



Dear Personal Representative,

I am sorry to hear that you have suffered the loss of a family member or friend. I extend my heartfelt condolences to you at this time. I also want to commend you for being willing to serve as a Personal Representative. It is an important responsibility to make sure that the decedent's property, after payment of valid debts and expenses, is distributed to the deceased's beneficiaries.

A Personal Representative is a fiduciary, which is a legal term that means you must collect and preserve estate property for the benefit of those who will inherit after payment of valid estate debts and allowable estate expenses. In performing these duties, you must be mindful of South Carolina Probate laws and procedures. Consequently, I would strongly encourage you to hire an attorney to assist you in the performance of your duties.

Our mission is to assist you in the most responsive, professional and efficient manner possible. Your Judicial Assistant is here to help you throughout your administration as we understand many of you are new to the probate process.

It is important to keep in mind that neither the judges nor the staff are allowed under state law to give you legal, tax, or financial advice. We strongly encourage you to seek advice from a qualified professional should you need legal advice, tax advice, valuation of property advice, etc. Should you need legal advice, we are not permitted to recommend an attorney to you. To assist you in choosing an attorney, you may seek referrals from friends. You may also contact the South Carolina Bar Attorney Referral Service at 1-800-868-2284 or go to www.scbars.org. If you are unable to afford an attorney, you should call the South Carolina Bar's Pro Bono Program at 1-888-395-3425 between the hours of 9am - 5pm, Monday through Friday. You may also contact South Carolina Legal Services at (888)-346-5592 from 1pm – 4pm, Monday through Friday, to speak to someone to see if you qualify for legal assistance at a free or reduced rate.

We hope this handbook will assist you as you begin this process. It includes useful contact information for court staff, including your judicial assistant, and state agencies commonly involved in the transfer of estate property.

You are undertaking a profoundly important role in our judicial process. The Probate Court will be here to help you in any way we can.

During or after the estate administration, please take some time to complete our Shining Star Customer Service survey or the survey on our website. Our goal is to serve the citizens of Greenville County to best of our ability. Your feedback will help us do that.

With kindest regards,

Chadwicke L. Groover
Chadwicke L. Groover,
Judge of Probate
County of Greenville, South Carolina



**Our Mission is
to provide professional and
compassionate service, to
the public, through
teamwork.**

Greenville County Probate Court
www.greenvillecounty.org/probate

Estate Receptionist & Intake Court Information
Specialist:
864-467-7614

Estate Records / Research & Obtain Copies:
864-467-7458
probaterrecords@greenvillecounty.org

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INTRODUCTION TO PROBATING AN ESTATE

This handbook was written to assist you, the Personal Representative, as you move through the probate process. We understand that this can be a difficult time and we hope to make the process a little easier by providing information concerning the requirements and procedures of administering an estate in Greenville County.

While the information in this handbook is valuable, it is not intended as a substitute for legal advice.

If you would like additional resource material regarding probate, you may utilize our website at www.greenvillecounty.org/probate.

If you have any legal concerns or need legal guidance to include issues regarding: early distribution liabilities; irregular distribution of assets; hesitation transferring assets to a beneficiary; minor or incapacitated beneficiaries; questions regarding the interruption of the Will; litigation; claims negotiation; or other legal matter; these would need to be addressed with an attorney.

The Probate court staff cannot provide legal advice nor act as a conflict resolution mediator between estate parties. We will be happy to provide guidance and information to the extent allowed by law. Beyond that, legal counsel is recommended. See *the Brochure: Legal Assistance for more information.*

In 2013, the South Carolina Legislature passed an updated body of laws known as the South Carolina Probate Code. The Probate Code is found in an updated volume in the South Carolina Code of Laws called "Title 62". The newest update became effective January 1, 2014 and is the current law which governs the settlement of estates.

Probating an estate is a process that will take 8-12 months.

