

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

Information Sheet
Release from Administration

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. 2106.18." That refers to Ohio Revised Code Section 2106.18, which is found in R.C. Title 21, and in R.C. Chapter 2106.

Background

R.C. 2113.03 provides an applicant with a process to obtain a court order to distribute Probate Property without having to undergo a Full Administration if the value of the Decedent's Probate Property is relatively modest. The applicant may be any "interested person."¹ However, unlike a Summary Release from Administration, the applicant for a Release from Administration proceeding must (i) notify interested parties as the Court directs, and (ii) file the Decedent's Will with the Court to be admitted to probate.² The automobiles selected by the surviving spouse are not considered Probate Property.³ Probate Property may include the Decedent's interest in financial accounts, digital assets, household goods, furnishings, personal effects, collections, stocks and bonds, real estate, vehicles, unpaid wages, and uncashed checks.⁴ The applicant must account for all Probate Property known to the applicant.

¹ R.C. 2113.03(B).

² See *generally* Information Sheet "The Decedent's Will."

³ R.C. 2106.18. Also, see Information Sheet "Rights of Surviving Spouse."

⁴ See *generally* Information Sheet "Probate Process Overview" for a definition of Probate Property.

Requirements to Relieve Estate from Administration

The Court will only issue an order that relieves the estate from administration in two situations.

First – The value of the Probate Property is not greater than \$35,000 and Decedent died without a surviving spouse, or

Second – The value of the Probate Property is not greater than \$100,000 and the Decedent died with a surviving spouse, and either of the following applies:⁵

- (1) The Decedent had a valid Will that gives all the Decedent's Probate Property to the surviving spouse; or
- (2) The Decedent died without a valid Will, but the surviving spouse is entitled to receive all of the Probate Property as provided for by either:
 - a. R.C. 2105.06 (the "Statute of Descent and Distribution"),⁶ or
 - b. R.C. 2105.06 (the "Statute of Descent and Distribution"), together with R.C. 2106.13 (the "Allowance for Support" statute),⁷ which could be applicable even if the surviving spouse is not the natural parent of all of the Decedent's children.

However, even if either of those requirements is met the Judge is not required to issue an order relieving the estate from administration.

Also note that any automobiles that the surviving spouse selects under R.C. 2106.18, are not included in Probate Property⁸ and thus not included in the calculation of \$100,000. See the probate information sheet titled "Rights of Surviving Spouse."

Third – If the probate estate is insolvent, the Court may not approve an "Application to Relieve Estate from Administration" (Probate Form 5.0), but rather may require a Full Administration, depending upon the particular facts of the probate estate.

Initial Steps

If you intend to serve as the Estate Representative⁹ and commence a probate proceeding, you first need to decide whether to proceed as a Full Administration, a Release from Administration, or a Summary Release from Administration. Before you decide and before you prepare any court documents, you should review the probate information sheets titled "Probate Process Overview," "Creditor Rights," "Rights of a Surviving Spouse," and "The Decedent's Will." Regardless of the probate process you select, much of the information set forth in those information sheets is

⁵ R.C. 2113.03(A)(2).

⁶ See generally Information Sheet "Probate Process Overview."

⁷ R.C. 2113.03(A)(2)(b). Also see generally Information Sheet "Rights of Surviving Spouse," and specifically the paragraph titled "Right of Inheritance."

⁸ See generally Information Sheet "Rights of Surviving Spouse" regarding the right to select automobiles. Additionally, automobiles that pass to a survivor by reason of survivorship are not included in Probate Property.

⁹ "Estate Representative" is the person appointed by the probate court to handle the probate estate, whether the probate process is a Full Administration (in which case the name of that person is the Executor, Administrator, or Administrator with Will Annexed), the Commissioner of a Release from Administration, or the applicant of a Summary Release from Administration. Sometimes that person is called a "fiduciary."

applicable.

