

Probate: Connecticut

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A Q&A guide to the laws of probate in Connecticut. This Q&A addresses state laws and customs that impact the process of an estate proceeding, including the key statutes and rules related to estate proceedings, the different types of estate proceedings available in Connecticut, and the processes for opening an estate, appointing an estate fiduciary, administering the estate, handling creditor claims, and closing the estate.

KEY STATUTES AND RULES

1. What are the state laws and rules that govern estate proceedings?

The General Statutes of Connecticut, Title 45a, Chapters 801-803a, govern probate courts and procedures in Connecticut. They provide rules and procedures for probate and administration in Connecticut, as well as the laws of intestacy, which define which parties inherit in the absence of a will and the laws applicable to wills and trusts (Conn. Gen. Stat. Ann. §§ 45a-1 to 45a-788).

The Connecticut Probate Court Rules of Procedure also contain the uniform procedural rules for Connecticut Probate Court proceedings.

Connecticut Probate Court forms are available on the Connecticut Probate Court website.

2. What court has jurisdiction over estate proceedings in your state?

In Connecticut, the Probate Courts have jurisdiction over estate proceedings (Conn. Gen. Stat. Ann. §§ 45a-98 to 45a-104). Probate

Courts have jurisdiction over the estates of decedents domiciled in Connecticut and the estates of non-domiciliaries if:

- The decedent last resided in Connecticut.
- The decedent left real or tangible personal property located in Connecticut.
- The decedent maintained a bank account in Connecticut or any bank account of the decedent is located in Connecticut.
- The decedent left evidence of other intangible personal property in Connecticut (for example, stock certificates or bonds).
- Any executor or trustee named in the will resides in Connecticut or, in the case of a bank or trust company, has an office in Connecticut.
- Any cause of action in favor of the decedent arose in Connecticut or any debtor of the decedent resides in Connecticut.

(Conn. Gen. Stat. Ann. § 45a-287.)

A determination of domicile at the time of death of any deceased person is made by the Probate Court, but any finding of domicile by the Probate Court is subject to a later determination of domicile in connection with the Connecticut estate tax (Conn. Gen. Stat. Ann. § 45a-309).

A finding of domicile by a Probate Court does not bind a determination by the Connecticut Commissioner of Revenue Services, for purposes of the imposition of estate tax, of whether a decedent died a resident of Connecticut (Conn. Gen. Stat. Ann. § 12-395(a)(2)). However, any person aggrieved by a determination by the Commissioner of Revenue Services may seek a hearing in the Probate Court, in which case the decree of the Probate Court is conclusive, unless appeal is taken by the Commissioner (Conn. Gen. Stat. Ann. § 12-395(b)).

TYPES OF ESTATE PROCEEDINGS

3. What are the different types of probate or other estate proceedings or processes for transferring a decedent's assets at death?

The main types of estate proceedings in Connecticut are:

- **Probate.** The proceeding used when a decedent dies with a will. This proceeding establishes the authenticity of the decedent's will, appoints an executor to administer a decedent's estate, and allows court to have oversight of the estate settlement process. There are alternative options to probate if certain criteria are met, but probate is the most common estate proceeding when a decedent dies with a will. (Conn. Gen. Stat. Ann. §§ 45a-282 to 45a-302 and see Miscellaneous Estate Proceedings and Processes.)
- **Administration.** The proceeding used when a decedent dies without a will. This proceeding appoints an administrator to administer a decedent's estate and allows court oversight of the estate administration process. There are alternative options to administration if certain criteria are met, but administration is the most common estate proceeding when a decedent dies without a will. (Conn. Gen. Stat. Ann. §§ 45a-303 to 45a-308 and see Miscellaneous Estate Proceedings and Processes.)
- **Ancillary probate or administration.** The proceeding used when a non-Connecticut resident decedent dies leaving real property in Connecticut that does not pass by title or operation of law. Ancillary probate is used when a decedent dies with a will (Conn. Gen. Stat. Ann. § 45a-287 and 45a-288 and see Ancillary Probate). Ancillary administration is used when a decedent dies without a will (Conn. Gen. Stat. Ann. § 45a-303).
- **Settlement of small estates without probate or administration.** The proceeding used when the value of probate assets does not exceed \$40,000 and the probate estate does not include real property owned individually or as a tenant-in-common. In this proceeding, an affidavit may be used instead of an application for admission of will to probate or letters of administration. (Conn. Gen. Stat. Ann. § 45a-273 and see Settlement of Small Estates.)
- **Tax purposes only estates (TPO proceeding).** The taxable transfer of a decedent's assets that does not include probate assets. In these cases, the only requirement is the filing of estate tax returns. Depending on the size of the estate, the estate tax return must be filed with the appropriate Probate Court or with the Department of Revenue Services with a copy to the Probate Court and provides the basis on which the Court assesses its fee. (Conn. Gen. Stat. Ann. §§ 12-392(b)(2) and 45a-107.) If the decedent leaves a will, the will must be filed with the Probate Court, but the court does not admit the will to probate because there are no assets to administer (Conn. Gen. Stat. Ann. § 45a-282 and 45a-283 and see Tax Purposes Only Estates).
- **Appointment of temporary administrator to preserve assets.** The proceeding used by the Probate Court to appoint a temporary administrator on finding that the granting of administration on the estate or the probating of the will is delayed or that it is necessary for the protection of the estate. A temporary administrator holds and preserves the estate until an administrator is appointed or the will is probated. (Conn. Gen. Stat. Ann. §§ 45a-316 to 45a-317, and see Appointing a Fiduciary in Urgent or Unusual Circumstances.)

OPENING THE ESTATE

4. What is the typical initial filing process for opening an estate? Specifically, please discuss:

- How original wills are handled.
- Whether filing typically occurs by mail, e-filing, or in person and common practices for the most common methods.
- Documents typically submitted to the court with the initial filing.
- Any additional practical advice regarding the initial process for opening an estate.