The process can generally be summarized in four steps:

- Opening an Estate in Probate:** A representative of the deceased will bring the original Will and Death Certificate to our office to begin the probate process. If the decedent died without a Will, probate paperwork can begin with an original Death Certificate or an Obituary. In most cases, a Personal Representative will be named to administer the estate throughout the probate process. A Judicial Assistant will then be assigned to assist you through the Probate process.
- Establishing and Protecting Assets:** The Personal Representative will determine what assets were owned by the decedent at death. These assets will be identified and inventoried to determine their fair market value. An Estate Bank Account may be established to aid in proper record keeping.
- Establishing and Settling Debts:** Probate court staff will run a creditor's advertisement in the local newspaper with the decedent's name and death date. Creditors may file claims against the estate for a window of 8 months. During this time, the Personal Representative will determine: the decedent's debts; the income and estate taxes due; and any administration expenses. The Personal Representative will then determine the proper priority of payments to be made and make these payments.
- Transfer and Distribution of Remaining Assets/Closing the Estate:** The Personal Representative will distribute the remaining assets to the rightful heirs or devisees and file the appropriate forms. The Estate will be closed and the Probate process ends.

PROBATE COURT STAFF

JUDICIAL ASSISTANT: Each estate in our Court is assigned a staff member based on the letter of the last name of the deceased and the type of case. The staff members are highly-educated and well-versed in estate administration. They will guide you through the process but they are not your attorney or Court advocate.

You may expect your Judicial Assistant to:

- Answer questions clearly as they guide you through the Probate process
- Provide educational and informational resources such as: SC Bar Lawyer Referral Service; Ask-A-Lawyer; SC Legal Services; SC Legal Services Legal Aid Telephone Intake Service (LATIS); and other services which may be available and useful
- Inform you about Probate Court procedures, deadlines, rules, and practices
- Provide Probate Court schedules and information about how to get a case scheduled
- Provide basic information about your own case file
- Provide approved/authorized Probate Court forms and available instructions
- Screen paperwork for accuracy and help you understand corrections if necessary
- Ask your permission to correct minor details missing or omitted on forms
- Invite you to clarify your position on an issue in writing
- Request a scrivener's affidavit when details are missing on a Will completed by an attorney

Your Judicial Assistant may NOT:

- Give legal, tax or appraisal advice
- Research chain of title or do a full title examination
- Provide the appraised values of probate property
- Research a case or perform paralegal work on a file
- Become your Court advocate or take a "side" on a case
- Act as a conflict resolution professional between estate parties
- Recommend attorneys or other professionals

CONTACTING YOUR JUDICIAL ASSISTANT:

Your case is important and we would like to give you the best customer service that we can. The Court personnel's goal is to return any voicemail or e-mail that you leave as soon as possible but no later than 48 hours (excluding weekends and holidays) after we have received it.

Greenville County Probate Court Information Specialist (located at front desk): 864.467.7614

WEBSITE: www.greenvillecounty.org/probate

Using our website you can:

- Obtain estate forms
- Obtain a Copy Request form
- Pay Court Fees
- Research and Review the Probate Estate Index
- Contact Probate Staff
- Download informational pamphlets
- Provide feedback on your experience by taking our short Survey

Probate Court is a court of public record. This means that any contact information you list on court documents is available for the public to view.

INFORMATION YOU MAY NEED DURING THE PROBATE PROCESS

FORMS:

All forms must be:

- Current or updated, on white paper with a white background and must meet archival quality guidelines. (All estate forms were updated as of January 1, 2014. Every year updates are approved by a SC Supreme Court order.)
- Typed or completed in **BLACK OR DARK BLUE INK**. Please print as clearly as possible. All text must be dark and legible. No other color of ink will be accepted. The same ink color must be used for the entire document.
- Free of white-out or correction tape. If you make a mistake on a form, please strike through with one line and initial. If there are too many scratch-outs on the page, it may need to be re-done. Additional forms may be obtained on our website.
- Original. Faxed documents with original signatures cannot be accepted as formal filings. Faxed copies will be for informational purposes only.
- Signatures on most forms must be notarized or witnessed. Notaries and witnesses must be disinterested parties (not related). All informal estate forms, *except the deed of distribution*, can be brought to the Receptionist at the Probate Court for a staff member to notarize free of charge. Do NOT sign the form until you are in front of the notary. The notary must sign their name on the line provided. A stamp alone is not acceptable.

REPRESENTATION BY AN ATTORNEY:

A probate attorney or lawyer is a professional who may be an important resource for you in the probate process. You may choose to hire an attorney if you have any legal concerns during the probate process. If there is real estate to be transferred at the end of the Probate process, an attorney is typically hired to complete that transfer.

Once an attorney is hired, you will communicate directly with that attorney. Court personnel, including your Judicial Assistant, must also communicate directly with your attorney unless the estate goes into a delinquent status.

