeding beneficiaries; beneficiary will obtain tax benefit only if excess deductions may be used as itemized deductions and beneficiary's total miscellaneous deductions exceed two percent of beneficiary's adjusted gross income (AGI)).
    - **Example.** *B* dies in 2019, leaving a taxable estate of \$11,450,000. In the estate's final year, administration expenses of \$50,000 are paid and all property is distributed to *B*'s son, who is in a 24% combined federal and state income tax bracket. The son itemizes his deductions. If no election is made to claim them on the estate tax return, the son will save \$12,000 in income taxes. However, if administration expenses are claimed on the estate tax return, the federal estate taxes will be reduced by a total of \$20,000.
    - **Note.** If some or all administration expenses are deducted on the final estate income tax return and carried out to be deducted by a beneficiary who is not subject to income taxes (because of low income), or if the beneficiary does not itemize deductions, the expenses will not produce any tax benefit.
5. If personal representative elects to claim administration expenses on income tax return, waiver of right to claim expenses on estate tax return must be filed with income tax return (provision does not apply to deductions relating to income in respect of decedent, *see infra* § 6.18, but election will affect marital deduction). I.R.C. § 641; I.R.C. § 642(g); I.R.C. § 2053; Treas. Reg. § 1.642(g)-1; *infra* [Form 6.5](#).
6. Estate must apportion certain indirect administration expenses to tax-exempt income; amounts so apportioned are not deductible from estate's gross income, but are fully deductible for estate tax purposes. Treas. Reg. § 1.652(b)-3(b); Rev. Rul. 59-32, 1959-1 C.B. 245.
  - **Example.** An estate earns income of \$100,000 in 2019, of which \$20,000 is tax-exempt. In the same year, the estate pays \$25,000 in attorney fees. Twenty percent of the attorney fees (\$5,000) must be allocated to tax-exempt income and cannot be deducted for income tax purposes, although the 20% non-income taxable portion of the attorney fees may be claimed as an estate tax deduction.

7. Decision to claim administration expenses on income tax return may favor income beneficiary at expense of remainderman; courts in other states have required income beneficiaries to reimburse principal for lost estate tax savings when no provision in will has controlled. See *Estate of Bixby*, 295 P.2d 68 (Cal. Dist. Ct. App. 1956); *Estate of Warms*, 140 N.Y.S.2d 169 (Sup. Ct. 1955).
8. For personal representative, amounts claimed on federal estate income tax return must also be claimed on state estate income tax return. I.R.C. § 67(e).

### G. Computation of Tax [§ 6.8]

1. Since 2013, there has been a flat 40% federal estate tax. In earlier years, the gross estate tax was computed by using the tax table in the federal estate tax return instructions, showing progressive rates from effective minimum of 37% to maximum of 60%. I.R.C. § 2001.

### H. Attachments to Estate Tax Return [§ 6.9]

See generally *infra* [Form 6.5](#).

1. Attachments to return. Treas. Reg. § 20.6018-4.
  - a. Court-certified copy of will, with attorney-verified copies of *inter vivos* trust, *infra* [Forms 6.8](#), [6.9](#);
  - b. Life insurance statement for insured decedent (IRS Form 712), *supra* [Form 3.54](#);
  - c. Decedent's federal gift tax returns (IRS Form 709); and
  - d. Other supporting documents
    - (1) Financial statements for closely held businesses for each of five years preceding valuation date;
    - (2) Evidence supporting statements regarding sale or distributions during alternative valuation period;
    - (3) Copies of written instruments supporting transfers during life (for example, trusts or deeds), with attorney certificates for unrecorded documents;
    - (4) Death certificate; and
    - (5) Copies of any other documents as necessary.

2. Consider additional schedules:
  - a. Credit for prior federal gift taxes, IRS Form 4808;
  - b. Credit for prior federal death taxes, IRS Form 3229; and
  - c. Power of Attorney, IRS Form 2848.

## II. Income Taxes [§ 6.10]

### A. Overview [§ 6.11]

1. Personal representative is personally liable for payment of federal income taxes on estate income (fiduciary income tax) and may be subject to transferee liability for decedent's unpaid income taxes. I.R.C. § 6901; I.R.C. § 6012(b)(1).
2. Personal representative must file Notice Concerning Fiduciary Relationship (IRS Form 56). *See* I.R.C. § 6903; *supra* § [6.4](#).
3. *After* personal representative has paid decedent's income and gift taxes due, personal representative can request to be discharged from personal liability for additional deficiency. I.R.C. § 6905.
4. Personal representative may request prompt assessment of decedent's income tax returns. I.R.C. § 6501(d); *infra* [Form 6.11](#).
  - a. Requesting prompt assessment will limit period for audit and assessment to 18 months following timely filing of return.
  - b. Request must be made after final federal income tax return is filed, but no later than three years after return is filed.

### B. Decedent's Final Income Tax Return [§ 6.12]

➤ *Note.* IRS Form 1040 and Wisconsin Department of Revenue (DOR) Form 1 are *not* reproduced in this book.

1. Filing thresholds
  - a. Federal income tax return must be filed when taxable income exceeds decedent's exemptions and standard deductions. I.R.C. § 6012(a)(1).
  - b. Wisconsin income tax return must be filed when federal return must be filed.

2. Due date for decedent's final individual income tax return
  - **Note.** Use the decedent's Social Security number, not the estate's EIN, on the decedent's final return. If the decedent dies before filing return for the year before death, the personal representative must file for two final years.
  - a. Federal: Either on or before April 15 following close of calendar year, personal representative should file income tax return for last year in which decedent was alive. I.R.C. § 6072(a); IRS Form 1040.
  - b. Wisconsin: Due same day as federal return. DOR Form 1.
3. Extension of time to file decedent's final individual return
  - a. Federal: Personal representative may request automatic six-month extension of time to file. I.R.C. § 6081; IRS Form 4868.
  - b. Wisconsin: Federal extension extends time to file Wisconsin final individual return as long as copy of extension request is sent to DOR. [Wis. Stat.](#) § 71.03(7).
4. Decedent's income tax payment
  - a. Federal: Full amount of income tax payment is due on date return normally must be filed. I.R.C. § 6151(a).
    - **Note.** While the estate is only required to make estimated tax payments for the estate income tax for any taxable year ending two or more years after the decedent's death, the decedent may have been required to make estimates. The personal representative should make any required final estimates for the decedent. I.R.C. § 6654.
    - **Note.** If a refund is due, the personal representative should file with the IRS the Statement of Person Claiming Refund Due a Decedent Taxpayer (attach a copy of the Domiciliary Letters). IRS Form 1310.
  - b. Wisconsin: Full amount of income tax payment is due on 15th day of fourth month following close of decedent's tax year. [Wis. Stat.](#) § 71.03(8)(b).
    - **Note.** If a refund is due, the personal representative should file with the DOR the Claim for Decedent's Wisconsin Income Tax Refund. DOR Form I-804.



### C. Joint or Separate Returns [§ 6.13]

1. Personal representative may file joint return with surviving spouse if decedent had not previously filed income tax return for that taxable year; net operating loss and capital loss carry-over may be used to offset any of surviving spouse's income that must be included in decedent's final income tax return. I.R.C. § 6013(a)(3).

➤ **Practice Tip.** To use up personal deductions, it may be advantageous to shift income from the estate to the surviving spouse by making distributions.

2. If personal representative is appointed after surviving spouse has filed joint return with decedent for that taxable year, personal representative may disaffirm joint return by filing separate return for decedent for same taxable year (time limits for filing must still be observed). I.R.C. § 6013(a)(3).

3. If separate returns are filed, certain income and deductions may be divided equally between each spouse's return (income from marital property, and deductions allocable to production of income from marital property).

➤ **Note.** A spouse who files a separate return and who is unaware of the amount and nature of the other spouse's marital income before the due date of return may be protected. I.R.C. § 66(c); I.R.C. § 879; [Wis. Stat.](#) § 71.10(6).

4. Spouse is relieved from liability if joint return has "understatement of tax attributable to erroneous items" of other spouse if first spouse did not know and had no reason to know of understatement and it would be inequitable to hold first spouse liable. I.R.C. § 6015.

### D. Estate's Income Tax Return [§ 6.14]

1. Taxpayer identification number (EIN)
  - a. Apply for federal EIN as soon as possible in order to use EIN on estate's income tax returns. *See infra* [Forms 6.1](#), [6.2](#).
  - b. If IRS has not issued EIN by time estate's first income tax return is due, preparer should enter "Applied For" and date application was made in space shown for EIN on return.

2. Income and deductions
  - a. Generally, one-half of income earned on marital property is taxable to estate and other half is taxable to surviving spouse; decedent's management and control rights to which personal representative succeeds should not alter this result. *United States v. Merrill*, 211 F.2d 297 (9th Cir. 1954).
  - b. In general, estate or trust is allowed same income tax deductions as individual is allowed; however, certain deductions may be deducted for either estate or income tax purposes, but not both. I.R.C. § 641(b); I.R.C. § 642(g); *see supra* [§ 6.7](#).

- (1) Estate administration expenses (but not if deducted on federal estate tax return). I.R.C. § 212.

➤ **Note.** There is a two-percent AGI floor on miscellaneous itemized deductions for administration expenses; however, this limitation does not apply if expenses would *not* have been incurred if property was not in estate. These expenses are difficult to identify. The Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054 (2017), suspended all miscellaneous deductions under I.R.C. § 67 for tax years 2018–2025. The IRS issued proposed regulations, which may be relied on for taxable years beginning after December 31, 2017, clarifying that certain deductions (costs paid or incurred in connection with the administration of an estate or non-grantor trust that would not have been incurred if the property were not held in the estate or trust, the personal exemption of an estate or non-grantor trust, the distribution deduction for trusts distributing current income, and the distribution deduction for estate and trusts accumulating income) are not miscellaneous itemized deductions. Effect of Section 67(g) on Trusts and Estates, 85 Fed. Reg. 27,693 (proposed May 11, 2020). Accordingly, these deductions are not affected by the suspension of the deductibility of miscellaneous itemized deductions. With respect to the I.R.C. § 642(h) excess deductions on the termination of an estate or trust allowed as a deduction to the succeeding beneficiaries, the proposed regulations clarify that each deduction retains its separate character as (1) an amount allowed in arriving at adjusted gross income; (2) a nonmiscellaneous itemized deduction; or (3) a miscellaneous itemized deduction. *See* 85 Fed. Reg. 27,693.

➤ **Note.** Estate must apportion certain indirect administration expenses to tax-exempt income and must *not* deduct that portion from income. Treas. Reg. § 1.652(b)-3(b).

- (2) Certain taxes. I.R.C. § 164(a).
- (a) Real estate taxes, both accrued and payable;
  - (b) State income taxes paid by fiduciary; and
  - (c) Federal estate taxes, in some instances. *See infra* § [6.18](#).
- (3) Accrued interest due on decedent’s date of death. I.R.C. § 163.
- (4) Trade or business expenses and other expenses for producing income (e.g., investor’s expenses and legal fees) to extent otherwise allowable for income tax purposes. I.R.C. § 162; I.R.C. § 212.
- (5) Each estate is entitled to \$600 personal exemption. I.R.C. § 642(b).
- (6) Distributions to beneficiaries
- (a) Charitable beneficiary, I.R.C. § 642(c); and

(b) Other beneficiaries, I.R.C. § 661.

3. Federal income tax return must be filed on 15th day of 4th month following close of estate's tax year. I.R.C. § 6072(a); *infra* [Form 6.10](#).
4. Wisconsin income tax return must be filed on or before due date for federal income tax return. *See infra* [Form 6.11](#).

➤ **Note.** Some attorneys recommend filing the income tax return even if the decedent's income is below the mandatory filing threshold. It may be easier to obtain a DOR closing certificate than to write the DOR and explain that the income is below the filing threshold. Also, filing causes the statutes of limitation for taxes to begin to run.

- a. Before termination of appointment, personal representative should file estate income tax return beginning with period from date of decedent's death to close of taxable year elected (calendar or fiscal) and all subsequent fiscal years the estate is open. [Wis. Stat.](#) § 71.13(1).

➤ **Note.** DOR will determine all taxes due, including interest, penalties and costs, and delinquencies, and will issue Closing Certificate for Fiduciaries once all such amounts are paid, which will release personal representative from further liability for tax-related expenses unless taxes are contested within six months. [Wis. Stat.](#) § 71.13(2)(b).

- b. Personal representative should request Closing Certificate for Fiduciaries from DOR when filing next-to-last federal estate income tax return. *See infra* [Forms 6.14, 6.15](#).
- c. DOR will issue certificate if at least one estate return has been filed, but issuance of certificate will not affect personal representative's obligation to file and pay taxes, penalties, interest, and costs on income, sales, and withholding returns that cover estate's final income year.

5. Estate's income tax payment

- a. Federal: Payment is due either

- (1) In full on date return normally is required to be filed, I.R.C. § 6151(a), or
- (2) In four equal installments on or before 15th day of 4th, 6th, 9th, and 13th months of the year before the estate's taxable year.

- b. Wisconsin: Same as federal. [Wis. Stat.](#) §§ 71.03(8), 71.09.

6. Extension of time to file estate's income tax return
  - a. Federal: Application may be made upon showing of good cause; extension may be granted for up to 60 days, but is not automatic. I.R.C. § 6081(a); IRS Form 2758.
  - b. Wisconsin: Federal extension extends Wisconsin due date as long as copy of extension request is sent to DOR. [Wis. Stat.](#) § 71.03(7).

## E. Selecting Fiscal Years for Estate Income Tax Purposes [§ 6.15]

1. For tax purposes, calendar year is 12-month period ending on December 31. I.R.C. § 441(d).
2. For tax purposes, fiscal year is 12-month period ending on last day of any month other than December and first day of fiscal year is usually date of decedent's death. I.R.C. § 441(e).

➤ **Example.** If the decedent died on March 15, the fiscal year may end on the last day of any month following but no later than February 28 of the next year.

➤ **Note.** The personal representative may make a first or last return for a period of less than 12 months. I.R.C. § 443(a)(2).

3. All years except for final fiscal year must begin on first day of month following end of first year and must end on ending date of first fiscal year; final fiscal year begins on first day of regular fiscal year and ends on day that estate's assets have been substantially distributed, even if fewer than 12 months have elapsed.
4. Fiscal year may be advantageous because

- a. As date for filing return is deferred, so is payment of estate income tax.

➤ **Example.** Under I.R.C. § 6072(a), returns must be filed before the 15th day of the 4th month following the end of the individual's tax year. Under I.R.C. § 6151(a), the full amount of taxes owed are due on the return due date. If the decedent died on December 1, 2018, the estate's income would be reportable on April 15, 2019. If, instead, a fiscal year ending November 30, 2019, is used, December 2018 income will not be reportable until March 15, 2020.

- b. Estate may be used as separate taxpayer even if early distributions to beneficiaries are made.

➤ **Example.** If the decedent died on December 31, 2018, the personal representative could distribute \$50,000 cash to a beneficiary on January 20, 2019, and choose a fiscal year ending January 31, 2019. If the estate had little income in January, the beneficiary would owe little tax.

- c. Fiscal year avoids tax bunching, spreads estate income over several tax years, and defers beneficiaries' reporting of income.
  - d. Taxable years may be chosen so that income and available deductions may be used to offset each other.
5. Personal representative may elect fiscal year when filing state's first income tax return. Treas. Reg. § 1.441-1(c)(1).
- **Note.** Even if the estate has no income to report, a return should be filed by the appropriate due date because if no return is filed, the estate will have waived its right to elect a fiscal year.

#### **F. Penalties [§ 6.16]**

1. Failure to file results in penalty of 5% per month of net tax due. I.R.C. § 6651(a)(1).
  2. Failure to pay results in penalty of 0.5% per month of net tax due up to 25%; is an offset versus failure-to-file penalty. I.R.C. § 6651(a)(2).
  3. Substantial understatement results in penalty of 20% if understatement of income tax exceeds greater of \$5,000 or 10% of total tax. I.R.C. § 6662(b)(2), (d)(1).
- **Note.** In the case of any taxpayer claiming any deduction allowed under I.R.C. § 199A, the penalty applies if understatement of income tax exceeds greater of \$5,000 or 5% of total tax.

#### **G. Division of Items Between Decedent's Final 1040 and Estate Income Tax Return [§ 6.17]**

1. Series E or Series EE Bond interest
  - a. Cash-basis taxpayer who owns Series E or Series EE bonds does not recognize interest income until bond is redeemed unless taxpayer elects to report redemption price increases as they accrue. I.R.C. § 454(a).
    - (1) Election applies to jointly owned bonds as well as bonds payable at decedent's death.
    - (2) When election is first made, income is recognized for previously accrued increases as well as for increases currently accruing.
    - (3) Election will also trigger previously unreported income built into Series H bonds.

➤ *Note.* If the estate redeems the bonds, the resulting income is considered IRD, *see infra* § 6.18, and any estate tax attributable thereto is deductible on the income tax return of the beneficiary receiving the asset. I.R.C. § 691.

- b. Election to report annual increments in value is made by including statement of election on income tax return.
- c. I.R.C. § 691(c) will not apply when income treatment is elected under I.R.C. § 454 on the decedent's final 1040 return, but estate will still receive income tax deduction.

➤ *Example.* Z receives \$1,000 monthly from investments. He dies on March 1, 2019. He leaves his estate, which includes \$50,000 in Series E bonds, to his unmarried son, who earns \$20,000 annually. If Z's personal representative elects to accrue interest on Z's final income tax return, the accrued interest would be reportable, and the liability for the tax on this amount would qualify as a federal estate tax deduction.

- d. Tax strategies
  - (1) Elect to have all Series E or Series EE bonds accrued before date of death included in decedent's final income tax return. Rev. Rul. 68-145, 1968-1 C.B. 203.
  - (2) Report entire accrued interest on one of estate's income tax returns.
  - (3) Selectively redeem bonds.
  - (4) Distribute bonds to fractional (residuary) beneficiaries in lower tax brackets.

## 2. Final medical expenses

- a. Generally, if decedent's medical expenses are paid from estate within one year of decedent's death, expenses may be deducted on decedent's individual income tax return for year in which incurred; alternatively, decedent's medical expenses may be deducted as debt on federal estate tax return. I.R.C. § 213; I.R.C. § 2053.
- b. No deduction allowed in taxable year for medical expenses incurred but not paid during taxable year. Treas. Reg. § 1.213-1(a).
- c. To claim deduction for medical expenses for care of person who was decedent's spouse or dependent, decedent must have been alive when medical services were rendered or expenses for such services were paid. Treas. Reg. § 1.213-1(e)(3).

- d. To elect medical expenses for decedent's federal income tax return, personal representative must state that medical expenses have not been used as estate tax deduction and that personal representative waives right to have medical expenses allowed as estate tax deduction; further, it is possible to split deduction of medical expenses between decedent's income tax return and decedent's federal estate tax return. Treas. Reg. § 1.213-1(d).

➤ **Note.** Generally, for taxable years beginning after December 31, 2020, if medical expenses are deducted on the decedent's final federal income tax return, only those expenses that exceed 7.5% of the decedent's AGI will be deductible. I.R.C. § 213.

➤ **Example.** A dies in 2019 and has an AGI of \$100,000 that year. Medical expenses incurred in 2019 are \$20,000. A's personal representative allocates \$5,000 as a deduction on A's federal estate tax return and \$15,000 to A's final federal income tax return. The personal representative waives the right to claim the \$15,000 as an estate tax deduction. Although the \$15,000 will be reduced by \$7,500 because of the 7.5% limit on medical expenses, this amount will not be deductible for estate tax purposes. The total allowable deduction is \$12,500.

➤ **Example.** B dies in 2019 and has an AGI of \$100,000 that year. Medical expenses incurred in 2019 are \$20,000. B's personal representative claims the entire medical expense deduction on B's federal estate tax return. The entire expense is thus available as an estate tax deduction. The 7.5% limit is not imposed because the personal representative did not waive the right to have medical expenses allowed as an estate tax deduction.

## H. Income in Respect of a Decedent (IRD) [§ 6.18]

1. Pursuant to I.R.C. § 691, IRD represents income earned by decedent before death but received by estate after death and may include
  - a. Accrued income for services rendered before death,
  - b. Post-death bonuses,
  - c. Partnership income and deferred compensation,
  - d. Accrued dividends when decedent is alive on date of record,
  - e. Accrued but unpaid interest,
  - f. Insurance renewal commissions, and
  - g. Gains on installment sales.

2. IRD is included in and taxable to gross value of estate for estate tax purposes and in gross income of persons who acquire right to receive IRD either because of decedent's death or by bequest, devise, or inheritance. Treas. Reg. § 20.2033-1(a).
3. Normally, IRD has zero income tax basis and is excluded from step-up or step-down basis rules. I.R.C. § 1014; Treas. Reg. § 1.691(a)-2(a).
4. Amount of federal estate and income tax attributable to IRD may be deducted from estate income tax; deduction equals difference between federal estate tax computed with and without net IRD. I.R.C. § 691(c); Treas. Reg. § 1.691(c)-1; Treas. Reg. § 1.691(c)-2.
5. Under state trust law, IRD is generally considered corpus, not income. [Wis. Stat.](#) § 701.1103(2).
6. Reporting IRD
  - a. When right to receive IRD passes outside probate estate, recipient must report all IRD as gross income and may be entitled to income tax deduction for any applicable estate tax. I.R.C. § 691(a)(1)(B).
  - b. When right to receive IRD passes to probate estate, any currently received IRD is taxable for estate tax purposes and as income; under I.R.C. § 691(c), estate may take deduction on income tax unless right to receive IRD is distributed to beneficiary, in which case distribution will retain basis and IRD character for recipient, who may also be entitled to deduction under I.R.C. § 691(c). I.R.C. § 691(a)(1)(A).

➤ **Note.** The IRD deduction under I.R.C. § 691(c) is fully deductible and is not a miscellaneous itemized deduction subject to a two-percent floor.
  - c. When right to receive future IRD is transferred, income triggered will usually constitute ordinary income, and estate must generally include in gross income the fair market value of right on date of transfer. I.R.C. § 691(a)(2).
    - (1) Transfer may include sale, exchange, or other disposition. Treas. Reg. § 1.691(a)-4.
    - (2) Transfer of capital gain IRD (e.g., gain on installment sale received after death) will trigger capital gain, not ordinary income, and tax attributable to capital gain is deductible first against gain. I.R.C. § 691(a)(3).
  - d. Funding of pecuniary bequest with right to receive future IRD will trigger income to estate up to present value of right to receive future IRD. Treas. Reg. § 1.1014-4(a)(3); I.R.C. § 691(a)(2).
    - (1) Estate may be entitled to deduction under I.R.C. § 661 for value of right distributed (depending on amount of income earned by estate; IRD itself may be principal and may itself possibly not be considered "income" for purposes of I.R.C. § 661).



- (2) Legatee will receive stepped-up basis adjustment equal to fair market value on the decedent's date of death of the right to receive future IRD.
- e. Personal representative's funding of specific bequest or fractional (residuary) bequest of residue should not trigger income to estate. I.R.C. § 691(a)(2).

Legatee will not be required to report income on transfer of right to receive IRD, but must report IRD when received and will then be entitled to deduction under I.R.C. § 691 for estate and generation-skipping transfer tax. I.R.C. § 691(a)(1)(C).

## I. Other Income Tax Considerations [§ 6.19]

1. Income tax cost of distributions to beneficiary should be weighed against tax benefit of deduction on estate tax return (e.g., when personal representative is considering waiver of fees or acceleration or postponement of payment).
2. If personal representative's fees, attorney fees, or other miscellaneous expenses are claimed as estate tax deductions, personal representative should file waiver stating that expenses will not be claimed as income tax deductions. I.R.C. § 642(g); *infra* [Form 6.7](#).
3. Unused loss carry-overs and excess of deductions over gross income in final taxable year may be passed through to beneficiaries and deducted by them in year estate is closed. I.R.C. § 172; I.R.C. § 642(d); I.R.C. § 1211(b); I.R.C. § 1212(b).
4. If there are excess deductions in final taxable year, personal representative may wish to file estate income tax return for that year if beneficiaries want to claim their shares of excess deductions as itemized deductions on their individual income tax returns.
5. Consider terminating estate with short tax year to pass deductions from estate income tax return to beneficiaries' individual income tax returns (procedure is only available in estate's final taxable year). I.R.C. § 642(h).
6. \$600 personal exemption is not available in estate's final taxable year. I.R.C. § 642(b).
7. Lower the taxable estate.
  - a. Split estate income between trusts and beneficiaries to have least taxable estate possible.
  - b. Estate may take unlimited deductions for amounts paid to or set aside for charitable organizations. I.R.C. § 642(c).
  - c. Trusts and estates may elect to treat charitable contributions paid during year as having been paid in previous year. I.R.C. § 642(c).

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**Fact Pattern**

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The following fact pattern supplies the information used for illustrative purposes to complete the following forms: Inventory, *supra* [Form 3.42](#); Marital Property Settlement, *supra* [Form 3.46](#); and final Estate Account, *supra* [Form 3.65](#), and supporting schedules (Federal Estate Tax Return, *infra* [Form 6.5](#); Federal Fiduciary Income Tax Return, *infra* [Form 6.10](#); and Wisconsin Fiduciary Income Tax Return, *infra* [Form 6.11](#)).