METHOD OF FILING

In Connecticut, the petitioner generally files the initial petition for probate or administration and all supporting documents by mail or by hand with the clerk of the Probate Court of the probate district with jurisdiction over the decedent's estate.

DOCUMENTS SUBMITTED WITH INITIAL FILING

The following documents are submitted with the initial filing:

- A Petition/Administration or Probate of Will (Probate Court Form PC-200) is the document most commonly used to commence an estate settlement proceeding with the Probate Court, whether the decedent left a will (Probate) or died without a will (Administration). Form PC-200 must be filed in duplicate.
- The decedent's original will, if any, and any codicils.
- A copy of the decedent's will, if any, and any codicils.
- A certified copy of the decedent's death certificate to be sealed by the probate court and a redacted copy of the decedent's death certificate, omitting the decedent's Social Security number for filing with the public probate records. Unless otherwise required by law or directed by the court or directed on a form published by the court, a person is not permitted to file a document with the court that includes a social security number or employer identification number. A person may redact the Social Security number from a document if necessary to comply with this rule. (Conn. Prob. Ct. Rule 17.1.)
- An appointment of Probate Judge as Agent for Service of Process by a Non-Resident Fiduciary (Probate Court Form PC-482) if a non-resident of Connecticut is seeking appointment as executor or administrator.
- A certification of mailing of documents to party, certifying a copy of the will, any codicils, and that a copy of the probate petition was mailed to each interested party to the probate proceeding if filing a will for probate (Conn. Prob. Ct. Rule 30.7). This certification of mailing may be made on the probate petition or on a separate Certification of Mailing (Probate Court Form PC-151).

CONTACTING THE COURT

Any questions regarding the administration of an estate should be directed to the Clerk of the Probate Court with jurisdiction over the decedent's estate. Questions regarding probate court proceedings may also be directed to the Probate Court Administrator's Office.

5. Who can petition to open an estate and what information is required for the petition?

STANDING TO PETITION TO OPEN ESTATE

A typical estate proceeding in Connecticut begins with filing a Petition for Administration or Probate with the Probate Court for the district in which the deceased was domiciled (Conn. Gen. Stat. Ann. §§ 45a-283 and 45a-303 and see Probate Court Form PC-200).

The petitioner should be someone having a legal interest in the estate. In practice, the application is ordinarily made by a named executor or an heir-at-law. Persons with a legal interest in the estate include:

- Any executor named in the will (Conn. Gen. Stat. Ann. § 45a-283).
- Any party designated in the will as a beneficiary, fiduciary, or guardian (Conn. Gen. Stat. Ann. §§ 45a-290 and 45a-303(c)(1)).
- Heirs-at-law (Conn. Gen. Stat. Ann. §§ 45a-290 and 45a-303(c)(1)).
- Creditors of the decedent (see *Appeal of Lawrence*, 1881 WL 2189 (1881)).
- The Tax Commissioner (Conn. Gen. Stat. Ann. § 12-365).
- The Veterans' Home and Hospital Commission for a deceased veteran buried at the expense of the state (Conn. Gen. Stat. Ann. § 27-118).
- If no heir or creditor is available, a person in actual possession of estate property (see *Hamilton v. New Haven*, 82 Conn. 208 (1909)).

In an administration proceeding, letters are granted in the following order, provided the petitioner is entitled to share in the estate of the decedent:

- Surviving spouse.
- Any child of the decedent or any guardian of that child.
- Any grandchild of the decedent or any guardian of that grandchild.
- The decedent's parents.
- Any brother or sister of the decedent.
- The next of kin entitled to share in the estate.
- Any other person the court deems proper.

(Conn. Gen. Stat. Ann. § 45a-303.)

STATUTES OF LIMITATION

Probate or administration is not granted after ten years from the decedent's death unless either:

- On a petition to the court, the court allows it.
- A minor is an interested party, in which case the ten-year statute of limitations may be extended to allow one year after the minor reaches majority to begin a probate or an administration.

(Conn. Gen. Stat. Ann. §§ 45a-330 and 45a-331.)

PETITION

The Petition states:

- That the decedent was domiciled in the probate district (or the other basis for alleging jurisdiction).
- That the decedent died leaving an estate to be administered and leaving heirs.

- Whether the decedent left a will (and codicils).
- The names, addresses, relationship to the decedent, and nature of interest in the estate of:
 - each of the decedent's heirs; and
 - each beneficiary named in the will.

The petitioner requests that administration be granted or that the will be admitted to probate. The court must accept the petition if it is filed on the latest revision of a form published by the Probate Court Administrator (Probate Court Form PC-200) or complies with Rule 7 of the Connecticut Probate Court Rules.

6. Who does the petitioner have to provide notice to during the estate opening process? Specifically, please discuss:

- Who is entitled to receive notice?
- What notice is required when an estate is open?
- Who has standing to object to the petition for probate or administration?

WHO IS ENTITLED TO RECEIVE NOTICE

The Probate Court is charged with sending the notices to interested parties in a probate or administration proceeding. The petitioner must give the court names and addresses for all parties entitled to notice. (Conn. Prob. Ct. Rule 7.2.)

In a probate proceeding to admit a will to probate, the court sends notice to:

- The decedent's heirs.
- Each beneficiary under the purported will.
- Each current and presumptive remainder beneficiary of each trust established under the purported will.
- The Attorney General if a charity is a beneficiary.
- The proposed executor or administrator.
- The petitioner.
- Each beneficiary and current and presumptive remainder beneficiary under any other purported will of the decedent in the custody of the court.
- Each attorney of record.
- Other persons as the court determines.

(Conn. Prob. Ct. Rule 30.6.)