If a Release from Administration is available to you, and if you decide to proceed with a Release from Administration, then please read the Court's "Checklist - Release From Administration," which is on the Court's website. Additionally, please consider the following:

- Death Certificate. Obtain a copy of the Death Certificate. Typically, the funeral director can obtain it for you. The Court does not require a certified copy. Before filing with the Court, the applicant must: (1) shrink the size of the death certificate to letter-size and (2) redact the Decedent's social security number.
- Determine if the Decedent has a Will. If you do not have an original Will, you must make a good faith effort to locate a Will, or a copy. Determine whether the Decedent ever had an attorney, and if so check with that attorney's office regarding a Will. Even if a Will is lost, damaged or destroyed, that Will may be admitted to probate. In all events, you must search the Court's Will Index even if you find a Will. There could be a later Will filed with the Court.
 - File the Will with the Court; Application to Probate Will. Please review the probate information sheet titled "The Decedent's Will," which provides information regarding the determination of whether the Will should be admitted to probate and whether the Will is valid.
- Identify the Decedent's Creditors.
 - Create a list of all creditors, including the name (and the address and phone number if possible), a description of the claim, and the amount owed. You will need that information to prepare the form titled "Assets and Liabilities of Estate to be Relieved from Administration" (Probate Form 5.1) and to decide when to file the Application to Relieve Estate from Administration (Probate Form 5.0). The Estate Representative may owe a duty to certain creditors. Additionally, the Estate Representative must determine whether the Decedent owed the Estate Representative any money. An Estate Representative cannot not pay any debt that the Decedent owed to the Estate Representative from Probate Property without disclosing that debt to the Judge, and if that debt is \$500 or more, then obtaining a court order permitting such payment – See the probate information sheet titled "Creditor Rights." Furthermore, that debt is not entitled to preference over other creditors of the same class.¹⁰
 - Determine whether the probate estate is insolvent. If so, then the applicant may be required to proceed with a Full Administration regardless of the value of the probate assets.
 - Consider whether to wait six months following the Decedent's date of death before filing the Application to Relieve Estate from Administration. If the Decedent died with creditors, be sure to read probate information sheet titled "Creditor Rights," and perhaps confer with an attorney for legal advice regarding the payment of creditor claims.
 - Obtain a copy of the funeral director's bill. If that funeral bill has been paid, then obtain (i) a copy of the proof of payment by the funeral director and (ii) proof of

¹⁰ R.C. 2117.01

payment by the person who paid that funeral bill (e.g. a cancelled check), or if waived, a copy of the waiver of payment by the funeral director. The funeral bill must be paid before any distribution to the beneficiaries or heirs. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director's bill.

- If the Estate Representative decides to reject a creditor claim, then the Estate Representative should read the probate information sheet titled "Creditor Rights."
- Determine whether the probate estate is illiquid – i.e. not sufficient cash or other personal property to pay creditor claims, including family allowance or specific gifts under the Will. You may need a Court order to sell personal or real property in order to make needed payments.
- Identify Beneficiaries.
 - The applicant should create a list of the name of each person and entity that is named in the Will, and who has survived the Decedent, including as to each Beneficiary, the address, the relationship to the Decedent, and the birthdate of any minor. On that list indicate those persons whose current address is unknown and those persons whose name is unknown. If the Decedent died with a Will, which is admitted to probate, or if no Will was admitted to probate, the Court may require you to notify both known and unknown beneficiaries by notice by publication.
 - If the Decedent died with a valid Will, then the Will defines the beneficiaries of the Probate Property.¹¹ In that event, the applicant must file the Will with the Court, and allow the Judge to determine if the Will is valid according to law.¹² See the probate information sheet titled "The Decedent's Will."
 - Sometimes the Will may not describe Beneficiaries by name, but rather by describing a class of persons. For example, the Will might say – "I leave the remaining assets to my lineal descendants, per stirpes." In that example, the Beneficiaries are defined by the "Statute of Descent and Distribution," which is R.C. 2105.06.¹³
- Identify Next-of-Kin.
 - In addition to a list of the Beneficiaries, the applicant should create a list of the name of each person, who is next-of-kin to the Decedent and has survived the Decedent, including, as to each such person, the address, the relationship to the Decedent, and the birthdate of any minor. On that list indicate those persons whose current address is unknown and those persons whose name is unknown. The identity of the next-of-kin is defined by the "Statute of Descent and Distribution," which is R.C.

¹¹ That is true except to the extent that the Will does not dispose of all the Probate Property, in which case that Probate Property will pass to the Decedent's nearest next-of-kin, but subject to the rights of a surviving spouse. See probate information sheets titled "Probate Process Overview" and "Rights of a Surviving Spouse."

¹² See generally the probate information sheet "The Decedent's Will."

