Instructions and Duties of an Executor or Administrator for Decedent's Estate

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Commissioner of Accounts

The Commissioner of Accounts is an attorney at law. The Commissioner is NOT an employee of the Commonwealth of Virginia or the County of Loudoun. The Commissioner of Accounts is appointed by the Judges of the Circuit Court of the County of Loudoun, Virginia, pursuant to Virginia Code §64.2-1200.

The expenses associated with staffing and maintaining an office and compensation to the Commissioner of Accounts for services are derived solely by the fees set by the Circuit Court of the County of Loudoun. The Office of the Commissioner of Accounts receives no funding from the court system or any branch of government.

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The fees paid to the Clerk of the Circuit Court when the personal representative qualifies to administer an estate are probate fees and taxes required by statute and are not fees for review and audit as set forth in the Fee Schedule, which was given to you at the time of your qualification. The fees paid to the Commissioner of Accounts are separate from the fees paid to the Clerk of the Circuit Court when a will is probated or a personal representative is appointed.

Before making final distribution of estate assets or filing the final account with the Commissioner, you should determine the final fees, costs, and assessments due to the Commissioner of Accounts.

It is extremely important that you read this instruction packet in its entirety before you begin administering the decedent's estate.

Overview

These instructions and duties were prepared by the Commissioner of Accounts of the County of Loudoun and by the Loudoun County Circuit Court Clerk's Probate Department to assist Personal Representatives in performing the general duties required as an Executor or Administrator of an estate.

It is the duty of an Executor or Administrator to be in full compliance with the legal requirements of all sections of the Code of Virginia that pertains to the administration of estates. These instructions address only the most commonly asked procedural questions.

The terms "Personal Representative" or "Fiduciary" will be used in these instructions and will encompass and refer to an "Executor" or an "Administrator". Where appropriate, the use of any gender herein shall be deemed to be or include the other gender and the use of the singular shall be deemed to be or include the plural (and vice versa).

These instructions are not to be considered as advice to a personal representative concerning all the laws applicable to your duties. If you have any questions regarding your duties as Personal Representative, you should consult with an attorney at law; or, if tax issues are involved, an attorney at law who specializes in tax issues, a certified public accountant, or any other competent tax authority.

Table of Contents

General Information on Estate Administration……5
- **Taking Possession of Assets**
- **Identifying Assets**
- **Notice from the Virginia Department of Treasury**
- **Record Keeping/Supporting Documentation**

Investment of Estate Funds……6

Taxes……..7

Document Filing Dates……8

Explanation of forms to be filed ……9
- **Notice Regarding Estate……9**
- **Affidavit of Notice Regarding Estate……....9**
- **Inventory for Decedent's Estate……....9**
- **Account for Decedent's Estate……...9**

Inventory for Decedent's Estates……...10
- **General Information……..10**
- **Preparing the Inventory……11**
- **Certificate of Accuracy, Completeness, & Mailing……15**

Payment of Decedent's Debts……16

Debts and Demands Proceedings……...16

Distribution of Estate Assets……..17

Account for Decedent's Estate……...18
- **General Information……..18**
- **Preparing the Account……...19**

Compensation for Administration of Estate……..25
Compensation Guidelines……...25

Bonds……....26
- **Unsecured Bond……27**
- **Secured Bond……..27**
- **Bond Increase……27**
- **Bond Reduction……..27**

Penalties…….....27
Change of Address……..28

***For a Glossary of Common Probate Terms: visit www.loudoun.gov/probate**

General Information on Estate Administration

Taking Possession of Assets:
The Certificate of Qualification, which you received from the Probate Department, is your authority to take possession of estate assets. Other names for the Certificate of Qualification are Letters Testamentary and Certificate of Appointment.

Identifying Assets:
The Personal Representative should immediately determine the deceased person's personal property and real property:

Identify all assets owned by the decedent. Personal property such as motor vehicles, bank accounts, brokerage firm accounts, stocks, bonds, notes, business interests, life insurance, annuities, retirement, etc. , and real property such as a house or land are typical assets.