Beneficiaries are those persons receiving benefits under a will offered for probate, including:

- Guardians named in the will.
- Trustees of any trust created under the will or receiving bequests from the will.
- Each current and presumptive remainder beneficiary of each trust established under the will.

(Conn. Prob. Ct. Rule 30.6.)

In an administration proceeding, the court sends notice to:

- The decedent's heirs.
- The proposed administrator.
- The petitioner.

- The executor and beneficiaries under any purported will in the custody of the court.
- Each attorney of record.
- Other persons as the court determines.

(Conn. Prob. Ct. Rule 30.5.)

NOTICE REQUIRED TO OPEN ESTATE

The court mails a notice of the formal probate or administration hearing to the names and addresses provided by the petitioner as interested parties in the probate or administration proceeding (Conn. Gen. Stat. Ann. §§ 45a-286 and 45a-303).

The petitioner in a probate proceeding is responsible for mailing a copy of the probate petition and purported will to each party entitled to notice and to certify to the court that the mailing has been completed (Conn. Prob. Ct. Rule 30.7). Certification may be made on the Petition for Administration/Probate of Will (Probate Court Form PC-200) or on a separate certification (Probate Court Form PC-151). The petitioner in an administration proceeding does not have a comparable responsibility to mail a copy of the petition for administration to each party entitled to notice.

The court schedules a hearing date and provides the date in the notice (Conn. Prob. Ct. Rule 8.4).

The Probate Court Rules provide for an alternative streamline notice procedure for decedent's estates (Conn. Prob. Ct. Rule 8.6). Instead of scheduling a hearing, the court may use the streamline notice procedure, which satisfies the requirements for notice and hearing. When using the streamline notice procedure, the court gives notice of the right to request a hearing to each person entitled to notice on or before a specific date. If a hearing is not requested, the court may approve the petition for probate or administration. (Conn. Prob. Ct. Rule 8.6(f).)

If the decedent's heirs sign a written waiver, either on the Petition for Administration/Probate of Will (Probate Court Form PC-200) or by a separate general waiver (Probate Court Form PC-181), the court may admit the will to probate without a formal hearing using the streamline notice procedure (Conn. Prob. Ct. Rule 8.6). In this case, it is not necessary for beneficiaries who are not heirs at law to sign a waiver.

If the judge determines that a formal hearing is necessary or one of the parties interested in the will indicates the party intends to file a formal contest or objection, a hearing is then scheduled and the court gives notice to all heirs, beneficiaries, and interested parties (Conn. Prob. Ct. Rule 8.6(i)).

STANDING TO OBJECT

Any party interested in the estate generally may file an objection to the will offered for probate or to the appointment of an executor or administrator.

Objections are made by appearance at the probate court on the hearing date in the notice sent by the court or by filing notice of an objection ahead of that date (Conn. Prob. Ct. Rule 8.6).

Any person interested in any application that may be made to any court of probate for the probating a will or the granting of administration may, in person or by attorney file with the court a

written request for special notice to be given to that person or that person's attorney of any application to the court and of any order passed by the court during the estate proceedings (Conn. Gen. Stat. Ann. § 45a-127).

APPOINTING AN ESTATE FIDUCIARY

7. How is the person in charge of the estate (referred to here as the fiduciary) appointed? in particular please consider:

- The procedure for appointing a fiduciary when the decedent died with a will.
- The procedure for appointing a fiduciary when the decedent died without a will.
- The procedure for appointing a fiduciary in urgent or unusual circumstances.
- Any restrictions on a person's eligibility to act as fiduciary, including whether an attorney who prepares a will for a client can act as the fiduciary.

APPOINTING A FIDUCIARY WHERE DECEDENT DIED WITH A WILL

An executor in a Connecticut probate proceeding is typically nominated in the will, but cannot take any action on behalf of the decedent's estate before being appointed by the probate court.

If the will does not name an executor, the court names the executor in the same order of priority as the appointment of an administrator in an intestate estate, as follows:

- The decedent's surviving spouse.
- Any child of the decedent or any guardian of a child of the decedent.
- Any grandchild of the decedent or any guardian of a grandchild of the decedent.
- The decedent's parents.
- Any brother or sister of the decedent.
- The next of kin entitled to share in the estate.
- If none of the above people is able and willing to serve, any other person the court deems proper.

(Conn. Gen. Stat. Ann. §§ 45a-290 and 45a-303(c).)

The Probate Court issues a decree appointing an executor and issues Fiduciary's Probate Certificates to evidence the appointment.

Once the probate petition is filed, the time frame for appointing the executor varies depending on the probate court district, but generally it takes three to six weeks.

Certificates are valid for a period of one year from appointment but the fiduciary can always obtain updated certificates if the appointment remains in good standing (Conn. Gen. Stat. Ann. § 45a-200).

APPOINTING A FIDUCIARY WHERE DECEDENT DIED WITHOUT A WILL

In an administration proceeding, because there is no will nominating a fiduciary, the court appoints an administrator to administer the decedent's estate. The court grants letters of administration to any

one or more persons in the following order, provided the person or persons are entitled to a share in the estate of the decedent:

- The decedent's surviving spouse.
- Any child of the decedent or any guardian of a child of the decedent.
- Any grandchild of the decedent or any guardian of a grandchild of the decedent.
- The decedent's parents.
- Any brother or sister of the decedent.
- The next of kin entitled to share in the estate.
- If none of the above people can and are willing to serve, any other person the court deems proper.

(Conn. Gen. Stat. Ann. § 45a-303(c).)

A certificate of the appointment of an administrator is valid for a period of one year from appointment but the fiduciary can always obtain updated letters of administration if the appointment remains in good standing (Conn. Gen. Stat. Ann. § 45a-200).