¹³ See generally probate information sheet "Probate Process Overview."

2105.06. If no Will was admitted to probate, the Court may require you to notify both known and unknown beneficiaries by notice by publication.

- If there is doubt as to who is the Decedent's next-of-kin, then the Estate Representative may file a complaint with the Court under R.C. Chapter 2123, requesting the Court to determine heirship. An example might be if the Decedent fathered a child outside of wedlock. In such case, you should contact an attorney for assistance.

Determine Rights of Surviving Spouse (or Minor Children). If the Decedent has a surviving spouse or minor children, then be sure to review the probate information sheet titled "Rights of Surviving Spouse" and determine how to satisfy each of those rights from the Probate Property. Those rights, in most cases, are superior to the creditor rights, and in all cases, superior to the rights of other Beneficiaries or Heirs.

- Identify the Decedent's Probate Property.

- As noted in the Court's instructions titled "Checklist - Release From Administration," which is on the Court's website, make a detailed list of the Decedent's Probate Property, including gathering all documents that evidence title to property (such as deeds for real property, vehicle titles, digital assets, financial account statements, retirement account statements, stock certificates, bonds, uncashed checks, tax refunds for year of death, digital assets, copy of wages due from employer if possible, etc.)
 - If probate property includes "rental" real property and if there is no Will admitted to probate that grants authority, then the Estate Representative must obtain a court order to manage such rental real property as provided for in R.C. 2113.311.
- Obtain Financial Information. If the Decedent owned financial accounts and you do not know the account balances or account numbers, and if the financial institution will not release that information to you, then you can obtain a court order that requires the financial institution to release that information to you. Read Geauga Probate Local Rule 78.23. You can obtain a court order by preparing and filing with the Court the forms titled "Application to Release Financial Information" (GC PF 4.13) and "Waiver and - Release of Financial Information" (GC PF 4.14), which must be signed by those person who should be identified in Form 1.0 - see above. Note that you must deliver a copy of the "Application to Release Financial Information" (GC PF 4.13) to each of those persons before they sign the "Waiver and - Release of Financial Information" (GC PF 4.14). Moreover, note in Geauga Probate Local Rule 78.23 that there are a number of documents that must be filed with the Court together with the "Application to Release Financial Information" (GC PF 4.13).
- Digital Assets. Review (i) the probate information sheet titled "Digital Assets" and (ii) the form titled "Digital Asset Certification" (GC PF 6.5). You need to prepare and file the "Digital Asset Certification" (GC PF 6.5) with "Application for Summary Release from Administration" (Form 5.10). You must make a careful review to determine to what extent the Decedent owned Digital Assets.

- Tangible Personal Property. Review the form title “Tangible Personal Property Certification” (GC PF 6.6). You need to prepare and file the “Tangible Personal Property Certification” (GC PF 6.6) with “Application for Summary Release from Administration” (Form 5.10). You must make a careful review to determine to what extent the Decedent owned tangible personal property, particular that which has significant value, for example jewelry, collections, antiques, artwork, etc.
- Determine if Decedent had a Safe Deposit Box. Determine whether the Decedent had a safe deposit box. Check with the bank that has the Decedent’s checking account. If you locate a safe deposit box, then review the “Checklist - Safe Deposit Box” on the Court’s website. You may obtain a court order by filing an application titled “Application For Appointment Of Commissioner To Report On The Contents Of A Safe Deposit Box” (GC PF 41.0), together with: (1) a redacted death certificate, (2) a form titled “Surviving Spouse, Children, Next of Kin, Legatees and Devisees” (Form 1.0), and (3) a Judgment Entry titled “Judgment Entry Appointing Commissioner to Inventory Safe Deposit Box” (GC PF 41.1). Of course, if the safe deposit box is jointly owned, then the surviving owner can open the safe deposit box without need of a court order.
- Decide whether any Probate Property must be appraised.¹⁴ If so, determine who will be the appraiser, depending upon the nature of the Probate Property to be appraised. The Estate Representative may select more than one appraiser.¹⁵ See the Court’s website for a list of preapproved appraisers.¹⁶ The Estate Representative may pay the cost of the appraiser from the Probate Property after being appointed by the Judge.