Determine whether real property is owned solely by the decedent, owned jointly with survivorship, or owned jointly without right of survivorship.

Determine whether personal property or real property is owned solely by the decedent, owned jointly with survivorship, or owned jointly without right of survivorship, or payable upon death.

Note: checking account registers, bank statements, income tax returns, and other documents may assist you in identifying assets.

Notice from the Virginia Department of the Treasury:
The Personal Representatives are advised to check with the Virginia Department of the Treasury's Division of unclaimed property division to see if the decedent has a claim to property being held there. Information may be obtained through email at www.vamoneysearch.org, or by calling 1-800-468-1088.

Record Keeping/Supporting Documentation:
As Personal Representative, you have an obligation to maintain a record of all receipts and disbursements of the estate funds. Be prepared to present supporting documentation to the Commissioner of Accounts during your administration of the estate. Below is a list which provides you with some of the records you should retain:

- All original invoices of bills paid
- Paid promissory notes
- Original banking and brokerage statements
- Cancelled checks or copy of front of check with a signed invoice or receipt
- Signed and notarized receipts from beneficiaries for each asset distributed
- Any additional items the Commissioner may require

Investment of Estate Funds

A Personal Representative has the responsibility to invest the principal funds of the estate in excess over the amount reasonably necessary for working funds. If the Personal Representative fails to invest these principal assets, the Personal Representative can be assessed a surcharge equal to at least the interest rate payable on money market accounts during the accounting period. Any surcharge must be paid from the personal funds of the Personal Representative.

Time Requirement: Principal funds must be invested **within four (4) months** from the time such funds come under the control of the Personal Representative. (*Virginia Code §64.2-1501*)

Acceptable Securities: Funds may be invested in acceptable securities as set forth in *Virginia Code §64.2-1502*, or as permitted by the will.

Standard of care for investments: set out in **Virginia Code, Article 2 Uniform Prudent Investor Act, §64.2-781, et seq.**, and is referred to as the "**prudent investor**" rule.

Preserve the Value of the Assets: The Personal Representative is responsible for the care, preservation, and management of the estate's assets to its best advantage.

Virginia Banks for Estate Accounts: It is **strongly recommended** that banks located in Virginia be used for all estate accounts.

Note:

If the Personal Representative fails to preserve the value of estate assets because of negligence or improper conduct of the Personal Representative, the Personal Representative is charged with the lost principal and interest thereon. (Virginia Code §64.2-1415)

Note:

Estate assets and funds cannot be combined or commingled with the personal assets and funds of the Personal Representative. Estate assets and funds should be kept in separate accounts from the personal assets and funds of the Personal Representative.

Taxes

It is the responsibility of the Personal Representative before settling the estate to determine whether all taxes due by the estate and the decedent have been satisfied, including but not limited to:

- all probate taxes due to the Clerk of the Circuit Court
- decedent's individual federal and state income taxes
- federal and state estate taxes
- federal and state estate income taxes
- individual personal property tax and business taxes
- any other applicable taxes

Pursuant to Virginia Code §64.2-507:

"As an Executor or Administrator of an estate, you are charged with the responsibility of filing any income, inheritance, or estate tax returns required by state or federal law and an accounting of your handling of the estate."

Pursuant to Virginia Code §58.1-23:

"Every personal representative, before settling the estate in his hands, shall make inquiry of the treasurer of the county or city wherein the decedent last resided and of the Department with respect to any unpaid taxes and levies assessed against his decedent."