Your client, William O. Hart (William), age 65, died of a heart attack on February 1, 2020. At the time of his death, he was a resident of Dane County, Wisconsin, and is survived by his second wife Ruth, age 50, whom he married in January 2004 in Illinois. He is also survived by his daughter Mary, age 33, who lives in Racine and is unmarried, and by his son Lewis, age 29, who is married to Susan. Lewis and Susan are expecting their first child. Both Mary and Lewis are from William's first marriage to Elizabeth Smith, which ended in divorce in 1996. William is also survived by Ruth's daughter Jane, age 17. Jane uses the name "Jane Hart" but was never adopted by William, though William has treated her as his daughter.

The Harts moved to Wisconsin from Chicago on July 1, 2004. They were never before residents of Wisconsin. William had a will dated February 5, 2006, which recites that he and Ruth do not have a marital property agreement. With his will was a copy of his divorce decree from Elizabeth, which required him to keep in force a life insurance policy with a face value of \$100,000 for the benefit of Mary and Lewis until they reached the age of 21. The divorce decree provided for no alimony and a property division that was satisfied before William married Ruth.

In his will, William names Ruth as Personal Representative. The dispositive provisions of his will were as follows:

1. A specific bequest of all hunting equipment to Lewis;
2. A specific bequest of all other tangible personal property to Ruth if she survives him and, if not, to his children equally;
3. The residue to Ruth, if she survives him;
4. If Ruth does not survive, a \$10,000 bequest to each of Mary and Lewis, and the residue to a trust to be administered for the benefit of Jane until she reaches age 23 and then to be divided equally among Mary, Lewis, and Jane, or their then-living descendants, per stirpes;
5. A provision naming Mary as Jane's guardian if Ruth does not survive, and a provision naming the Best Bank and Trust, Madison, Wisconsin, as Trustee;
6. A provision stating that the term *children* includes Jane; and
7. A provision stating that death taxes shall be paid by the person or persons receiving the property that create the tax.

An examination of William and Ruth's assets and liabilities shows the following:

1. Home valued at \$3,200,000, purchased for \$800,000 in 2004, a month after the Harts moved to Wisconsin, and titled as "William O. Hart and Ruth Hart, husband and wife;"
2. Vacation home valued at \$2,500,000 in Lake Bluff, Illinois. This vacation home was inherited by William before he married Ruth. You determine the vacation home is 100% individual property;
3. \$100,000 face value life insurance policy payable to Mary and Lewis, for which you determine that [Wis. Stat.](#) § 766.61 results in 66% of the policy being marital property. (For purposes of illustrating the federal estate tax return, we will also assume that William owns a life insurance policy on his life with a face value of \$2.5 million that is 100% individual property and names Ruth as beneficiary);
4. A \$1,100,000 group life policy on William's life, with Ruth as the primary beneficiary and the trust under William's will the secondary beneficiary; you determine that [Wis. Stat.](#) § 766.61 results in 80% of the policy being marital property;
5. A \$100,000 group life policy on Ruth's life naming William as primary beneficiary and the Trustee under Ruth's will as secondary beneficiary; the policy has no taxable value;
6. A \$500,000 survivor life insurance policy on the lives of William and Ruth, with a cash surrender value of \$1,000, payable to the Trustee under the will of the last to die; the policy was purchased in 2006;
7. Retirement plan benefits of \$1,800,000 payable to Ruth if she survives and, if not, to the Trustee under William's will; you determine that [Wis. Stat.](#) § 766.62 results in 40% of the benefits being marital property;
8. Checking account in William's sole name in Best Bank and Trust with a present balance of \$250,000;
9. A \$3,000 uncashed paycheck for William and a \$2,000 uncashed paycheck for Ruth;
10. \$1,300,000 in a savings account in Best Bank and Trust held jointly in the names of William and Ruth with \$1,000 of accrued interest;
11. \$5,000 in a savings account in Best Bank and Trust held by William as custodian for Jane under the Uniform Gift to Minors Act;
12. Checking account in Ruth's sole name with a present balance of \$5,000;
13. A brokerage account with First Brokerage holding stocks valued at \$40,000 in Ruth's sole name—all income from the account is automatically deposited to Ruth's checking account. Ruth has documents showing the account was transferred from First Brokerage's Chicago office when they moved to Wisconsin and was valued at \$35,000 then, and there have been no additions to the account since. One of the stocks has an accrued dividend of \$100;

14. A brokerage account with First Brokerage holding stocks valued at \$80,000 and \$20,000 cash in William's sole name—records show the account had a value of \$40,000 in 2004 when it was transferred from Chicago. Income has been left in the account except for five \$1,000 withdrawals since 1994. There have been several trades of stocks and only 100 shares of AT&T stock now valued at \$5,500 remain from those held in 2004. Ruth commented that the \$20,000 was a final distribution from the estate of William's mother, who died about 15 months ago, and was deposited the day before William's death;
15. A brokerage account with Brokers of America holding stock valued at \$3.8 million titled in William's sole name. You determine that the entire account is marital property;
16. CDs at Best Bank and Trust valued at \$950,000, all titled in Ruth's sole name. You determine that the CDs are marital property;
17. A 2018 Toyota Camry LE four-door sedan valued at \$17,000 titled in William's name;
18. A 2018 Ford Taurus four-door sedan valued at \$20,000 titled in Ruth's name;
19. Household goods and personal effects valued at \$40,000;
20. Hunting equipment valued at \$2,000, including one rifle valued at \$400 that was purchased in 2006—all other equipment had been owned when William was a resident of Illinois; and
21. Ruth's jewelry, recently appraised at \$5,000, an appraisal that included her wedding and engagement ring, diamond earrings, and a diamond and ruby pendant. All were purchased before 1994.

Debts include the following:

1. \$200,000 mortgage balance on William and Ruth's home;
2. \$2,400 on Ruth's car loan;
3. \$1,000 in credit card debts and \$1,500 in other outstanding household bills; and
4. \$2,000 dental bill for dental work recently incurred by Ruth.

Ruth's relationship with her stepchildren has been excellent and she agrees with William's specific bequests to them. She also was aware that the life insurance policy naming Mary and Lewis had been kept in force and had been told she might have some rights in it, but does not wish to pursue them.

During probate the earnings on the various bank accounts and brokerage accounts were as follows:

First Brokerage Dividends—individual property		\$ 750.00
First Brokerage Dividends—decedent’s marital property interest		375.00
Bank Account Interest		80.00
TOTAL		\$1,205.00

Expenses during probate were as follows:

Funeral		\$10,500.00
1/2 principal on Ruth’s car loan		1,200.00
1/2 Ruth’s dental bill		1,000.00
1/2 credit card debts		500.00
1/2 miscellaneous bills		750.00
Probate filing fee		10,173.40
Attorney fees		100,000.00
Attorney’s disbursements		50.00
Publication fee		65.00
TOTAL		\$124,238.40

➤ **Note.** One of the main principles underlying the Wisconsin Principal and Income Act (codified in [Wis. Stat.](#) §§ 701.1101–.1136) is the *modern portfolio theory*, which includes investing for total return, not just for income or just for appreciation. Note, however, that the Wisconsin statute still provides for default rules. When allocating receipts and disbursements to income or principal, the fiduciary must first administer the estate according to the terms of the will. [Wis. Stat.](#) § 701.1103(1)(a). The fiduciary may also administer the estate by the exercise of a discretionary power of administration given to the fiduciary by the terms of the will. [Wis. Stat.](#) § 701.1103(1)(b). The fiduciary must administer the estate in accordance with the Principal and Income Act only if the terms of the will do not contain a different provision or do not give the fiduciary a discretionary power of administration. [Wis. Stat.](#) § 701.1103(1)(c). A receipt must be added to, and a disbursement must be charged to, principal if its due date occurs before a decedent dies in the case of an estate or before an income interest begins in the case of a trust or successive income interest. [Wis. Stat.](#) § 701.1113(1)(a).

➤ **Note.** For illustrative purposes, all Hart administrative expenses were deducted on the federal estate tax return and none on the fiduciary income tax return (in order to create a Schedule K-1). When no federal estate tax is due, the attorney should consider taking the deductions on the fiduciary income tax return, to reduce income tax liability for the beneficiary.



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## Forms and Letters

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➤ *Note.* All court-approved forms are available online and can be downloaded as fillable forms. A current list of the forms by title and number can be found at the back of the book under “Forms Index.” A list of the forms, by number, is available at <https://www.wicourts.gov/forms> (last updated Sept. 25, 2020). That list includes all the court-approved forms, requiring you to scroll down to the appropriate probate (PR) forms from the list reprinted in this handbook. The forms can be downloaded from <https://www.wicourts.gov/forms1/circuit/formcategory.jsp?Category=26> (last updated Sept. 25, 2020). You can then save the blank form, or the filled-in form, in the client’s file.

### ■ Opening the Estate on Waiver

[Form 6.1 Application for Federal Employer Identification Number \(SS-4\) \(EST-0275, EST-0276\)](#)

[Form 6.2 Letter Advising Personal Representative of EIN \(EST-0277\)](#)

[Form 6.3 Notice Concerning Fiduciary Relationship \(IRS Form 56\) \(EST-0278\)](#)

[Form 6.4 Letter Forwarding Notice Concerning Fiduciary Relationship \(EST-0279\)](#)

### ■ Estate and Income Taxes

[Form 6.5 U.S. Estate Tax Return \(IRS Form 706\) \(EST-0280\)](#)

[Form 6.6 Transmittal Letter for Federal Estate Tax Return \(EST-0281\)](#)

[Form 6.7 Election of Administration Expenses \(EST-0282\)](#)

[Form 6.8 Trust Verification \(EST-0283\)](#)

[Form 6.9 Will Verification \(EST-0284\)](#)

[Form 6.10 U.S. Fiduciary Income Tax Return \(IRS Form 1041\) \(EST-0285\)](#)

[Form 6.11 Wisconsin Fiduciary Income Tax Return \(DOR Form 2\) \(EST-0286\)](#)

[Form 6.12 Request for Prompt Assessment \(IRS Form 4810\) \(EST-0287\)](#)

[Form 6.13 Request for Discharge from Personal Liability Under Internal Revenue Code Section 2204 or 6905 \(IRS Form 5495\) \(EST-0288\)](#)

### ■ Closing the Estate

[Form 6.14 Request for a Closing Certificate for Fiduciaries \(DOR Schedule CC\) \(EST-0311\)](#)

[Form 6.15 Closing Certificate for Fiduciaries \(EST-0289\)](#)

[Form 6.16 Petition to Dispense with Filing of Closing Certificate for Fiduciaries \(EST-0290\)](#)

[Form 6.17 Order \(EST-0291\)](#)

[Form 6.18 Letter Forwarding Closing Certificate for Fiduciaries \(EST-0292\)](#)

[Form 6.19 Letter Forwarding Estate Tax Closing Letter \(EST-0293\)](#)

### III. Application for Federal EIN (SS-4) and Letter Advising Personal Representative of EIN

#### Commentary and Instructions for [Forms 6.1–6.2](#)

If not done at the opening of the estate, apply for the federal employer identification number (EIN) with the first federal fiduciary income tax return or the federal estate tax return, whichever is filed first. Obtain the application (Form SS-4) from either the Social Security Administration or the Internal Revenue Service (IRS). IRS forms are also available through the IRS's website at <https://www.irs.gov>.

You may obtain an EIN by applying online at <https://www.irs.gov/> (last visited Apr. 13, 2021). For successful online applications, an EIN will be provided immediately. You may also obtain an EIN by completing Form SS-4 and faxing it to (855) 641-6935. A return fax will be submitted within four days. Additionally, you may obtain an EIN by completing Form SS-4 and mailing it to the following address:

Internal Revenue Service  
Attn: EIN Operation  
Cincinnati, OH 45999

The processing timeframe for an EIN application received by mail is four weeks.

The personal representative will need the EIN to establish bank accounts or brokerage accounts for the estate. The IRS will issue a number over the phone to the attorney only if the attorney files IRS Form 2848 (Power of Attorney and Declaration of Representative). Otherwise, the IRS will send written confirmation of the number to the personal representative only. Use [Form 6.2](#) to advise the personal representative of the EIN.

#### Contents (Application for Federal EIN)

- #1 Enter name and title of personal representative.
- #2 The estate may choose its fiscal year. *See supra* § [6.15](#). If filing Form SS-4 at the beginning of the probate proceeding, the fiscal year is usually known. If unknown, insert “unknown.”
- #3 This will usually be zero.

See the reprinted instructions (rev. Dec. 2019) for Form SS-4 (rev. Dec. 2019).



# Form 6.1 Application for Federal Employer Identification Number (SS-4) (EST-0275, EST-0276)

Form <b>SS-4</b> (Rev. December 2019) Department of the Treasury Internal Revenue Service	<b>Application for Employer Identification Number</b> (For use by employers, corporations, partnerships, trusts, estates, churches, government agencies, Indian tribal entities, certain individuals, and others.) ▶ Go to <a href="http://www.irs.gov/FormSS4">www.irs.gov/FormSS4</a> for instructions and the latest information. ▶ See separate instructions for each line. ▶ Keep a copy for your records.	OMB No. 1545-0003 EIN		
Type or print clearly.	<b>1</b> Legal name of entity (or individual) for whom the EIN is being requested <b>Estate of (Decedent's Name)</b>			
	<b>2</b> Trade name of business (if different from name on line 1)	<b>3</b> Executor, administrator, trustee, "care of" name (#1)		
	<b>4a</b> Mailing address (room, apt., suite no. and street, or P.O. box) (Estate's Address)	<b>5a</b> Street address (if different) (Don't enter a P.O. box.)		
	<b>4b</b> City, state, and ZIP code (if foreign, see instructions)	<b>5b</b> City, state, and ZIP code (if foreign, see instructions)		
	<b>6</b> County and state where principal business is located			
	<b>7a</b> Name of responsible party	<b>7b</b> SSN, ITIN, or EIN		
	<b>8a</b> Is this application for a limited liability company (LLC) (or a foreign equivalent)? <input type="checkbox"/> Yes <input type="checkbox"/> No	<b>8b</b> If 8a is "Yes," enter the number of LLC members ▶		
	<b>8c</b> If 8a is "Yes," was the LLC organized in the United States? <input type="checkbox"/> Yes <input type="checkbox"/> No			
	<b>9a</b> Type of entity (check only one box). <b>Caution:</b> If 8a is "Yes," see the instructions for the correct box to check.			
	<input type="checkbox"/> Sole proprietor (SSN) _____ <input type="checkbox"/> Partnership _____ <input type="checkbox"/> Corporation (enter form number to be filed) ▶ _____ <input type="checkbox"/> Personal service corporation _____ <input type="checkbox"/> Church or church-controlled organization _____ <input type="checkbox"/> Other nonprofit organization (specify) ▶ _____ <input checked="" type="checkbox"/> Other (specify) ▶ <b>Estate</b> _____			
<input type="checkbox"/> Estate (SSN of decedent) _____ <input type="checkbox"/> Plan administrator (TIN) _____ <input type="checkbox"/> Trust (TIN of grantor) _____ <input type="checkbox"/> Military/National Guard _____ <input type="checkbox"/> Farmers' cooperative _____ <input type="checkbox"/> REMIC _____ <input type="checkbox"/> State/local government _____ <input type="checkbox"/> Federal government _____ <input type="checkbox"/> Indian tribal governments/enterprises _____ Group Exemption Number (GEN) if any ▶ _____				
<b>9b</b> If a corporation, name the state or foreign country (if applicable) where incorporated	State _____ Foreign country _____			
<b>10</b> Reason for applying (check only one box)				
<input type="checkbox"/> Started new business (specify type) ▶ _____ <input type="checkbox"/> Banking purpose (specify purpose) ▶ _____ <input type="checkbox"/> Changed type of organization (specify new type) ▶ _____ <input type="checkbox"/> Purchased going business _____ <input type="checkbox"/> Hired employees (Check the box and see line 13.) _____ <input type="checkbox"/> Created a trust (specify type) ▶ _____ <input type="checkbox"/> Compliance with IRS withholding regulations _____ <input type="checkbox"/> Created a pension plan (specify type) ▶ _____ <input type="checkbox"/> Other (specify) ▶ _____				
<b>11</b> Date business started or acquired (month, day, year). See instructions. <b>(Decedent's Date of Death)</b>	<b>12</b> Closing month of accounting year (#2)			
<b>13</b> Highest number of employees expected in the next 12 months (enter -0- if none). If no employees expected, skip line 14.	<b>14</b> If you expect your employment tax liability to be \$1,000 or less in a full calendar year and want to file Form 944 annually instead of Forms 941 quarterly, check here. [Your employment tax liability generally will be \$1,000 or less if you expect to pay \$5,000 or less in total wages.] If you don't check this box, you must file Form 941 for every quarter. <input type="checkbox"/>			
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; text-align: center;">Agricultural (#3)</td> <td style="width:33%; text-align: center;">Household</td> <td style="width:33%; text-align: center;">Other</td> </tr> </table>		Agricultural (#3)	Household	Other
Agricultural (#3)	Household	Other		
<b>15</b> First date wages or annuities were paid (month, day, year). <b>Note:</b> If applicant is a withholding agent, enter date income will first be paid to nonresident alien (month, day, year) ▶				
<b>16</b> Check one box that best describes the principal activity of your business.				
<input type="checkbox"/> Construction <input type="checkbox"/> Rental & leasing <input type="checkbox"/> Transportation & warehousing <input type="checkbox"/> Health care & social assistance <input type="checkbox"/> Wholesale-agent/broker <input type="checkbox"/> Real estate <input type="checkbox"/> Manufacturing <input type="checkbox"/> Finance & insurance <input type="checkbox"/> Accommodation & food service <input type="checkbox"/> Wholesale-other <input type="checkbox"/> Retail <input type="checkbox"/> Other (specify) ▶ _____				
<b>17</b> Indicate principal line of merchandise sold, specific construction work done, products produced, or services provided.				
<b>18</b> Has the applicant entity shown on line 1 ever applied for and received an EIN? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "Yes," write previous EIN here ▶				
Third Party Designee	Complete this section <b>only</b> if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of this form.			
	Designee's name	Designee's telephone number (include area code)		
	Address and ZIP code	Designee's fax number (include area code)		
Under penalties of perjury, I declare that I have examined this application, and to the best of my knowledge and belief, it is true, correct, and complete.		Applicant's telephone number (include area code)		
Name and title (type or print clearly) ▶ (#1)		Applicant's fax number (include area code)		
Signature ▶	Date ▶			

**Do I Need an EIN?**

File Form SS-4 if the applicant entity doesn't already have an EIN but is required to show an EIN on any return, statement, or other document.<sup>1</sup> See also the separate instructions for each line on Form SS-4.

IF the applicant...	AND...	THEN...
started a new business	doesn't currently have (nor expect to have) employees	complete lines 1, 2, 4a-6a, 8b-c (if applicable), 9a, 9b (if applicable), and 10-14 and 16-18.
hired (or will hire) employees, including household employees	doesn't already have an EIN	complete lines 1, 2, 4a-6, 7a-b, 8a, 8b-c (if applicable), 9a, 9b (if applicable), 10-18.
opened a bank account	needs an EIN for banking purposes only	complete lines 1-5b, 7a-b, 8a, 8b-c (if applicable), 9a, 9b (if applicable), 10, and 18.
changed type of organization	either the legal character of the organization or its ownership changed (for example, you incorporate a sole proprietorship or form a partnership) <sup>2</sup>	complete lines 1-18 (as applicable).
purchased a going business <sup>3</sup>	doesn't already have an EIN	complete lines 1-18 (as applicable).
created a trust	the trust is other than a grantor trust or an IRA trust <sup>4</sup>	complete lines 1-18 (as applicable).
created a pension plan as a plan administrator <sup>5</sup>	needs an EIN for reporting purposes	complete lines 1, 3, 4a-5b, 7a-b, 9a, 10, and 18.
is a foreign person needing an EIN to comply with IRS withholding regulations	needs an EIN to complete a Form W-8 (other than Form W-8ECI), avoid withholding on portfolio assets, or claim tax treaty benefits <sup>6</sup>	complete lines 1-5b, 7a-b (SSN or ITIN as applicable), 8a, 8b-c (if applicable), 9a, 9b (if applicable), 10, and 18.
is administering an estate	needs an EIN to report estate income on Form 1041	complete lines 1-7b, 9a, 10-12, 13-17 (if applicable), and 18.
is a withholding agent for taxes on nonwage income paid to an alien (that is, individual, corporation, or partnership, etc.)	is an agent, broker, fiduciary, manager, tenant, or spouse who is required to file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	complete lines 1, 2, 3 (if applicable), 4a-5b, 7a-b, 8a, 8b-c (if applicable), 9a, 9b (if applicable), 10, and 18.
is a state or local agency	serves as a tax reporting agent for public assistance recipients under Rev. Proc. 80-4, 1980-1 C.B. 581 <sup>7</sup>	complete lines 1, 2, 4a-5b, 7a-b, 9a, 10, and 18.
is a single-member LLC (or similar single-member entity)	needs an EIN to file Form 8832, Entity Classification Election, for filing employment tax returns and excise tax returns, or for state reporting purposes <sup>8</sup> , or is a foreign-owned U.S. disregarded entity and needs an EIN to file Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business	complete lines 1-18 (as applicable).
is an S corporation	needs an EIN to file Form 2553, Election by a Small Business Corporation <sup>9</sup>	complete lines 1-18 (as applicable).

<sup>1</sup> For example, a sole proprietorship or self-employed farmer who establishes a qualified retirement plan, or is required to file excise, employment, alcohol, tobacco, or firearms returns, must have an EIN. A partnership, corporation, REMIC (real estate mortgage investment conduit), nonprofit organization (church, club, etc.), or farmers' cooperative must use an EIN for any tax-related purpose even if the entity doesn't have employees.

<sup>2</sup> However, don't apply for a new EIN if the existing entity only (a) changed its business name, (b) elected on Form 8832 to change the way it is taxed (or is covered by the default rules), or (c) terminated its partnership status because at least 50% of the total interests in partnership capital and profits were sold or exchanged within a 12-month period. The EIN of the terminated partnership should continue to be used. See Regulations section 301.6109-1(d)(2)(ii).

<sup>3</sup> Don't use the EIN of the prior business unless you became the "owner" of a corporation by acquiring its stock.

<sup>4</sup> However, grantor trusts that don't file using Optional Method 1 and IRA trusts that are required to file Form 990-T, Exempt Organization Business Income Tax Return, must have an EIN. For more information on grantor trusts, see the Instructions for Form 1041.

<sup>5</sup> A plan administrator is the person or group of persons specified as the administrator by the instrument under which the plan is operated.

<sup>6</sup> Entities applying to be a Qualified Intermediary (QI) need a QI-EIN even if they already have an EIN. See Rev. Proc. 2000-12.

<sup>7</sup> See also Household employer agent in the instructions. **Note:** State or local agencies may need an EIN for other reasons, for example, hired employees.

<sup>8</sup> See Disregarded entities in the instructions for details on completing Form SS-4 for an LLC.

<sup>9</sup> An existing corporation that is electing or revoking S corporation status should use its previously-assigned EIN.

# Instructions for Form SS-4

(Rev. December 2019)

## Application for Employer Identification Number (EIN)



Department of the Treasury  
Internal Revenue Service

Section references are to the Internal Revenue Code unless otherwise noted.

## General Instructions

Use these instructions to complete Form SS-4, Application for Employer Identification Number (EIN). Also, see *Do I Need an EIN?* on page 2 of Form SS-4.

## Future Developments

For the latest information related to Form SS-4 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/FormSS4](https://www.irs.gov/FormSS4).

## What's New

**Line 14.** Replaced \$4,000 with \$5,000 in the discussion providing parameters on when an employer can elect to file Form 944.

## Purpose of Form

Use Form SS-4 to apply for an EIN. An EIN is a 9-digit number (for example, 12-3456789) assigned to sole proprietors, corporations, partnerships, estates, trusts, and other entities for tax filing and reporting purposes. The information you provide on this form will establish your business tax account.

**TIP** See Form SS-4PR (for Puerto Rico) for the Spanish-language version of Form SS-4.

**CAUTION** An EIN is for use in connection with your business activities only. Don't use your EIN in place of your social security number (SSN) or individual taxpayer identification number (ITIN).

## Reminders

**Apply for an EIN online.** For applicants in the U.S. or U.S. possessions, you can apply for and receive an EIN free of charge on IRS.gov. See *How To Apply for an EIN*, later.

**File only one Form SS-4.** Generally, a sole proprietor should file only one Form SS-4 and needs only one EIN, regardless of the number of businesses operated as a sole proprietorship or trade names under which a business operates. However, if a sole proprietorship incorporates or enters into a partnership, a new EIN is required. Also, each corporation in an affiliated group must have its own EIN.

**EIN applied for, but not received.** If you don't have an EIN by the time a return is due, write "Applied For" and the date you applied in the space shown for the number. Don't show your SSN as an EIN on returns. If you don't have an EIN by the time a tax deposit is due, send your payment to the Internal Revenue Service Center for your filing area as shown in the instructions for the form that you are filing. Make your check or money order payable to the "United States Treasury" and show your name (as shown on Form SS-4), address, type of tax, period covered, and date you applied for an EIN.