APPOINTING A FIDUCIARY IN URGENT OR UNUSUAL CIRCUMSTANCES

The probate court may appoint a temporary administrator to preserve assets. The court may, with or without notice, appoint a temporary administrator to hold and preserve the estate until the appointment of an administrator or the probating of the will if either:

- The court, on application of a creditor or other person interested in the estate, finds that the proving of the will or granting of administration is to be delayed.
- It is necessary to preserve the estate assets,

(Conn. Gen. Stat. Ann. § 45a-316.)

QUALIFICATION AS FIDUCIARY

Connecticut has no formal requirements for which parties can serve as an executor.

There is a common law requirement that the court accept the executor named in the will, unless there is a finding that the nominated executor has legal incapacity to perform the function of the office. The fact of moral unfitness or lack of necessary business experience does not constitute incapacity. (See *Appeal of Smith*, 24 A. 273 (1892).)

Legal incapacity of an individual accepting a fiduciary appointment may occur when:

- The person named in the will is by law disqualified to be an executor.
- Although qualified, the person named in the will cannot act due to condition or circumstance to legally manifest or declare acceptance of that duty.

(Conn. Gen. Stat. Ann. § 45a-290 and see *Smith*, 24 A. at 273.)

For example, a minor is legally incapable of manifesting acceptance. A named executor serving in the armed forces at an undisclosed place is incapable of acceptance in a timely manner. Non-residence in Connecticut is not a disqualification. If a non-resident is seeking appointment as an executor or administrator, an appointment of Probate Judge as Agent for Service of Process by a Non-Resident

Fiduciary (Probate Court Form PC-482) must be filed with the Probate Court (Conn. Gen. Stat. Ann. § 52-60).

Any foreign corporation named as executor in a will admitted to probate that is authorized by its charter to act as executor in the state where it is chartered may qualify and act as executor in Connecticut, provided that:

- The laws of the state of the foreign corporation allows a Connecticut corporation to act in like capacity (reciprocity).
- The foreign corporation agrees that the Connecticut Secretary of State intends to act as its agent for service of process in Connecticut.

(Conn. Gen. Stat. Ann. § 45a-206.)

It is customary for any fiduciary to file with the probate court a written acceptance of the position of trust as a fiduciary. The Petition for Administration/Probate of Will (Probate Court Form PC-200) includes a provision for the executor or administrator to accept the position. A court may, however, request a separate statement.

8. Is a fiduciary bond required, and if so, in what circumstances?

A Connecticut executor must have a probate bond unless the bond is excused as provided by law (Conn. Gen. Stat. Ann. § 45a-289).

A probate judge may waive the requirement of a bond if the assets of the estate are less than \$20,000 or if the amount of the estate which is not restricted by the probate court order is less than \$10,000 (Conn. Gen. Stat. Ann. §§ 45a-289 and 45a-139).

If a will designates a person to be an executor and directs that no bond or a bond of a certain amount only is required, the probate court generally follows the will provisions if no objection to those provisions is filed (see Question 20). Even if the will contains language waiving the bond requirement, a probate court may determine that, for good cause shown, a bond is required for the protection of creditors or to assure payment of taxes. (Conn. Gen. Stat. Ann. § 45a-289.)

9. How are the key estate fiduciaries compensated?

INDIVIDUAL EXECUTORS OR ADMINISTRATORS

Connecticut law does not provide for statutory or fixed fees for fiduciaries or attorneys. Fiduciaries are entitled to reasonable compensation for their services in managing and settling the estate (see *Hayward v. Plant*, 119 A. 341 (1923)). The commissions of a fiduciary (as well as the legal fees of counsel to the estate) are normally shown on the fiduciary's final accounting and their reasonableness judged by the probate court at the accounting hearing.

Whether the fees are considered reasonable depends on the circumstances of each case, including:

- The size of the estate.
- The responsibility involved.
- The character of the work.
- Any special problems and difficulties presented.
- The results achieved.

- The knowledge, judgment, and skill required and used.
- The manner and promptness of settlement.
- Any other relevant circumstances.

(*Hayward v. Plant*, 119 A. 341 (1923).)

MULTIPLE FIDUCIARIES

Where there are multiple fiduciaries, each fiduciary can receive reasonable compensation for services rendered by that person or individual. Fees of co-executors are determined and charged separately and they may be allowed even though in the aggregate they exceed the amount that is allowable if there is one executor. (See *Hayward*, 119 A. at 344.)

CORPORATE EXECUTORS

Corporate executors are subject to the same rules regarding reasonable compensation as individual executors. The published schedules of individual banks or fees charged in the form of a percentage may be acceptable if they are reasonable. (See *Appeal of Main*, 48 A. 965 (1901)).

DRAFTING ATTORNEY AS EXECUTOR

Drafting attorneys may serve as executors and their compensation is not subject to any special restrictions.

10. What is the level of care that each estate fiduciary owes to the beneficiaries of the estate?

The three broad categories of the fiduciary duties of executors and administrators in Connecticut are:

- The duty to be loyal to the beneficiaries and avoid self-dealing (see Duty to be Loyal).
- The duty to be diligent in the management of the estate in the interest of the beneficiaries (see Duty to be Diligent).
- The duty of impartiality as between the different beneficiaries and creditors (see Duty of Impartiality).

DUTY TO BE LOYAL

Other than reasonable compensation for services rendered, a fiduciary should not profit personally from the funds entrusted to the fiduciary and should not use the position, either directly or indirectly, to benefit himself. It is a breach of fiduciary duty for the executor or administrator to appropriate any of the estate assets for the fiduciary's own use or to employ estate assets in other ways for personal use or benefit. (See *Hayward v. Plant*, 98 Conn. 374 (1923).)

When the executor or administrator is also a debtor to, creditor of, or beneficiary of the estate, the fiduciary must deal with fairness and impartiality. The executor or administrator should not purchase from the executor or administrator assets of the estate, whether real or personal, or pay any personal claim of the executor or administrator without prior approval from the probate court. (Conn. Gen. Stat. Ann. § 45a-367.)