FORMAL ACTIONS:

If a formal Petition requiring a hearing is filed during the course of administration, it is highly recommended that you employ an attorney. Once a formal action is filed, the estate will be transferred to our Court's judicial litigation specialist. Contact your attorney with questions regarding the formal procedure or any concerns that you may have. Your Judicial Assistant will still be available to answer questions but neither s/he, nor our litigation specialist, can advise you on matters which must be decided by one of our judges in Court.

CHANGE OF ADDRESS / CONTACT INFORMATION:

It is your responsibility, as the Personal Representative, to notify the Probate Court of any changes in your address, e-mail or telephone number. Please file Greenville County Form G if you move within SC. If you move out of state, an agent of service (FORM 121ES) must be on file with the Court.

CORRESPONDENCE

If you receive any correspondence from the Court, please read and review the information and adhere to the deadline imposed. Contact your Judicial Assistant immediately if you do not understand any of the documents or if you cannot meet your deadline. If deadlines are missed without cause, you can be summoned and/or personally fined for dereliction of duties. Until you receive a closing order for the estate, consider the estate open.

STATE AND FEDERAL TAX RETURNS:

The filing of returns and/or payment of any South Carolina and Federal estate taxes or income taxes

are the responsibility of the Personal Representative. *For inheritance tax purposes, an estate is considered taxable if the gross value at date of death is more than the following:*

<u>DATE OF DEATH</u>	<u>FILING REQUIREMENT</u>	<u>DATE OF DEATH</u>	<u>FILING REQUIREMENT</u>
2000-2001.....	\$675,000	2011.....	\$5,000,000
2002-2003.....	\$1,000,000	2012.....	\$5,120,000
2004-2005.....	\$1,500,000	2013.....	\$5,250,000
2006-2008.....	\$2,000,000	2014.....	\$5,340,000
2009.....	\$3,500,000	2015.....	\$5,430,000
2010.....	\$5,000,000*	2016.....	\$5,450,000
	*Special Rules may apply	2017.....	\$5,490,000
		2018.....	\$5,600,000
		2019.....	\$11,400,000
		2020.....	\$11,580,000
		2021.....	\$11,700,000

Contact a CPA, attorney or the IRS (www.irs.gov) for tax information and/or guidance. SC Tax Waivers are no longer required.

ESTATE RESEARCH AND PHOTOCOPIES:

Estate documents are considered to be public records and are available for viewing and copying by the public. We strive to have images of all Estate documents available as soon as possible.

Basic information such as case number and parties involved can be accessed from home by going online to www.greenvillecounty.org/probate and searching the Probate Index. However, the actual file contents are only accessible within the Probate office.

Self-Service Estate File Photocopying:

You may view filed Estate documents at the workstations in the Probate Office without making an appointment. **You are welcome to make copies for .50 cents per page.**

Staff Research and Photocopying:

If you are not able to come to the Probate office, we would be happy to make copies for you. Please follow the process below. **There will be a \$7 search fee. Copies are .50 cents per page.**

How to Request Copies From Our Staff

1. **Search the Probate Index online** at www.greenvillecounty.org/probate to obtain case information.
2. **Contact the Records Division to determine cost:**
 Phone: 864.467.7458 or Email: probaterrecords@greenvillecounty.org
Please allow 48 hours for a reply.
3. **Complete the Copy Request Form:** A copy of this form can be found in the back of this Handbook. We can also email it to you or you can print it from our website.
4. **Make payment: To pay by mail:** Send completed form with check/money order payable to Greenville County Treasurer to: Records Division, Greenville County Probate Court; 301 University Ridge, Suite 1200; Greenville, SC 29601 **OR**
To pay online: go to www.greenvillecounty.org/probate and click Pay Fees Online (under Forms). You will see the CLICK TO PAY NOW button to the right. After paying, scan and email payment confirmation page and completed request form to probaterrecords@greenvillecounty.org. When we get these two pages, we'll email your copies.
5. **There is a 3-day turn around for all copy requests from date payment is received.**

FEES: Photocopies: \$.50/Page
Staff Search Fee: \$7.00/Estate Name
STEP ONE: OPENING AN ESTATE IN PROBATE

As you receive this Personal Representative Handbook, you have completed the following steps:

- Submitted an original Death Certificate
- Submitted the original Will (if one exists) and Codicils (if any exist)
- Submitted a copy of the obituary (if one exists)
- Submitted the Initial Probate Worksheet
- Obtained a Fiduciary Bond, if required
- Been assigned a Judicial Assistant and are meeting with her/him for the first time

INITIAL CASE REVIEW WITH JUDICIAL ASSISTANT: At your appointment today, we will review the estate case and your Judicial Assistant will let you know if there are any additional forms that need to be filed as we start the probate process. You should leave our offices today with a clear understanding of the tasks that need to be accomplished and the timeline for each of those tasks. We are here to answer your questions!