**TIP** For information about EINs and federal tax deposits, see Pub. 15, Pub. 51, and Pub. 80.



To ensure fair and equitable treatment for all taxpayers, EIN issuances are limited to one per responsible party, per day. For trusts, the limitation is applied to the grantor, owner, or trustor. For estates, the limitation is applied to the decedent (decedent estate) or the debtor (bankruptcy estate). This limitation is applicable to all requests for EINs whether online, telephone, fax, or mail.

## How To Apply for an EIN

You can apply for an EIN online (only for applicants in the U.S. or U.S. possessions), by telephone (only for applicants outside of the U.S. or U.S. possessions), by fax, or by mail, depending on how soon you need to use the EIN. Use only one method for each entity so you don't receive more than one EIN for an entity.

**Apply for an EIN online.** If you have a legal residence, principal place of business, or principal office or agency in the U.S. or U.S. possessions, you can receive an EIN online and use it immediately to file a return or make a payment. Go to the IRS website at [IRS.gov/Businesses](https://www.irs.gov/Businesses) and click on *Employer ID Number (EIN)*.

The principal officer, general partner, grantor, owner, trustor, etc., must have a valid taxpayer identification number (SSN, EIN, or ITIN) in order to use the online application. Taxpayers who apply online have an option to view, print, and save their EIN assignment notice at the end of the session. Authorized third-party designees, see instructions under *Line 18*.



If you have NO legal residence, principal place of business, or principal office or agency in the U.S. or U.S. possessions, you can't use the online application to obtain an EIN. Please use one of the other methods to apply.

**Apply by telephone—option available to international applicants only.** If you have NO legal residence, principal place of business, or principal office or agency in the U.S. or U.S. possessions, you may call 267-941-1099 (not a toll-free number), 8:00 a.m. to 11:00 p.m. (Eastern time), Monday through Friday, to obtain an EIN.

The person making the call must be authorized to receive the EIN and answer questions concerning Form SS-4. Complete the Third Party Designee section only if you want to authorize the named individual to receive the entity's EIN and answer questions about the completion of Form SS-4. The designee's authority terminates at the time the EIN is assigned and released to the designee. You must complete the signature area for the authorization to be valid.

**Note.** It will be helpful to complete Form SS-4 before contacting the IRS. An IRS representative will use the information from Form SS-4 to establish your account and assign you an EIN. Write the number you're given on the upper right corner of the form and sign and date it. Keep this copy for your records.

If requested by an IRS representative, mail or fax the signed Form SS-4 (including any third-party designee authorization) within 24 hours to the IRS address provided by the IRS representative.



The IRS no longer issues EINs by telephone for domestic taxpayers. Only international applicants can receive an EIN by telephone.

**Apply by fax.** Under the Fax-TIN program, you can receive your EIN by fax generally within 4 business days. Complete and fax Form SS-4 to the IRS using the appropriate fax number listed in *Where To File or Fax*, later. A long-distance charge to callers outside of the local calling area will apply. Fax-TIN numbers can only be used to

apply for an EIN. The numbers may change without notice. Fax-TIN is available 24 hours a day, 7 days a week.

Be sure to provide your fax number so the IRS can fax the EIN back to you.

**Apply by mail.** Complete Form SS-4 at least 4 to 5 weeks before you will need an EIN. Sign and date the application and mail it to the appropriate address listed in *Where To File or Fax*, later. You will receive your EIN in the mail in approximately 4 weeks. Also, see *Third-Party Designee*, later.

Call 800-829-4933 to verify a number or to ask about the status of an application by mail.

**TIP** Form SS-4 downloaded from [IRS.gov](http://IRS.gov) is a fillable form and, when completed, is suitable for faxing or mailing to the IRS.

**Where To File or Fax**

If you have a principal place of business, office or agency, or legal residence in the case of an individual, located in:	File or fax to:
One of the 50 states or the District of Columbia	Internal Revenue Service Attn: EIN Operation Cincinnati, OH 45999  Fax: 855-641-6935
If you have no legal residence, principal office, or principal agency in any state or the District of Columbia (international/U.S. possessions)	Internal Revenue Service Attn: EIN International Operation Cincinnati, OH 45999  Fax: 855-215-1627 (within the U.S.) Fax: 304-707-9471 (outside the U.S.)

**How To Get Tax Help, Forms, and Publications**

**TIP** Tax help for your business is available at [IRS.gov/Businesses](http://IRS.gov/Businesses).

You can download or print all of the forms and publications you may need on [IRS.gov/FormsPubs](http://IRS.gov/FormsPubs). Otherwise, you can go to [IRS.gov/OrderForms](http://IRS.gov/OrderForms) to place an order and have forms mailed to you. You should receive your order within 10 business days.

**Related Forms and Publications**

The following forms and instructions may be useful to filers of Form SS-4.

- Form 11-C, Occupational Tax and Registration Return for Wagering.
- Form 637, Application for Registration (For Certain Excise Tax Activities).
- Form 720, Quarterly Federal Excise Tax Return.
- Form 730, Monthly Tax Return for Wagers.
- Form 941, Employer's QUARTERLY Federal Tax Return.
- Form 944, Employer's ANNUAL Federal Tax Return.
- Form 990-T, Exempt Organization Business Income Tax Return.
- Instructions for Form 990-T, Exempt Organization Business Income Tax Return.
- Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code.
- Form 1024, Application for Recognition of Exemption Under Section 501(a).
- Schedule C (Form 1040 or 1040-SR), Profit or Loss From Business (Sole Proprietorship).
- Schedule F (Form 1040 or 1040-SR), Profit or Loss From Farming.
- Instructions for Form 1041 and Schedules A, B, G, J, and K-1, U.S. Income Tax Return for Estates and Trusts.
- Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons.

- Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding.
- Instructions for Form 1065, U.S. Return of Partnership Income.
- Instructions for Form 1066, U.S. Real Estate Mortgage Investment Conduit (REMIC) Income Tax Return.
- Instructions for Form 1120, U.S. Corporation Income Tax Return.
- Form 1120-S, U.S. Income Tax Return for an S Corporation.
- Form 2290, Heavy Highway Vehicle Use Tax Return.
- Form 2553, Election by a Small Business Corporation.
- Form 2848, Power of Attorney and Declaration of Representative.
- Form 8821, Tax Information Authorization.
- Form 8822-B, Change of Address or Responsible Party — Business.
- Form 8832, Entity Classification Election.
- Form 8849, Claim for Refund of Excise Taxes.

For more information about filing Form SS-4 and related issues, see:

- Pub. 15, Employer's Tax Guide.
- Pub. 51, Agricultural Employer's Tax Guide.
- Pub. 80, Federal Tax Guide for Employers in the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.
- Pub. 538, Accounting Periods and Methods.
- Pub. 542, Corporations.
- Pub. 557, Tax-Exempt Status for Your Organization.
- Pub. 583, Starting a Business and Keeping Records.
- Pub. 966, Electronic Choices to Pay All Your Federal Taxes.
- Pub. 1635, Understanding Your EIN.

**Specific Instructions**

Follow the instructions for each line to expedite processing and to avoid unnecessary IRS requests for additional information. Generally, enter "N/A" on the lines that don't apply.

**Line 1. Legal name of entity (or individual) for whom the EIN is being requested.** Enter the legal name of the entity (or individual) applying for the EIN exactly as it appears on the social security card, charter, or other applicable legal document. An entry is required.

**Individuals.** Enter your first name, middle initial, and last name. If you're a sole proprietor, enter your individual name, not your business name. Enter your business name on line 2. Don't use abbreviations or nicknames on line 1.

**Trusts.** Enter the name of the trust as it appears on the trust instrument.

**Estate of a decedent.** Enter the name of the estate. For an estate that has no legal name, enter the name of the decedent followed by "Estate."

**Partnerships.** Enter the legal name of the partnership as it appears in the partnership agreement.

**Corporations.** Enter the corporate name as it appears in the corporate charter or other legal document creating it.

**Plan administrators.** Enter the name of the plan administrator. A plan administrator who already has an EIN should use that number.

**Line 2. Trade name of business.** Enter the trade name of the business if different from the legal name. The trade name is the "doing business as" (DBA) name.

**CAUTION** Use the full legal name shown on line 1 on all tax returns filed for the entity. (However, if you enter a trade name on line 2 and choose to use the trade name instead of the legal name, enter the trade name on all returns you file.) To prevent processing delays and errors, use only the legal name (or the trade name) on all tax returns.

**Line 3. Executor, administrator, trustee, "care of" name.** For trusts, enter the name of the trustee. For estates, enter the name of the executor, administrator, personal representative, or other fiduciary. If the entity applying has a designated person to receive tax information, enter that person's name as the "care of" person. Enter the individual's first name, middle initial, and last name.

**Lines 4a–4b. Mailing address.** Enter the mailing address for the entity's correspondence. If the entity's address is outside the United States or its possessions, you must enter the city, province or state, postal code, and the name of the country. Don't abbreviate the country name. If line 3 is completed, enter the address for the executor, trustee, or "care of" person. Generally, this address will be used on all tax returns.

If the entity is filing Form SS-4 only to obtain an EIN for Form 8832, use the same address where you would like to have the acceptance or nonacceptance letter sent.



File Form 8822-B to report any subsequent changes to the entity's mailing address.

**Lines 5a–5b. Street address.** Provide the entity's physical address only if different from its mailing address shown on lines 4a–4b. Don't enter a P.O. box number here. If the entity's address is outside the United States or its possessions, you must enter the city, province or state, postal code, and the name of the country. Don't abbreviate the country name.

**Line 6. County and state where principal business is located.** Enter the entity's primary physical location.

**Lines 7a–7b. Name of responsible party.** Enter the full name (first name, middle initial, last name, if applicable) and SSN, ITIN, or EIN of the entity's responsible party.

**Responsible party defined.** The "responsible party" is the person who ultimately owns or controls the entity or who exercises ultimate effective control over the entity. The person identified as the responsible party should have a level of control over, or entitlement to, the funds or assets in the entity that, as a practical matter, enables the person, directly or indirectly, to control, manage, or direct the entity and the disposition of its funds and assets. **Unless the applicant is a government entity, the responsible party must be an individual (that is, a natural person), not an entity.**

- For entities with shares or interests traded on a public exchange, or which are registered with the Securities and Exchange Commission, "responsible party" is (a) the principal officer, if the entity is a corporation; or (b) a general partner, if a partnership. The general requirement that the responsible party be an individual applies to these entities. For example, if a corporation is the general partner of a publicly traded partnership for which Form SS-4 is filed, then the responsible party of the partnership is the principal officer of the corporation.
- For tax-exempt organizations, the responsible party is generally the same as the "principal officer" as defined in the Form 990 instructions.
- For government entities, the responsible party is generally the agency or agency representative in a position to legally bind the particular government entity.
- For trusts, the responsible party is a grantor, owner, or trustor.
- For decedent estates, the responsible party is the executor, administrator, personal representative, or other fiduciary.



File Form 8822-B to report any subsequent changes to responsible party information.

If you're applying for an EIN for a government entity, you may enter an EIN for the responsible party on line 7b. Otherwise, you must enter an SSN or ITIN on line 7b. But, leave line 7b blank or enter "N/A," "foreign," or similar language, if the responsible party doesn't have and is ineligible to obtain an SSN or ITIN.

**Lines 8a–8c. Limited liability company (LLC) information.** An LLC is an entity organized under the laws of a state or foreign country as a limited liability company. For federal tax purposes, an LLC may be treated as a partnership or corporation or be disregarded as an entity separate from its owner.

By default, a domestic LLC with only one member is disregarded as an entity separate from its owner and must include all of its income and expenses on the owner's tax return (for example,

Schedule C (Form 1040 or 1040-SR)). For more information on single-member LLCs, see *Disregarded entities*, later.

Also, by default, a domestic LLC with two or more members is treated as a partnership. A domestic LLC may file Form 8832 to avoid either default classification and elect to be classified as an association taxable as a corporation. For more information on entity classifications (including the rules for foreign entities), see Form 8832 and its instructions.

If the answer to line 8a is "Yes," enter the number of LLC members. If the LLC is owned solely by an individual and his or her spouse in a community property state and they choose to treat the entity as a disregarded entity, enter "1" on line 8b.



Don't file Form 8832 if the LLC accepts the default classifications above. If the LLC timely files Form 2553, it will be treated as a corporation as of the effective date of the S corporation election as long as it meets all other requirements to qualify as an S corporation. The LLC doesn't need to file Form 8832 in addition to Form 2553. See the Instructions for Form 2553.

**Line 9a. Type of entity.** Check the box that best describes the type of entity applying for the EIN. If you're an alien individual with an ITIN previously assigned to you, enter the ITIN in place of a requested SSN.



This isn't an election for a tax classification of an entity. See *Disregarded entities*, later.

**Sole proprietor.** Check this box if you file Schedule C or Schedule F (Form 1040 or 1040-SR) and have a qualified plan, or are required to file excise, employment, alcohol, tobacco, or firearms returns, or are a payer of gambling winnings. Enter your SSN or ITIN in the space provided. If you're a nonresident alien with no effectively connected income from sources within the United States, enter "N/A." You don't need to enter an SSN or ITIN.

**Corporation.** This box is for any corporation other than a personal service corporation. If you check this box, enter the income tax form number to be filed by the entity in the space provided.



If you entered "1120-S" after the Corporation checkbox, the corporation must file Form 2553 no later than the 15th day of the 3rd month of the tax year the election is to take effect. Until Form 2553 has been received and approved, you will be considered a Form 1120 filer. See the Instructions for Form 2553.

**Personal service corporation.** Check this box if the entity is a personal service corporation. An entity is a personal service corporation for a tax year only if:

- The principal activity of the entity during the testing period (generally the prior tax year) for the tax year is the performance of personal services substantially by employee-owners, and
- The employee-owners own at least 10% of the fair market value of the outstanding stock in the entity on the last day of the testing period.

Personal services include performance of services in such fields as accounting, actuarial science, architecture, consulting, engineering, health (including veterinary services), law, and the performing arts. For more information about personal service corporations, see the Instructions for Form 1120 and Pub. 542.



If the corporation is recently formed, the testing period begins on the first day of its tax year and ends on the earlier of the last day of its tax year, or the last day of the calendar year in which its tax year begins.

**Other nonprofit organization.** Check the *Other nonprofit organization* box if the nonprofit organization is other than a church or church-controlled organization and specify the type of nonprofit organization (for example, an educational organization).



If the organization also seeks tax-exempt status, you must file either Form 1023 (or Form 1023-EZ) or Form 1024. See Pub. 557 for more information.

If the organization is covered by a group exemption letter, enter the four-digit group exemption number (GEN) in the last entry. (Don't



confuse the GEN with the 9-digit EIN.) If you don't know the GEN, contact the parent organization. See Pub. 557 for more information about group exemption letters.

If the organization is a section 527 political organization, check the *Other nonprofit organization* box and specify "Section 527 organization" in the space to the right. To be recognized as exempt from tax, a section 527 political organization must electronically file Form 8871, Political Organization Notice of Section 527 Status, within 24 hours of the date on which the organization was established. The organization may also have to file Form 8872, Political Organization Report of Contributions and Expenditures. Go to [IRS.gov/Po/Orgs](https://www.irs.gov/Po/Orgs) for more information.

**Estate.** An estate is a legal entity created as a result of a person's death. Enter the SSN or ITIN of the deceased person in the space provided.

**Plan administrator.** If the plan administrator is an individual, enter the plan administrator's taxpayer identification number (TIN) in the space provided.

**REMIC.** Check this box if the entity has elected to be treated as a real estate mortgage investment conduit (REMIC). See the Instructions for Form 1066 for more information.

**State/local government.** State and local governments generally have the characteristics of a government, such as powers of taxation, law enforcement, and civil authority. If you're unsure whether or not your organization is a government, search "What are government entities?" at [IRS.gov](https://www.irs.gov) for clarification.

**Federal government.** The federal government is made up of the Executive, Legislative, and Judicial branches, as well as independent federal agencies. Unions, VFW organizations, and political organizations aren't federal agencies.

**Other.** If not specifically listed, check the *Other* box and enter the type of entity and the type of return, if any, that will be filed (for example, "Common trust fund, Form 1065" or "Created a pension plan"). Don't enter "N/A." If you're an alien individual applying for an EIN, see the instructions for Lines 7a-7b.

- **Household employer.** If you're an individual that will employ someone to provide services in your household, check the *Other* box and enter "Household employer" and your SSN. If you're a trust that qualifies as a household employer, you don't need a separate EIN for reporting tax information relating to household employees; use the EIN of the trust.

- **Household employer agent.** If you're an agent of a household employer that is a disabled individual or other welfare recipient receiving home care services through a state or local program, check the *Other* box and enter "Household employer agent." For more information, see Rev. Proc. 84-33 and Rev. Proc. 2013-39. If you're a state or local government, also check the state/local government box.

- **QSub.** For a qualified subchapter S subsidiary (QSub) check the *Other* box and specify "QSub." See Rev. Rul. 2008-18, 2008-13 I.R.B. 674, if the QSub election is made pursuant to a reorganization under section 368(a)(1)(F), and *Disregarded entities* below.

- **Withholding agent.** If you're a withholding agent required to file Form 1042, check the *Other* box and enter "Withholding agent."

**Disregarded entities.** A disregarded entity is an eligible entity that is disregarded as separate from its owner for federal income tax purposes. Disregarded entities include single-member limited liability companies (LLCs) and certain qualified foreign entities. See the instructions for Forms 8832 and 8869, and Regulations section 301.7701-3 for more information on domestic and foreign disregarded entities.

The disregarded entity is required to use its name and EIN for reporting and payment of employment taxes: to register for excise tax activities on Form 637; to pay and report excise taxes reported on Forms 720, 730, 2290, and 11-C; to claim any refunds, credits, and payments on Form 8849; and where a U.S. disregarded entity is wholly owned by a foreign person, to file information returns on Form 5472. See the instructions for the employment and excise tax returns and Form 5472 for more information.

Complete Form SS-4 for disregarded entities as follows.

- If a disregarded entity is filing Form SS-4 to obtain an EIN because it is required to report and pay employment and excise

taxes, or for non-federal purposes such as a state requirement, check the *Other* box for line 9a and write "Disregarded entity" (or "Disregarded entity-sole proprietorship" if the owner of the disregarded entity is an individual).

- If the disregarded entity is requesting an EIN for purposes of filing Form 5472, as required under section 6038A for a U.S. disregarded entity that is wholly owned by a foreign person, check the *Other* box for line 9a and write "Foreign-owned U.S. disregarded entity-Form 5472."

- If the disregarded entity is requesting an EIN for purposes of filing Form 8832 to elect classification as an association taxable as a corporation, or Form 2553 to elect S corporation status, check the *Corporation* box for line 9a and write "Single-member" and the form number of the return that will be filed (Form 1120 or 1120-S).

- If the disregarded entity is requesting an EIN because it has acquired one or more additional owners and its classification has changed to partnership under the default rules of Regulations section 301.7701-3(f), check the *Partnership* box for line 9a.

- If a foreign eligible entity is requesting an EIN for purposes of filing Form 8832 to elect classification as a disregarded entity, check the *Other* box for line 9a and write "foreign disregarded entity."

**Line 10. Reason for applying.** Check only one box. Don't enter "N/A." A selection is required.

**Started new business.** Check this box if you're starting a new business that requires an EIN. If you check this box, enter the type of business being started. Don't apply if you already have an EIN and are only adding another place of business.

**Hired employees.** Check this box if the existing business is requesting an EIN because it has hired or is hiring employees and is therefore required to file employment tax returns. Don't apply if you already have an EIN and are only hiring employees. For information on employment taxes (for example, for family members), see Pub. 15, Pub. 51, or Pub. 80.



*You must make electronic deposits of all depository taxes (such as employment tax, excise tax, and corporate income tax) using EFTPS. See Pub. 15, Pub. 51, Pub. 80, and Pub. 966.*

**Banking purpose.** Check this box if you're requesting an EIN for banking purposes only, and enter the banking purpose (for example, a bowling league for depositing dues or an investment club for dividend and interest reporting).

**Changed type of organization.** Check this box if the business is changing its type of organization. For example, the business was a sole proprietorship and has been incorporated or has become a partnership. If you check this box, specify in the space provided (including available space immediately below) the type of change made. For example, "From sole proprietorship to partnership."

**Purchased going business.** Check this box if you purchased an existing business. Don't use the former owner's EIN unless you became the "owner" of a corporation by acquiring its stock.

**Created a trust.** Check this box if you created a trust, and enter the type of trust created. For example, indicate if the trust is a nonexempt charitable trust or a split-interest trust.

**Exception.** Don't file this form for certain grantor-type trusts. The trustee doesn't need an EIN for the trust if the trustee furnishes the name and TIN of the grantor/owner and the address of the trust to all payers. However, grantor trusts that don't file using Optional Method 1 and IRA trusts that are required to file Form 990-T must have an EIN. For more information on grantor trusts, see the Instructions for Form 1041.



*Don't check this box if you're applying for a trust EIN when a new pension plan is established. Check the Created a pension plan box.*

**Created a pension plan.** Check this box if you have created a pension plan and need an EIN for reporting purposes. Also, enter the type of plan in the space provided. For more information about pension plans, visit [IRS.gov](https://www.irs.gov) and enter "Types of retirement plans" in the search box.



Check this box if you're applying for a trust EIN when a new pension plan is established. In addition, check the Other box on line 9a and write "Created a pension plan" in the space provided.

**Other.** Check this box if you're requesting an EIN for any other reason, and enter the reason. For example, a newly formed state government entity should enter "Newly formed state government entity" in the space provided. A foreign-owned U.S. disregarded entity required to file Form 5472 should enter "Foreign-owned U.S. disregarded entity filing Form 5472" in the space provided.

**Line 11. Date business started or acquired.** If you're starting a new business, enter the starting date of the business. If the business you acquired is already operating, enter the date you acquired the business. For foreign applicants, this is the date you began or acquired a business in the United States. If you're changing the form of ownership of your business, enter the date the new ownership entity began. Trusts should enter the date the trust was funded or the date that the trust was required to obtain an EIN under Regulations section 301.6109-1(a)(2). Estates should enter the date of death of the decedent whose name appears on line 1 or the date when the estate was legally funded.

**Line 12. Closing month of accounting year.** Enter the last month of your accounting year or tax year. An accounting or tax year is usually 12 consecutive months, either a calendar year or a fiscal year (including a period of 52 or 53 weeks). A calendar year is 12 consecutive months ending on December 31. A fiscal year is either 12 consecutive months ending on the last day of any month other than December or a 52-53 week year. For more information on accounting periods, see Pub. 538.

**Individuals.** Your tax year will generally be a calendar year.

**Partnerships.** Partnerships must adopt one of the following tax years.

- The tax year of the majority of its partners.
- The tax year common to all of its principal partners.
- The tax year that results in the least aggregate deferral of income.
- In certain cases, some other tax year.

See the Instructions for Form 1065 for more information.

**REMICs.** REMICs must have a calendar year as their tax year.

**Personal service corporations.** A personal service corporation must generally adopt a calendar year unless it meets one of the following requirements.

- It can establish a business purpose for having a different tax year.
- It elects under section 444 to have a tax year other than a calendar year.

**Trusts.** Generally, a trust must adopt a calendar year except for the following trusts.

- Tax-exempt trusts.
- Charitable trusts.
- Grantor-owned trusts.

**Line 13. Highest number of employees expected in the next 12 months.** Complete each box by entering the number (including zero (-0-)) of *Agricultural, Household, or Other* employees expected by the applicant in the next 12 months.

If no employees are expected, skip line 14.

**Line 14. Do you want to file Form 944?** If you expect your employment tax liability to be \$1,000 or less in a full calendar year, you're eligible to file Form 944 annually (once each year) instead of filing Form 941 quarterly (every 3 months). Your employment tax liability will generally be \$1,000 or less if you expect to pay \$5,000 or less in total wages subject to social security and Medicare taxes and federal income tax withholding. If you qualify and want to file Form 944 instead of Forms 941, check the box on line 14. If you don't check the box, then you must file Form 941 for every quarter.



Once you check the box, you must continue to file Form 944, regardless of the amount of tax shown on your return, until the IRS instructs you to file Form 941.



For employers in the U.S. possessions, generally, if you pay \$6,536 or less in wages subject to social security and Medicare taxes, you're likely to pay \$1,000 or less in employment taxes.

For more information on employment taxes, see Pub. 15, Pub. 51, or Pub. 80.

**Line 15. First date wages or annuities were paid.** If the business has employees, enter the date on which the business began to pay wages or annuities. For foreign applicants, this is the date you began to pay wages in the United States. If the business doesn't plan to have employees, enter "N/A."

**Withholding agent.** Enter the date you began or will begin to pay income (including annuities) to a nonresident alien. This also applies to individuals who are required to file Form 1042 to report alimony paid to a nonresident alien. For foreign applicants, this is the date you began or will begin to pay income (including annuities) to a nonresident alien in the United States.

**Line 16.** Check the one box on line 16 that best describes the principal activity of the applicant's business. Check the Other box (and specify the applicant's principal activity) if none of the listed boxes applies. You must check a box.

**Construction.** Check this box if the applicant is engaged in erecting buildings or engineering projects (for example, streets, highways, bridges, and tunnels). The term "construction" also includes special trade contractors (for example, plumbing, HVAC, electrical, carpentry, concrete, excavation, etc., contractors).

