

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Newly Discovered Assets

WARNING

This Information Sheet is intended to provide you with a brief overview of the subject matter. It may not provide you with all information that you require to be fully informed of the law that is applicable to your case. Additionally, the information may not accurately describe the pertinent sections of the Ohio Revised Code that are referenced in the footnotes. You should read those sections that are referenced. The Ohio Revised Code has a link on the Court's website. Additionally, you should consider reading those sections that are footnoted using "Page's Ohio Revised Code Annotated," which can be found at the Geauga County Law Library in the basement of the Courthouse at 100 Short Ct. Street, Chardon, Ohio 44024. Page's Ohio Revised Code Annotated also will provide you a summary of applicable court decisions (known as "case law"). While the Help Center can provide you with a limited amount of information, the Help Center staff cannot provide you with legal advice, and this Information Sheet is not intended to provide you with legal advice that is applicable to your case. You must decide how to best use the information provided. In the footnotes you will see a reference such as "R.C. 2129.02." That refers to Ohio Revised Code Section 2129.02, which is found in R.C. Title 21, and in R.C. Chapter 2129.

Background

Sometimes after a probate estate is closed, in some cases many years later, the Estate Representative or another interested person will learn of a probate asset titled in the name of the Decedent that was not accounted for in the closed probate proceedings. Examples are stocks and bonds, a bank account, real property, a vehicle, etc. Persons that could have an interest in that newly discovered Probate Property are creditors (if the probate estate was insolvent), a surviving spouse, or other beneficiaries of the probate estate. Moreover, an Ohio estate tax return may need to be filed and a tax paid if the Decedent died before January 1, 2013,¹ and potentially an amended federal estate tax return. While the Estate Representative of the closed probate proceeding has no duty to do so, if the Estate Representative, or any other interested person, wants to report the newly discovered Probate Property to the probate court, then the applicant should take the following action.

¹ The Ohio estate tax was repealed effective January 1, 2013 resulting from the passage of **the 2012-2013 Budget Bill**, House Bill 153.

- Initial Considerations.
 - Identify the Newly Discovered Probate Property. Obtain a copy of evidence of title and a description of the property. For example, (1) for real estate, a copy of the deed, (2) for a vehicle, the certificate of title, (3) for a financial account, a copy of the latest statement, (4) for stocks and bonds, a copy of the stock certificate or the bond.
 - Any Other Property. Make a reasonable effort to determine if there is any other Probate Property that was not accounted for in the prior closed probate proceeding. For example, consider checking for “unclaimed funds.” The Decedent may be owed unclaimed funds for any variety of reasons, including a deposit refund, forgotten bank account, expense reimbursement, wages, etc. Consider contacting the Ohio Division of Unclaimed Funds. The website is <https://www.com.ohio.gov/unfd/>. The website has a useful tool to search for unclaimed funds. The phone number is 877-644-6823. The mailing address is Ohio Department of Commerce, Division of Unclaimed Funds, 77 South High Street, 20th Floor, Columbus, OH 43215-6133.
 - Estate tax returns. If the Decedent died before January 1, 2013, then determine whether an Ohio estate tax return was filed and obtain a copy of that return and any amended returns.
 - Determine whether an Ohio estate tax return, or an amended Ohio estate tax return, must be prepared and filed with the Ohio Dept. of Taxation, and eventually the Court.
 - If so, determine whether to prepare and file the tax return (or amended return) BEFORE filing with the Court the form titled “Application to Reopen Estate to Report Newly Discovered Assets” (see below).
 - Insolvent Estate. Determine whether the probate estate was insolvent. Creditors may have a claim to any newly discovered Probate Property. If the probate estate was insolvent, you will likely need to obtain guidance from the Court as to how to distribute the newly discovered Probate Property.
 - Appraisal. Determine whether the newly discovered Probate Property must be appraised. If the newly discovered Probate Property is real property, then obtain a copy of auditor’s valuation or appraisal (by court-approved appraiser), or if a vehicle, then a copy of Kelley’s Blue Book valuation.
 - Identify Surviving Spouse, Beneficiaries, and Next-of-Kin. Verify whether a surviving spouse is still living, and the names of all beneficiaries of the probate estate and the next-of-kin. Obtain the current address of all such persons.
- Preparation of Documents.
 - Probate Form 1.0. Prepare the form titled “Surviving Spouse, Children, Next Of Kin, Legatees And Devisees” (Probate Form 1.0).