Contact Information:

State taxes: **Virginia Department of Taxation** - www.tax.va.gov - 804-367-8031

Federal taxes: **Internal Revenue Service** – www.irs.gov - 800-829-3676

Document Filing Dates

A. **Within thirty (30) days after your date of qualification:**
Provide notice to all the heirs at law AND all the beneficiaries under the will. Use the form titled "**Notice Regarding Estate**", which was given to you at your qualification appointment with the Probate Clerk, or use form CC-1616, available on website at www.loudoun.gov/probate

B. **Within thirty (30) days* after your date of qualification:**
File the "**Affidavit of Notice Regarding Estate**" form with the Probate Department. **(This form must be signed by all personal representatives and all signatures must be notarized).** This form was given to you by the Probate Clerk at the time of your qualification. You may also obtain it and complete it online by going to www.loudoun.gov/probate. NOTE: The Commissioner of Accounts will NOT approve an accounting unless this document has been recorded in the Probate Department.*the recommended filing date is 30 days from date of qualification, however, VA Code Section 64.2-508 states the affidavit be filed within 4 months of qualification.

C. **Within four (4) months after your date of qualification:**
Mail your completed "**Inventory for Decedents Estate**" form to the Commissioner of Accounts Office. Be sure to include the appropriate fees and supporting documentation. Form CC-1670, available at www.loudoun.gov/probate under Decedent's Estates, Forms, and click on "Inventory for Decedent's Estates".

D. **Within sixteen (16) months after date of qualification:**
Mail your completed "**Account for Decedent's Estate**" form to the Commissioner of Accounts Office. Be sure to include the appropriate fees and supporting documentation. Form CC-1680, available at www.loudoun.gov/probate under Decedent's Estates, Forms, and click on "Account for Decedent's Estates".

E. **When applicable, second and subsequent accountings are due sixteen (16) months after the ending date of the prior account and should cover a twelve (12) month period:**
Mail your completed "**Account for Decedent's Estate**" form to the Commissioner of Accounts Office. Be sure to include the appropriate fees and supporting documentation. Form CC-1680, available at www.loudoun.gov/probate under Decedent's Estates, Forms, and click on "Account for Decedent's Estates".

The Personal Representative may also refer to the "Important Deadlines to Remember" form he/she received from the Probate Department at the time of qualification for filing dates.

****See explanations for the above forms on page 9****

Explanation of forms described on page 8:

Notice Regarding Estate: The Notice Regarding Estate is the legal form required to be given to all the heirs at law and all the beneficiaries under the will of an Estate, which notifies them that probate has begun. The Personal Representative is required to provide written notice of qualification within thirty (30) days of qualification or probate to all the heirs at law and all the beneficiaries under the will of a decedent, as specifically required by Virginia Code §64.2-508.

Affidavit of Notice Regarding Estate: The Affidavit of Notice is a form which upon completion, certifies that the Personal Representative has provided "Notice of Probate" to all the heirs at law and all the beneficiaries under the will, as required by law. The Personal Representative is requested to file an affidavit of notice of probate or qualification, or must certify that no notice was required to be given to any person within thirty (30) days of qualification. As provided in Virginia Code §64.2-508, the Personal Representative must file the affidavit of notice within four (4) months of date of qualification. The Commissioner of Accounts will not approve any accounting unless this form has been filed at the Probate Department.

Inventory for Decedent's Estate: The Inventory is an itemized list of all the assets that are under your supervision and control as Personal Representative. The Personal Representative is required to file an inventory with the Commissioner of Accounts within four (4) months after the date of your qualification.

Account for Decedent's Estate: An accounting is a financial report showing how you, as Personal Representative of the Estate, are managing the assets of the estate. This accounting must be filed with the Commissioner of Accounts and must be accompanied with supporting documentation.[1] The Personal Representative is required to file a first accounting with the Commissioner of Accounts within sixteen (16) months after the date of qualification. When applicable, second and subsequent accountings are due sixteen (16) months after the ending date of the prior account, and should cover a twelve (12) month period.

[1] See Record keeping/Supporting documentation, page 5

Inventory for Decedent's Estate

General Information

The Personal Representative is required by law to file an inventory with the Commissioner of Accounts within four (4) months after the date of your qualification listing all assets under your supervision and control as Personal Representative. (Virginia Code §64.2-1300)
Example: Date of qualification – June 1, 2009
Inventory Filing Due Date – October 1, 2009

The Personal Representative must report on the "Inventory for Decedent's Estate" form, the exact value of assets as they existed on the date of decedent's death.[2]

The Personal Representative may be required to provide documentation to support the value of the decedent's assets on the date of death.