DUTY TO BE DILIGENT

The executor must exercise due care to obtain possession of and preserve the estate (see *McClure v. Middletown Trust Co.*, 110 A. 838 (1920)). The executor should make a complete settlement of the estate as soon as possible (see *Webster v. Merriam*, 1832 WL 78 (1832) and *Chase Nat. Bank v. Guthrie*, 90 A.2d 643 (1952)).

DUTY OF IMPARTIALITY

The executor or administrator may need to balance conflicting interests of different beneficiaries during the estate administration. The interests of creditors and cash legatees may favor a speedy liquidation of assets, but the interests of heirs and residuary legatees may favor a retention of assets awaiting a more favorable market. As in the case of trustees, an executor or administrator should maintain an attitude of strict impartiality as between the beneficiaries to protect the legitimate interests of all of them.

The executor is a fiduciary for creditors as well as for legatees (see *Robbins v. Coffing*, 1884 WL 1070 (1884)). However, it is also a fiduciary's duty to protect the estate against unjust claims and demands (see *Winchell v. Sanger*, 73 Conn. 399, 47 A. 706 (1900)).

ADMINISTERING THE ESTATE

11. What are the main duties of the estate fiduciary in administering the estate?

The Connecticut estate fiduciary is responsible for:

- Gathering the estate assets and placing them under the fiduciary's control.
- Paying expenses that arise after the decedent's death.
- Paying claims.
- Filing the decedent's final income tax returns, estate tax returns, and fiduciary income tax returns.
- Making distributions under the terms of the will and subject to court oversight.

The estate fiduciary must maintain complete records concerning the management of the estate.

Funeral expenses take priority over virtually all other administration expenses for which the estate is responsible. Other types of administration expenses include:

- Statutory probate fees.
- Attorney's fees.
- Fiduciary's fees.
- The cost of legal notices.
- Any expenses related to maintenance of the decedent's property incurred after the decedent's death.

The fiduciary should anticipate the cash needs of the estate to pay for administration expenses, taxes, claims, and bequests. The fiduciary has the authority to convert into cash any personal property not specifically bequeathed but must get permission from the probate court to sell, mortgage or otherwise convey real estate, unless specifically authorized to do so under the terms of the will. (Conn. Gen. Stat. Ann. § 45a-164 and see Probate Court Form PC-400.)

If a sale occurs before tax clearance is received, however, the fiduciary must obtain and record certificates releasing liens for the Connecticut probate fee, Connecticut estate taxes, and, if applicable, federal estate taxes (Probate Court Form PC-205B, DRS Form CT-4422 UGE, and IRS Form 4422).

12. What are the key documents and procedures in your state for ongoing estate administration?

INVENTORY

The executor or administrator must file an inventory of the decedent's property within two months after qualification using Form PC-440. Courts frequently allow the inventory for the estate to be filed in conjunction with the Connecticut estate tax return, but an extension of time to file should be requested if the inventory is to be filed after the two-month deadline.

The inventory should generally:

- List any property the decedent owned in the decedent's own name, including real estate, bank accounts, stocks and bonds, motor vehicles, household furnishings, and personal effects.
- Include life insurance policies if payable to the decedent's estate.
- Include the legal description of any real estate and a copy of the deed should be attached to the inventory.

NOTICE FOR LAND RECORDS

The fiduciary must file a Notice for Land Records/Appointment of Fiduciary with the town clerk in each town in Connecticut where real estate owned by the decedent is located.

NOTICE TO CREDITORS

After the probate of the will, the court publishes newspaper notice to inform creditors of the decedent of the decedent's death and how to present their claims against the estate.

FINAL FINANCIAL REPORT OR ACCOUNT

A final financial report or account must report all distributions made to heirs or beneficiaries, as well as distributions that are proposed to be made (see Question 16). When the court approves the final financial report or account, it orders the fiduciary to distribute the remaining assets of the estate according to the approved distribution.

In some cases, the simpler financial report, Financial Report Decedent's Estate, Form PC-246, can be used (Prob. Ct. Rule § 36.1 to 36.14). The more detailed account, Decedent's Estate Administration Account, Form PC-241 or Form PC-242 (short form), is required in some instances, such as where the will establishes a trust under which the persons receiving the income of the trust differ from the persons receiving the ultimate distribution of the principal.

The probate court holds a hearing on the financial report or account to allow the beneficiaries or any other interested party to ask questions about or object to the manner in which estate funds were managed. Alternatively, the court may provide the parties with a streamline procedure that informs the parties of the right to a hearing on the matter if requested by a given date. In the absence of this request, the court may proceed to approve the financial report or account.

STATUS UPDATE

If the estate remains open for longer than one year, the executor or administrator must file a status update with the court (Conn. Prob.

Ct. Rule 30.21). The Status Update/Decedent's Estate, Form PC-286, should be filed within three months following the first anniversary of the fiduciary's appointment and annually thereafter, if no interim or final financial report or account has been filed. The update should include:

- The approximate amount of any distributions made.
- The approximate amount remaining on hand.
- The reasons that administration has not been completed.

13. What are the due dates for key documents and processes during and after the estate proceeding?

SERVICE OF PROCESS

The following documents must be sent to interested parties at the same time the documents are filed with the Probate Court and the person filing the documents must certify to the probate court that the copy has been sent:

- Appearance of Attorney, Form PC-183.
- Petition for Administration or Probate of Will, Form PC-200.
- Inventory, Form PC-440.
- Financial Report, Form PC-246.
- Account, Form PC-241.
- Affidavit of Closing, Form PC-213.

