

OFFICE OF CLERK OF CIRCUIT COURT

City of Williamsburg and County of James City
5201 Monticello Avenue, Suite 6
Williamsburg, Virginia 23188



(757) 564-2242 – Fax (757) 564-2329

Mona A. Foley, Clerk

TO MAKE AN APPOINTMENT FOR PROBATE

As you are going through this difficult time, I am hoping that my office will be able to provide assistance when you most need it! All probates are done by appointment. If there is a will, the executor(s) named in the will need to present during the appointment and should be the one calling for information.

If there is no will, the heirs (next of kin as determined by Va Code Section 64.2-200) will need to determine who will serve as the administrator. The administrator will need to take the attached oath. If you answer yes to the second paragraph and are NOT the sole distribute you will NOT be able to qualify.

You will need to determine residency of the deceased (Va Code Section 64.2-443)

Please use the Probate Packet to assist you in preparing for your appointment.

You will need:

WILL
DEATH CERTIFICATE
LAND ASSESSMENT
COMPLETED PROBATE PACKET

Please contact Jennifer G. Bryant, Probate Clerk at 757-564-2243 to schedule you appointment.

Sincerely,

Mona A. Foley, Clerk

OATH OF PERSON SEEKING APPOINTMENT AS ADMINISTRATOR

STATE OF VIRGINIA, Williamsburg, to-wit:

I, **NAME OF PERSON REQUESTING TO QUALIFY**, do hereby appear before the Clerk of the Circuit Court of Williamsburg/James City County requesting appointment as Administrator of the estate of **NAME OF DECEASED**, deceased, and do hereby solemnly swear that

I am not under a disability as defined under Code of Virginia § 8.01-2, and regardless of whether my civil rights have been restored, I have not been convicted of a felony offense of (i) fraud or misrepresentation or (ii) robbery, extortion, burglary, larceny, embezzlement, fraudulent conversion, perjury, bribery, treason, or racketeering.

OR

I have been convicted of one or more of the above listed felony offenses, and I am the sole distributee of the above named estate.

Subscribed and sworn to before me this the 16th day of February, 2016.

Clerk/Deputy Clerk

GENERAL INSTRUCTIONS FOR ADMINISTRATION OF ESTATE

I. PROBATE WILL with Clerk of Circuit Court

- A. Original Will. Will not be returned.
- B. Death Certificate
- C. Probate Information Form
- D. List of Heirs. Names and addresses of those who would inherit if there were not a Will.
- E. Probate Tax Return. Estimate of value of probate assets.
 - 1. Real Estate
 - 2. Tangible and intangible combined
 - 3. Includes only property controlled by Will
 - 4. Does not include non-probate assets
 - a. Life Insurance
 - b. Survivorship accounts
 - c. P.O.D. accounts
 - d. Designated death beneficiary assets
- F. Pay probate tax (\$1.00/\$1,000) and Clerk's fees. Reimburse from estate.

II. QUALIFY AS EXECUTOR

- A. Sign oath of office and bond
- B. Surety on bond, unless waived
- C. Receive instruction packet
- D. Receive Certificate of Qualification

III. ADMINISTRATION OF ESTATE (Collect Assets, Pay Debts, Distribute)

- A. Send Notices to heirs and beneficiaries
- B. Obtain Tax ID (IRS SS-4)
- C. Open Estate Account. All probate funds flow through this account.
- D. File Inventory within 4 months with Commissioner of Accounts. Exact values on date of death.
- E. Distribute special bequests in Will, including listed tangible personal property
- F. Liquidate balance if directed, otherwise distribute in cash or kind
- G. Special rules for real estate
- H. File tax returns, individual & fiduciary, income & inheritance
- I. File Annual Accountings with Commissioner of Accounts and pay fees
- J. After determining all bills are paid, distribute to beneficiaries
- K. Special considerations if insufficient assets
- L. Compensation
- M. File Final Accounting and pay fees

PROBATE INFORMATION FORM

Court File No.: _____

COMMONWEALTH OF VIRGINIA

(For appointment of executor, administrator, curator, and/or probate of a will without qualification.)