Use the **"Inventory for Decedent's Estate" form (CC-1670)**, available on the web at **www.loudoun.gov/probate,** under 'forms'. The Inventory must be signed by each Personal Representative. The inventory must also be **typed or computer generated**, and an **original and one copy must be submitted** to the Commissioner of Accounts Office along with the appropriate filing fee. ***See the fee schedule that the Clerk gave you at your qualification appointment for appropriate fees.** Additionally, if applicable, one copy of the signed Last Will and Testament must be submitted with the Inventory.

Valuation of Assets

Personal Property: Use the **fair market value as of the date of the decedent's death**, not the value of the assets when the inventory is prepared. (Provide the **exact dollars and cents values; do not round figures)**

Real Property: Use the local real estate assessed value or appraised value. (Do not reduce gross value by outstanding mortgage, loan, lien, or other claim against the property).

Note: Reasonable expenses incurred in determining the values to place on estate assets, such as appraisals, are allowable as an administrative cost of the estate.

[2] Gains or losses on assets must be reported on the "Account for Decedent's Estate Form"

Preparing the "Inventory for Decedent's Estate" Form (CC-1670)

Part 1. List the decedent's personal estate; tangible and intangible.

- Assets should be clearly identified, listed in reasonable detail, and valued as of the decedent's date of death. Group similar assets together such as personal effects and household property unless an article is specifically mentioned in the decedent's will.

Example:	**Value**
Personal items	**$200.00**
Household furnishings	**$500.00**
Grandfather clock, Article 1 of will	**$855.00**

- List articles separately that have a value of more than $500.00 such as a collection (stamps, coins, or other collectibles)

Example:	**Value**
Doll Collection (appraised value)	**$3,900.00**
Stamp Collection (appraised value)	**$1,500.00**

- Un-cashed checks should be listed separately and not included with the 'cash on hand' at date of death.

Example:	**Value**
ABC corporation, dividend check	**$50.00**
XYZ bank, interest check	**$75.00**

- Motor vehicles, boats, and personal watercraft should be listed by year, make, and model.

Example:	**Value**
2009 Chevrolet Traverse	**$15,000.00**
2008 Bayliner Personal Watercraft	**$ 4,800.00**

- Checking, savings, and other accounts should include the bank name, type of account, the account number (**only the last four digits**), any accrued interest, and the maturity date.

Example:	**Value**
ABC Bank, Checking Acct #6215	**$2,522.00**
XYZ Bank, Certificate of Deposit, #9237, 2.5% interest, maturity date – 12/2/09	**$9,500.00**

- Stock, mutual funds, partnerships, or limited liability companies, whether held in certificate form, book account form, or in a brokerage account, **must be listed separately** and must include name, number of shares or percentage of ownership, price per share and value of percentage of ownership.

Example:	**Value**
ABC Company, 200 shares, $50 per share	**$10,000.00**
GGG Mutual Fund, 1,000 shares, $5 per share	**$5,000.00**
WWW Brokerage Account Money Market Account	**$4,222.00**

- Bonds and promissory notes should be listed and each should include the issuer's name, face amount, interest rate, and maturity date for each item.

Example:	**Value**
City Water Authority Bond, $8,000, 6.75% interest, maturity date – 10/2/09	**$8,000.00**
Mary Smith, promissory note, face amount $27,000, 7% interest, maturity date– 11/1/09	**$27,000.00**

- A sole proprietorship is not a separate entity but rather an accumulation of assets that a person uses in a business and should be listed as a heading with the various personal assets listed **except** proprietorship real estate should be listed in Parts 3, 4, or 5 on the Inventory for Decedent's Estate form.