- Application to Reopen Estate to Report Newly Discovered Assets. Prepare the form titled “Application to Reopen Estate to Report Newly Discovered Assets” (GC PF 4.51).
 - Real Estate. When describing any newly discovered real property, be sure to include the permanent parcel number, address, and full legal description.
 - Vehicles. When describing any newly discovered real property, be sure to include the VIN number.
- Tax Form – ET 22.² If the Decedent died before January 1, 2013, then prepare the form titled “Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death,” even if no Ohio estate tax is due. Carefully read and follow the instructions regarding both Part I and Part II.
- Ohio Estate Tax Return. If required, prepare the Ohio estate tax return (or an amended return) and file it with the Ohio Dept of Taxation, if you determine to file the return BEFORE filing the “Application to Reopen Estate to Report Newly Discovered Assets.” However, if required, you may decide to prepare and file the Ohio estate tax return (or an amended return) AFTER you file the “Application to Reopen Estate to Report Newly Discovered Assets” with the Court.
- Initial Filing of Documents.
 - Probate Form 1.0. File the form titled “Surviving Spouse, Children, Next Of Kin, Legatees And Devisees” (Probate Form 1.0).
 - Application to Reopen Estate to Report Newly Discovered Assets. Together with Probate Form 1.0, file the form titled “Application to Reopen Estate to Report Newly Discovered Assets” (GC PF 4.51).
 - Evidence of Title. File a copy of the evidence of title of the newly discovered Probate Property – e.g. legal description, certificate of title, latest financial statement, stock certificates, bonds, etc.
 - Valuation. File a copy of the county auditor’s valuation statement, Kelley Blue Book valuation, or appraiser’s report.
 - Ohio Estate Tax. The following applies only if the Decedent died before January 1, 2013.
 - You should hire an accountant or attorney to assist you with complying with the Ohio Estate Tax Laws.
 - If required, and if you have filed the Ohio estate tax return (or amended return) with the Ohio Dept. of Taxation, then file a copy of that tax return

² See R.C. 5731.21(A)(1)(b)

together with Tax Form – ET 22 (the “Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death”), including both Part I and Part II.” The Probate clerk will deliver Part II to the County Auditor’s office if needed.

- If required to file an Ohio estate tax return (or amended return), but you determine to file the Ohio estate tax return (or amended return) with the Ohio Dept. of Taxation AFTER filing the “Application to Reopen Estate to Report Newly Discovered Assets” (GC PF 4.51), then you should note on the “Application to Reopen Estate to Report Newly Discovered Assets” that a an Ohio estate tax return or amended tax return will be filed at a later date. You do not need to file Tax Form – ET 22 (the “Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death”) until you file a copy of the Ohio estate tax return (or amended return).
 - If you determine that you are not required to file an Ohio estate tax return (or amended return), then you still must prepare and file Tax Form – ET 22 (the “Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death”) according to the instructions, together with the “Application to Reopen Estate to Report Newly Discovered Assets” (GC PF 4.51).
- After the Initial Filing of Documents.
 - If no Ohio estate tax return (or amended tax return) is required to be filed, then you still must file with the Court Tax Form – ET 22 (the “Certificate of Estate Tax Payment and Real Property Disclosure for Dates of Death”) according to the instructions.
 - If an Ohio estate tax return (or amended tax return) must be filed, then
 - File with the Court a copy of the Ohio estate tax return (or amended tax return); and
 - prepare and file with the Court Tax Form – ET 22 according to the instructions. The Probate clerk will deliver Part II to the County Auditor’s office if needed.
 - Report of Distribution. After the Court approves the “Application to Reopen Estate to Report Newly Discovered Assets,” and after you comply with the requirements regarding the filing of an Ohio estate tax return, then you must prepare and file a form titled “Report of Distribution” (Form 5.9) within the time period specified in the court order (typically 60 days after the date of the court order).
 - Other Considerations.
 - Federal Estate Tax. Consider retaining estate tax counsel (an attorney or accountant) to advise you on whether a federal estate tax return (or amended tax return) must be filed with the IRS. You should review information set forth at <https://www.irs.gov/businesses/small-businesses-self-employed/estate-tax>.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT'S FORMS, PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEAUGA COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.