CERTIFICATE OF APPOINTMENT: Once you complete and sign the Application for Probate, you will receive a Certificate of Appointment. This gives you the authority to act on behalf of the estate, within the legal capacity as Personal Representative, and gain control of, and safeguard, the decedent's assets. It also allows you to be able to make inquiries and transact business regarding the estate, to the extent the law allows, while the estate is open. It does not allow you to transfer assets to those individuals that are not entitled to the assets by the Will or the law, including 3rd parties.

- You will initially receive 5 copies of your Certificate of Appointment but can obtain more as needed. To obtain additional certificates of appointment, call or e-mail your Judicial Assistant. Your Judicial Assistant can either mail them to you or have them ready for pickup. Make sure your filings are up-to-date and all fees have been paid.
- Certificates are only available while an estate is open. Once the estate closes, you can no longer utilize a certificate of appointment because you've been discharged as the Personal Representative.
- All Personal Representatives listed on the certificate must conduct estate business together unless otherwise provided pursuant to law.

DATE OF APPOINTMENT AS PERSONAL REPRESENTATIVE: _____

PERSONAL REPRESENTATIVE COMMISSION: Generally, a Personal Representative is entitled to a commission of up to 5% based on the appraised value of personal property of the probate estate, sale proceeds of real estate specifically sold by the Personal Representative, and income earned by the probate estate. Probate estate personal property consists of those items listed on the Inventory and Appraisal under Schedules B, C, D, F, and I. *For further detail, see SC Code of Laws, Section 62-3-719.*

PUBLISH NOTICE TO CREDITORS: Upon appointment, a Personal Representative must publish a notice to creditors once a week for three successive weeks in a newspaper of general circulation in the County. If the Personal Representative is not appointed until one year after the decedent's death, a publication is not required.

This notice is published by your Judicial Assistant in the *Greenville News* and a **fee of \$46.00 for this publication is collected at the time of appointment**. You must pay this fee in order to obtain the certificates of appointment. This advertisement begins the "claims period". Creditors, by law, have eight months from the date of first publication of this notice to file claims.

APROX. 8 MONTH WINDOW ENDS FOR CREDITORS TO MAKE A CLAIM: _____

SEND INFORMATION TO HEIRS AND DEVISEES: Within 30 days after your appointment as the Personal Representative, you are required to notify all heirs and devisees¹ of your appointment by sending or giving those identified the Information to Heirs and Devisees (FORM #305ES). This form is informational in nature for the party and does not need to be signed by the person or entity nor returned to the Court. In the State of SC, even if a will exists, the Personal Representative must notify those persons who would have inherited in the estate had there been no Will.

DATE BY WHICH NOTICE MUST BE SENT: _____

FILE PROOF OF DELIVERY: Within 30 days after your appointment as the Personal Representative, you are required to file Proof of Delivery (FORM #120PC). This form is used to show proof that you have mailed or delivered the document stated on the form to the individuals whose names appear on the front of the document. In this case, you are verifying that you have mailed Form #305ES: Information to Heirs and Devisees. There is no Probate Court fee for this action. However, if you use a Notary Public outside of Probate Court you may incur a charge.

You will need to complete the following:

- Date on which you delivered or mailed the document to the persons listed
- Identify exactly how you delivered this document to each person using one of the five options printed on the document [personal delivery; certified mail; commercial delivery; ordinary 1st-class mail or registered mail]
- The full names, complete street address, city, state and zip code of all devisees & heirs
- You must sign this document in front of a Notary Public. All probate forms, except for the deed of distribution, for this estate proceeding that require notarization can be brought to the Receptionist at the Probate Court for a staff member to notarize free of charge. Do not sign the form until you are in front of the notary.

DATE FORM TO BE FILED WITH COURT: _____

STEP TWO: ESTABLISHING AND PROTECTING ASSETS

ESTABLISHING AN ESTATE BANK ACCOUNT is recommended: We recommend that you establish an *Estate Bank Account* into which you will deposit money belonging to the decedent as it comes into your hands and pay all claims and bills by check. By doing this you will have no trouble keeping the account in exact balance, preparing taxes, and completing and filing proper accounting.