**Real estate.** Check this box if the applicant is engaged in renting or leasing real estate to others; managing, selling, buying, or renting real estate for others; or providing related real estate services (for example, appraisal services). Also, check this box for mortgage real estate investment trusts (REITs). Mortgage REITs are engaged in issuing shares of funds consisting primarily of portfolios of real estate mortgage assets with gross income of the trust solely derived from interest earned.

**Rental & leasing.** Check this box if the applicant is engaged in providing tangible goods such as autos, computers, consumer goods, or industrial machinery and equipment to customers in return for a periodic rental or lease payment. Also, check this box for equity real estate investment trusts (REITs). Equity REITs are engaged in issuing shares of funds consisting primarily of portfolios of real estate assets with gross income of the trust derived from renting real property.

**Manufacturing.** Check this box if the applicant is engaged in the mechanical, physical, or chemical transformation of materials, substances, or components into new products. The assembling of component parts of manufactured products is also considered to be manufacturing.

**Transportation & warehousing.** Check this box if the applicant provides transportation of passengers or cargo; warehousing or storage of goods; scenic or sight seeing transportation; or support activities related to transportation.

**Finance & insurance.** Check this box if the applicant is engaged in transactions involving the creation, liquidation, or change of ownership of financial assets and/or facilitating such financial transactions; underwriting annuities/insurance policies; facilitating such underwriting by selling insurance policies or in providing other insurance or employee-benefit related services.

**Health care & social assistance.** Check this box if the applicant is engaged in providing physical, medical, or psychiatric care; or in providing social assistance activities, such as youth centers, adoption agencies, individual/family services, temporary shelters, daycare, etc.

**Accommodation & food services.** Check this box if the applicant is engaged in providing customers with lodging, meal preparation, snacks, or beverages for immediate consumption.

**Wholesale-agent/broker.** Check this box if the applicant is engaged in arranging for the purchase or sale of goods owned by others or purchasing goods on a commission basis for goods traded in the wholesale market, usually between businesses.

**Wholesale-other.** Check this box if the applicant is engaged in selling goods in the wholesale market generally to other businesses for resale on their own account, goods used in production, or capital or durable nonconsumer goods.

**Retail.** Check this box if the applicant is engaged in selling merchandise to the general public from a fixed store; by direct, mail-order, or electronic sales; or by using vending machines.

**Other.** Check this box if the applicant is engaged in an activity not described above. Describe the applicant's principal business activity in the space provided.

**Line 17.** Use line 17 to describe the applicant's principal line of business in more detail. For example, if you checked the *Construction* box on line 16, enter additional detail such as "General contractor for residential buildings" on line 17. An entry is required. For mortgage REITs, indicate mortgage REIT; and for equity REITs, indicate what type of real property is the principal type (residential REIT, nonresidential REIT, miniwarehouse REIT, etc.).

**Line 18.** Check the applicable box to indicate whether or not the applicant entity applying for an EIN was issued one previously.

**Third-Party Designee.** Complete this section only if you want to authorize the named individual to answer questions about the completion of Form SS-4 and receive the entity's newly assigned EIN. You must complete the signature area for the authorization to be valid. The designee's authority terminates at the time the EIN is assigned and released to the designee. EINs are released to authorized third-party designees by the method they used to obtain the EIN (online, telephone, or fax); however, the EIN notice will be mailed to the taxpayer.



*If the third-party designee's address or telephone number matches the address or telephone number of the taxpayer, the application must be mailed or faxed.*

**Signature.** When required, the application must be signed by (a) the individual, if the applicant is an individual; (b) the president, vice president, or other principal officer, if the applicant is a corporation; (c) a responsible and duly authorized member or officer having knowledge of its affairs, if the applicant is a partnership, government entity, or other unincorporated organization; or (d) the fiduciary, if the applicant is a trust or an estate. Foreign applicants may have any duly authorized person (for example, division manager) sign Form SS-4.

**Privacy Act and Paperwork Reduction Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need it to comply with section 6109 and the regulations thereunder, which generally require the inclusion of an

employer identification number (EIN) on certain returns, statements, or other documents filed with the Internal Revenue Service. If your entity is required to obtain an EIN, you're required to provide all of the information requested on this form. Information on this form may be used to determine which federal tax returns you're required to file and to provide you with related forms and publications.

We disclose this form to the Social Security Administration (SSA) for their use in determining compliance with applicable laws. We may give this information to the Department of Justice for use in civil and/or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, and to federal law enforcement and intelligence agencies to combat terrorism.

We will be unable to issue an EIN to you unless you provide all of the requested information that applies to your entity. Providing false information could subject you to penalties.

You're not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping .....	8 hr., 36 min.
Learning about the law or the form .....	42 min.
Preparing, copying, assembling, and sending the form to the IRS .....	52 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormComments](https://www.irs.gov/FormComments). Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send Form SS-4 to this address. Instead, see *Where To File or Fax*, earlier.



**Form 6.2 Letter Advising Personal Representative of EIN  
(EST-0277)**

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(Date)

(PR's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (PR's Name):

The Internal Revenue Service has issued the following Employer Identification Number (EIN) for the above-named estate:     (EIN)    .

As personal representative, you should use the EIN with respect to any accounts you establish in the name of the estate. When the Internal Revenue Service sends you verification of the EIN, please contact me immediately if the number appears to be different from the number given above. I would appreciate it if you would send me a copy of the Internal Revenue Service documentation.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

---

(Attorney's Name)

Enclosures

## IV. Notice Concerning Fiduciary Relationship (IRS Form 56) and Letter Forwarding Notice Concerning Fiduciary Relationship

### Commentary and Instructions for [Forms 6.3–6.4](#)

The personal representative should file a Notice Concerning Fiduciary Relationship ([Form 6.3](#)) with the IRS. Filing the notice entitles the personal representative to receive notice of any deficiencies. Use [Form 6.4](#) to forward the Notice Concerning Fiduciary Relationship to the IRS. Attach a copy of the Domiciliary Letters (*supra* [Form 3.16](#)) and a certified copy of the trust instrument if necessary.

➤ **Note.** This form is available through the IRS’s website at <https://www.irs.gov> (last visited Apr. 13, 2021).

### Contents (Notice Concerning Fiduciary Relationship)

- #1 Enter the name and address of personal representative or trustee.
- #2 Check the applicable box.
- #3 Enter the type of tax (e.g., “Estate, Gift, Individual and Fiduciary Income Tax”).
- #4 Enter the federal tax form number (e.g., “706,” “709,” “1040,” “1041”).
- #5 Enter the year(s) or period(s) (e.g., “3 years prior to 12-1-95 and all years thereafter”).

### Distribution

Original:                    IRS office where return is filed  
Conformed copies:      Personal representative and firm file

### References

Treas. Reg. § 301.6903-1

# Form 6.3 Notice Concerning Fiduciary Relationship (IRS Form 56) (EST-0278)

<b>56</b> Form 56 (Rev. December 2019) Department of the Treasury Internal Revenue Service	<b>Notice Concerning Fiduciary Relationship</b> (Internal Revenue Code Sections 6036 and 6903) ▶ Go to <a href="http://www.irs.gov/Form56">www.irs.gov/Form56</a> for instructions and the latest information.	OMB No. 1545-0013
--	--	-------------------

**Part I Identification**

Name of person for whom you are acting (as shown on the tax return)	Identifying number	Decedent's social security no.
Address of person for whom you are acting (number, street, and room or suite no.)		
City or town, state, and ZIP code (if a foreign address, see instructions.)		
Fiduciary's name		
(#1)		
Address of fiduciary (number, street, and room or suite no.)		
(#1)		
City or town, state, and ZIP code	Telephone number (optional)	
(#1)	(        )	

**Section A. Authority**

1 Authority for fiduciary relationship. Check applicable box:

(#2) a  Court appointment of testate estate (valid will exists)

b  Court appointment of intestate estate (no valid will exists)

c  Court appointment as guardian or conservator

d  Fiduciary of intestate estate

e  Valid trust instrument and amendments

f  Bankruptcy or assignment for the benefit of creditors

g  Other. Describe ▶ \_\_\_\_\_

2a If box 1a, 1b, or 1d is checked, enter the date of death ▶ \_\_\_\_\_

b If box 1c, 1e, 1f, or 1g is checked, enter the date of appointment, taking office, or assignment or transfer of assets ▶ \_\_\_\_\_

**Section B. Nature of Liability and Tax Notices**

3 Type of taxes (check all that apply):  Income  Gift  Estate  Generation-skipping transfer  Employment

(#3)  Excise  Other (describe) ▶ \_\_\_\_\_

4 Federal tax form number (check all that apply): a  706 series b  709 c  940 d  941, 943, 944

(#4) e  1040 or 1040-SR f  1041 g  1120 h  Other (list) ▶ \_\_\_\_\_

5 If your authority as a fiduciary does not cover all years or tax periods, check here

(#5) and list the specific years or periods ▶ \_\_\_\_\_

**Part II Revocation or Termination of Notice**

**Section A—Total Revocation or Termination**

- 6** Check this box if you are revoking or terminating all prior notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship  Reason for termination of fiduciary relationship. Check applicable box:
  - a**  Court order revoking fiduciary authority
  - b**  Certificate of dissolution or termination of a business entity
  - c**  Other. Describe

**Section B—Partial Revocation**

- 7a** Check this box if you are revoking earlier notices concerning fiduciary relationships on file with the Internal Revenue Service for the same tax matters and years or periods covered by this notice concerning fiduciary relationship
- b** Specify to whom granted, date, and address, including ZIP code.

**Section C—Substitute Fiduciary**

- 8** Check this box if a new fiduciary or fiduciaries have been or will be substituted for the revoking or terminating fiduciary and specify the name(s) and address(es), including ZIP code(s), of the new fiduciary(ies)

**Part III Court and Administrative Proceedings**

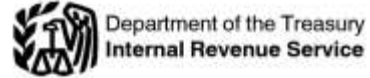
Name of court (if other than a court proceeding, identify the type of proceeding and name of agency)			Date proceeding initiated	
Address of court			Docket number of proceeding	
City or town, state, and ZIP code	Date	Time	<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	Place of other proceedings

**Part IV Signature**

**Please Sign Here**

Under penalties of perjury, I declare that I have examined this document, including any accompanying statements, and to the best of my knowledge and belief, it is true, correct, and complete.

\_\_\_\_\_  
 Fiduciary's signature Title, if applicable Date



# Instructions for Form 56

(Rev. December 2019)

## Notice Concerning Fiduciary Relationship

Section references are to the Internal Revenue Code unless otherwise noted.

### Future Developments

For the latest information about developments related to Form 56 and its instructions, such as legislation enacted after they were published, go to [IRS.gov/Form56](https://www.irs.gov/Form56).

### Photographs of Missing Children

The IRS is a proud partner with the *National Center for Missing & Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

## General Instructions

### Purpose of Form

Form 56 is used to notify the IRS of the creation or termination of a fiduciary relationship under section 6903 and provide the qualification for the fiduciary relationship under section 6036.



*Form 56 cannot be used to update the last known address of the person, business, or entity for whom you are acting. Use Form 8822, Change of Address, or Form 8822-B, Change of Address or Responsible Party—Business, to update the last known address.*

### Who Should File

Form 56 should be filed by a fiduciary (see *Definitions* below) to notify the IRS of the creation or termination of a fiduciary relationship under section 6903. For example, if you are acting as fiduciary for an individual, a decedent's estate, or a trust, you may file Form 56.

Receivers and assignees for the benefit of creditors also file Form 56 to give notice of qualification under section 6036. However, a bankruptcy trustee, debtor-in-possession, or other like fiduciary in a bankruptcy proceeding is not required to give notice of qualification under section 6036. Trustees, etc., in bankruptcy proceedings are subject to the

notice requirements under title 11 of the United States Code (Bankruptcy Rules).



*Do not use Form 56 if you are notifying the IRS that you are the authorized representative of the taxpayer. Instead, use Form 2848, Power of Attorney and Declaration of Representative.*

A fiduciary is treated by the IRS as if he or she is actually the taxpayer. Upon appointment, the fiduciary automatically has both the right and the responsibility to undertake all actions the taxpayer is required to perform. For example, the fiduciary must file returns and pay any taxes due on behalf of the taxpayer.

An authorized representative is treated by the IRS as the agent of the taxpayer. He or she can only perform the duties authorized by the taxpayer, as indicated on Form 2848. An authorized representative is not required nor permitted to do anything other than the actions explicitly authorized by the taxpayer.

### Definitions

**Fiduciary.** A fiduciary is any person in a position of confidence acting on behalf of any other person. A fiduciary assumes the powers, rights, duties, and privileges of the person or entity on whose behalf he or she is acting. Examples of fiduciaries include administrators, conservators, designees, executors, guardians, receivers, trustees of a trust, trustees in bankruptcy, personal representatives, persons in possession of property of a decedent's estate, or debtors-in-possession of assets in any bankruptcy proceeding by order of the court.

**Person.** A person is any individual, trust, estate, partnership, association, company, or corporation.

**Decedent's estate.** A decedent's estate is a taxable entity separate from the decedent that comes into existence at the time of the decedent's death. It generally continues to exist until the final distribution of the estate's assets is made to the heirs and other beneficiaries.

**Terminating entities.** A terminating entity, such as a corporation, partnership, trust, etc., only has the legal capacity to establish a fiduciary relationship while it is in existence. Establishing a fiduciary relationship prior to termination of the entity allows the fiduciary to represent the

entity on all tax matters after it is terminated.

### When and Where To File

#### Notice of fiduciary relationship.

Generally, you should file Form 56 when you create (or terminate) a fiduciary relationship. File Form 56 with the Internal Revenue Service Center where the person for whom you are acting is required to file tax returns.

#### Proceedings (other than bankruptcy) and assignments for the benefit of creditors.

A fiduciary who is appointed or authorized to act as:

- A receiver in a receivership proceeding or similar fiduciary (including a fiduciary in aid of foreclosure); or
- An assignee for the benefit of creditors, must file Form 56 on, or within 10 days of, the date of appointment with the Advisory Group Manager, of the area office of the IRS having jurisdiction over the person for whom you are acting. See Pub. 4235, Collection Advisory Group Numbers and Addresses, for more information.

The receiver or assignee may also file a separate Form 56 with the service center where the person for whom the fiduciary is acting is required to file tax returns to provide the notice required by section 6903.

## Specific Instructions

### Part I—Identification

Provide all the information called for in this part. If there is more than one fiduciary, each fiduciary must file a separate Form 56 or otherwise provide notice of their status to the IRS.

**Name.** File a separate Form 56 for each person for whom you are acting in a fiduciary capacity. For example, if you will be filing the decedent's final Form 1040 and are the executor/administrator of the decedent's estate, file one Form 56 entering the name of the decedent as the person for whom you are acting and file one Form 56 entering the name of the estate as the name of the person for whom you are acting.

**Identifying number.** If you are acting for an individual, an individual debtor, or other person whose assets are controlled, the identifying number is the social security number (SSN) or individual taxpayer identification number (ITIN). If you are

acting for a person other than an individual, the identifying number is the employer identification number (EIN).

**Decedents.** If you are acting on behalf of a decedent, enter the decedent's SSN or ITIN shown on his or her final Form 1040 in the space provided. If you are acting on behalf of a decedent's estate that must file a Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, enter the decedent's SSN or ITIN and the EIN (if applicable) as discussed under *Identifying number*, earlier.

**Address.** Include the suite, room, or other unit number after the street address.

If the postal service does not deliver mail to the street address and the fiduciary has a P.O. box, show the box number instead of the street address.

For a foreign address, enter the information in the following order: city, province or state, and country. Follow the country's practice for entering the postal code. Please do not abbreviate the country name.



*Form 8822 or Form 8822-B must be used to update the last known address of the person, business, or entity for whom you are acting.*

## Section A. Authority

**Line 1a. Testate estates.** Check the box on line 1a if you are the executor of an estate of a decedent who died testate (i.e., having left a valid will) and have been authorized to serve by a court of appropriate jurisdiction. Attach to your Form 56, current letters testamentary or a court certificate as proof of your court appointment. Enter the decedent's date of death on line 2a.

**Line 1b. Intestate estates with court appointment.** Check the box on line 1b if you have been appointed the administrator or representative of an estate of a decedent who died intestate (that is, without leaving a valid will). Attach to your Form 56, current letters testamentary or a court certificate as proof of your court appointment. Enter the decedent's date of death on line 2a.

**Line 1c. Guardianship.** Check the box on line 1c if a court of appropriate

jurisdiction has appointed you to serve as guardian, custodian, or conservator over the interests of another person or entity. Enter the date you were appointed on line 2b.

**Line 1d. Intestate estates with no court appointment.** Check the box on line 1d if you are the fiduciary of a decedent who died intestate (that is, without leaving a valid will). Only check this box if there is no court appointed administrator or representative for the estate of the decedent and you are the sole person charged with the property of the decedent. Enter the decedent's date of death on line 2a.

**Line 1e. Trusts.** If you were named a trustee under a valid instrument, check the box on line 1e and enter the date of your appointment or the date of the transfer of assets on line 2b.

**Line 1f. Bankruptcy or assignment for the benefit of creditors.** If you are a bankruptcy trustee or an assignee for the benefit of creditors, check the box on line 1f. Enter the date the assets were assigned to you on line 2b.

**Line 1g. Other proceedings.** If you are acting in a fiduciary capacity under circumstances different from those listed on lines 1a through 1f, check the box on line 1g and describe the authority for the fiduciary relationship in the space provided. Enter the date you were appointed or assets were transferred or assigned to you on line 2b.

**Line 2a. Date of death.** Complete this line only if you checked the box on line 1a, line 1b, or line 1d.

**Line 2b. Date of appointment or transfer of assets.** Complete this line only if you checked the box on line 1c, 1e, 1f, or 1g.



*You must be prepared to furnish evidence that substantiates your authority to act as a fiduciary.*

## Section B. Nature of Liability and Tax Notices

**Lines 3 and 4.** Check the appropriate box(es) indicating the type of tax and

forms you will be filing in performance of your fiduciary duties.

**Line 5.** If your authority does not cover all years or tax periods, check the box and list the specific years or periods within your authority.



*Form 56 cannot be used to request copies of notices and correspondence.*

## Part II—Revocation or Termination of Notice

Complete Part II only if you are revoking or terminating a prior notice concerning a fiduciary relationship. Completing Section B or C does not relieve any new or substitute fiduciary of the requirement to file a Form 56 or to otherwise give notice.

## Part III—Court and Administrative Proceedings

Complete this part only if you have been appointed a receiver, trustee, or fiduciary by a court or other governmental unit in a proceeding other than a bankruptcy proceeding.

If proceedings are scheduled for more than one date, time, or place, attach a separate schedule of the proceedings.

**Assignment for the benefit of creditors.** If you have been appointed as an assignee for the benefit of creditors, you must attach the following information:

1. A brief description of the assets that were assigned; and
2. An explanation of the action to be taken regarding such assets, including any hearings, meetings of creditors, sale, or other scheduled action.

## Part IV—Signature

Sign Form 56 under penalty of perjury and enter a title describing your role as a fiduciary (for example, assignee, executor, guardian, trustee, personal representative, receiver, conservator, surviving spouse, or sole heir in possession of the property of the decedent).

**Paperwork Reduction Act and Privacy Act Notice.** We ask for the information on this form to carry out the Internal Revenue laws of the United States. Form 56 is provided for your convenience in meeting this requirement and its use is voluntary. Sections 6903 and 6036 require you to inform the IRS of the creation or termination of a fiduciary relationship. Under section 6109 you must disclose the social security number or other identification number of the individual or entity for which you are acting. The principal purpose of this disclosure is to secure proper identification of the taxpayer. We also need this information to gain access to the tax information in our files and properly respond to your request. We may disclose this information to the Department of Justice for civil or criminal litigation, and to cities, states, and the District of Columbia for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. If you do not disclose this information, we may suspend processing the notice of fiduciary relationship and not consider this as proper notification until you provide the information. Providing false information may subject you to penalties.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping .....	9 min.
Learning about the law or the form .....	38 min.
Preparing the form .....	55 min.
Copying, assembling, and sending the form to the IRS .....	19 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from [IRS.gov/FormsComments](https://www.irs.gov/formscomments). Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send the form to this office.

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**Form 6.4 Letter Forwarding Notice Concerning Fiduciary  
Relationship (EST-0279)**

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*(Date)*

Department of the Treasury  
Internal Revenue Service  
Kansas City, MO 64999

Re: Estate of *(Decedent's Name)*

To Whom It May Concern:

With regard to the above-named estate, enclosed are a copy of the Domiciliary Letters and a completed IRS Form 56, Notice Concerning Fiduciary Relationship. The Domiciliary Letters for the above-named estate are available on request. If this document meets with your approval, please process it accordingly and acknowledge its receipt on the enclosed copy of this letter.

Sincerely,

*(Firm Name)*

---

*(Attorney's Name)*

Enclosures



## V. Federal Estate Tax Return (IRS Form 706) and Transmittal Letter for Federal Estate Tax Return

### Commentary and Instructions for [Forms 6.5–6.6](#)

A federal estate tax return (IRS Form 706) is required for every U.S. citizen or resident whose estate value exceeds the applicable exemption amount, *see supra* § 6.4. The estate tax return with all schedules and attachments is due nine months from the date of death. Preparers should carefully read the form's instruction booklet, which demonstrates how to describe and list assets on the returns. (Copies of tax forms and instructions are available from the IRS's website at <https://www.irs.gov> (last visited Apr. 13, 2021).) Preparers should also keep the following in mind:

1. Administration expenses can be claimed for either estate tax purposes or estate income tax purposes, but not both. For estates in which no federal estate tax is due, administration expenses should be claimed for income tax purposes.
2. Unless a tax clause in the decedent's will provides otherwise, the spouse's share of the estate bears its part of estate taxes.
3. When the surviving spouse receives essentially all the estate, it is sufficient to describe the property passing to the spouse as "all the property shown in this return except that listed in Schedule \_\_, Items \_\_, less the items shown on Schedules J, K, and L."
4. If the decedent received property from another person who died within the last 10 years, it may be possible to claim a prior transfer credit (Part 2, Line 14). This valuable credit is often overlooked.
5. The IRS requires certification of payment of state death taxes. See Tech. Adv. Mem. 89-47-005 (Aug. 21, 1989) for a detailed discussion of claiming state death tax deduction when estate taxes have not yet been paid.

The personal representative should file the federal estate tax return, accompanied by the following:

1. Court-certified copy of decedent's Last Will and Testament;
2. A check in the amount of the federal estate tax;
3. Schedule A—Provide copies of appraisals with explanation of basis of appraisal;
4. Schedule B—Provide complete financial statements for inactive stocks or stock of closed corporation, including balance sheets, statements of net earnings or operating results, and dividends paid for each of the five years immediately preceding valuation date;
5. Schedule D—Include Life Insurance Statement for Insured Decedent (IRS Form 712) for each insurance policy listed;

6. Schedule E, Part 2—If any asset is included at less than full value in decedent’s estate, provide proof of extent, origin, and nature of decedent’s interest and interest of cotenant(s);
7. Schedule F—When an interest in partnership or unincorporated business is reportable, submit a statement of assets and liabilities as of valuation date and for five years immediately preceding valuation date. Also attach statements of net earnings for the same five years. (See information to be submitted for closed corporation stock on Schedule B.) If the decedent owned articles with artistic or intrinsic value and any one article is valued at more than \$3,000 or any collection of articles is valued at more than \$10,000, attach a sworn expert appraisal and a statement of the expert’s qualifications;
8. Schedule G—All transfers within three years of death of a life insurance policy, a reversionary interest in a life estate, or a power to revoke must be included if the property would have been included in the gross estate had the decedent continued to possess them until death. Attach a verified copy of any trust the decedent created;
9. Schedule H—If the decedent ever possessed a power of appointment, a certified or verified copy of the instrument granting, exercising, or releasing the power must accompany the return. This is required even if the power was not a general power and that property is not otherwise includible in the decedent’s estate;
10. Schedule I—See the federal estate tax return; and
11. Schedule M—If property passes to the surviving spouse by the decedent’s will, attach a certified copy of the order admitting the will to probate. See instructions for IRS Form 706, Schedule M, for special cases. Note that the transmittal letter ([Form 6.6](#)) includes a request for determination of tax and discharge of fiduciary under I.R.C. § 2204. This language is optional.

[Form 6.5](#) illustrates how a Federal Estate Tax Return would be prepared using the William O. Hart fact pattern found in this chapter.

### **Distribution**

Original: File by mail: Department of the Treasury, Internal Revenue Service, Kansas City, MO 64999  
Conformed copies: Personal representative and firm file

### **References**

I.R.C. §§ 2001–2056A

Form 6.5 U.S. Estate Tax Return (IRS Form 706) (EST-0280)

**Form 706** 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.  
 ▶ Go to www.irs.gov/Form706 for instructions and the latest information.

