

# Time Schedule for Estate Administration

This outline will serve to explain the time schedule which is followed in the administration of estates in Florida.

## A. **FIRST FOUR MONTHS OF PROBATE:**

### 1. **Appointment**

The Probate Division of the Broward County Circuit Court first appoints the Personal Representative after admitting the Will to probate by issuing *Letters of Administration*. Then, it is the duty of the Personal Representative to assemble and protect the assets of the estate and to pay all valid debts, taxes, and claims filed against the estate.

### 2. **Notice to Creditors**

Immediately after the court enters the order admitting will to probate and appointing personal representative, the *Notice to Creditors* needs to be published and served on all reasonably ascertainable creditors .

For a period of three months after the first publication of the *Notice to Creditors*, creditors have a right to file and prove any claim against the estate for debts owed by the decedent.

### 3. **Notice of Administration**

All beneficiaries named in the will and all persons who would take if that will and all wills failed (i.e., intestate heirs and beneficiaries of prior wills), should be served a *Notice of Administration*. This informs the beneficiaries that a probate proceeding has been initiated. Also any interested party may challenge the validity of the Will, jurisdiction of the Court, or qualification of the Personal Representative during the three month period after service of the *Notice of Administration*.

A surviving spouse may claim an *elective share*, rather than take under the decedent's Will. This election must be made within four months of the first publication of the *Notice of Administration*. A surviving spouse who considers making the election should consult with an attorney.

4. **Inventory**

Within sixty days after appointment of the Personal Representative, the Personal Representative is required to file with the Court an *Inventory* listing all known assets owned by the decedent, individually, valued as of the date of death. The Personal Representative must also arrange for appraisal of any other assets in which the decedent had an interest, such as jointly owned real estate, for estate tax purposes.

5. **Specific Bequests**

After the claim period has expired, it is usually possible to pay the specific or general legacies.

6. **Sale of Securities**

As soon as possible after the appointment of the Personal Representative, it is good practice for the Personal Representative to prepare an estimate of the estate assets and liabilities. The Personal Representative, with the help of professional advice, should then determine the best method of raising the necessary cash to pay taxes, debts, attorney's fees, personal representative's fees, and other miscellaneous expenses of administration.

**B. THE BALANCE OF THE PROBATE PERIOD:**

1. **Income Tax Returns**

A duty of the Personal Representative, is to file a federal final income tax return (Form 1040) for the decedent, or to join with the surviving spouse filing a final joint income tax return.

During each year of the estate administration an estate fiduciary income tax return (Form 1041) must be filed. If income has been distributed from the estate, after a fiduciary tax return is filed, a schedule will be sent to the beneficiaries showing what is reportable on their personal income tax returns as having been received.

2. **The Federal Estate Tax Return**

A federal estate tax return (Form 706) must be filed within nine months from the date of death for every estate which exceeds \$5 million in year 2012. The tax is paid at the time of filing.

3. **Date of Death or Alternative Date Values**

As stated above, a federal estate tax return is due nine months after the date of death. Six months after the date of death, the securities held in the estate are revalued in order to establish an "alternative value". If any security is sold or distributed during the first six months, the value for the alternative date is the sales price or the value as of the date of distribution. After considering both estate and income tax consequences, it is then determined which valuation will result in the greatest ultimate benefit for the estate.

4. **Distribution**

It is usually possible to make a partial distribution of the residue of the estate after the estate tax return has been filed. However, there may be certain tax advantages in not making an early distribution. This aspect will be given consideration during the administration of the estate.

5. **Fees**

- (a) The Personal Representative's compensation is set according to the value of the services rendered, based on the fee schedule in F.S. 733.617.
- (b) In addition to the Personal Representative's fees, there will be fees for the services rendered on behalf of the estate by the attorney for the estate and also fees paid for the preparation of fiduciary tax returns. Attorney's fees are based on the fee schedule in F.S. 733.6171.
- (c) Those parties bearing the impact of the payment of fees will be provided with copies of the fee schedules of the Personal Representative and estate's attorneys for the services that they will be rendering. In the event that the administration of the estate involves unusual or extraordinary services, further reasonable compensation will be required.

Residuary beneficiaries should feel free to discuss the Personal Representative's fees with the Personal Representative, as well as the attorney's fees with the estate's attorney.

7. **Accounting**

Periodic statements will be provided the residuary beneficiaries which show all assets held in the estate, and give a description and dollar amount of all

receipts and disbursements occurring during the accounting period. A final accounting must be filed with the Circuit Court, Probate Division, covering the entire period of administration unless waived by all residuary beneficiaries.

8. **Closing the Estate**

The Personal Representative is personally liable for the federal estate tax. Consequently, the estate cannot be closed by the Circuit Court, Probate Division, until the tax has been paid, and release from the Internal Revenue Service has been issued. Unfortunately, it takes from six to twelve months after the federal estate tax return is filed for the Internal Revenue Service to audit the return, if the return is an uncomplicated one. If the Internal Revenue Service raises questions about the values or assets, the audit may continue for a longer period of time. As soon as audit proceedings have been terminated, we will close the estate and make a final distribution to the residuary beneficiaries. It has been our experience that the administration of an estate, in which the filing of an estate tax return is necessary, takes approximately one-and-a-half to two years.

C. **OUR POLICY:**

It is our policy to provide quality legal services in the administration of decedent's estates. We will endeavor to exercise care in expeditiously and efficiently administering the decedent's estate in a manner consistent with the best interests of the estate and beneficiaries of the estate.

We will keep the residual beneficiaries informed regarding the status of the estate. Beneficiaries of the estate should feel free to contact us concerning any questions about the status of the estate or progress being made in the administration of the estate.