In order to establish an Estate Bank Account you will need to apply for a tax ID number (EIN). Form SS-4 (www.irs.gov/forms_pubs/forms.html) is used to obtain a Federal Identification Number and cannot be obtained through the Probate Court. **There is not a fee for the tax ID number.**

There are three methods to apply for the number through the IRS.

- *Internet:* Online using EIN Assistant: <https://sa.www4.irs.gov/modiein/individual/index.jsp>
- *Fax:* 1-631-447-8960 (for SC resident)
- *Mail:* Mail in Form SS-4

FILE INVENTORY AND APPRAISEMENT: Within 90 days after your appointment as the Personal Representative, you are required to file an Inventory and Appraisement (FORM 350ES-SF or FORM 350ES-LF). In Greenville County, the preferred form is FORM 350ES-SF.

- You are to list and value ***all*** probate property owned by the decedent at death including property owned with another person (*joint tenants in common*). You do not need to list assets held

¹ An heir is someone who inherits under the law and a devisee is someone named to inherit in a Will including trustee(s) and/or charities. See Brochure: *Who Are Heirs and Devisees?*

jointly with survivorship or assets that have a beneficiary or a “payable on death” beneficiary. You may petition the Probate Court to authorize the employment of appraisers (FORM 351ES) if you feel it is necessary. Take care to discover, list, and value **all** probate property (including fractional interests and inherited interests) to avoid delays in closing this estate later. The year, make, model and VIN# will need to be listed for any vehicles, boats, motors, trailers. For mobile homes, you will need the serial number, year, make and model. You should also check SC Unclaimed Property office. Their contact information is listed in the Resource section of this handbook.

- The monetary values on the Inventory and Appraisal are to be calculated on the date of death using the appraised value, otherwise; known as the “fair market value” or FMV. FMV is the value at which the property would change hands between a willing seller and a willing buyer, neither being under any compulsion to buy or sell and both having reasonable knowledge of relevant facts. The property should be considered “AS IS” from the date of death. Altering or tearing down the property is forbidden. You may want to review any IRS tax valuation rules and speak to an attorney or CPA about determining under-evaluation of property or over-evaluation property penalties.
- If additional space is required for listing assets, you may submit a spreadsheet that is handwritten or typed with the required information. Use FORM 350-CONT.
- Amended Inventory (FORM 350ES-SF or FORM 350ES-LF) If after the filing of the inventory additional assets are discovered or an error is discovered on an asset already listed, the personal representative has a duty to file an amended inventory reciting all the probate assets for the new form.
- If you need additional time to complete this form, contact your Judicial Assistant to request a review of extension of time which may NOT exceed the maximum allotted time allocated by South Carolina Court Administration. The motion for extension (FORM 352ES) can be found on our website.
- **After the Inventory has been completed, the form will need to be notarized prior to mailing it back to the Court.** If you’d like, you may bring it into the Probate Court for notarization, free of charge.

DATE FORM 350ES TO BE FILED WITH COURT: _____

SALE OF ASSETS: You cannot sell most estate property owned by the decedent without the authority to do so. This authority is either granted in the decedent’s last will and testament or through a court order. Just because you have been appointed as the Personal Representative doesn’t mean you should or can sell assets.

TRANSFER OF REAL ESTATE OR OTHER ASSETS: The Court does not recommend transferring real estate to estate beneficiaries or other assets until after the Inventory and Appraisal (FORM 350ES) has been filed and the creditor’s period (usually 8 months) has elapsed.

PAY COURT COSTS: Once the Inventory and Appraisal is submitted, court costs will be assessed (as mandated in SC Code of Laws Section 8-21-770) and billed.

Court Costs will be due within 20 days from date of invoice.

Fee Schedule:

\$0-\$4,999.99	25.00
\$5,000-\$19,999.99	45.00
\$20,000-\$59,999.99	67.50
\$60,000-\$99,999.99	95.00
\$100,000-\$599,999.99.....	\$95 + .15% for amount over \$100,000
\$600,000 and over	\$845 + 1/4 of 1% for amount over \$600,000

Payments must be made by check or money order payable to the Greenville County Treasurer. The Court cannot accept starter checks which are checks that are not imprinted with a name and address. Payment may also be made online at www.greenvillecounty.org/probate using a debit/credit card. Payment is subject to a convenience fee.