OMB No. 1545-0015

1a Decedent's first name and middle initial (and maiden name, if any) **WILLIAM O.** 1b Decedent's last name **HART** 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 **MADISON, WI** 3b Year domicile established **2004** 4 Date of birth **01/15/1955** 5 Date of death **02/01/2020**

6a Name of executor (see instructions) **RUTH HART** 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. **1105 FISH HATCHERY ROAD MADISON, WI 53715** Phone no. **608-555-5555**

6c Executor's social security number (see instructions) **987-65-4321**

6d If there are multiple executors, check here  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 **DANE COUNTY** 7b Case number **20-PR-9999**

8 If decedent died testate, check here  and attach a certified copy of the will. 9 If you extended the time to file this Form 706, check here

10 If Schedule R-1 is attached, check here  11 If you are extending the value of assets included in the gross estate on line 1 pursuant to the special rate of Reg. section 20.2018-2(a) (7)(b), check here

1	Total gross estate less exclusion (from Part 5-Recapitulation, item 13)	1	12,031,100.
2	Tentative total allowable deductions (from Part 5-Recapitulation, item 24)	2	11,957,300.
3a	Tentative taxable estate (subtract line 2 from line 1)	3a	73,800.
3b	State death tax deduction	3b	
3c	Taxable estate (subtract line 3b from line 3a)	3c	73,800.
4	Adjusted taxable gifts (see instructions)	4	
5	Add lines 3c and 4	5	73,800.
6	Tentative tax on the amount on line 5 from Table A in the instructions	6	16,588.
7	Total gift tax paid or payable (see instructions)	7	
8	Gross estate tax (subtract line 7 from line 6)	8	16,588.
9a	Basic exclusion amount	9a	11,580,000.
9b	Deceased spousal unused exclusion (DSUE) amount from predeceased spouse(s), if any (from Section D, Part 5-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	11,580,000.
9e	Applicable credit amount (tentative tax on the amount in line 9d from Table A in the instructions)	9e	4,577,800.
10	Adjustment to applicable credit amount (May not exceed \$6,000. See instructions.)	10	
11	Allowable applicable credit amount (subtract line 10 from line 9e)	11	4,577,800.
12	Subtract line 11 from line 8 (but do not enter less than zero)	12	0.
13	Credit for foreign death taxes (from Schedule P), (Attach Form(s) 706-CE.)	13	
14	Credit for tax on prior transfers (from Schedule Q)	14	
15	Total credits (add lines 13 and 14)	15	
16	Net estate tax (subtract line 15 from line 12)	16	0.
17	Generation-skipping transfer (GST) taxes payable (from Schedule R, Part 2, line 10)	17	
18	Total transfer taxes (add lines 16 and 17)	18	
19	Prior payments (explain in a(n) attached statement)	19	
20	Balance due (or overpayment) (subtract line 19 from line 18)	20	0.

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: Signature of executor \_\_\_\_\_ Date \_\_\_\_\_  
 Signature of executor \_\_\_\_\_ Date \_\_\_\_\_

Paid Preparer Use Only: Print/Type preparer's name \_\_\_\_\_ Preparer's signature \_\_\_\_\_ Date \_\_\_\_\_ Check  if self-employed PTIN \_\_\_\_\_  
 Firm's name \_\_\_\_\_ Firm's EIN \_\_\_\_\_  
 Firm's address \_\_\_\_\_ Phone no. \_\_\_\_\_

005001 09-28-20 LHA For Privacy Act and Paperwork Reduction Act Notice, see instructions. Form 706 (Rev. 8-2016)

11480402 789684 099984

2020.03020 HART, WILLIAM O

099984\_1

Estate of: **WILLIAM O. HART** 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 Part 6-Portability of Decedent Spousal Unused Exclusion.

	Yes	No
<b>Note:</b> Some of the following elections may require the posting of bonds or liens.		
<b>Please check "Yes" or "No" for each question. See instructions.</b>		
1 Do you elect alternate valuation?	1	X
2 Do you elect special-use valuation? If "Yes," you must complete and attach Schedule A-1	2	X
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 installment payments, you may be required to provide security for estate tax deferred under section 6169 and interest in the form of a surety bond or a section 6924A lien.	3	X
4 Do you elect to postpone the part of the taxes due to a reversionary or remainder interest as described in section 6163?	4	X

**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 Reg. section 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) State Address (number, street, and room or suite no., city, state, and ZIP code)  
 INSERT NAME WI INSERT ADDRESS

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  
 INSERT # INSERT #

1 Death certificate number and issuing authority (attach a copy of the death certificate to this return).  
 20201234 STATE OF WI DEPT OF HEALTH SERVICES

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

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.  
 ELIZABETH SMITH, SSN: 111-23-4567, DIVORCED 1996

4a Surviving spouse's name RUTH HART 4b Social security number 987-65-4321 4c Amount received (see instructions) 11,733,062.

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 D) (see instructions).

Name of individual, trust, or estate receiving \$5,000 or more	Identifying number	Relationship to decedent	Amount (see instructions)
MARY HART	234-56-7891	DAUGHTER	33,500.
LEWIS HART	345-67-8912	SON	35,300.
JANE HART	456-78-9123	STEP-DAUGHTER	5,000.

All unascertainable beneficiaries and those who receive less than \$5,000 Total 73,800.

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? If "Yes," complete and attach two copies of Schedule PC for each claim.			X
7 Does the gross estate contain any section 2044 property (qualified terminable interest property (QTIP) from a prior gift or estate)? See instructions.			X
8a Have federal gift tax returns ever been filed? If "Yes," attach copies of the returns, if available, and furnish the following information.			X
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?			X
b Did the decedent own any insurance on the life of another that is not included in the gross estate?			X

ESTATE AND INCOME TAXES

Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART** 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.		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		X
11 a	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?		X
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 sections 2035, 2036, 2037, or 2038? See instructions. If "Yes," you must complete and attach Schedule G		X
13 a	Were there in existence at the time of the decedent's death any trusts created by the decedent during his or her lifetime?		X
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?		X
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?		X
d	If there was a GST taxable termination (under section 2612), attach a statement to explain. Provide a copy of the trust or will naming the trust, and give the name, address, and phone number of the current trustee(s)		
e	Did the 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 for this transferred/sold item. ▶		X
14	Did the decedent ever possess, exercise, or release any general power of appointment? If "Yes," you must complete and attach Schedule H		X
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?		X
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		X
17	Was the decedent over the beneficiary of a trust for which a deduction was claimed by the estate of a predeceased spouse under section 2058(b)(7) and which is not reported on this return? If "Yes," attach an explanation		X

**Part 5 - Recapitulation.** Note: If estimating the value of one or more assets pursuant to the special rule of Reg. section 20.2010-2(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	2,500,000.
2	Schedule B - Stocks and Bonds	2	1,942,750.
3	Schedule C - Mortgages, Notes, and Cash	3	625,050.
4	Schedule D - Insurance on the Decedent's Life (attach Form(s) 712)	4	3,227,500.
5	Schedule E - Jointly Owned Property (attach Form(s) 712 for life insurance)	5	2,250,500.
6	Schedule F - Other Miscellaneous Property (attach Form(s) 712 for life insurance)	6	40,300.
7	Schedule G - Transfers During Decedent's Life (attach Form(s) 712 for life insurance)	7	5,000.
8	Schedule H - Powers of Appointment	8	0.
9	Schedule I - Annuities	9	1,440,000.
10	Estimated value of assets subject to the special rule of Reg. section 20.2010-2(a)(7)(ii)	10	
11	Total gross estate (add items 1 through 10)	11	12,031,100.
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	12,031,100.
Item no.	Deductions	Amount	
14	Schedule J - Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims	14	120,788.
15	Schedule K - Debts of the Decedent	15	3,450.
16	Schedule K - Mortgages and Liens	16	100,000.
17	Total of items 14 through 16	17	224,238.
18	Allowable amount of deductions from item 17 (see the instructions for item 18 of the Recapitulation)	18	224,238.
19	Schedule L - Net Losses During Administration	19	
20	Schedule L - Expenses Incurred in Administering Property Not Subject to Claims	20	
21	Schedule M - Bequests, etc., to Surviving Spouse	21	11,733,062.
22	Schedule O - Charitable, Public, and Similar Gifts and Bequests	22	
23	Estimated value of deductible assets subject to the special rule of Reg. section 20.2010-2(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	11,957,300.

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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 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
	X

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	11,580,000.
2	Reserved	
3	Enter the value of the cumulative lifetime gifts on which tax was paid or payable. See instructions	0.
4	Add lines 1 and 3	11,580,000.
5	Enter amount from line 10, Part 2 - Tax Computation	0.
6	Divide amount on line 5 by 40% (0.40) (do not enter less than zero)	0.
7	Subtract line 6 from line 4	11,580,000.
8	Enter the amount from line 5, Part 2 - Tax Computation	73,800.
9	Subtract line 8 from line 7 (do not enter less than zero)	11,506,200.
10	DSUE amount portable to surviving spouse (Enter lesser of line 9 or line 9a, Part 2 - Tax Computation)	11,506,200.

**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				
<b>Part 1 - DSUE RECEIVED FROM LAST DECEASED SPOUSE</b>							
<b>Part 2 - DSUE RECEIVED FROM OTHER PREDECEASED SPOUSE(S) AND USED BY DECEDENT</b>							
<b>Total (for all DSUE amounts from predeceased spouse(s) applied)</b>							

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

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ESTATE AND INCOME TAXES

Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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 sections 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 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	REAL PROPERTY LOCATED AT 2357 W. GLENVIEW ROAD, LAKE BLUFF, IL (LOT 10 BLOCK 15, GLENVIEW ESTATES)  TITLED: WILLIAM O. HART SEE ATTACHED APPRAISAL			2,500,000.
Total from continuation schedules or additional statements attached to this schedule				
<b>TOTAL</b> (Also enter on Part 5-Recapitulation, page 3, at item 1.)				<b>2,500,000.</b>

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

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Schedule A - Page 5

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

Decedent's social security number  
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**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 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	INDIVIDUAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLED: WILLIAM HART  100 SHARES OF AT&T	55.00000			5,500.
2	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLE: WILLIAM HART  450 SHARES OF XYZ COMPANY  LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	66.66667			30,000.    <15,000.>
3	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLE: WILLIAM HART  300 SHARES OF MPO, INC.  LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	50.00000			15,000.    <7,500.>
4	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323				
Total from continuation schedules (or additional statements) attached to this schedule					1,914,750.
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 2.)					<b>1,942,750.</b>

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

Schedule B - Page 10

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Estate of: WILLIAM O. HART Decedent's social security number  
123-45-6789

**CONTINUATION SCHEDULE**

Continuation of Schedule **B**  
(Enter letter of schedule you are continuing.)

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 (Sch. B, E, or G only)	Alternate valuation date	Alternate value	Value at date of death or amount deductible
	<p>CUSIP number or EIN, where applicable</p> <p>TITLE: WILLIAM HART</p> <p>200 SHARES OF AP CORP</p> <p>LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST</p>	147.50000			29,500.
5	<p>BROKERS OF AMERICA ACCOUNT #111222</p> <p>TITLE: WILLIAM HART</p> <p>LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST</p>				<p>&lt;14,750.&gt;</p> <p>3,800,000.</p> <p>&lt;1,900,000.&gt;</p>
<b>TOTAL.</b> (Carry forward to main schedule.)					1,914,750.

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

Decedent's social security number  
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**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 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	BEST BANK AND TRUST CHECKING ACCOUNT #3607622 TITLED: WILLIAM O. HART (NON-INTEREST BEARING)			250,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<125,000.>
2	UNCASHED PAYCHECK TITLED: WILLIAM HART			3,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<1,500.>
3	UNCASHED PAYCHECK TITLED: RUTH HART			2,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<1,000.>
4	BEST BANK AND TRUST CHECKING ACCOUNT #324456 TITLED: RUTH HART (NON-INTEREST BEARING)			5,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<2,500.>
5	FIRST BROKERAGE ACCOUNT #23232323 TITLED: WILLIAM HART			
	INDIVIDUAL COMPONENT OF CASH MANAGEMENT ACCOUNT			20,000.
6	ACCRUED DIVIDEND ON STOCK HELD BY RUTH HART			100.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<50.>
7	BEST BANK AND TRUST CDS #222333 TITLED: RUTH HART			950,000.
	LESS: SURVIVING SPOUSE'S 1/2			
Total from continuation schedules (or additional statements) attached to this schedule				<475,000.>
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 3.)				<b>625,050.</b>

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

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Schedule C - Page 11

Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule     C      
(Enter letter of schedule you are continuing.)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
	MARITAL PROPERTY INTEREST			<475,000.>
<b>TOTAL.</b> (Carry forward to main schedule.)				<475,000.>

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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 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	ABC LIFE INSURANCE CO. POLICY #00-105-103 OWNER: WILLIAM HART INSURED: WILLIAM HART BENEFICIARY: MARY HART AND LEWIS HART  FULL VALUE \$100,000 MARITAL PROPERTY COMPONENT IS \$66,000 FROM PAYMENT MADE AFTER JULY 1, 1994 LESS SPOUSE'S MARITAL PROPERTY INTEREST OF \$34,000  FORM 712 ATTACHED			67,000.
2	NORTHWESTERN MUTUAL LIFE INSURANCE CO. POLICY #78910 OWNER: WILLIAM HART INSURED: WILLIAM HART BENEFICIARY: RUTH HART  FULL VALUE \$2,500,000 100% INDIVIDUAL PROPERTY  FORM 712 ATTACHED			2,500,000.
3	BCD LIFE INSURANCE CO. POLICY #11-000-1222 OWNER: WILLIAM HART INSURED: WILLIAM HART BENEFICIARY: RUTH HART  FULL VALUE \$1,100,000 MARITAL PROPERTY COMPONENT IS \$880,000 LESS SPOUSE'S MARITAL PROPERTY INTEREST OF \$440,000  FORM 712 ATTACHED			660,000.
4	ABC LIFE INSURANCE CO. POLICY #234577 OWNER: WILLIAM HART INSURED: SURVIVOR OF WILLIAM HART			
Total from continuation schedules (or additional statements) attached to this schedule				500.
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 4.)				<b>3,227,500.</b>

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

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Schedule D - Page 12

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Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule     D      
(Enter letter of schedule you are continuing.)

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
	AND RUTH HART BENEFICIARY: TRUSTEE U/W/O RUTH HART			
	FULL CASH VALUE \$1,000			
	FORM 712 ATTACHED			1,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<500.>
<b>TOTAL.</b> (Carry forward to main schedule.)				500.

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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.)

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

**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.

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	REAL PROPERTY LOCATED AT: 1105 FISH HATCHERY ROAD MADISON, WI 53715  TITLED: WILLIAM O. HART AND RUTH HART, HUSBAND AND WIFE SEE ATTACHED APPRAISAL	CUSIP number or EIN, where applicable		3,200,000.
2	BEST BANK AT TRUST SAVINGS ACCOUNT #789789			
Total from continuation schedules (or additional statements) attached to this schedule				1,301,000.
<b>1a</b> Totals			<b>1a</b>	4,501,000.
<b>b</b> Amounts included in gross estate (one-half of line 1a)			<b>1b</b>	2,250,500.

**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 statement.

Name	Address (number and street, city, state, and ZIP code)
A.	
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
		CUSIP number or EIN, where applicable			
Total from continuation schedules (or additional statements) attached to this schedule					
<b>b</b> Total other joint interests			<b>2b</b>		
<b>3</b> Total includible joint interests (add lines 1b and 2b). Also enter on Part 5 - Recapitulation, page 3, at item 5			<b>3</b>		2,250,500.

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

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Estate of: <b>WILLIAM O. HART</b>	Decedent's social security number <b>123-45-6789</b>
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**CONTINUATION SCHEDULE**  
Continuation of Schedule     E, PART 1      
(Enter letter of schedule you are continuing.)

Item number	Description. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN	CUSIP number or EIN, where applicable	Alternate valuation date	Alternate value	Value at date of death
	TITLED: WILLIAM AND RUTH HART				1,300,000.
	ACCRUED INTEREST ON ITEM 2				1,000.
<b>TOTAL.</b> (Carry forward to main schedule.)					<b>1,301,000.</b>

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Estate of: **WILLIAM O. HART** Decedent's social security number  
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**CONTINUATION SCHEDULE**

Continuation of Schedule **F**  
(Enter letter of schedule you are continuing.)

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
	CUSIP number or EIN, where applicable			
	PROPERTY INTEREST OF \$200			1,800.
4	OTHER HOUSEHOLD GOODS AND PERSONAL EFFECTS SEE ATTACHED APPRAISAL			40,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST			<20,000.>
<b>TOTAL.</b> (Carry forward to main schedule.)				<b>21,800.</b>

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Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

Decedent's social security number  
123-45-6789

**SCHEDULE G - Transfers During Decedent's Life**

(If you elect section 2032A valuation, you must complete Schedule G 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.

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
<b>A.</b>	Gift tax paid or payable by the decedent or the estate for all gifts made by the decedent or his or her spouse within 3 years before the decedent's death (section 2035(b)).	X X X X		
<b>B.</b>	Transfers includible under sections 2035(a), 2036, 2037, or 2038:			
1	<b>BEST BANK AND TRUST SAVINGS ACCOUNT #199-999</b>  HELD BY WILLIAM HART AS CUSTODIAN FOR JANE HART UNDER THE UNIFORM GIFT TO MINORS ACT			5,000.
Total from continuation schedules (or additional statements) attached to this schedule				
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 7.)				5,000.

**SCHEDULE H - Powers of Appointment**

(Include "5 and 5 lapsing" powers (section 2041(b)(2)) held by the decedent.)

(If you elect section 2032A valuation, you must complete Schedule H 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.

Item number	Description	Alternate valuation date	Alternate value	Value at date of death
Total from continuation schedules (or additional statements) attached to this schedule				
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 8.)				

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

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ESTATE AND INCOME TAXES

Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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 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)

Yes	No
	X

(as in effect before its repeal by the Deficit Reduction Act of 1984)?

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

Item number	Description. Show the entire value of the annuity before any exclusions	Alternate valuation date	Includible alternate value	Includible value at date of death
1	ABC COMPANY PROFIT SHARING PLAN TITLED: WILLIAM HART BENEFICIARY: RUTH HART VALUED AT \$1,800,000 MARITAL PROPERTY COMPONENT IS \$720,000 LESS SPOUSE'S MARITAL PROPERTY INTEREST OF \$360,000			1,440,000.
Total from continuation schedules (or additional statements) attached to this schedule				
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 9.)				1,440,000.

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

Schedule I - Page 16

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2020.03020 HART, WILLIAM O

099984\_1

Form 706 (Rev. 8-2018)

Estate of: **WILLIAM O. HART**

Decedent's social security number  
**123-45-6789**

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

Item number	Description	Expense amount	Total amount
<b>A. Funeral expenses:</b>			
1	QRS FUNERAL HOME	10,500.	
Total funeral expenses			10,500.

**B. Administration expenses:**

- 1 Executors' commissions - amount estimated/agreed upon/paid. (Strike out the words that do not apply.)
- 2 Attorney fees - amount ~~estimated/agreed upon/paid.~~ (Strike out the words that do not apply.)
- 3 Accountant fees - amount estimated/agreed upon/paid. (Strike out the words that do not apply.)

	100,000.
--	----------

4 Miscellaneous expenses:		Expense amount	
	PROBATE FILING FEE	10,173.	
	ATTORNEY'S DISBURSEMENTS	50.	
	NOTICE TO CREDITORS PUBLICATION FILING FEE	65.	
Total miscellaneous expenses from continuation schedules (or additional statements) attached to this schedule			
Total miscellaneous expenses			10,288.
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 14.)			120,788.

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

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Schedule J - Page 17

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2020.03020 HART, WILLIAM O

099984\_1

Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART** 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 a claim not currently deductible.  
For such a claim, report the expense on Schedule K but without a value in the last column.

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?	Yes	No
		X
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)?		X
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 debt, and allowable death taxes	Amount
1	VISA CREDIT CARD BILL	1,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<500.>
2	JONES HEATING AND AIR	750.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<375.>
3	WE ENERGIES	250.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<125.>
4	AT&T	200.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<100.>
5	DISH TV	300.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<150.>
Total from continuation schedules (or additional statements) attached to this schedule		2,200.
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 15.)		<b>3,450.</b>

Item number	Mortgages and Liens - Description	Amount
1	MORTGAGE HELD AT BEST BANK AND TRUST SECURED BY RESIDENCE LISTED ON SCHEDULE E, ITEM 1 TITLED: WILLIAM AND RUTH HART	200,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<100,000.>
Total from continuation schedules (or additional statements) attached to this schedule		
<b>TOTAL</b> (Also enter on Part 5 - Recapitulation, page 3, at item 16.)		<b>100,000.</b>

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

Schedule K - Page 18

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2020.03020 HART, WILLIAM O

099984\_1

Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule K, DEBTS OF DECEDENT  
(Enter letter of schedule you are continuing.)

Item number	Description	Amount
6	DENTAL BILL FOR RUTH HART	2,000.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<1,000.>
7	AUTO LOAN ON RUTH HART'S CAR	2,400.
	LESS: SURVIVING SPOUSE'S 1/2 MARITAL PROPERTY INTEREST	<1,200.>
TOTAL. (Carry forward to main schedule.)		2,200.

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2020.03020 HART, WILLIAM O

099984\_1

Form 706 (Rev. 8-2019)

Estate of: **WILLIAM O. HART**

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 entry in the last column.

<b>1</b>	Did any property pass to the surviving spouse as a result of a qualified disclaimer? If "Yes," attach a copy of the written disclaimer required by section 2518(b).	<b>1</b>	Yes	No
<b>2a</b>	In what country was the surviving spouse born? <u>UNITED STATES</u>			
<b>b</b>	What is the surviving spouse's date of birth? <u>08/26/1970</u>			
<b>c</b>	Is the surviving spouse a U.S. citizen?	<b>2c</b>	X	
<b>d</b>	If the surviving spouse is a naturalized citizen, when and where did the surviving spouse acquire citizenship?			
<b>e</b>	If the surviving spouse is not a U.S. citizen, of what country is the surviving spouse a citizen?			
<b>3</b>	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	<b>3</b>		X

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
QTIP property:		
All other property:		
<b>B1</b>	REAL PROPERTY LOCATED AT 2357 W. GLENVIEW ROAD, LAKE BLUFF, IL (LOT 10 BLOCK 15, GLENVIEW ESTATES)  TITLED: WILLIAM O. HART SEE ATTACHED APPRAISAL (SCHEDULE A, ITEM 1)	2,500,000.
<b>B2</b>	INDIVIDUAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLED: WILLIAM HART  100 SHARES OF AT&T (SCHEDULE B, ITEM 1)	5,500.
Total from continuation schedules (or additional statements) attached to this schedule		9,227,562.
<b>4</b>	Total amount of property interests listed on Schedule M	<b>4</b> 11,733,062.
<b>5a</b>	Federal estate taxes payable out of property interests listed on Schedule M	<b>5a</b> 0.
<b>b</b>	Other death taxes payable out of property interests listed on Schedule M	<b>5b</b> 0.
<b>c</b>	Federal and state GST taxes payable out of property interests listed on Schedule M	<b>5c</b> 0.
<b>d</b>	Add items 5a, 5b, and 5c	<b>5d</b>
<b>e</b>	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	<b>e</b> 11,733,062.

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

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Schedule M - Page 20

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2020.03020 HART, WILLIAM O

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Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule M, OTHER PROPERTY  
(Enter letter of schedule you are continuing.)

Item number	Description	Amount
B3	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLE: WILLIAM HART  450 SHARES OF XYZ COMPANY CUSIP NUMBER/EIN: NO1145368 (SCHEDULE B, ITEM 2)	15,000.
B4	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLE: WILLIAM HART  300 SHARES OF MPO, INC. CUSIP NUMBER/EIN: AA9853457 (SCHEDULE B, ITEM 3)	7,500.
B5	MARITAL PROPERTY COMPONENT OF FIRST BROKERAGE ACCOUNT #23232323 TITLE: WILLIAM HART  200 SHARES OF AP CORP CUSIP NUMBER/EIN: DG7854825 (SCHEDULE B, ITEM 4)	14,750.
B6	BROKERS OF AMERICA ACCOUNT #111222 TITLE: WILLIAM HART (SCHEDULE B, ITEM 5)	1,900,000.
B7	BEST BANK AND TRUST CHECKING ACCOUNT #3607622 TITLED: WILLIAM O. HART (NON-INTEREST BEARING) (SCHEDULE C, ITEM 1)	125,000.
B8	UNCASHED PAYCHECK TITLED: WILLIAM HART (SCHEDULE C, ITEM 2)	1,500.
B9	UNCASHED PAYCHECK TITLED: RUTH HART (SCHEDULE C, ITEM 3)	1,000.
B10	BEST BANK AND TRUST CHECKING ACCOUNT #324456 TITLED: RUTH HART (NON-INTEREST BEARING) (SCHEDULE C, ITEM 4)	2,500.
B11	FIRST BROKERAGE	
<b>TOTAL.</b> (Carry forward to main schedule.)		<b>2,067,250.</b>

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Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule M, OTHER PROPERTY  
(Enter letter of schedule you are continuing.)