INVENTORY OF ASSETS

An inventory must be filed by the executor or administrator within two months after qualification using Form PC-440 (Conn. Gen. Stat. Ann. § 45a-341). The practice of most courts is to grant the fiduciary an extension of time to file until the Connecticut estate tax return is due. Despite this flexibility, most courts require an inventory before granting a petition for a release of lien for probate fees or taxes (see Probate Court Form PC-205B).

CREDITOR CLAIMS

Within 14 days after the fiduciary's appointment, the probate court places a newspaper notice informing the estate's creditors of the:

- Decedent's death.
- Creditors' obligations to present their claims promptly.
- Fiduciary's name and the address where claims are to be presented.

(Conn. Gen. Stat. § 45a-354.)

Creditors generally have at least 150 days from the date of the appointment of the fiduciary to present their claims to the fiduciary (Conn. Gen. Stat. § 45a-356(a)). The form to provide notice is Notice to Creditors to Present Claims, Form PC-234. The fiduciary must determine the legal validity of each claim and notify the creditor whether the claim is allowed or rejected, in whole or in part (Conn. Gen. Stat. § 45a-360 and see Considerations for Creditor Claims). Within 60 days after the end of the 150-day period, the fiduciary must file with the court a Return of Claims and List of Notified Creditors using Probate Court Form PC-237, reporting all claims presented and the extent to which each was allowed or rejected (Conn. Gen. Stat. § 45a-361).

ESTATE TAX RETURNS

FEDERAL ESTATE TAX RETURN

Federal estate tax is reported to the federal government on federal Form 706 and is due nine months after death. An automatic six-month extension of time to file the return is granted on request, although any tax due must be paid within the nine-month period.

STATE ESTATE TAX RETURN

The Connecticut estate and gift tax applies to Connecticut taxable estates of more than \$2 million (Conn. Gen. Stat. § 12-391). Even if no tax is due, the estate must still file a Form CT-706 NT, the Connecticut estate tax return for nontaxable estates, with the probate court and pay probate fees (see Question 17).

The return and any tax to be paid are due six months after death (Conn. Gen. Stat. § 12-392). On request, probate courts grant an automatic six-month extension of time to file the return for nontaxable estates. On a fiduciary's application, the Commissioner of Revenue Services may grant an automatic nine-month extension to file a return for a taxable estate, although any tax due must be paid within six months of death. (See instructions to Form CT-706 NT and Form CT-706/709.)

ESTATE INCOME TAX RETURN

Connecticut has an income tax that applies to estates (Conn. Gen. Stat. § 12-700 (a)(9)(E)). The due date for the estate income tax return for both federal and Connecticut purposes depends on whether the estate is operating on a calendar year or a fiscal year. For calendar year estates, the return is due by April 15th of the year following the calendar year in which the estate received the income. For fiscal year estates, the return is due by the 15th day of the 4th month following the close of the tax year. (Conn. Gen. Stat. § 12-708 and see instructions to Form CT-1041.)

FINANCIAL REPORT OR ACCOUNT

Every executor or administrator must file a financial report or account with the court when the administration of the estate is complete or when the executor or administrator seeks to resign or is removed by the court (Conn. Gen. Stat. § 45a-180 and Prob. Ct. Rule § 30.19 and see Final Financial Report or Account).

STATUS UPDATE

If the estate remains open for longer than one year, the executor or administrator must file a status update with the court (Conn. Prob. Ct. Rule 30.21). The Status Update/Decedent's Estate, Form PC-286, should be filed within three months following the first anniversary of the fiduciary's appointment and annually thereafter, if no interim or final financial report or account has been filed.

AFFIDAVIT OF CLOSING OF ESTATE

The Affidavit of Closing of Estate, Form PC-213, is used to report receipts and disbursements that occur after the filing of the final financial report or account, as well as the disposition of any reserve shown on the financial report or account. The filing of the affidavit is the executor or administrator's final act as fiduciary.

CONSIDERATIONS FOR CREDITOR CLAIMS

14. What is the procedure for notifying and paying creditors of the estate?

In Connecticut, once a will is admitted to probate and a fiduciary appointed, the Probate Court must publish informational newspaper notice to potential creditors of the estate (Conn. Gen. Stat. Ann. § 45a-361).

During the first 150 days following appointment as a fiduciary, the fiduciary may be held personally liable for any payments or distributions made to beneficiaries if insufficient funds remain to satisfy claims following those distributions. After the 150-day period, a fiduciary is protected from personal liability for payments or distributions made to beneficiaries in good faith. A beneficiary receiving estate assets, rather than the fiduciary, becomes liable for the beneficiary's pro rata share of any unpaid claims, to the extent of the distribution received. (Conn. Gen. Stat. Ann. § 45a-361.)

As a result, Connecticut fiduciaries typically do not make distributions earlier than 150 days after their appointment.

After receiving a claim, the fiduciary either:

- Allows it and pays it.
- Notifies the claimant about why a claim is being allowed only in part or rejected.

If the fiduciary does not respond to a claim within 90 days, the claimant can renew its demand that the fiduciary act on the claim. If the fiduciary fails to respond to the claim within 30 days of that notice, the claim is deemed rejected, at which point the claimant may bring suit on the claim. (Conn. Gen. Stat. Ann. § 45a-360.)

A fiduciary must:

- Keep track of all claims presented to the fiduciary, including their amounts and whether they are allowed or rejected in whole or in part.
- File a Return of Claims with the probate court within 210 days after the fiduciary's appointment to report these claims to the probate court.

(Conn. Gen. Stat. Ann. § 45a-361 and see Probate Court Form PC-237.)

The general statute of limitations for claims against a decedent's estate is two years from the date of death or the date on which the statute of limitations applicable to the specific claim otherwise expires, whichever is shorter (Conn. Gen. Stat. Ann. § 45a-375).