COURT COSTS DUE NO LATER THAN: _____

STEP THREE: IDENTIFYING AND RESOLVING DEBTS

RESOLVE THE CREDITORS' CLAIMS: Once the publication of the Notice to Creditors has expired, (8 months from the first date the estate advertisement runs in the newspaper) it is your responsibility to respond to the creditors' claims that have been filed against the estate.

Claims are barred against the estate unless presented within whichever is earlier:

- 1) One year after the decedent's death **OR**
- 2) The time provided in §62-3-801(b) for creditors who are given written notice.

DUTIES OF PERSONAL REPRESENTATIVE REGARDING CLAIMS:

WRITTEN NOTICE TO CREDITORS (OPTIONAL): The personal representative may (but is not required to) give written notice (FORM 376ES) to any creditor notifying them to present their claim within one year of the decedent's death or within sixty days from the mailing/delivery of such notice, whichever is earlier, or the claim will be barred.

DATE NOTICE MAILED (OPTIONAL): _____

ALLOW/DISALLOW CLAIM: Within 60 days after a creditor has filed a claim or within 14 months after the date of death, whichever is later, the Personal Representative must serve upon the creditor a Notice of Allowance/Disallowance (FORM 372ES) stating the claim has been allowed or disallowed in whole or in part. This notice, and a Proof of Delivery (FORM 120PC), must be filed with the Court.

CLAIMS RESOLUTION: Prior to closing of the estate file, and no later than 14 months after the date of death, the personal representative shall resolve all claims. This may be accomplished by the following:

- ✓ **NEGOTIATE THE CLAIM:** Discuss the balance due with the creditor to determine if a lesser amount will be accepted by the creditor.
- ✓ **PAY THE CLAIM:** Pay the claim from the estate bank account.
- ✓ **DISALLOW THE CLAIM:** Claims that were disallowed (in whole or in part) on the Notice of Disallowance are barred if the creditor does not pursue the claim within thirty days after service.

FINAL DEADLINE TO ALLOW/DISALLOW CLAIMS: _____

INSUFFICIENT ASSETS TO PAY CLAIMS: If there are not sufficient liquid assets to pay the claims, other estate assets may need to be liquidated. If the personal representative does not have authority to sell estate assets, permission will need to be obtained from the Probate Judge. See Brochure: *Selling Real Estate While in Probate*. Once the assets are liquidated, if there are still not enough funds to pay all claims, the claims will be paid in the order of priority as outlined in §62-3-805. Funds may need to be prorated among the creditors.

PERSONAL REPRESENTATIVE AS CREDITOR: If the personal representative files a claim against the estate, this could be a conflict of interest and therefore these claims are handled in a different manner. A special administrator may need to be appointed to determine the validity of the claim. A copy of the claim would need to be sent to all interested parties and a Proof of Delivery filed with the Court. At the time of closing of the estate, a Notice of Right to Demand Hearing with the Proposal for Distribution will need to be filed and sent to the interested parties along with the Full Accounting and Application for Settlement if applicable.

Note: Do not proceed to Step Four unless you have resolved all the claims filed. If they are not yet resolved, you could be personally liable for the debt.

STEP FOUR: TRANSFER AND DISTRIBUTION OF REMAINING ASSETS

TRANSFER ASSETS OUT OF THE DECEDENT'S NAME: Review the inventory and appraisal that you filed with the Court. You will need to complete the following transfers:

- Decedent's name must be removed from any titles to vehicles, boats, motors, trailers, mobile homes, real estate, business, timeshares, patents or mineral rights.
- Decedent's name must be removed from any bank accounts, stocks, bonds, investment accounts, insurance
- Any asset (including any utilities, cell phones, safe deposit boxes, frequent flyer miles or travel reward cards, rewards cards, insurance policies) must be transferred out of Decedent's name

NOTE: If there are any claims that have been filed against the estate, a deed of distribution should not be completed until the claims are satisfied, compromised, resolved or disallowed. If the real estate needs to be sold for payment of debts, a court order may need to be obtained for permission to sell, and a deed of distribution may not be necessary. Please contact an attorney for assistance.