Item number	Description	Amount
	ACCOUNT #23232323 TITLED: WILLIAM HART  INDIVIDUAL COMPONENT OF CASH MANAGEMENT ACCOUNT (SCHEDULE C, ITEM 5)	20,000.
B12	ACCRUED DIVIDEND ON STOCK HELD BY RUTH HART (SCHEDULE C, ITEM 6)	50.
B13	BEST BANK AND TRUST CDS #222333 TITLED: RUTH HART (SCHEDULE C, ITEM 7)	475,000.
B14	NORTHWESTERN MUTUAL LIFE INSURANCE CO. POLICY #78910 OWNER: WILLIAM HART INSURED: WILLIAM HART BENEFICIARY: RUTH HART  FULL VALUE \$2,500,000 100% INDIVIDUAL PROPERTY  FORM 712 ATTACHED (SCHEDULE D, ITEM 2)	2,500,000.
B15	BCD LIFE INSURANCE CO. POLICY #11-000-1222 OWNER: WILLIAM HART INSURED: WILLIAM HART BENEFICIARY: RUTH HART  FULL VALUE \$1,100,000 MARITAL PROPERTY COMPONENT IS \$880,000 LESS SPOUSE'S MARITAL PROPERTY INTEREST OF \$440,000  FORM 712 ATTACHED (SCHEDULE D, ITEM 3)	660,000.
B16	ABC LIFE INSURANCE CO. POLICY #234577 OWNER: WILLIAM HART INSURED: SURVIVOR OF WILLIAM HART AND RUTH HART BENEFICIARY: TRUSTEE U/W/O RUTH HART  FULL CASH VALUE \$1,000  FORM 712 ATTACHED (SCHEDULE D, ITEM 4)	500.
<b>TOTAL.</b> (Carry forward to main schedule.)		<b>3,655,550.</b>

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2020.03020 HART, WILLIAM O

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Estate of: WILLIAM O. HART	Decedent's social security number 123-45-6789
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**CONTINUATION SCHEDULE**

Continuation of Schedule **M, OTHER PROPERTY**  
(Enter letter of schedule you are continuing.)

Item number	Description	Amount
B17	REAL PROPERTY LOCATED AT: 1105 FISH HATCHERY ROAD MADISON, WI 53715  TITLED: WILLIAM O. HART AND RUTH HART, HUSBAND AND WIFE SEE ATTACHED APPRAISAL (SCHEDULE E, PART 1, ITEM 1)	1,600,000.
B18	BEST BANK AT TRUST SAVINGS ACCOUNT #789789 TITLED: WILLIAM AND RUTH HART (SCHEDULE E, PART 1, ITEM 2)  ACCRUED INTEREST	650,000.  500.
B19	2018 TOYOTA CAMRY LE 4-DOOR SEDAN TITLED: WILLIAM HART  KELLEY BLUE BOOK VALUATION ATTACHED (SCHEDULE F, ITEM 1)	8,500.
B20	2018 FORD TAURUS 4-DOOR SEDAN TITLED: RUTH HART  KELLEY BLUE BOOK VALUATION ATTACHED (SCHEDULE F, ITEM 2)	10,000.
B21	OTHER HOUSEHOLD GOODS AND PERSONAL EFFECTS SEE ATTACHED APPRAISAL (SCHEDULE F, ITEM 4)	20,000.
B22	ABC COMPANY PROFIT SHARING PLAN TITLED: WILLIAM HART BENEFICIARY: RUTH HART VALUED AT \$1,800,000 MARITAL PROPERTY COMPONENT IS \$720,000 LESS SPOUSE'S MARITAL PROPERTY INTEREST OF \$360,000 (SCHEDULE I, ITEM 1)	1,440,000.
B23	SHARE OF RESIDUE BEFORE FEDERAL AND STATE TAXES	<224,238.>
<b>TOTAL.</b> (Carry forward to main schedule.)		3,504,762.

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2020.03020 HART, WILLIAM O

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**Form 6.6 Transmittal Letter for Federal Estate Tax Return  
(EST-0281)**

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(Date)

Department of the Treasury  
Internal Revenue Service  
Kansas City, MO 64999

Re: Estate of *(Decedent's Name)*  
Date of Death: *(Date of Death)*  
Social Security No. *(Social Security No.)*  
Tax Identification No. *(Tax Identification No.)*

To Whom It May Concern:

Enclosed is the federal estate tax return with attachments for the Estate of *(Decedent's Name)*. I enclose a check for \$ *(Amount)* for the federal estate tax due.

As personal representative, I apply for a determination of the amount of tax due and for discharge from personal liability for these taxes under I.R.C. § 2204. It is my understanding that within nine months following the receipt of this application, I will be notified of any change in the estate tax pertaining to this return and that in the event no such notification is received, I will be discharged for any deficiency that may be found after that.

Please acknowledge receipt of the enclosures on the enclosed copy of this letter and return it to me in the enclosed postage-paid envelope. Thank you for your assistance.

Sincerely,

\_\_\_\_\_  
*(PR's Name)*

Enclosures

## VI. Election of Administration Expenses

### Commentary and Instructions for [Form 6.7](#)

File this form with the estate income tax return to elect certain administration expenses as deductions on that return instead of taking these expenses as deductions on the federal estate tax return. Once the election is made in this manner, it is irrevocable.

#### Contents

- #1 Obtain the amounts from MIL Sections 31–33 and 36 to be elected for an estate income tax deduction and note election on MIL so that amounts are not also deducted on estate tax return.

#### Distribution

Original: Filed with return(s)  
Copies: Personal representative and firm file



## VII. Trust Verification and Will Verification

### Commentary and Instructions for [Forms 6.8–6.9](#)

There is a regulatory requirement that if the decedent dies testate, court-certified copies of the will must be filed with the estate tax return. If a trust that must be attached to the estate tax return is a matter of public record, it should be court certified as well. When a trust or will is not part of a court record, it should be verified, which can be accomplished by using the trust verification and will verification forms.

#### Distribution

Original: Filed with original IRS Form 706  
Conformed copies: Attach to all conformed copies of IRS Form 706

#### References

Treas. Reg. § 20.6018-4

**Form 6.8 Trust Verification (EST-0283)**

---

**TRUST VERIFICATION**

I verify that the foregoing is a true and complete copy of the Trust Instrument of \_\_\_\_\_  
Trust dated (Date), as amended, and that the same is now in force and has not been revoked.

\_\_\_\_\_  
*(Attorney's Name)*

**Form 6.9 Will Verification (EST-0284)**

---

**WILL VERIFICATION**

I verify that the foregoing is a true and complete copy of the Last Will and Testament (and Codicil) of (Decedent's Name), deceased.

\_\_\_\_\_  
*(Attorney's Name)*



## VIII. U.S. Fiduciary Income Tax Return (IRS Form 1041)

### Commentary and Instructions for [Form 6.10](#)

The fiduciary uses the income tax return to report income from an estate or trust. A federal income tax return is required for any estate with a gross income of \$600 or more for the tax year or for a beneficiary who is a nonresident alien. However, because of opportunities to pass deductions through to beneficiaries, income tax returns often are filed when the estate has minimal income.

Instructions follow the return form, and IRS Form 1041-ES, Estimated Income Tax for Fiduciaries, follows the instructions. (Forms are available at the IRS's website at <https://www.irs.gov> (last visited Apr. 13, 2021).)

Preparers should keep the following in mind:

1. The estate's initial fiscal year can end on the last day of any month ending within one year of the decedent's death. To take advantage of a fiscal year, other than a calendar year, the return must be timely filed—that is, within 4 months and 15 days of the end of the fiscal year.
2. Timing of the personal representative's payment of administration expenses is important. Expenses otherwise incurred in the estate's initial fiscal year can be deferred if the attorney or personal representative chooses to advance them and be reimbursed in a later fiscal year.
3. This income offset is available only in the estate's taxable years before the last taxable year and only if the estate has the appropriate taxable income. This offset can be lost if all income is distributed during the taxable year.
4. All assets owned by the decedent at the time of death are treated as long-term capital assets for gain or loss purposes if sold within one year after death (within six months if acquired before January 1, 1988). *See* I.R.C. § 1223(9).
5. Generally, the personal representative must elect to take administration expenses on either the estate tax returns or the income tax returns, but not both.
6. Answers depend on the particular fact situation.
7. Estates are only required to make estimated tax payments for any tax year ending two or more years after the decedent's death. Estates are not required to make estimated tax payments if there was no tax liability for the 12 months preceding the tax year.
8. Include EIN if making estimated tax payments.

[Form 6.10](#) illustrates how IRS Form 1041 would be prepared using the William O. Hart fact pattern found in this chapter.

### Distribution

Original: IRS  
Conformed copies: Wisconsin fiduciary return, personal representative, and firm file

# Form 6.10 U.S. Fiduciary Income Tax Return (IRS Form 1041) (EST-0285)

Department of the Treasury - Internal Revenue Service  
**1041** U.S. Income Tax Return for Estates and Trusts **2020** OMB No. 1545-0092

Go to [www.irs.gov/Form1041](http://www.irs.gov/Form1041) for instructions and the latest information.

For calendar year 2020 or fiscal year beginning **FEBRUARY 1, 2020**, and ending **DECEMBER 31, 2020**

**A** Check all that apply:  
 Decedent's estate  
 Simple trust  
 Complex trust  
 Qualified disability trust  
 ESBT (S portion only)  
 Grantor type trust  
 Bankruptcy estate-Ch. 7  
 Bankruptcy estate-Ch. 11  
 Pooled income fund

**B** Number of Schedules K-1 attached **1**

**C** Employer identification number **39 9999999**

**D** Date entity created **02/01/2020**

**E** Nonexempt charitable and split-interest trusts, check applicable box(es). See instructions.  
 Described in sec. 4947(a)(1)  
 Described in sec. 4947(a)(2)  
 Net operating loss carryback  
 Change in fiduciary's address

**F** Check applicable boxes:  
 Initial return  
 Final return  
 Amended return  
 Change in trust's name  
 Change in fiduciary  
 Change in fiduciary's name  
 Change in fiduciary's address

**G** Check here if the estate or filing trust made a section 645 election  Trust TIN

<b>Income</b>	<b>1</b> Interest income	SEE STATEMENT 1	<b>1</b>	<b>80.</b>
	<b>2 a</b> Total ordinary dividends	SEE STATEMENT 2	<b>2a</b>	<b>1,125.</b>
	<b>b</b> Qualified dividends allocable to: (1) Beneficiaries <b>1,125.</b> (2) Estate or trust <b>0.</b>			
	<b>3</b> Business income or (loss). Attach Schedule C (Form 1040)		<b>3</b>	
	<b>4</b> Capital gain or (loss). Attach Schedule D (Form 1041)		<b>4</b>	
	<b>5</b> Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)		<b>5</b>	
	<b>6</b> Farm income or (loss). Attach Schedule F (Form 1040)		<b>6</b>	
	<b>7</b> Ordinary gain or (loss). Attach Form 4797		<b>7</b>	
	<b>8</b> Other income. List type and amount		<b>8</b>	
<b>9</b> Total income. Combine lines 1, 2a, and 3 through 8		<b>9</b>	<b>1,205.</b>	
<b>Deductions</b>	<b>10</b> Interest. Check if Form 4952 is attached <input type="checkbox"/>		<b>10</b>	
	<b>11</b> Taxes		<b>11</b>	
	<b>12</b> Fiduciary fees. If only a portion is deductible under section 67(e), see instructions		<b>12</b>	
	<b>13</b> Charitable deduction (from Schedule A, line 7)		<b>13</b>	
	<b>14</b> Attorney, accountant, and return preparer fees. If only a portion is deductible under section 67(e), see instructions		<b>14</b>	
	<b>15 a</b> Other deductions (attach schedule). See instructions for deductions allowable under section 67(e)		<b>15a</b>	
	<b>b</b> Net operating loss deduction. See instructions		<b>15b</b>	
	<b>16</b> Add lines 10 through 15b		<b>16</b>	
	<b>17</b> Adjusted total income or (loss). Subtract line 16 from line 9	<b>17</b>		<b>1,205.</b>
	<b>18</b> Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)		<b>18</b>	<b>1,205.</b>
<b>Tax and Payments</b>	<b>19</b> Estate tax deduction including certain generation-skipping taxes (attach computation)		<b>19</b>	
	<b>20</b> Qualified business income deduction. Attach Form 8995 or 8995-A		<b>20</b>	
	<b>21</b> Exemption		<b>21</b>	<b>600.</b>
	<b>22</b> Add lines 18 through 21		<b>22</b>	<b>1,805.</b>
	<b>23</b> Taxable income. Subtract line 22 from line 17. If a loss, see instructions		<b>23</b>	<b>-600.</b>
	<b>24</b> Total tax (from Schedule G, Part I, line 9)		<b>24</b>	<b>0.</b>
	<b>25</b> 2020 net 965 tax liability paid from Form 965-A, Part II, column (k), line 4		<b>25</b>	
	<b>26</b> Total payments (from Schedule G, Part II, line 19)		<b>26</b>	
	<b>27</b> Estimated tax penalty. See instructions		<b>27</b>	
	<b>28</b> Tax due. If line 26 is smaller than the total of lines 24, 25, and 27, enter amount owed		<b>28</b>	
<b>29</b> Overpayment. If line 26 is larger than the total of lines 24, 25, and 27, enter amount overpaid		<b>29</b>		
<b>30</b> Amount of line 29 to be: <b>a</b> Credited to 2021 <input type="checkbox"/> <b>b</b> Refunded <input checked="" type="checkbox"/>		<b>30</b>		

**Sign Here** 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 taxpayer) is based on all information of which preparer has any knowledge.

Signature of fiduciary or officer representing fiduciary \_\_\_\_\_ Date \_\_\_\_\_ EIN of fiduciary if a financial institution  Yes  No

Print/type preparer's name \_\_\_\_\_ Preparer's signature \_\_\_\_\_ Date \_\_\_\_\_ Check  if self-employed  if PTIN

**Paid Preparer Use Only** Firm's name **XYZ ACCOUNTING** Firm's EIN **39-1111111**  
 Firm's address **1234 N. STATE STREET** Phone no. **608-555-5555**  
**MADISON, WI 53667**

010801 12-10-20 LHA For Paperwork Reduction Act Notice, see the separate instructions. Form **1041** (2020)

Schedule A Charitable Deduction table with 7 rows and 2 columns (description, amount).

Schedule B Income Distribution Deduction table with 15 rows and 2 columns (description, amount).

Schedule G Tax Computation and Payments (see instructions)

Part I - Tax Computation

Table for Part I - Tax Computation with 9 rows and 2 columns (description, amount).

Part II - Payments

Table for Part II - Payments with 10 rows and 2 columns (description, amount).

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Other Information		Yes	No
<b>1</b>	Did the estate or trust receive tax-exempt income? If "Yes," attach a computation of the allocation of expenses Enter the amount of tax-exempt interest income and exempt-interest dividends <span style="float:right">▶ \$ _____</span>		X
<b>2</b>	Did the estate or trust receive all or any part of the earnings (salary, wages, and other compensation) of any individual by reason of a contract assignment or similar arrangement?		X
<b>3</b>	At any time during calendar year 2020, did the estate or trust have an interest in or a signature or other authority over a bank, securities, or other financial account in a foreign country? See the instructions for exceptions and filing requirements for FinCEN Form 114. If "Yes," enter the name of the foreign country ▶ _____		X
<b>4</b>	During the tax year, did the estate or trust receive a distribution from, or was it the grantor of, or transferor to, a foreign trust? If "Yes," the estate or trust may have to file Form 3520. See instructions		X
<b>5</b>	Did the estate or trust receive, or pay, any qualified residence interest on seller-provided financing? If "Yes," see the instructions for the required attachment		X
<b>6</b>	If this is an estate or a complex trust making the section 663(b) election, check here. See instructions <span style="float:right">▶ <input type="checkbox"/></span>		
<b>7</b>	To make a section 643(e)(3) election, attach Schedule D (Form 1041), and check here. See instructions <span style="float:right">▶ <input type="checkbox"/></span>		
<b>8</b>	If the decedent's estate has been open for more than 2 years, attach an explanation for the delay in closing the estate, and check here <span style="float:right">▶ <input type="checkbox"/></span>		
<b>9</b>	Are any present or future trust beneficiaries skip persons? See instructions		X
<b>10</b>	Was the trust a specified domestic entity required to file Form 8938 for the tax year (see the Instructions for Form 8938)?		X
<b>11a</b>	Did the estate or trust distribute S corporation stock for which it made a section 965(j) election?		X
<b>b</b>	If "Yes," did each beneficiary enter into an agreement to be liable for the net tax liability? See instructions		
<b>12</b>	Did the estate or trust make a section 965(i) election for S corporation stock held on the last day of the tax year? See instructions		X
<b>13</b>	<b>ESBTs only.</b> Does the ESBT have a nonresident alien grantor? If "Yes," see instructions		
<b>14</b>	<b>ESBTs only.</b> Did the S portion of the trust claim a qualified business income deduction? If "Yes," see instructions		

**SCHEDULE I  
(Form 1041)**

**Alternative Minimum Tax - Estates and Trusts**

OMB No. 1545-0042

Department of the Treasury  
Internal Revenue Service

▶ Attach to Form 1041.

▶ Go to [www.irs.gov/Form1041](http://www.irs.gov/Form1041) for instructions and the latest information.

**2020**

Name of estate or trust

Employer identification number

**ESTATE OF WILLIAM O. HART**

**39-9999999**

**Part I Estate's or Trust's Share of Alternative Minimum Taxable Income**

1	Adjusted total income or (loss) (from Form 1041, line 17). ESBTs, see instructions	1	1,205.
2	Interest	2	
3	Taxes	3	
4	Refund of taxes	4	( )
5	Depreciation (difference between regular tax and AMT)	5	
6	Net operating loss deduction. Enter as a positive amount	6	
7	Interest from specified private activity bonds exempt from the regular tax	7	
8	Qualified small business stock (see instructions)	8	
9	Exercise of incentive stock options (excess of AMT income over regular tax income)	9	
10	Other estates and trusts (amount from Schedule K-1 (Form 1041), box 12, code A)	10	
11	Disposition of property (difference between AMT and regular tax gain or loss)	11	
12	Depreciation on assets placed in service after 1986 (difference between regular tax and AMT)	12	
13	Passive activities (difference between AMT and regular tax income or loss)	13	
14	Loss limitations (difference between AMT and regular tax income or loss)	14	
15	Circulation costs (difference between regular tax and AMT)	15	
16	Long-term contracts (difference between AMT and regular tax income)	16	
17	Mining costs (difference between regular tax and AMT)	17	
18	Research and experimental costs (difference between regular tax and AMT)	18	
19	Income from certain installment sales before January 1, 1987	19	( )
20	Intangible drilling costs preference	20	
21	Other adjustments, including income-based related adjustments	21	
22	Alternative tax net operating loss deduction (See the instructions for the limitation that applies.)	22	( )
23	Adjusted alternative minimum taxable income. Combine lines 1 through 22	23	1,205.
<b>Note:</b> Complete Part II below before going to line 24.			
24	Income distribution deduction from Part II, line 42	24	1,205.
25	Estate tax deduction (from Form 1041, line 19)	25	
26	Add lines 24 and 25	26	1,205.
27	Estate's or trust's share of alternative minimum taxable income. Subtract line 26 from line 23	27	0.

If line 27 is:

- \$25,400 or less, stop here and enter -0- on Form 1041, Schedule O, line 1c. The estate or trust isn't liable for the alternative minimum tax.
- Over \$25,400, but less than \$186,400, go to line 43.
- \$186,400 or more, enter the amount from line 27 on line 49 and go to line 50.
- ESBTs, see instructions.

**Part II Income Distribution Deduction on a Minimum Tax Basis**

28	Adjusted alternative minimum taxable income (see instructions)	28	1,205.
29	Adjusted tax-exempt interest (other than amounts included on line 7)	29	
30	Total net gain from Schedule D (Form 1041), line 19, column (1). If a loss, enter -0-	30	
31	Capital gains for the tax year allocated to corpus and paid or permanently set aside for charitable purposes (from Form 1041, Schedule A, line 4)	31	
32	Capital gains paid or permanently set aside for charitable purposes from gross income (see instructions)	32	
33	Capital gains computed on a minimum tax basis included on line 23	33	( )
34	Capital losses computed on a minimum tax basis included on line 23. Enter as a positive amount	34	
35	Distributable net alternative minimum taxable income (DNAMTI). Combine lines 28 through 34. If zero or less, enter -0-	35	1,205.
36	Income required to be distributed currently (from Form 1041, Schedule B, line 9)	36	1,205.
37	Other amounts paid, credited, or otherwise required to be distributed (from Form 1041, Schedule B, line 10)	37	0.
38	Total distributions. Add lines 36 and 37	38	1,205.
39	Tax-exempt income included on line 38 (other than amounts included on line 7)	39	
40	Tentative income distribution deduction on a minimum tax basis. Subtract line 39 from line 38	40	1,205.

LHA For Paperwork Reduction Act Notice, see the Instructions for Form 1041.

Schedule I (Form 1041) 2020

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<b>Part II Income Distribution Deduction on a Minimum Tax Basis</b> <i>(continued)</i>	
41 Tentative income distribution deduction on a minimum tax basis. Subtract line 29 from line 35. If zero or less, enter -0-	41 1,205.
42 <b>Income distribution deduction on a minimum tax basis.</b> Enter the smaller of line 40 or line 41. Enter here and on line 24	42 1,205.

<b>Part III Alternative Minimum Tax</b>	
43 Exemption amount	43 \$25,400
44 Enter the amount from line 27	44
45 Phase-out of exemption amount	45 \$84,800
46 Subtract line 45 from line 44. If zero or less, enter -0-	46
47 Multiply line 46 by 25% (0.25)	47
48 Subtract line 47 from line 43. If zero or less, enter -0-	48
49 Subtract line 48 from line 44	49
50 Go to Part IV of Schedule I to figure line 50 if the estate or trust has qualified dividends or has a gain on lines 18a and 19 of column (2) of Schedule D (Form 1041) (as refigured for the AMT, if necessary). Otherwise, if line 49 is: <ul style="list-style-type: none"> <li>• \$197,900 or less, multiply line 49 by 28% (0.28).</li> <li>• Over \$197,900, multiply line 49 by 28% (0.28) and subtract \$3,958 from the result</li> </ul>	50
51 Alternative minimum foreign tax credit (see instructions)	51
52 Tentative minimum tax. Subtract line 51 from line 50	52
53 Enter the tax from Form 1041, Schedule G, line 1a (minus any foreign tax credit from Schedule G, line 2a)	53
54 <b>Alternative minimum tax.</b> Subtract line 53 from line 52. If zero or less, enter -0-. Enter here and on Form 1041, Schedule G, line 1c	54

<b>Part IV Line 50 Computation Using Maximum Capital Gains Rates</b>	
<b>Caution:</b> If you didn't complete Part V of Schedule D (Form 1041), the Schedule D Tax Worksheet, or the Qualified Dividends Tax Worksheet in the instructions for Form 1041, see the instructions before completing this part.	
55 Enter the amount from line 49	55
56 Enter the amount from line 25 of Schedule D (Form 1041), line 13 of the Schedule D Tax Worksheet, or line 4 of the Qualified Dividends Tax Worksheet in the instructions for Form 1041, whichever applies (as refigured for the AMT, if necessary)	56
57 Enter the amount from Schedule D (Form 1041), line 18b, column (2) (as refigured for the AMT, if necessary). If you didn't complete Schedule D for the regular tax or the AMT, enter -0-	57
58 If you didn't complete a Schedule D Tax Worksheet for the regular tax or the AMT, enter the amount from line 56. Otherwise, add lines 56 and 57 and enter the <b>smaller</b> of that result or the amount from line 10 of the Schedule D Tax Worksheet (as refigured for the AMT, if necessary)	58
59 Enter the <b>smaller</b> of line 55 or line 58	59
60 Subtract line 59 from line 55	60
61 If line 60 is \$197,900 or less, multiply line 60 by 28% (0.28). Otherwise, multiply line 60 by 28% (0.28) and subtract \$3,958 from the result	61
62 Maximum amount subject to the 0% rate	62 \$2,650
63 Enter the amount from line 27 of Schedule D (Form 1041), line 14 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet in the instructions for Form 1041, whichever applies (as figured for the regular tax). If you didn't complete Schedule D or either worksheet for the regular tax, enter the amount from Form 1041, line 23; if zero or less, enter -0-	63
64 Subtract line 63 from line 62. If zero or less, enter -0-	64
65 Enter the <b>smaller</b> of line 55 or line 56	65
66 Enter the <b>smaller</b> of line 64 or line 65. This amount is taxed at 0%	66
67 Subtract line 66 from line 65	67

<b>Part IV Line 50 Computation Using Maximum Capital Gains Rates</b> <i>(continued)</i>		
<b>68</b> Maximum amount subject to rates below 20% .....	<b>68</b>	\$13,150
<b>69</b> Enter the amount from line 64 .....	<b>69</b>	
<b>70</b> Enter the amount from line 27 of Schedule D (Form 1041), line 18 of the Schedule D Tax Worksheet, or line 5 of the Qualified Dividends Tax Worksheet, whichever applies (as figured for the regular tax). If you didn't complete Schedule D or either worksheet for the regular tax, enter the amount from Form 1041, line 23; if zero or less, enter -0- .....	<b>70</b>	
<b>71</b> Add line 69 and line 70 .....	<b>71</b>	
<b>72</b> Subtract line 71 from line 68. If zero or less, enter -0- .....	<b>72</b>	
<b>73</b> Enter the <b>smaller</b> of line 67 or 72 .....	<b>73</b>	
<b>74</b> Multiply line 73 by 15% (0.15) .....	<b>74</b>	
<b>75</b> Add lines 66 and 73 .....	<b>75</b>	
<b>If lines 75 and 55 are the same, skip lines 76 through 80 and go to line 81. Otherwise, go to line 76.</b>		
<b>76</b> Subtract line 75 from line 65 .....	<b>76</b>	
<b>77</b> Multiply line 76 by 20% (0.20) .....	<b>77</b>	
<b>If line 57 is zero or blank, skip lines 78 through 80 and go to line 81. Otherwise, go to line 78.</b>		
<b>78</b> Add lines 60, 75, and 76 .....	<b>78</b>	
<b>79</b> Subtract line 78 from line 55 .....	<b>79</b>	
<b>80</b> Multiply line 79 by 25% (0.25) .....	<b>80</b>	
<b>81</b> Add lines 61, 74, 77, and 80 .....	<b>81</b>	
<b>82</b> If line 55 is \$197,900 or less, multiply line 55 by 26% (0.26). Otherwise, multiply line 55 by 28% (0.28) and subtract \$3,958 from the result .....	<b>82</b>	
<b>83</b> Enter the <b>smaller</b> of line 81 or line 82 here and on line 50 .....	<b>83</b>	

CHAPTER 6

2020

39-9999999

FORM 1041	INTEREST INCOME	STATEMENT 1	
DESCRIPTION		U.S. INTEREST	OTHER TAXABLE INTEREST
BANK ACCOUNT INTEREST			80.
SUBTOTALS			80.
TOTAL TO FORM 1041, LINE 1			80.

