

Your Responsibilities as Personal Representative

The person responsible for settling a probate estate in Florida is called a Personal Representative. In other states this person may be called the executor of the estate if there is a Will involved, or administrator if there is no Will. The duties and responsibilities are the same regardless of the title.

Any person living in the State of Florida over eighteen (18) years of age who is not incompetent can act as a personal representative. Any bank with trust powers authorized to do business in Florida may be a personal representative. Certain relatives, regardless of where they live, may be personal representatives including parents, children, husband or wife, brothers, sisters, nieces and nephews and the spouse of these parties.

The job of the personal representative is to identify value, protect and conserve the property of the decedent. He must see that the bills and taxes are paid. He must identify the beneficiaries to receive the property of the decedent and see that they get that to which they are entitled. We shall look at these responsibilities in more detail.

With respect to the decedent's property, the personal representative must identify what the decedent owned and how much it is worth at the date of death. These facts must be reported by the personal representative in an inventory filed with the probate court within sixty (60) days after the date the personal representative is appointed by the Court. The personal representative must take possession of the decedent's property, protect it and conserve it. This may

require business and investment decisions. The property owned by the decedent may include non-probate assets such as jointly owned property, life insurance, pension and employee benefits and interests held in trust. The personal representative will generally assist in the collection of medical insurance proceeds and handle the transfer of jointly owned assets.

A group of people vitally interested in the affairs of the estate are the creditors of the decedent. As soon as the personal representative is appointed, one of his first responsibilities is to publish a Notice of Creditors in a local newspaper. The publication is run once a week for two (2) consecutive weeks. It gives notice to creditors and interested parties that any claims or demands against the estate must be filed within three (3) calendar months from the date of the first publication, or they will be barred. Creditors who properly file their claims are assured of payment before the assets are distributed to the beneficiaries.

When the creditors period has run and the bills have been paid the personal representative is ready to make distribution to the beneficiaries. If the value of the estate for estate tax purposes is less than \$2,000,000.00, the time for final distribution will be soon after the three (3) month creditors period has expired. Unless otherwise directed in the Will, or instructed by the beneficiaries, distribution will be in kind. It is not necessary to sell the assets owned by the decedent and liquidate the estate to cash unless there are good business reasons to do so.

Before the estate is closed the personal representative will prepare and file an accounting and a plan of distribution unless the beneficiaries of the estate waive the requirement. If there are no objections to the accounting filed with the Court, the personal representative can proceed to make final distribution. When he has obtained and filed the receipts from the beneficiaries acknowledging their distributive share, he may obtain his discharge from the court at which time the estate is officially closed.