DEED OF DISTRIBUTION: The Court recommends an attorney assist you with The *Deed of Distribution* form (FORM 400ES). It is used as evidence of distribution of the decedent's real property if you, as the Personal Representative, did not sell the property. The *Deed of Distribution* changes the name on the property records from the decedent's name to that of the devisees as indicated in the Will, or, if there is no Will, to the heirs as outlined by law. The fractional interest received by each devisee/heir must be indicated on the Deed of Distribution.

- Probate personnel (or any other County Department personnel) are unable to assist you with completing the form
- The Probate Court recommends that a title search be done by an attorney prior to completing the deed of distribution. The attorney can make the final determination as to whether a formal title exam is in order. The title exam expense is an estate expense which means that the attorney can be paid from estate assets for the title examination and deed of distribution preparation.
- It is all too common for deeds of distribution to contain errors and omissions when citizens attempt to draft their own deeds of distribution or when the Personal Representatives hire an

attorney only for the purpose of completing the deed of distribution based on a prior deed with the property description to save the estate the expense of a formal title exam.

- The results of improperly drafted Deeds of Distributions are title defects. In the future, if the property is sold or refinanced, or when tax notices are sent, the estate may have to be reopened to correct the mistakes. This is usually much more expensive and time consuming than paying for a formal title examination at the outset. It is suggested that any disclaimers or agreements permitted by law regarding decedent's real estate be recorded along with the *Deed of Distribution* at the Register of Deeds or referred to in the description section of the *Deed of Distribution*.
 - If the Personal Representative sells property pursuant to powers granted under the Will or by Court Order, the standard S.C. form, with appropriate modifications, should be used.
 - After completion of all information (including specific interest being transferred to each individual devisee/heir, tax map number, current property description -- metes and bounds -- etc.), and upon execution of page 2, the *Deed of Distribution* is to be recorded in the County in which the real property is located.
- In Greenville County, the payment (\$15.00 plus any postage fees that may apply) and recording of the deed of distribution is accomplished at the Register of Deeds (301 University Ridge, Suite 1300).

After recording, give a copy of the recorded *Deed of Distribution* to the Probate Court to file in the estate record and give the original to the property recipient.

CLOSING THE ESTATE

FILE APPLICATION FOR SETTLEMENT: Complete and file your Application for Settlement (FORM 412ES) with the Probate Court.

DATE FORM FILED: _____

ACCOUNTING: Between eight months and twelve months after the first publication of the Notice to Creditors (or, if this is a taxable estate, 90 days after receipt of the estate tax closing letter), you must file a complete accounting (FORM #361ES) of the entire administration: assets received during the course of administration; disbursements/bills paid out; and balance to be distributed to the beneficiaries.

- If applicable, file a Proposal for Distribution (FORM 410ES) indicating assets, which have not yet been accounted for or have not yet been distributed.
- This accounting may be waived with the filing of a Waiver of Statutory Filing Requirements (FORM 364ES) from all interested parties including any unpaid creditors.

NOTICE OF RIGHT TO DEMAND HEARING: The Notice of Right to Demand Hearing (FORM #416ES) is to be sent to all interested parties, including unpaid creditors, along with:

- ✓ a copy of the full Accounting,
 - ✓ Proposal for Distribution (if applicable), and
 - ✓ Application for Settlement
- A Proof of Delivery (FORM #120PC) that you have sent these documents must be filed with the Probate Court.
 - If no written requests are received by the Probate Court within 30 days² you may proceed with making your final distributions and completing the final requirements as outlined by the Probate Court.

² The 30-day period can be waived if Waiver (FORM #111ES) is signed by all interested parties.

- This will include beneficiary receipts from the beneficiaries (FORM #403ES), releases of all claims, and copy of transfers for titled personal property (i.e., stocks, cars, etc.). You will need to check with your assigned judicial assistant to determine any other final requirements.

DATE NOTICE OF RIGHT TO DEMAND HEARING MAILED: _____

DATE PROOF OF DELIVERY FILED: _____

ORDER CLOSING THE ESTATE FILE: Upon receipt of all final documents, the Probate Court will issue an order closing the file and terminating your appointment as Personal Representative.

- Your Judicial Assistant will send you the Closing Order.
- If you do not receive an order, the estate is not closed.

DATE CLOSING ORDER RECEIVED: _____

Once the closing order is signed, your authority as Personal Representative ends. The Certificates of Appointment are no longer valid and you no longer have the ability to act on behalf of the estate.