FORM 1041	DIVIDEND INCOME		STATEMENT 2
DESCRIPTION	U.S. INTEREST	QUALIFYING DIVIDENDS	ORDINARY DIVIDENDS
FIRST BROKERAGE ACCOUNT NO. 1234		750.	
FIRST BROKERAGE ACCOUNT NO. 4321		375.	
SUBTOTALS		1,125.	
TOTAL TO FORM 1041, LINE 2A			1,125.

FORM 1041	QUALIFYING DIVIDENDS		STATEMENT 3
	BENEFICIARY	FIDUCIARY	
1. TOTAL QUALIFYING DIVIDENDS		1,125.	
2. PORTION SPECIFICALLY ALLOCATED			
3. QUALIFIED DIVIDENDS SUBTOTAL		1,125.	
4. MULTIPLIED BY ORDINARY INCOME PERCENTAGE		.0000000	
5. TOTAL QUALIFIED DIVIDENDS INCLUDING ATTRIBUTABLE ESTATE TAX	1,125.	0.	
6. LESS ATTRIBUTABLE ESTATE TAX (FIDUCIARY ONLY)			
TOTAL QUALIFYING DIVIDENDS	1,125.		

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7 STATEMENT(S) 1, 2, 3  
2020.03020 ESTATE OF WILLIAM O. HART 099999.1



Schedule K-1 (Form 1041)

2020

[X] Final K-1 [ ] Amended K-1 OMB No. 1545-0092

Department of the Treasury Internal Revenue Service For calendar year 2020, or tax year beginning FEBRUARY 1, 2020 ending DECEMBER 31, 2020

Beneficiary's Share of Income, Deductions, Credits, etc. See page 2 and instructions.

Part I Information About the Estate or Trust
A Estate's or trust's employer identification number 39-9999999
B Estate's or trust's name ESTATE OF WILLIAM O. HART
C Fiduciary's name, address, city, state, and ZIP code RUTH HART PERSONAL REPRESENTATIVE 1105 FISH HATCHERY RD. MADISON, WI 53715
D [ ] Check if Form 1041-T was filed and enter the date it was filed
E [X] Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary
F Beneficiary's identifying number 987-65-4321
G Beneficiary's name, address, city, state, and ZIP code RUTH HART 1105 FISH HATCHERY RD MADISON, WI 53715
H [X] Domestic beneficiary [ ] Foreign beneficiary

Table with 3 columns: Line number, Description, and Amount. Includes rows for Interest income (80), Ordinary dividends (1,125), Qualified dividends (1,125), Net short-term capital gain, Net long-term capital gain, 28% rate gain, Alternative min tax adjustment, Unrecaptured section 1250 gain, Other passive and nonbusiness income, Ordinary business income, Net rental real estate income, Other rental income (1,205), Credits and credit recapture, Directly apportioned deductions, Estate tax deduction, and Other information (1,205).

ESTATE OF WILLIAM O. HART

39-9999999

1 RUTH HART

**Schedule K-1 Statements and Footnotes**

INVESTMENT INCOME, BOX 14, CODE E

INTEREST INCOME	80
QUALIFIED DIVIDEND INCOME	1,125
TOTAL INVESTMENT INCOME	1,205

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2020.03020 ESTATE OF WILLIAM O. HART 099999.1

2020 Expense Allocation by Income Type

Income Type	Income	Charity	Direct Expenses Specifically Allocated	Indirect and Direct Expenses not Specifically Allocated	Net Income
Other Taxable					
<u>Non-Passive</u>					
Ordinary Business					
Net Rental Real Estate					
Other Rental					
Interest	80.				80.
Non-qualified Dividends					
<u>Passive</u>					
Ordinary Business					
Net Rental Real Estate					
Other Rental					
U.S. Interest					
U.S. Interest/Dividends					
Qualified Dividends	1,125.				1,125.
Short-term Capital Gains					
Long-term Capital Gains					
Tax-exempt Interest					
Total	1,205.				1,205.

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2020.03020 ESTATE OF WILLIAM O. HART 099999.1

ESTATE OF WILLIAM O. HART  
 Schedule K-1 Distribution Workpaper 1 - Amount of Income

DNI 1,205. Accounting Income 1,205. Amount available to distribute 1,205.

Amount to be Distributed from Form 1041, Schedule B, line 15 1,205.  
 Amount specifically allocated for ordinary income 0.  
 Remaining amount for distributions 1,205.

Beginning column is from: EXPENSE ALLOCATION WORKSHEET

Income Type	Net Income	Percentage of SCH B, LINE 15 to be Distributed	Amount to be Distributed
Other Taxable			
Non-passive			
Ordinary Business			
Net Rental Real Estate			
Other Rental			
Interest	80.	.066390041	80.
Non-qualified Dividends			
Passive			
Ordinary Business			
Net Rental Real Estate			
Other Rental			
U.S. Interest			
U.S. Interest/Dividends			
Qualified Dividends	1,125.	.933609959	1,125.
Subtotal	1,205.	1.000000000	1,205.
Short-term Capital Gains			
Long-term Capital Gains			
Total			
Tax-Exempt Interest			

Amount required to be distributed (Tier I) 1,205.  
 Discretionary amount to be distributed (Tier II) \_\_\_\_\_

**Note:** Tax exempt interest is assumed to be in the amounts entered to be distributed to beneficiaries.

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 2020.03020 ESTATE OF WILLIAM O. HART 099999.1

ESTATE OF WILLIAM O. HART

**Schedule K-1 Ordinary Income Reconciliation**

<u>Income Category</u>	<u>Workpaper 1 Distribution</u>	<u>Workpaper 2 Distribution</u>	<u>Schedule K-1 Totals</u>	<u>Box</u>
Interest	80.			1
US Interest			80.	
Non-Qualified Dividends				
Qualified Dividends	1,125.		1,125.	2b
US Interest/Dividends			1,125.	2a
Other Taxable				5
Ordinary Business				
Nonpassive				
Passive				6
Net Rental Real Estate				
Nonpassive				
Passive				7
Other Rental				
Nonpassive				
Passive				8
Short Term Capital Gain				3
Long Term Capital Gain				4a

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2020.03020 ESTATE OF WILLIAM O. HART 099999.1

ESTATE OF WILLIAM O. HART

Schedule K-1 Workpaper 11 - Net Investment Income

	(A) Expense Allocation Worksheet Gross Income	(B) Investment Income Included in Gross Income	(C) Expenses Allocated Against Gross Income	(D) Net Investment Income #
Other Income **				
<u>Non-Passive</u>				
Business				
Net Rental Real Estate				
Other Rental				
Interest *	80.	80.		80.
Non-qualified Dividends *				
<u>Passive</u>				
Businesses ***				
Net Rental Real Estate				
Other Rental				
Qualified Dividends	1,125.	1,125.		1,125.
Short-term Capital Gains				
Long-term Capital Gains				
<b>Totals</b>	<b>1,205.</b>	<b>1,205.</b>		<b>1,205.</b>

\* Includes US interest  
 \*\* Includes royalties and annuities  
 \*\*\* Includes Schedule C royalties  
 # Column D = Column B - ((Column B/Column A) \* Column C)

Beneficiary Name	R HART		
<b>Ordinary Income Percentage</b>	1.0000000		
<b>Distributed / Calculated Amt</b>			
Interest - Distributed	80.		
Interest - Calculated	80.		
<b>To Report (lesser of dist/calc)</b>	<b>80.</b>		
NonQualified Dividends - Distributed	0.		
NonQualified Dividends - Calculated			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
Schedule C - Distributed			
Schedule C - Calculated			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
Other portfolio income - Dist			
Other portfolio income - Calc			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
Royalty - Distributed			
Royalty - Calculated			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
Rents - Distributed			
Rents - Calculated			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
Annuities - Distributed			
Annuities - Calculated			
<b>To Report (lesser of dist/calc)</b>	<b>0.</b>		
<b>PTP income to Report</b>	<b>0.</b>		
Qualified Dividends - Distributed	1,125.		
Qualified Dividends - Calculated	1,125.		
<b>To Report (lesser of dist/calc)</b>	<b>1,125.</b>		
<b>Total to Report as Box 14, Code E</b>	<b>1,205.</b>		

Per research, capital gains are not included in the Schedule K-1, Box 14, Code E. Beneficiary has the option to include those items on his/her own return.  
 010328 04-01-20

## IX. Wisconsin Fiduciary Income Tax Return (DOR Form 2)

### Commentary and Instructions for [Form 6.11](#)

The requirements for filing Wisconsin DOR Form 2 are the same as those for IRS Form 1041. The return is a “pick-up” return from IRS Form 1041, unlike individual income tax returns. This form is available from the DOR’s website at <https://revenue.wi.gov> (last visited Apr. 13, 2021).

Preparers should keep the following in mind:

1. The modifications and adjustments are essentially the same as must be made on Wisconsin individual income tax returns.
2. Attach a copy of the Inventory with the initial return only.
3. A copy of the estate’s federal income tax return must be attached.

[Form 6.11](#) illustrates how a Wisconsin DOR Form 2 would be prepared using the William O. Hart fact pattern in this chapter.

#### **Distribution**

Original: Wisconsin Department of Revenue  
Copy: Personal representative and firm file

# Form 6.11 Wisconsin Fiduciary Income Tax Return (DOR Form 2) (EST-0286)

**Form 2** Wisconsin  
fiduciary income tax  
for estates or trusts

**2020**

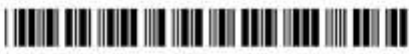
Use For calendar year 2020 or tax year beginning 02 01 2020 and ending 12 31 2020  
MM DD YYYY MM DD YYYY  
**BLACK INK**

<b>DO NOT STAPLE</b>	ESTATES ONLY - Decedent's legal last name <b>HART</b>		Decedent's legal first name <b>WILLIAM</b>		M.I. <b>O</b>
	ESTATES ONLY - Decedent's social security number <b>123 45 6789</b>		Estate's federal EIN <b>39 9999999</b>		
	TRUSTS ONLY - Legal name				Trust's federal EIN
	Name of personal representative, petitioner, or trustee <b>RUTH HART PERSONAL REPRESENTATIVE</b>				County of jurisdiction (Name Only) <b>DANE</b>
	Address of personal representative, petitioner, or trustee <b>1105 FISH HATCHERY RD.</b>		Schedules 2K-1 issued <b>1</b>		Probate case number <b>20-PR-9999</b>
	City <b>MADISON</b>	State <b>WI</b>	ZIP code <b>53715</b>	Schedules 2K-1 issued to nonresidents	
	Check if applicable <input checked="" type="checkbox"/> Initial return <input checked="" type="checkbox"/> Final return <input type="checkbox"/> Amended return <input type="checkbox"/> Address or name change				Check all that apply
	Date trust or bankruptcy estate was created or date of decedent's death <u>02 01 2020</u> MM DD YYYY				<input type="checkbox"/> Electing small business trust
	If this is a trust return, is the trust <input type="checkbox"/> Revocable or <input type="checkbox"/> Irrevocable?				<input type="checkbox"/> Qualified subchapter S Trust
	If a trust, is the grantor a resident of Wisconsin? <input type="checkbox"/> Yes <input type="checkbox"/> No				<input type="checkbox"/> Qualified funeral trust
Has Form W706 been filed? <input type="checkbox"/> Yes <input type="checkbox"/> No				<input type="checkbox"/> Nonresident estate or trust	
Does the estate or trust own any disregarded entities? (If yes, include Schedule DE) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Part-year resident estate or trust	
A lower-tier entity made an election to pay tax at the entity level pursuant to s. 71.21(8)(a) or 71.365(4m)(a), Wis. Stats., (see instructions) <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No				<input type="checkbox"/> Bankruptcy estate	
Special Conditions <input type="checkbox"/>				<input type="checkbox"/> Inter vivos trust	
Address where decedent lived at time of death <b>1105 FISH HATCHERY ROAD MADISON, WI</b>				<input type="checkbox"/> Testamentary trust	
ZIP code <b>53715</b>				<input type="checkbox"/> Section 645 election	
				<input checked="" type="checkbox"/> Decedent's estate	

**NO COMMAS; NO CENTS**

<b>Paperfile check or money order here</b>	1	Federal taxable income of fiduciary (see instructions)	1	<u>-600</u>
	2	Additions (from Schedule A or NR)	2	<u>0</u>
	3	Add lines 1 and 2	3	<u>-600</u>
	4	Subtractions (from Schedule A or NR)	4	<u>0</u>
	5	Wisconsin taxable income of fiduciary (subtract line 4 from line 3)	5	<u>-600</u>
	6a	Tax on income from line 5 (see table on page 16 of instructions)	6a	<u>0</u>
	6b	ESBT tax (enter amount from line 23 of Schedule ESBT)	6b	<u>0</u>
	6c	Gross tax (add lines 6a and 6b)	6c	<u>0</u>
	7	Nonrefundable credits Schedule CR, line 34	7	<u>0</u>
	8	Net tax paid to another state. Enclose Schedule OS	8	<u>0</u>
9	Add credits on lines 7 and 8	9	<u>0</u>	
10	Subtract line 9 from line 6c. If line 9 is larger than line 6c, enter zero (0)	10	<u>0</u>	

CCH  
1-020 (R. 9-20)  
087401 10-29-20





**NO COMMAS; NO CENTS**

<b>11a</b> Enter amount from line 10 .....	<b>11a</b>	0	.
<b>11b</b> Sales and use tax due on Internet, mail order, or other out-of-state purchases. If you certify that no sales or use tax is due, check here .....	<b>11b</b>		.
<b>11c</b> Penalty on underpayment of tax from inconsistent estate basis reporting .....	<b>11c</b>		.
<b>11d</b> Add lines 11a, 11b and 11c .....	<b>11d</b>		.
<b>12</b> Wisconsin income tax withheld (see instructions) .....	<b>12</b>		.
<b>13</b> 2020 estimated payments and amount applied from 2019 return .....	<b>13</b>		.
<b>14</b> Farmland preservation credit. <b>a</b> Schedule FC, line 17 .....	<b>14a</b>		.
<b>b</b> Schedule FC-A, line 13 .....	<b>14b</b>		.
<b>15</b> Refundable credits from Schedule CF, line 40 .....	<b>15</b>		.
<b>16</b> AMENDED RETURN ONLY - amount paid with the original return .....	<b>16</b>		.
<b>17</b> Add lines 12 through 16 .....	<b>17</b>		.
<b>18</b> AMENDED RETURN ONLY - refund from original return less amount applied to 2021 estimated tax .....	<b>18</b>		.
<b>19</b> Subtract line 18 from line 17 .....	<b>19</b>		.
<b>20</b> If line 19 is greater than line 11d, subtract line 11d from line 19 .....	AMOUNT OVERPAID	<b>20</b>	.
<b>21</b> Amount of line 20 to be REFUNDED TO YOU .....		<b>21</b>	.
<b>22</b> Amount of line 20 to be applied to your 2021 ESTIMATED TAX .....	<b>22</b>		.
<b>23</b> If line 19 is less than line 11d, subtract line 19 from line 11d .....	BALANCE DUE	<b>23</b>	0
<b>24</b> Underpayment interest. Exception code - See Schedule U .....	3	<b>24</b>	.

Also include on line 23 (see instructions, page 8)

Do you want to allow another person to discuss this return with the department (see page 8)?  **Yes** Complete the following.  **No**

**Third Party Designee**

Designee's name ▶

Phone no. ▶

Personal identification number (PIN) ▶

*Paper clip copies of federal Form 1041 and schedules to this return.*

*Also paper clip copies of Wisconsin Schedules 2K-1, 2M, 2WD, NR, ESBT, and other documents, if required. A request for a closing certificate for fiduciaries must be made separately on Schedule CC. See instructions.*

*I, as fiduciary, declare under penalties of law that I have examined this return (including accompanying schedules, statements, and copy of federal income tax return) and to the best of my knowledge and belief it is true, correct, and complete.*

Your signature \_\_\_\_\_ Date \_\_\_\_\_ Daytime phone \_\_\_\_\_

PERSON PREPARING RETURN (individual and firm) if other than the preceding signer  
Name \_\_\_\_\_ Signature of preparer \_\_\_\_\_ Date \_\_\_\_\_ Daytime phone \_\_\_\_\_

608 555 5555

Mail your return to:

Wisconsin Department of Revenue

- *If making a payment* ..... PO Box 8918, Madison WI 53708-8918
- *All other trusts and estates* ..... PO Box 8955, Madison WI 53708-8955

087411 10-29-20

CCH



**ESTATE OF WILLIAM O. HART** **123 45 6789** **39 9999999**

**SCHEDULE A - Additions and Subtractions** Resident estates and trusts only. Part-year and nonresident estates and trusts must enclose Schedule NR.

	COL. 1-Distributable Income (Report on Schedule 2K-1)	COL. 2 Nondistributable Income
<b>ADDITIONS:</b>		
1. Adjustment from Schedule B of Form 2	-	-
2. Interest (less related expenses) on state and municipal obligations	-	-
3. Deduction for taxes from federal Form 1041	-	-
4. Capital gain/loss adjustment (see instructions)	-	-
5. Other additions:		
COL. 1 - enter total and describe below	-	-
COL. 2 - enter amount from Part I, line 22, of Schedule 2M	-	-
6. Add lines 1 through 5 and enter on line 2 of Form 2	-	-
<b>SUBTRACTIONS:</b>		
7. Adjustment from Schedule B of Form 2	-	-
8. Interest (less related expenses) on obligations of the United States	-	-
9. Capital gain/loss adjustment (see instructions)	-	-
10. Refunds of state and local taxes (see instructions)	-	-
11. Other subtractions:		
COL. 1 - enter total and describe below	-	-
COL. 2 - enter amount from Part II, line 36, of Schedule 2M	-	-
12. Add lines 7 through 11 and enter on line 4 of Form 2	-	-

**SCHEDULE B - Adjustments to Convert 2020 Federal Taxable Income to the Amount Allowable for Wisconsin (see instructions on page 13)**

NATURE OF ADJUSTMENT - Explain fully on enclosed schedule.	Adjustments for 2020	
	COL. 1 - Distributable (Enter on Schedule 2K-1)	COL. 2 - Nondistributable (Enter on Schedule A*)
1. TOTAL from enclosed schedule	-	-

\* If a **positive number**, enter on line 1.  
 If a **negative number**, enter on line 7 as a positive number.

Note: The figures in COL. 1 and 2 must be used by part-year and nonresident estates and trusts to complete Part I of Schedule NR.

**SCHEDULE C - Adjustments to Capital Gains/Losses Because Capital Assets Disposed of Had Different Basis for Wisconsin and Federal Income Tax Purposes**

1. Description of capital assets held ONE YEAR OR LESS and reason for difference in basis	A. Federal Adjusted Basis	B. Wisconsin Adjusted Basis	C. Difference
a.	-	-	-
b.	-	-	-
c.	-	-	-
2. TOTAL - Combine amounts in column C. Fill in here and on line 6 of Wisconsin Schedule 2WD			
3. Description of capital assets held MORE THAN ONE YEAR and reason for difference in basis	A. Federal Adjusted Basis	B. Wisconsin Adjusted Basis	C. Difference
a.	-	-	-
b.	-	-	-
c.	-	-	-
4. TOTAL - Combine amounts in column C. Fill in here and on line 15 of Wisconsin Schedule 2WD			

1-2020a

OCH

067412 10-29-20

1  
Schedule

**2K-1**

**Beneficiary's Share of Income, Deductions, etc.**

**2020**

Wisconsin Department  
of Revenue

For calendar year 2020 or tax year beginning 02012020 and ending 12312020  
MM DD YYYY MM DD YYYY

**Part I: Information About the Estate or Trust**

Name of Estate or Trust <b>ESTATE OF WILLIAM O. HART</b>		Estate's or Trust's FEIN <b>39 9999999</b>	
Estate's or Trust's Address <b>1105 FISH HATCHERY RD.</b>	Estate's or Trust's City <b>MADISON</b>	State <b>WI</b>	Estate's or Trust's ZIP Code <b>53715</b>

**Part II: Information About the Beneficiary**

Beneficiary's Business Name		Beneficiary's FEIN	
Beneficiary's Last Name <b>HART</b>	Beneficiary's First Name <b>RUTH</b>	M.I.	Beneficiary's SSN <b>987654321</b>
Beneficiary's Address <b>1105 FISH HATCHERY RD</b>	Beneficiary's City <b>MADISON</b>	State <b>WI</b>	Beneficiary's ZIP Code <b>53715</b>

If the beneficiary is a disregarded entity or trust, enter the name and identifying number of the taxpayer to whom this income will be reported:

Business' Name		Business's FEIN	
Individual's Last Name	Individual's First Name	M.I.	Individual's SSN

**A** Check if applicable:  Final 2K-1  Amended 2K-1

**B** Beneficiary's state of residence WI



**C**  Check if beneficiary is a nonresident and filed Form PW-2 to opt out of pass through entity withholding

**D**  Check if a lower tier entity made an election to pay tax at the entity level pursuant to s. 71.21(5)(a) or 71.385(4m)(a), Wis. Stats., (see instructions)

**Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items** NO COMMAS; NO CENTS

(a)	(b)	(c)	(d)	(e)
Distributive share items	Federal amount	Adjustment	Amount under Wis. law	Wis. source amount (see Form 2 instructions)
<b>1</b> Interest income ..... <b>1</b>	<u>80</u>	<u>NO</u>	<u>80</u>	
<b>2</b> Ordinary dividends ..... <b>2</b>	<u>1125</u>	<u>ADJUSTMENTS</u>	<u>1125</u>	
<b>3</b> Net short-term capital gain ..... <b>3</b>				
<b>4a</b> Net long-term capital gain ..... <b>4a</b>				
<b>b</b> Portion of the amount on line 4a, that is attributable to gain on the sale of farm assets ..... <b>4b</b>				
<b>5</b> Other portfolio income ..... <b>5</b>				
<b>6</b> Ordinary business income ..... <b>6</b>				
<b>7</b> Net rental real estate income ..... <b>7</b>				
<b>8</b> Other rental income ..... <b>8</b>				
<b>9</b> Directly apportioned deductions (list)				
<b>a</b> ..... <b>9a</b>				
<b>b</b> ..... <b>9b</b>				
<b>c</b> ..... <b>9c</b>				
<b>d</b> Total (add lines 9a through 9c) ..... <b>9d</b>				
<b>10</b> Estate tax deduction ..... <b>10</b>				

<b>Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items</b>					<b>NO COMMAS; NO CENTS</b>	
(a)	(b)	(c)	(d)	(e)		
<i>Distributive share items</i>	<i>Federal amount</i>	<i>Adjustment</i>	<i>Amount under Wis. law</i>	<i>Wis. source amount (see instructions)</i>		
<b>11</b> Final year deductions (list):						
<b>a</b> _____	<b>11a</b> _____	_____	<b>11a</b> _____	_____		
<b>b</b> _____	<b>11b</b> _____	_____	<b>11b</b> _____	_____		
<b>c</b> _____	<b>11c</b> _____	_____	<b>11c</b> _____	_____		
<b>d</b> _____	<b>11d</b> _____	_____	<b>11d</b> _____	_____		
<b>e</b> Total (add lines 11a through 11d)	<b>11e</b> _____	_____	<b>11e</b> _____	_____		
<b>12</b> Alternative minimum tax item (list):						
<b>a</b> _____	<b>12a</b> _____	_____				
<b>b</b> _____	<b>12b</b> _____	_____				
<b>c</b> _____	<b>12c</b> _____	_____				
<b>13</b> Other information (list):						
<b>a</b> _____	<b>13a</b> _____	_____	<b>13a</b> _____	_____		
<b>b</b> _____	<b>13b</b> _____	_____	<b>13b</b> _____	_____		
<b>c</b> _____	<b>13c</b> _____	_____	<b>13c</b> _____	_____		
<b>14a</b> Related entity expense addback	_____	_____	<b>14a</b> _____	_____		
<b>b</b> Related entity expense allowable	_____	_____	<b>14b</b> _____	_____		
<b>15</b> Wisconsin credits:						
<b>a</b> Schedule _____	_____	_____	<b>15a</b> _____	_____		
<b>b</b> Schedule _____	_____	_____	<b>15b</b> _____	_____		
<b>c</b> Schedule _____	_____	_____	<b>15c</b> _____	_____		
<b>d</b> Schedule _____	_____	_____	<b>15d</b> _____	_____		
<b>e</b> Schedule _____	_____	_____	<b>15e</b> _____	_____		
<b>f</b> Schedule _____	_____	_____	<b>15f</b> _____	_____		
<b>g</b> Schedule _____	_____	_____	<b>15g</b> _____	_____		
<b>h</b> Schedule _____	_____	_____	<b>15h</b> _____	_____		
<b>i</b> Schedule _____	_____	_____	<b>15i</b> _____	_____		
<b>j</b> Wisconsin tax withheld (Do NOT include withholding from Forms 1099-R, W-2, and W2-G)	_____	_____	<b>15j</b> _____	_____		
<b>16</b> income (loss)	_____	_____	<b>16</b> <u>1205</u>	<u>0</u>		



SCHEDULE

Request for a Closing Certificate for Fiduciaries

2020

Use **CC**  
BLACK INK

Wisconsin Department of Revenue

DO NOT STAPLE	ESTATES ONLY - Decedent's last name <b>HART</b>		Decedent's first name <b>WILLIAM</b>	MI <b>O</b>	Decedent's social security number <b>123 45 6789</b>
	TRUSTS ONLY - Legal name				Estate's/Trust's federal EIN <b>39 9999999</b>
	Individual or firm to whom the closing certificate should be mailed <b>XYZ ACCOUNTING</b>		Attention or c/o		County of jurisdiction (Name Only) <b>DANE</b>
	Address <b>1234 N. STATE STREET</b>				Probate case number <b>20-PR-9999</b>
	City <b>MADISON</b>	State <b>WI</b>	ZIP code <b>53667</b>		Date of decedent's death (MM DD YYYY) <b>02 01 2020</b>

**PART I** Information Required When Requesting a Closing Certificate for Estates

Complete lines 1 through 11 and sign on page 2.