Circuit Court of _____

1. Decedent's full name _____ [] Married [] Single [] Divorced [] Widowed

2. Decedent's Residence address at death (street, city, state) _____

3. Date of birth _____ Date and place of death _____

4. Proof of death: [] Death certificate [] Obituary [] Other (specify) _____

5. The decedent died: [] with a will [] without a will. Date of will (and codicils) _____

6. Requested action: appointment of [] administrator [] executor [] curator [] probate of will

7. Name of person making request _____

8. Mailing address _____

9. Basis for request: [] executor named in will [] sole distributee [] other distributee [] creditor

[] other _____

10. Name of person seeking appointment _____

11. Day telephone _____ Night telephone _____

12. Residence address _____

13. Mailing address, if different _____

14. Name of any additional person seeking appointment _____

15. Day telephone _____ Night telephone _____

16. Residence address _____

17. Mailing address, if different _____

18. Name of assisting attorney, if any _____ Telephone _____

19. Attorney's mailing address _____

20. The total value of the decedent's real and personal estate [] did [] did not exceed \$15,000 on the date of death.

I hereby certify that to the best of my knowledge and belief this is an accurate statement of facts, and I acknowledge a continuing legal duty to report any later discovered errors or inconsistencies to the Clerk of Court.

DATE PRINTED NAME OF REQUESTING PERSON SIGNATURE OF REQUESTING PERSON

INFORMATION TO BE FURNISHED BY EACH PERSON SEEKING APPOINTMENT

21. Are you a person under a disability? [] yes [] no. (See Instructions for explanation.)

22. Have you ever been convicted of a felony? [] yes [] no.

23. Have you ever filed for bankruptcy? [] yes [] no.

24. Are you now, or have you ever been, an attorney at law in Virginia or elsewhere? [] yes [] no. (if yes, and you do not now possess an active license from the Virginia State Bar, explain the details on a separate sheet of paper.)

I (we) hereby certify that to the best of my (our) knowledge and belief this is an accurate statement of facts, and I (we) acknowledge a continuing duty to report any later discovered errors or inconsistencies to the Clerk of Court.

DATE PRINTED NAME OF REQUESTING PERSON SIGNATURE OF REQUESTING PERSON

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PROBATE TAX RETURN (CONFIDENTIAL)

Court File No.

COMMONWEALTH OF VIRGINIA VA. CODE §§ 58.1-1713, -1714

This return must be filed with the Clerk of Circuit Court at the time a will is offered for probate or the grant of administration is sought in such court when the estate exceeds fifteen thousand dollars (\$15,000) in value.

Circuit Court of

Decedent's name

Residence address at death (street, city, state)

.....
Date of birth Date and place of death

VALUE OF DECEDENT'S PROBATE ESTATE

(a) Personal Property \$

(b) Real Property Located in Virginia \$

TOTAL VALUE OF DECEDENT'S PROBATE ESTATE \$ 0.00

I (we), the undersigned, declare under penalty of law that I (we) have examined this Return and to the best of my (our) belief it is a true, correct, and complete Return.

.....
DATE SIGNATURE OF PERSON OFFERING WILL FOR PROBATE OR SEEKING GRANT OF ADMINISTRATION

Mailing Address:

.....
DATE SIGNATURE OF ADDITIONAL PERSON SEEKING GRANT OF ADMINISTRATION

Mailing Address:

INSTRUCTIONS

GENERAL. The probate tax is not an inheritance tax or an estate tax. It is a tax imposed on the probate of every will or grant of administration on every estate that exceeds fifteen thousand dollars (\$15,000). The state probate tax rate is 10¢ for every \$100, or fraction thereof, of the value of the decedent's estate. No one is permitted to qualify as executor or administrator until this tax is paid. Cities and counties are permitted to impose a probate tax in an amount equal to one-third of the state tax.

WHAT'S INCLUDED. The tax is imposed on the decedent's probate estate. Thus, do not include (i) any property that the decedent owned with another with the right of survivorship, (ii) life insurance unless it is payable to the decedent's estate, (iii) real estate transferred by a transfer on death deed, or (iv) any other property passing by contract or beneficiary designation from the decedent to another person. In addition, you should not include any of the decedent's real estate located in another state.

VALUATION METHOD. Because of the difficulty in determining exact values at the time of probate or qualification, the Clerk will accept a reasonable estimate of the value of the decedent's personal property. You should try to be as accurate as possible when making your estimate in order to eliminate the need to return to the Clerk's Office and pay additional tax and/or increase your bond at a later time. If you do not know the actual value of the decedent's real property, you may use its assessed value for local real estate tax purposes.

VALUATION DATE. All property is to be valued as of the date of the decedent's death.