Note: If applicant is unsure whether the value of the probate property is \$35,000 or less (or \$100,000 with surviving spouse), and thus whether a Release from Administration is available, then the applicant can select an appraiser from the Court’s approved list, and if the appraiser’s report indicates that the probate property is \$35,000 or less (or \$100,000 with surviving spouse), then the applicant can proceed with the Release from Administration, and attach the appraiser’s report to the “Application to Relieve Estate from Administration” (Probate Form 5.0). Of course, if the appraiser’s report indicates that the probate property is above \$35,000 (or \$100,000 with surviving spouse), then the applicant must proceed with a Full Administration.

- The general rule is that any Probate Property that does not have a readily ascertainable value must be appraised.¹⁷ You should review the probate information sheet titled “Probate Process Overview” regarding appraisers and the appraisal of Probate Property.

¹⁴ See generally Information Sheet “Probate Process Overview.”

¹⁵ R.C. 2115.06

¹⁶ Loc.R. 5 of the Court of Common Pleas of Geauga County, Probate Division

¹⁷ R.C. 2115.02

Note: Depending upon the circumstances, if the Estate Representative has a factual basis to determine the value of probate property that does not have a readily ascertainable value, the Court may waive the requirement to obtain an appraisal and accept the value that the Estate Representative determines. The Estate Representative could prepare and file with the Court the form titled “Application for Order Dispensing with Appraisalment” (GC PF 3.2).

- Keep in mind that if Probate Property includes an ownership interest in real property or a vehicle, then the value may be determined by means other than appraisal. See Geauga Probate Local Rules 78.5(C)(9).
 - Vehicles. Rather than appraisal, the Court will accept the value of a vehicle as established by Kelley Blue Book.¹⁸ If you elect to determine value using Kelley Blue Book, then make a photocopy of the page that sets forth the value and file it with the Court when you file the “Application to Relieve Estate from Administration” (Probate Form 5.0).
 - Real Estate. The Court may accept as the value of real estate the value set forth on the latest assessment by the county auditor for determining real estate taxes – or “letter of valuation” from the County Auditor’s Office (or the Auditor’s REALink site¹⁹). If you intend to establish value in that manner, then you must prepare and file with the Court the form titled Application for Order Dispensing with Appraisalment” (GC PF 3.2). Be sure that the form is notarized. Additionally, make a photocopy of the auditor’s letter of valuation (or REALink printout) and file it with the Court when you file the “Application to Relieve Estate from Administration” (Probate Form 5.0).
 - Income Tax Consequence. If a probate asset is sold either during the estate administration or after distribution, the value of the probate asset as shown on the “Assets and Liabilities of Estate to be Relieved from Administration” (Probate Form 5.1) may result in an unintended income tax consequence to the estate or the beneficiaries depending upon the sale price. The Estate Representative should consider obtaining tax advice from a tax professional before deciding to use the “letter of valuation” from the County Auditor’s Office (or REALink print-out) or otherwise reviewing the appraiser’s report.

Procedure to Obtain an Order Relieving the Estate from Administration. Review the “Checklist – Release from Administration.”

- Preliminary Matters. Before preparing and filing “Application to Relieve Estate from Administration” (Probate Form 5.0) as described below, the Estate Representative should attend to the follow:

¹⁸ See <https://www.kbb.com/>

¹⁹ See <http://geaugarealink.co.geauga.oh.us/realink/>

- Digital Asset Certificate. Make a good faith examination to determine the extent and nature of the Decedent's Digital Assets. Review the probate information sheet titled Digital Assets Certificate. If necessary, in order to obtain a court order to obtain information regarding Custodial Digital Assets, then prepare and file with the Court the form titled "Application for Authority over Digital Assets (Form GC PF 6.5B).²⁰ Before or together with the filing of the "Application to Relieve Estate from Administration" (Probate Form 5.0), prepare and file with the Court the form titled "Digital Asset Certification" (GC PF 6.5).²¹ Be prepared to file the form titled "Supplemental Schedule of Assets" (GC PF 6.1A) if requested by the Court.
- Tangible Personal Property Certificate. Make a good faith examination to determine the extent and nature of the Decedent's Tangible Personal Property (e.g. household goods, collections, personal effects, clothing). Before or together with the filing of the "Application to Relieve Estate from Administration" (Probate Form 5.0), prepare and file with the Court the form titled "Tangible Personal Property Certification" (GC PF 6.6).²² Be prepared to file the form titled "Supplemental Schedule of Assets" (Form GC PF 6.1A) if requested by the Court.
- Application to Relieve Estate from Administration. For the Estate Representative to have the authority to collect the Probate Property, satisfy the rights of a surviving spouse (or minor children), pay the valid creditor claims, and distribute the remaining Probate Property to the beneficiaries or heirs of the probate estate, the Judge must appoint the Estate Representative. To receive such authority from the Judge, the applicant must file the form titled "Application to Relieve Estate from Administration" (Probate Form 5.0). On that application the Estate Representative will indicate whether the Decedent had a Will and whether it was admitted to probate. If the Decedent has a valid Will or a Will that was lost, damaged or destroyed, please review the probate information sheet titled "The Decedent's Will." In that event, the applicant must complete the process of having that Will presented to the Court and admitted to probate, and the applicant should review the "Checklist - Probating Decedent's Will," on the Court's website and the probate information sheet titled "The Decedent's Will."
- List of Surviving Spouse, Children, Next-of-Kin, Legatees and Devises. The Estate Representative must prepare the form titled "Surviving Spouse, Children, Next of Kin, Legatees and Devises" (Probate Form 1.0), and file it with the Application to Relieve Estate from Administration (Probate Form 5.0).
- List of Debts and Assets. The Estate Representative must prepare the form titled "Assets and Liabilities of Estate to be Relieved from Administration" (Probate Form 5.1), and file it with the Application to Relieve Estate from Administration (Probate Form 5.0).
 - Regarding tangible personal property consisting of household goods, clothing, furnishings, which do not have a significant value, you need not identify such items separately on the asset and debt listing (Probate Form 5.1). You may indicate on that listing something like "household goods, clothing, furnishings" and assign a value based upon a reasonable estimate of price that you could sell such items for at a public auction. Regarding tangible personal property that has a significant

²⁰ See Geauga Probate Local Rule 78.5(A)(3)(c).

²¹ See Geauga Probate Local Rule 78.5(A)(3)(a).

²² See Geauga Probate Local Rule 78.5(A)(3)(a).

value, such as jewelry, artwork, or collections, you must have those items appraised and separately list those items on the asset and debt listing (Probate Form 5.1).

- The “Assets and Liabilities of Estate to be Relieved from Administration” is a Public Record. Do not include on the “Assets and Liabilities of Estate to be Relieved from Administration” (Probate Form 5.1) any information concerning the identity of the Decedent or the Probate Property, known as “personal identifiers.” Examples of personal identifiers are the Decedent’s social security number, bank account numbers, or other brokerage or financial account numbers. Instead, provide such information to the Court by completing and filing the form titled “Confidential Disclosure of Personal Identifier (Probate Form 45(D)). That form is not a public record, and the Court will keep it confidential. However, with respect to financial accounts that have a unique account number, you should include the last four digits in the description of each such account on the form titled “Assets and Liabilities of Estate to be Relieved from Administration (Form 5.1) - see Geauga Probate Local Rule 78.1(F).
- Proof of Ownership.
 - Real Property. Regarding any real property that is Probate Property, the Estate Representative must file with the Application to Relieve Estate from Administration a copy of the legal description and permanent parcel number.
 - Vehicles. Regarding any vehicles (including motorcycles, recreational vehicles, boats, airplanes, etc.) that are Probate Property, the Estate Representative must file with the Application to Relieve Estate from Administration a copy of the certificate of title for each “vehicle.”
 - Stocks and Bonds. Regarding any stocks and bonds not held in a brokerage account that are Probate Property, the Estate Representative could attach copies of those instruments to Probate Form 5.1.
 - Uncashed Checks, Wages. Regarding any uncashed checks and unpaid wages that are Probate Property, the Estate Representative could attach copies of those checks or wage statements to Probate Form 5.1.
- Evidence of Value. See the discussion above regarding the appraisal of Probate Property. If an appraisal is not required for any real property or vehicles that are Probate Property, then file with the Application to Relieve Estate from Administration a copy of the: (1) the County Auditor’s Valuation Letter (or REALink print-out) regarding real property (or other acceptable valuation report), and (2) Kelley Blue Book Value regarding any vehicle (or other acceptable valuation report).
- Death Certificate. Together with the Application to Relieve Estate from Administration, file with the Court a letter-size copy of the death certificate, with the Decedent’s social security number redacted.
 - Residency Affidavit. If the Decedent’s residence on the death certificate is different from the Decedent’s actual residence in Geauga County as of the date of death, then prepare and file with the Court the form titled “Residency Affidavit” (GC PF 052).