- Is a certificate required by the court?  Yes  No See instructions.  
If No, **DO NOT** submit Schedule CC. The department only issues a Closing Certificate if a court requires it to close a proceeding.
- Does the decedent have a will?  Yes  No (If Yes, enclose a copy)
- Type of probate  Formal  Informal  Other
- If the decedent did not file tax returns for the 4 years prior to death, enter the year and the decedent's approximate income:  
20\_\_ \$\_\_\_\_\_, 20\_\_ \$\_\_\_\_\_, 20\_\_ \$\_\_\_\_\_, 20\_\_ \$\_\_\_\_\_.
- Was the decedent contacted by the IRS and/or Wis. Dept. of Revenue in the last 3 years?  Yes  No  
If Yes, explain: \_\_\_\_\_
- Is the gross income of the estate less than \$500?  Yes  No
- Will a final Form 2 be filed at a later date?  Yes  No
- Was the decedent a resident of Wisconsin at the time of death?  Yes  No
- Did the decedent own an interest in any partnership, S corporation, LLC, or LLP?  Yes  No
- Enter the totals of each of the assets listed below.



DO NOT ATTACH SCHEDULE CC TO FORM 2 (see instructions)

Probate Assets (Enclose a copy of the inventory)		<b>NO COMMAS; NO CENTS</b>	
a. Real Estate	10a	2500000	.
b. Stocks and Bonds	10b	1942750	.
c. Mortgages, Notes, and Cash	10c	625050	.
d. Land Contracts and Installment Sales	10d		.
e. Insurance Payable to Estate	10e		.
f. Annuities and Employee Death Benefits Payable to Estate	10f		.
g. Other Miscellaneous Property	10g	20100	.
<b>Nonprobate Assets</b>			
h. Jointly Owned Survivorship - Decedent's share of property	10h	2250500	.
i. Decedent's Share of Survivorship Marital Property	10i		.
j. Insurance Payable to Named Beneficiaries	10j	3227500	.
k. Transfers During Decedent's Life (gifts, etc.)	10k	5000	.
l. Other Assets	10l	1460200	.
m. Wisconsin GROSS Estate (add lines 10a through 10L)	10m	12031100	.
11. Fiduciary fees paid or payable to the personal representative or trustee	11		.

**NOTE**  
Where any line from 10a through 10L is left blank, it will be deemed that **NONE** is the DECLARATION for that line by the person(s) signing Schedule CC.

**PART II Information Required When Requesting a Closing Certificate for Trusts**

Complete lines 1 through 10 and sign below.

1. Is a certificate required by the court?  Yes  No  
 If Yes, enclose a statement from the court verifying that a Closing Certificate is required to close a proceeding.  
 If No, **DO NOT** submit Schedule CC. The department only issues a Closing Certificate if a court requires it to close a proceeding.
2. Enclose a copy of the trust instrument with amendments (will/codicils).
3. a. Name(s) of grantor(s) \_\_\_\_\_  
 Social security number(s) \_\_\_\_\_  
 b. Name(s) of grantee(s) \_\_\_\_\_  
 Social security number(s) \_\_\_\_\_
4. On what date was the trust funded? \_\_\_\_\_
5. Was the trust contacted by the IRS and/or Wis. Dept. of Revenue in the last 3 years?  Yes  No If Yes, explain: \_\_\_\_\_  
 \_\_\_\_\_
6. State reason for closing the trust. If death of beneficiary, provide name of beneficiary, social security number, last address, and date of death. \_\_\_\_\_  
 \_\_\_\_\_
7. Have you petitioned the court to close the trust?  Yes  No  
 If Yes, enclose a copy of the petition. If No, explain why no petition has been filed: \_\_\_\_\_  
 \_\_\_\_\_
8. Has the trust filed fiduciary income tax returns with Wisconsin in any of the last four years?  Yes  No  
 If No, provide either a) copies of informal or formal annual accountings for the past four years; or b) annual schedules showing the trust's income and expenses for each of the past four years.
9. Enter the total fair market value of each of the assets listed below that are held by the trust at the end of the year preceding the final year of the trust. (**NOTE** Where any line from 9a through 9f is left blank, it will be deemed that **NONE** is the **DECLARATION** for that line by the person(s) signing Schedule CC.)
 

a. Real Estate .....	<b>9a</b>	_____ -
b. Stocks and Bonds .....	<b>9b</b>	_____ -
c. Mortgages, Notes, and Cash .....	<b>9c</b>	_____ -
d. Annuities and Life Insurance .....	<b>9d</b>	_____ -
e. Interest in Partnerships, LLCs, and S Corporations .....	<b>9e</b>	_____ -
f. Other Miscellaneous Property .....	<b>9f</b>	_____ -
g. <b>Total Assets</b> (add lines 9a through 9f) .....	<b>9g</b>	_____ -
10. Fiduciary fees paid or payable to the personal representative or trustee .....

**Third Party Designee** Do you want to allow another person to discuss this return with the department (see instr.)?  Yes Complete the following.  No

Designee's name ▶	Phone no. ▶	Personal identification number (PIN) ▶

I, as fiduciary, declare under penalties of law that I have examined this schedule (including accompanying documents and statements) and to the best of my knowledge and belief it is true, correct, and complete.

Your signature	Date	Daytime phone	
Fiduciary's address	City	State	ZIP code
1105 FISH HATCHERY RD.	MADISON	WI	53715
PERSON PREPARING FORM if other than the preceding signer	Signature of preparer	Date	Daytime phone
			608 555 5555

Mail to: Wisconsin Department of Revenue  
 PO Box 8918, Madison WI 53708-8918 007414 12-02-20 GCH

## X. Request for Prompt Assessment (IRS Form 4810) and Request for Discharge from Personal Liability Under Internal Revenue Code Section 2204 or 6905 (IRS Form 5495)

### Commentary and Instructions for [Forms 6.12](#) and [6.13](#)

The personal representative is personally liable for the decedent's income and gift taxes. I.R.C. § 6905 allows the personal representative to request discharge from this personal liability. I.R.C. § 6501(d) also allows the personal representative to seek a prompt (18 month) assessment of such taxes, so that the estate beneficiaries can receive distributions from the estate without concern as to transferee liability for unknown income and gift tax liabilities.

File IRS Form 4810 ([Form 6.12](#)) to request prompt assessment under I.R.C. § 6501(d).

This form should be filed immediately after the decedent's death (with respect to returns filed by the decedent before death) and after the decedent's final income tax return (and gift tax return, if applicable) is filed.

Once the personal representative has paid the tax that the personal representative has determined to be due, IRS Form 5495 ([Form 6.13](#)) allows the personal representative to request a discharge from personal liability for any deficiency in taxes later found to be due.

➤ *Note.* These forms should be filed with all the service centers at which the decedent's income and gift tax returns were filed. For years before 2001, Wisconsin residents filed gift tax returns in Kansas City, Missouri. Since 2001, Wisconsin residents have filed gift tax returns by mail in Cincinnati, Ohio. Before 2007 Wisconsin residents filed income tax returns in Kansas City, but since 2007 Wisconsin residents have filed tax returns in Fresno, California. Thus, for years after 2000, Forms 4810 and 5495 will usually need to be filed with multiple service centers.

### Distribution

Original: File by mail with Internal Revenue Service Center(s) where the decedent filed income and gift tax returns

Copy: Personal representative and firm file

### References

I.R.C. § 6501(d); I.R.C. § 6905





## General Instructions

Section references are to the Internal Revenue Code.

### Purpose of Form

Use Form 4810 to request prompt assessment of tax. Attach to your request the documentation requested on Form 4810. If you prefer to use your own format, your request must list the same information as requested on this form and include the applicable attachments. Specifically, you must verify your authority to act for the taxpayers (for example, letters testamentary or letters of administration) and provide copies of the authorizing document. Also, your request must clearly show:

- It is a request for prompt assessment under section 6501(d);
- The kind of tax and the tax periods involved;
- The name and social security number (SSN) or employer identification number (EIN) shown on the return (copies of the returns may be attached to help identify the return; write at the top of the return copy: "COPY - DO NOT PROCESS AS ORIGINAL"); and
- The date and location of the IRS office where the returns were filed.

### When To File

Do not file Form 4810 requesting prompt assessment until after you file the tax returns listed on the front of this form. You must submit a separate request for prompt assessment for any tax returns filed after this Form 4810.

### Where To File

Send your request to the Internal Revenue Service Center where you filed the returns for which you are requesting prompt assessment.

### Privacy Act and Paperwork Reduction Act Notice.

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We collect this information under the authority under Internal Revenue Code section 6501(d). We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. You are

not required to request prompt assessment; however, if you do so you are required to provide the information requested on this form. Failure to provide the information may delay or prevent processing your request. Section 6109 requires you to provide the requested taxpayer identification numbers.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give such information shown on your Form 4810 to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average times are:

<b>Recordkeeping</b>	5 hrs., 30 min.
<b>Learning about the law or the form</b>	0 hrs., 18 min.
<b>Preparing the form</b>	0 hrs., 24 min.
<b>Copying, assembling, and sending the form to the IRS</b>	0 hrs., 0 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this request simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W-CAR:MP:T:T-SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send this tax form to the above address. Instead, see *Where To File* on this page.



**Information and Instructions**

**General Information**

Ordinarily, the IRS has 3 years after an income tax, gift tax, or estate tax return has been filed to assess tax and demand payment of any deficiency. The executor representing a decedent's estate or a fiduciary of a decedent's trust may request a discharge from personal liability for the decedent's income, gift, and estate taxes. Nine months, or 6 months in the case of a fiduciary's request, after the IRS's receipt of the request for discharge or the earlier payment of any amount determined by the IRS to be owed, the executor or fiduciary will be discharged from personal liability for any deficiency in such tax thereafter found to be due. In certain instances where the date for payment of the estate tax has been extended, the IRS may require a bond as a condition for discharge.

An executor means the executor or administrator of a decedent, who was appointed, qualified, and acting within the United States.

**When To File**

Do not file Form 5495 requesting a discharge from income or gift tax liability until after you file the tax returns listed on the front of this form. If you are requesting a discharge from personal liability for the estate tax, you may attach this form to Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or you may file this form any time during the 3-year period following the date the Form 706 is filed. You must submit a separate request for discharge from personal liability for any tax returns filed after this Form 5495.

**Where To File**

Send your request to the Internal Revenue Service Center where you filed the returns listed on the front of this form. If you are requesting taxes reported on multiple returns filed at different Service Centers, you must mail separate Forms 5495 to each Service Center to receive a discharge from liability for each type of tax. If an estate tax return was filed, file Form 5495 for all taxes at the address where the estate tax return was filed.

**What To File**

This Form 5495 provides spaces for all information required to process a request for discharge from personal liability under IRC section 2204 or 6905. Attach to your request the information and documentation requested on Form 5495. If you are submitting this request with your estate tax return, you will not be required to provide an additional copy. If, however, this form is filed after Form 706, then a copy of pages 1-3 and Schedules A through I of Form 706 must be attached. If you are a fiduciary requesting discharge from personal liability under section 2204, check the "Other" box and include a copy of the trust instrument(s), a list of assets transferred from this decedent to the trust, and any other relevant information. If you prefer to use your own format, your written request must list the same information as requested on this form and include the applicable attachments.

**Privacy Act and Paperwork Reduction Act Notice.**

We ask for the information on this form to carry out the Internal Revenue laws of the United States. We collect this information under the authority of Internal Revenue Code sections 2204 and 6905. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. This information is needed to determine eligibility for the requested discharge from personal liability. You are not required to request discharge from personal liability; however, if you do so you are required to provide the information requested on this form. Failure to provide the information may delay or prevent processing your request; providing false information may subject you to penalties. Section 6109 requires you to provide the requested taxpayer identification numbers.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose or give such information to the Department of Justice for civil and criminal litigation; to cities, states, the District of Columbia, and U.S. commonwealths and possessions to administer their tax laws; and to other countries under a tax treaty. We may also disclose this information to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average times are:

<b>Recordkeeping</b> . . . . .	5 hr., 30 min.
<b>Learning about the law or the form</b> . . . . .	1 hr., 30 min.
<b>Preparing the form</b> . . . . .	4 hr., 27 min.
<b>Copying, assembling, and sending the form to the IRS</b> . . . . .	48 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:T:SP, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see *Where To File*.

## **XI. Closing Certificate for Fiduciaries, Certificate Determining Estate Tax, and Closing Correspondence**

### **Commentary and Instructions for [Forms 6.14–6.19](#)**

[Form 6.14](#) is Wisconsin DOR Schedule CC, Request for a Closing Certificate for Fiduciaries. Schedule CC must be filed with the Wisconsin DOR to receive a Closing Certificate for Fiduciaries. Schedule CC should only be filed when the probate court requires a Closing Certificate. Schedule CC may be filed for an estate or a trust. [Form 6.15](#) illustrates a sample Closing Certificate for Fiduciaries (approving income tax returns), which should be filed with the probate court after it has been received from the DOR.

If the estate filed a federal estate tax return, use [Form 6.19](#) to forward the Estate Tax Closing Letter from the IRS (which is only issued by the IRS upon request), and use [Form 6.18](#) to forward the Certificate Determining Estate Tax and Closing Certificate for Fiduciaries.

#### **Distribution**

Original: Personal representative  
Copy: Firm file

# Form 6.14 Request for a Closing Certificate for Fiduciaries (DOR Schedule CC) (EST-0311)

**SCHEDULE CC** Request for a Closing Certificate for Fiduciaries **2020**  
 Use **BLACK INK** Wisconsin Department of Revenue

**DO NOT STAPLE**

ESTATES ONLY – Decedent's last name		Decedent's first name	M.I.	Decedent's social security number
TRUSTS ONLY – Legal name				Estate's/Trust's federal EIN
Individual or firm to whom the closing certificate should be mailed		Attention or c/o		County of jurisdiction (Name Only)
Address				Probate case number
City	State	Zip code		Date of decedent's death (MM/DD/YYYY)

**PART I Information Required When Requesting a Closing Certificate for Estates**

Complete lines 1 through 11 and sign on page 2.

- Is a certificate required by the court?  Yes  No *See instructions.*  
 If No, **DO NOT** submit Schedule CC. The department only issues a Closing Certificate if a court requires it to close a proceeding.
- Does the decedent have a will?  Yes  No (If Yes, enclose a copy)
- Type of probate  Formal  Informal  Other
- If the decedent did not file tax returns for the 4 years prior to death, enter the year and the decedent's approximate income:  
 20\_\_ \$ \_\_\_\_\_, 20\_\_ \$ \_\_\_\_\_, 20\_\_ \$ \_\_\_\_\_, 20\_\_ \$ \_\_\_\_\_
- Was the decedent contacted by the IRS and/or Wis. Dept. of Revenue in the last 3 years?  Yes  No  
 If Yes, explain: \_\_\_\_\_

**DO NOT ATTACH SCHEDULE CC TO FORM 2 (see instructions)**

- Is the gross income of the estate less than \$600?  Yes  No
- Will a final Form 2 be filed at a later date?  Yes  No
- Was the decedent a resident of Wisconsin at the time of death?  Yes  No
- Did the decedent own an interest in any partnership, S corporation, LLC, or LLP?  Yes  No



10. Enter the totals of each of the assets listed below.

<b>Probate Assets</b> (Enclose a copy of the inventory)	<b>NO COMMAS; NO CENTS</b>
a. Real Estate	10a _____ .00
b. Stocks and Bonds	10b _____ .00
c. Mortgages, Notes, and Cash	10c _____ .00
d. Land Contracts and Installment Sales	10d _____ .00
e. Insurance Payable to Estate	10e _____ .00
f. Annuities and Employee Death Benefits Payable to Estate	10f _____ .00
g. Other Miscellaneous Property	10g _____ .00
<b>Nonprobate Assets</b>	
h. Jointly Owned Survivorship – Decedent's share of property	10h _____ .00
i. Decedent's Share of Survivorship Marital Property	10i _____ .00
j. Insurance Payable to Named Beneficiaries	10j _____ .00
k. Transfers During Decedent's Life (gifts, etc.)	10k _____ .00
l. Other Assets	10l _____ .00
m. Wisconsin GROSS Estate (add lines 10a through 10L)	10m _____ .00
11. Fiduciary fees paid or payable to the personal representative or trustee	11 _____ .00

**NOTE**  
 Where any line from 10a through 10L is left blank, it will be deemed that **NONE** is the **DECLARATION** for that line by the person(s) signing Schedule CC.

**Go to Page 2**

**PART II Information Required When Requesting a Closing Certificate for Trusts**

Complete lines 1 through 10 and sign below.

- 1. Is a certificate required by the court?  Yes  No  
 If Yes, enclose a statement from the court verifying that a Closing Certificate is required to close a proceeding.  
 If No, **DO NOT** submit Schedule CC. The department only issues a Closing Certificate if a court requires it to close a proceeding.
- 2. Enclose a copy of the trust instrument with amendments (will/codicils).
- 3. a. Name(s) of grantor(s) \_\_\_\_\_  
 Social security number(s) \_\_\_\_\_  
 b. Name(s) of grantee(s) \_\_\_\_\_  
 Social security number(s) \_\_\_\_\_
- 4. On what date was the trust funded? \_\_\_\_\_
- 5. Was the trust contacted by the IRS and/or Wis. Dept. of Revenue in the last 3 years?  Yes  No If Yes, explain: \_\_\_\_\_
- 6. State reason for closing the trust. If death of beneficiary, provide name of beneficiary, social security number, last address, and date of death. \_\_\_\_\_
- 7. Have you petitioned the court to close the trust?  Yes  No  
 If Yes, enclose a copy of the petition. If No, explain why no petition has been filed: \_\_\_\_\_
- 8. Has the trust filed fiduciary income tax returns with Wisconsin in any of the last four years?  Yes  No  
 If No, provide either a) copies of informal or formal annual accountings for the past four years, or b) annual schedules showing the trust's income and expenses for each of the past four years.
- 9. Enter the total fair market value of each of the assets listed below that are held by the trust at the end of the year preceding the final year of the trust. (**NOTE** Where any line from 9a through 9f is left blank, it will be deemed that **NONE** is the **DECLARATION** for that line by the person(s) signing Schedule CC.)
 

a. Real Estate .....	<b>9a</b>	.00
b. Stocks and Bonds .....	<b>9b</b>	.00
c. Mortgages, Notes, and Cash .....	<b>9c</b>	.00
d. Annuities and Life Insurance .....	<b>9d</b>	.00
e. Interest in Partnerships, LLCs, and S Corporations . . .	<b>9e</b>	.00
f. Other Miscellaneous Property .....	<b>9f</b>	.00
<b>g. Total Assets (add lines 9a through 9f) .....</b>	<b>9g</b>	<b>.00</b>
- 10. Fiduciary fees paid or payable to the personal representative or trustee . . . . . **10** \_\_\_\_\_ .00

**Third Party Designee** Do you want to allow another person to discuss this return with the department (see instructions)?  Yes Complete the following.  No

Designee's name ▶ \_\_\_\_\_ Phone no. ▶ ( ) \_\_\_\_\_ Personal identification number (PIN) ▶

I, as fiduciary, declare under penalties of law that I have examined this schedule (including accompanying documents and statements) and to the best of my knowledge and belief it is true, correct, and complete.

Your signature		Date	Daytime phone ( )	
Fiduciary's address		City	State	Zip code
PERSON PREPARING FORM if other than the preceding signer		Signature of preparer	Date	Daytime phone ( )

Mail to: Wisconsin Department of Revenue  
PO Box 8918, Madison WI 53708-8918

**Return to Page 1**

## Form 6.15 Closing Certificate for Fiduciaries (EST-0289)



WISCONSIN DEPARTMENT OF REVENUE  
PO BOX 8906  
MADISON, WI 53708-8906

**Contact Information:**

2135 RIMROCK ROAD PO BOX 8906  
MADISON, WI 53708-8906  
ph: 608-264-4217 fax: 608-267-0834  
email: DOREstateandFiduciary@wisconsin.gov  
website: revenue.wi.gov

TRAINING ATTORNEY  
TRAINING & INSTRUCTION LLP  
2135 RIMROCK RD  
MADISON WI 53713-1443

Letter ID L0597050256



April 30, 2021  
Tax Account Number:

### CLOSING CERTIFICATE FOR FIDUCIARIES

Estate of:	Date of Death:
TRAINING ESTATE	2/1/2021

Probate Case Number:	COUNTY OF:
2021PR88888	DANE

Based on the tax returns filed, as required by sec. 71.13(2), Wis. Stats., the taxes determined thereon have been paid for the trust or the decedent and the decedent's estate only. This does not release a surviving spouse from any tax liability determined due by the surviving spouse on joint tax returns of the decedent and surviving spouse. The issuance of this certificate does not preclude the department from auditing or adjusting the returns when circumstances warrant under sec. 71.17(3), Wis. Stats.

WINPAS - qtL208 (R.01/18)





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## Form 6.17 Order for Dispensing with Filing of Closing Certificate (EST-0291)

---

STATE OF WISCONSIN

CIRCUIT COURT  
BRANCH \_\_\_\_

\_\_\_\_ COUNTY

In the Matter of the Estate of

\_\_\_\_  
*(Decedent's name)*

Deceased

**ORDER**Case No. \_\_\_\_ *(Case No.)*

**WHEREAS**, [Wis. Stat.](#) § 71.13(3) permits a court to dispense with the filing of income tax returns normally required prior to closing an estate, and

**WHEREAS**, the Personal Representative in this Estate has made such a request, and

**WHEREAS**, the Final Estate Account shows the Estate income of \$\_\_\_\_ (or has been waived); and

**WHEREAS**, no fiduciary income tax returns are required to be filed when the Estate's income is \$600.00 or less, and no income tax is due on Estate income of \$600.00 or less;

**NOW, THEREFORE, IT IS HEREBY ORDERED** on the basis of the request of the Personal Representative for the Estate as follows:

1. The Personal Representative of this Estate is not required to file an income tax return with the Wisconsin Department of Revenue, as normally required by [Wis. Stat.](#) § 71.13(2), for the reason it is clearly evident to the Court that no income tax is due or to become due from this estate.
2. No Closing Certificate is required to be filed in this Estate, since the Wisconsin Department of Revenue only issues a Closing Certificate when an estate files income tax returns.

**Form 6.18 Letter Forwarding Closing Certificate for Fiduciaries  
(EST-0292)**

---

(Date)

(PR's Name)  
(Address)

Re: Estate of (Decedent's Name)

Dear (PR's Name):

With regard to the above-named estate, enclosed is the Closing Certificate for Fiduciaries. This document indicates that the state of Wisconsin has approved all prior individual and fiduciary income tax returns in connection with this estate. Please keep this document with your important papers.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

(Firm Name)

\_\_\_\_\_  
(Attorney's Name)

Enclosures

**Form 6.19 Letter Forwarding Estate Tax Closing Letter (EST-0293)**

---

*(Date)*

*(PR's Name)*  
*(Address)*

Re: Estate of *(Decedent's Name)*

Dear *(PR's Name)*:

With regard to the above-named estate, enclosed is the Estate Tax Closing Letter from the Internal Revenue Service. This document indicates that the Internal Revenue Service has approved the U.S. Estate (and Generation-Skipping Transfer) Tax return as previously filed. Please keep this document with your important papers.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

*(Firm Name)*

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*(Attorney's Name)*

Enclosure

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