Although Connecticut fiduciaries are not required to notify or locate creditors of the estate, a fiduciary may choose to do so with regard to a known creditor to shorten the statute of limitations to ninety days from the date of the notice (Conn. Gen. Stat. Ann. § 45a-357 and see Probate Court Form PC-234). Any creditor receiving notice under this procedure and fails to present a claim within the 90 day period is forever barred from doing so (Conn. Gen. Stat. Ann. § 45a-357(b)).

CLOSING THE ESTATE

15. What is the process for concluding (or closing) the estate?

The fiduciary files a final account or financial report with the probate court to conclude the administration of the estate after receiving:

- A closing letter from the Connecticut Department of Revenue Service (for Connecticut taxable estates).
- The opinion of no tax due from the probate court (for nontaxable estates).
- The federal closing letter from the IRS, if applicable.

If tax clearance has not been received within 15 months of the fiduciary's appointment or other administration issues prevent the estate from being fully distributed within that time period, the fiduciary should file a status report with the probate court to report distributions made to date, the remaining assets on hand and the reasons why administration has not been completed (Conn. Prob. Ct. Rule 30.22 and see Probate Court Form PC-286).

Once the Probate Court issues its decree approving the final account or financial report and ordering distribution of the remaining assets, the fiduciary:

- Makes the payments or distributions that were proposed in the final account or financial report.
- Pays any final expenses from the reserve.
- Within 30 days of completing distribution of all assets, files an affidavit of closing to report all transactions occurring since the end of the final account or financial report.

(Conn. Prob. Ct. Rules 30.12 and 36.12 and see Probate Court Form PC-213.)

If the final account or financial report does not contain a reserve setting aside an estimated amount for final settlement expenses, the probate court may not require the fiduciary to file an affidavit of closing (Conn. Prob. Ct. Rule 36.12).

16. Please describe if there is any special action needed to discharge the estate fiduciary from continuing liability for actions taken on behalf of the estate.

To be discharged from liability for actions taken on behalf of an estate, a Connecticut fiduciary must account to the probate court and obtain the court's approval of those actions and proposed distributions (Conn. Gen. Stat. Ann. §§ 45a-175 and 45a-176). This traditionally takes the form of a balanced principal and income account (Conn. Prob. Ct. Rules 36 to 38). By signing the cover sheet for this account under oath using Probate Court Form PC-241, the fiduciary represents that:

- All of the estate assets, receipts, payments and distributions are completely and accurately listed in the account.
- All allowed claims of the estate have been satisfied.
- No heirs or legatees not previously disclosed to the probate court have been discovered.

(Conn. Gen. Stat. Ann. § 45a-175 and see Probate Court Form PC-241.)

Probate court approval of the account establishes the fiduciary's liability and payments made under the approved account discharge for that liability (see *Appeal of Middletown Trust Co.*, 110 Conn. 658, 149 A. 223 (1930)).

Beginning in 2013, a simplified accounting procedure, known as a financial report, became available for certain smaller and less complex estates (see Probate Court Form PC-246). This simplified method may be used unless income and principal must be accounted for separately or the probate court otherwise determines that a balanced principal and income account is required (Conn. Prob. Ct. Rule 36.3). Rule 37 of the Connecticut Probate Court Rules of Procedure governs the requirements for these reports (Conn. Prob. Ct. Rule 37).

EXPENSE AND TIMELINE

17. What are the expected costs for a typical estate proceeding?

Costs for Connecticut estate proceedings vary widely, but generally include:

- Probate fees (see Probate Fees).
- Attorney's fees (see Attorney's Fees).
- Tax, accounting, and valuation costs (see Tax, Accounting, and Valuation Costs).

PROBATE FEES

Every estate in Connecticut is subject to a statutory probate fee assessed on the basis of the size of the gross estate for estate tax purposes, plus the proceeds of any wrongful death awards or settlements (Conn. Gen. Stat. Ann. § 45a-107(b)).

The Connecticut estate tax return is the basis for the calculation of probate court fees, which are set by statute. The fee is based on the greater of:

- The amount reported on the inventory.
- The gross estate.
- The Connecticut taxable estate for estate tax purposes.

In most cases, the amounts reported on the CT-706 NT or CT-706/709 are used to calculate the probate fee.

Even if a Connecticut estate is comprised exclusively nonprobate assets, a limited amount of Probate Court involvement is unavoidable. At a minimum, the Probate Court reviews the Connecticut estate tax return for nontaxable estates (Form CT-706 NT) or receives a copy of the Connecticut estate and gift tax return (Form CT-706/709) (see Question 19). Statutory probate fees range from a minimum of \$150 (for estates of \$10,000 or less) to a maximum of \$40,000 (for estates in excess of \$8,877,000) (Conn. Gen. Stat. Ann. § 45a-107(b)(2)).

There are also routine fees for Probate Court expenses, such as:

- Recording documents.
- Mailing probate notices to interested parties.
- Obtaining standard or exemplified copies of documents from the Probate Court.

(Conn. Gen. Stat. Ann. § 45a-109.)

The fiduciary may also face recording costs associated with recording a notice for land records regarding a fiduciary appointment (Probate Court Form PC-251, available from the court), certificates of devise (Probate Court Form PC-250) or releases of liens issued by the Probate Court or the taxing authorities on the land records (Conn. Gen. Stat. Ann. § 7-34a and see Probate Court Form PC-205B, DRS Form CT-4422 UGE and IRS Form 4422 for applications for lien releases).

ATTORNEY'S FEES

The complexity of the estate determines the size of the attorney's fees, which are subject to a reasonableness standard (see *Hayward v. Plant*, 119 A. at 345 (1923)). Under Connecticut law, the reasonableness of attorney's fees, like the reasonableness of fiduciary compensation, depends on several factors, including:

- The size of the estate.
- The responsibilities involved.
- The character of the work required.
- Problems and difficulties involved.
- The results achieved.
- The knowledge, skill, and judgment required.
- The manner and promptness of the settlement.
- The time and service required.