- Proof of Payment – Funeral Bill. Together with the Application to Relieve Estate from Administration, file with the Court a copy of (i) the funeral bill (both funeral and burial costs), and (ii) proof of payment by the person who paid the bill (e.g. cancelled check). If the funeral bill has been paid, then obtain a copy of the proof of payment, or if waived, a copy of the waiver of payment. If there is no funeral expense, typically the result of the Decedent having donated the body, and the body was cremated by the donee institution, then obtain a statement from that institution explaining the event and file a copy of that statement in lieu of the paid funeral director's bill.
- Personal Identification. Unless you are represented by an Ohio attorney, obtain (1) a government-issued photographic identification (e.g. a current driver's license or passport), and (2) evidence of current mailing address (e.g. recent utility bill, bank statement account, property tax bill, voter registration card). Moreover, gather information concerning any criminal acts that you were convicted of or that you pled guilty to.
- Medicaid Recovery. If the applicant is not represented by an attorney, then prepare and file with the Court form GC PF 4.29 - Medicaid Recovery Acknowledgment, (and if required prepare and file the appropriate forms with the Ohio Medicaid Estate Recovery Unit and then file with the Court the Form 7.0 Certification of Notice to Administrator of Medicaid Estate Recovery Program.
- Waiver of Notice of Filing. Those persons identified as the next-of-kin on the front page of Probate Form 1.0 have a right to be informed that the Estate Representative filed an Application to Relieve Estate from Administration. To the extent possible the Estate Representative should obtain from each of such person a waiver of notice, which is on page 2 of Probate Form 5.0 or a separate "Waiver of Notice of Application to Relieve Estate from Administration" (Probate Form 5.2). That waiver of notice is in addition to any notice or waiver that is required if the Decedent died with a Will and the Will is presented to the Court to be admitted to probate. Thus, to the extent possible, the Estate Representative should have each such interested person sign a waiver of notice and file that waiver of notice when the Estate Representative files the Application to Relieve Estate from Administration.
- Judgment Entry. When filing an Application to Relieve Estate from Administration (Probate Form 5.0), the Applicant must prepare and file with that application the "Entry Relieving Estate from Administration" (Probate Form 5.6). If the Applicant will need a certified copy of that Entry to give to financial institutions to receive the funds or to have funds paid directly to a beneficiary. If the Applicant requires authority to sell personal property, including a motor vehicle, then the Applicant must request of an order of sale where indicated on the Judgment Entry.
- Report of Distribution. After distribution of the Probate Assets as ordered by the Court and within 60 days after the court order, the Estate Representative must prepare and file with the Court a "Report of Distribution" (Probate Form 5.9).
- Be Prepared to Pay the Court Cost Deposit. The court costs are listed on the Court's website. Please understand that the payment of court costs is really a deposit against the actual court costs incurred. If the actual court costs are more than the deposit, the Estate Representative shall pay the additional court costs. Likewise, if the actual court costs are less than the deposit, the Court will reimburse the Estate Representative for that excess amount.