If at any point in the future you find additional inventory items, please contact the Probate Court to see if you need to reopen the Estate.

RESOURCE LIST

GREENVILLE CO REGISTER OF DEEDS www.greenvillecounty.org/rod	(864) 467-7240	301 University Ridge Ste S-2100 Greenville SC 29601
GREENVILLE CO REAL PROPERTY SERVICES www.greenvillecounty.org/RealProperty	(864) 467-7300	301 University Ridge Ste S-1000 Greenville SC 29601
GREENVILLE CO AUDITOR'S OFFICE www.greenvillecounty.org/County_Auditor	(864) 467-7040	301 University Ridge Ste S-2000 Greenville SC 29601
SCDHEC – Vital Records (Death Certificates) www.scdhec.gov/administration/vr	(864) 372-3267	200 University Ridge Greenville SC 29602
SCDMV www.scdmvonline.com	(864) 232-6123	122 Edgeworth St Greenville, SC 29607
SCDNR www.dnr.sc.gov/boating	(803) 734-3857	Rembert C Dennis Bldg 1000 Assembly St, Room 104 Columbia SC 29201
INTERNAL REVENUE SERVICE www.irs.gov	(864) 286-7095	440 Roper Mountain Rd. Greenville, SC 29615
SC DOR www.sctax.org	(864) 241-1200	545 N Pleasantburg Dr Ste 300 Greenville, SC 29607
SOCIAL SECURITY ADMINISTRATION www.ssa.gov	(877) 274-5423	319 Pelham Road Greenville, SC 29615
VETERANS AFFAIRS www.va.gov	(864) 467-7230	301 University Ridge, Ste N-T300 Greenville SC 29601
LEGAL SERVICES www.sclegal.org	(864) 679-3232	701 S Main Street Greenville SC 29601
LAWYER REFERRAL www.sctbar.org/PublicServices/FindaLawyer	(800) 868-2284	
UNCLAIMED PROPERTY SEARCHES NATIONAL DATABASE www.missingmoney.com HUD LOANS: www.hud.gov/offices/hsg/comp/refunds IRS/FEDERAL: http://www.usa.gov/Citizen/Topics/Money-Taxes.shtml SOUTH CAROLINA: www.treasurer.sc.gov/unclaimed-property		

EDUCATIONAL BROCHURES AVAILABLE ON OUR WEBSITE **www.greenvillecounty.org/probate**

Can I Meet with the Judge?
Copy Request Form
Early Disbursement
Heirs-Devises
Non-Lawyer Overview of Estates
Service by Publication
Shining Star Customer Service Survey

Creditor Claims
Determination of Heirs
Formal Proceeding
Legal Assistance
Real Estate Sale
Subsequent Administration
Which Probate is Necessary?

GREENVILLE COUNTY PROBATE ESTATE COURT FEE SCHEDULE

(Method of payment, unless otherwise noted, is a check or money order made payable to the Greenville County Treasurer or debit/credit card.)

Some typical probate fees from SC Code of Laws, Section 8-21-770, as amended, are as follows:

Estates:

(Total gross value of probate estate)

\$0-\$4,999.99	25.00
\$5,000-\$19,999.99	45.00
\$20,000-\$59,999.99	67.50
\$60,000-\$99,999.99	95.00
\$100,000-\$599,999.99.....	\$95 + .15% for amount over \$100,000
\$600,000 and over	\$845 + 1/4 of 1% for amount over \$600,000

CERTIFIED COPY (per document, plus copy/research charges)	\$5.00
CERTIFYING APPEAL RECORD	\$5.00
COPIES (per page)	\$0.50
CREDITORS ADVERTISEMENT (subject to changes)	\$46.00
DEMAND FOR NOTICE (Form 111ES D)	\$5.00
EXEMPLIFIED / AUTHENTICATED COPY (+ copy/research charges)	\$20.00
FILING AND INDEXING WILL and NEWS ADD FEE (62-2-901)	\$20.00
FILING INITIAL PETITION (Formal Proceedings)	\$150.00
RECORDING COPIES (Exemplified/Authenticated/Certified)	\$20.00
REOPENING CLOSED ESTATES	\$22.50
RESEARCH FEE	\$7.00
SPECIAL / SUCCESSOR / TEMPORARY FIDUCIARY APPOINTMENT	\$22.50
SPECIAL CERTIFICATE	\$10.00
SUBSEQUENT ADMINISTRATION	\$22.50