(See *Hayward*, 119 A. at 345.)

TAX, ACCOUNTING, AND VALUATION COSTS

Because every estate in Connecticut must file an estate tax return and estates with probate assets must file either a financial report or a final account, most fiduciaries rely on tax and accounting professionals in the course of the probate process. These costs vary widely depending on factors, such as:

- The size of the estate and the nature of the assets.
- Whether appraisals or valuations of specific assets are required.
- Whether the fiduciary may file a simplified financial report in lieu of a full accounting.

18. How long does the typical estate proceeding take?

The timeline for the administration of a Connecticut estate varies greatly depending on the particulars of the estate. Factors that affect the length may include:

- The nature and complexity of the estate assets.
- Whether a state or federal estate tax audit occurs.
- Whether there are any challenges to the estate.

Estate administrations often take between 18 months and two years from the appointment of a fiduciary to the final distribution of assets to the estate beneficiaries because every estate must file either:

- A Connecticut estate tax return (due six months after death, but may be extended for six months for nontaxable estates or nine months for taxable estates).
- Closing letters or opinions of no tax due, which must be received before a final account or financial report is filed.

MISCELLANEOUS ESTATE PROCEEDINGS AND PROCESSES

19. Please list and describe any simplified or special proceedings or non-court processes for transferring a decedent's assets at death that are available in your state.

ANCILLARY PROBATE

Under Connecticut law, ancillary probate of a nonresident decedent's estate is available to transfer solely-owned Connecticut real or tangible property where the original will was admitted to probate in another state (Conn. Gen. Stat. Ann. §§ 45a-287 and 45a-288).

Ancillary probate can be filed in any probate district where:

- The decedent last resided.
- Any of the decedent's real or personal property is located.
- Any of the decedent's bank accounts are maintained or evidences of other intangible property are located.
- Any executor or trustee named in the will resides or regarding corporate fiduciaries has an office.
- Any cause of action in favor of the decedent arose or any debtor of the decedent resides or has an office.

(Conn. Gen. Stat. Ann. § 45a-287.)

To begin an ancillary estate proceeding, the proposed ancillary executor must submit the following documents:

- Petition/Ancillary Probate of Will (Probate Court Form PC-201).
- Exemplified copy of the original will and the probate proceedings admitting the will in another jurisdiction.
- State of Connecticut Domicile Declaration, Form C-3 UGE.
- Certified copy of the death certificate.
- A list of the decedent's Connecticut situs property.
- (See Instructions, Probate Court Form PC-201.)

For more information on ancillary probate in Connecticut, see Practice Note, *Ancillary Estate Proceedings in Connecticut* ([w-009-4739](#)).

SETTLEMENT OF SMALL ESTATES

In Connecticut, if a decedent had no solely owned interests in real estate and had solely-owned assets worth less than \$40,000, the estate may be settled by affidavit in lieu of probate of will or administration (Conn. Gen. Stat. Ann. § 45a-273 and see Probate Court Form PC-212). Under this simplified proceeding, a petitioner, typically the decedent's surviving spouse or next of kin, files an affidavit with the probate court listing:

- The decedent's assets.
- The funeral and estate administration expenses.
- Any claims against the estate.
- The decedent's history of receiving aid from the State of Connecticut.

(See Probate Court Form PC-212.)

If the assets exceed debts and expenses, the petitioner should also complete and attach a Request for Order of Distribution to transfer any appropriate assets (Probate Court Form PC-212A).

As in any other Connecticut estate, a state estate tax return is required of small estates, either in the form of a nontaxable estate tax return filed with the probate court or a taxable estate tax return filed with the Connecticut Department of Revenue Services with a copy sent to the probate court (see the instructions for Form CT-706 NT and Form CT-706/709).

TAX PURPOSES ONLY ESTATES

If a decedent dies without owning any probate assets, the probate court need not appoint a fiduciary or admit a will to probate. However, if a will exists, it should be filed in the probate court for the district in which the decedent was domiciled, together with an Affidavit for Filing Will Not Submitted for Probate (Probate Court Form PC-211). The probate court either evaluates the nontaxable estate tax return filed with the court or receives a copy of the taxable estate tax return filed with the Connecticut Department of Revenue Services and imposes its fee on that basis (see Question 17).

WAIVER OF PROBATE REQUIREMENTS AND FORMAL PROBATE

20. What types of estate proceedings or probate requirements can be waived by will in your state? Specifically, please discuss:

- Whether any particular language is required to accomplish a waiver and if so, please include the language.
- Whether it is common to waive these estate proceedings or probate requirements.

ESTATE PROCEEDINGS

Connecticut law does not permit waiver of estate proceedings by will. Although Connecticut statutes do permit a simplified settlement proceeding for small estates, court supervision is still required (see Settlement of Small Estates).

PROBATE REQUIREMENTS

In Connecticut, a fiduciary must file a probate bond unless bond is waived under the will (Conn. Gen. Stat. Ann. § 45a-289). Language, such as the following, should be included in a will to waive this requirement:

“I direct that no surety bond shall be required of any fiduciary under my Will.”

For testamentary trusts created under a Connecticut decedent’s will, accountings must be filed triennially unless the will expressly excuses this requirement, although the probate court is empowered to require an account even if excused under the will (Conn. Gen. Stat. Ann. § 45a-177 and Conn. Prob. Ct. Rule 32.5(b)). Language, such as the following, can be used to reduce or eliminate the accounting requirement:

“I relieve my Trustees from any obligation to file accounts of their trust more frequently than once in every five (5) years.”

Even if the will waives the periodic accounting requirement, a fiduciary must file a final account at the termination of the trust or at the end of the fiduciary’s tenure as trustee unless, on the fiduciary’s application, the Probate Court consents to waive the final account (Conn. Prob. Ct. Rule 32.7).

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