Other Matters to Consider

- Allowance for Support. If the Estate Representative determines that a surviving spouse or surviving minor children of the Decedent are entitled to receive an Allowance for Support under RC 2106.13 (see the probate information sheet titled “Rights of Surviving Spouse”), then:
 - If there is a surviving spouse and the surviving spouse is the natural parent of all minor children (if any) of the Decedent, then the Estate Representative should prepare and file the form titled “Application for Family Allowance” (Probate Form 7.1); and
 - If the Judge must allocate the Allowance for Support as provided in RC 2106.13, then the Estate Representative should prepare and file the form titled “Application for Apportionment of Family Allowance” (Probate Form 7.2).
- Transfer of Real Property. If the Probate Property includes real property, then the Estate Representative should prepare and file with the Court the forms titled “Application for Certificate of Transfer” (Probate Form 12.0) and “Certificate of Transfer” (Probate Form 12.1). When the Court issues the Certificate of Transfer, then that document should first be filed with the County Auditor’s office, and then with the Court Recorder’s office.
- Transfer of Motor Vehicles. If the Probate Property includes a motor vehicle (including motorcycles, recreational vehicles, boats, airplanes, etc.), then on page 2 of the “Entry Relieving Estate from Administration” (Probate Form 5.6), the Estate Representative should enter the name of the Distributee, and under the “Property” description, the Estate Representative should describe the vehicle as presented on the Certificate of Title, including the VIN number. After the Judge has signed the judgment entry, a certified copy of that court order should be delivered to the department of motor vehicles and a new certificate of title should be issued. Note that vehicles selected by the surviving spouse under RC 2106.18 are not Probate Property, and the surviving spouse can affect the transfer of title for such motor vehicles by presenting to the BMV the death certificate and the certificate of title.
- Tax Concerns. Please review probate information sheet titled “Creditor Rights.” Additionally, review IRS Publication 559. You may have a duty to file the Decedent’s federal and Ohio income tax returns, and possibly an income tax return for the probate estate. The filing of those tax returns could result in a refund. You should consider hiring a tax advisor to assist you.
 - You should apply for a federal tax identification number for the probate estate, especially if you have a duty to file an estate federal income tax return or you intend to establish an estate checking account, as discussed below. You should discuss this question with a tax advisor. You will need an estate federal tax identification number to establish an estate checking account. If you desire to obtain a federal tax identification number, then consider using the IRS website.²³ Additionally, the Help Center has the required IRS forms and Instructions.

²³ See also < <https://www.govdocfiling.com/tax-id-application> >

- Medicaid Estate Recovery Program. Again, please review the probate information sheet titled “Creditor Rights.” You may have a duty to:
 - prepare and deliver a notice, by certified mail, return receipt requested, to the Administrator of the Medicaid Estate Recovery Program not later than 30 days after the date that you were appointed the Estate Representative, using the form titled Notice to Administrator of Medicaid Estate Recovery Program (Probate form 7.0A).²⁴
 - Promptly after delivery of the Notice to Administrator of Medicaid Estate Recovery Program, prepare and file with the Court the form titled Certification of Notice to Administrator of Medicaid Estate Recovery Program (Probate form 7.0), with the signed “green card” and copy of that notice attached.
- Social Security and VA benefits. Consider contacting the Social Security Administration or the Veteran’s Administration to determine whether benefits are payable to the probate estate as the result of the Decedent’s death.
- Estate Checking Account.²⁵ To better account for any payments received by the probate estate (such as uncashed checks, last wages, deposit refunds, tax refunds, death benefits, etc.), and any payments made by the probate estate to pay costs and expenses, creditors (including tax authorities), surviving spouse or minor children, or Beneficiaries or Heirs, the probate Clerk of Court requires that the Estate Representative establish an estate checking account. That account should be used solely to receive and make payments. Consider hiring an accountant or an attorney to advise you as to the best use of an estate checking account and to account for income and disbursements.
- Illiquid Estate. An illiquid estate is an estate that has sufficient assets to pay valid creditor claims but does not have sufficient cash to pay those claims or to make other needed payments, such as repairs to probate assets before sale. An example would be a probate estate that consists primarily of real estate. In that case, the Estate Representative may have a duty to file a complaint to obtain a court order to sell the real property under R.C. 2127 titled “Land Sale.” For more information, see the probate information sheet titled “Land Sale.”

If such payments must be made and the only available cash is that of the Estate Representative’s personal assets (or that of other family members), then the Estate Representative should not make payments on behalf of the probate estate from his or her personal checking account, but rather should consider loaning the required cash to the probate estate by depositing sufficient cash in the estate checking account. Then the Estate Representative can make the required payments directly from the estate checking account. Handling payments in this manner results in a better method for accounting for all probate estate payments. Eventually, the loan made by the Estate Representative may be paid after the illiquid probate assets are sold, assuming the sale proceeds are sufficient.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO AND INDIVIDUALS WHO ARE HANDLING THEIR OWN LEGAL MATTERS. IF AN

²⁴ R.C. 2117.061(B)(2).

²⁵ See Geauga Probate Local Rule 78.5(C)(7).

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 THE 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, BE AWARE 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. IF YOU NEED LEGAL ADVICE, THEN YOU SHOULD CONTACT AN ATTORNEY OF YOUR CHOOSING.