Example:	**Value**
OK Proprietorship:	**- - - -**
Office furnishings	**$3,995.00**
2 HP notebook computers	**$5000.00**
2008 VUE Hybrid – Saturn	**$18,000.00**

NOTE: If, in unusual circumstances, there are assets for which there is no recognized market value, such as partnership interests, stock in closely held corporations, or legal claims against others, they may be valued at $1.00, or an estimate of value on the inventory, however, the accurate market value must be provided on the first accounting, or on an amended inventory. **If there is an increase in value of $25,000.00 or more, you must file an amended inventory. Any increases of <u>less than $25,000.00</u> can be reflected as an "adjustment" on the accounting.**

Part 2. Multiple Party Accounts and Certificates of Deposit

There are generally **three** forms of multiple party accounts and certificates of deposit as follows: **Joint, Payable on Death (P.O.D.[3]), and Totten Trust (another form of P.O.D.)**

Special rules apply when these accounts or deposits are held in a bank, credit union, or similar financial institution. Some joint accounts or certificates of deposit are "with survivorship", and some are "without-survivorship". The correct classification of all particular account or certificate will ordinarily be determined by the language on the form signed by the decedent when the account was opened.

The Personal Representative should only list accounts that are Pay on Death or "with survivorship" in Part 2. **A joint account that is not Pay on Death or designated as "with survivorship" is reported under Part 1 of the "Inventory for Decedent's Estate" form to the extent of the decedent's interest in the account.**

The interests of the decedent and others will normally be determined by the proportion of the net contributions made by each to the sums on deposit at decedent's death. (*Except an account or deposit between persons married to each other will normally be treated as belonging to them equally*).

The Personal Representative must list in **PART 2** of the "Inventory for Decedent's Estate" form, the decedent's interest in any joint account with right of survivorship and the entire amount of a pay on death account by bank name, names of multiple parties, type of account, account number **(only last four digits)**, any accrued interest, and any interest rate and maturity date.

Example:	**Value**
ABC Bank, Certificate of Deposit, Account # 9999, decedent and Mary Smith, joint account with survivorship, 3.75% interest, maturity – November 20, 2009	**$5,0000.00**

Important Note about Multiple Party Accounts with survivorship:

These assets will not become a part of the decedent's probate estate unless the estate is:

(1) Insufficient to pay debts, taxes, and expenses of administration, including statutory allowances to a surviving spouse and minor or dependent children

(2) An action is brought against the surviving party within two years after the date of the decedent's death.

[3] Transfer on Death (T.O.D.) is considered to be the same as Pay per Death.

Part 3. Decedent's Real Estate in Virginia, over which you, as Personal Representative, have a power of sale.

- Power of sale may be by express grant in the will, incorporated in the will powers enumerated in Virginia Code §64.2-105, or by Court Order, pursuant to Virginia Code § 64.2-105.
- The Personal Representative should list all of the decedent's Virginia real estate, or partial interests in real estate, over which the Personal Representative has the power of sale.
- Do **NOT include under Part 3 any real estate held in survivorship form** with another person, or held in a living trust created by the decedent having beneficiaries following the decedent's death.
- Report each piece of real estate, street address, and city or county in which the property is located.

Example:	**Value**
Lot 1, Block B, 201 15th Street, Leesburg, VA, assessed value	**$350,000.00**

Part 4. List the Decedent's Real Estate in Virginia, over which you, as Personal Representative, do NOT have a power of sale.

- Real estate over which the Personal Representative has no power of sale, such as:
    1. The decedent died without a will and real property passes by intestacy to heirs at law
    2. The decedent's will did not contain power of sale and no powers under Virginia Code §64.2-105
    3. The decedent's will contained no devise of real estate and no residuary clause resulting in real estate passing by intestacy

Part 5. List the Decedent's Non-Virginia Real Estate.

The Personal Representative should report all of the decedent's real estate or partial interest in real estate not situated in Virginia that are assets of the estate, whether or not the property is located in the United States.

Example:	**Value**
Lot 200, Block BB, 201 8th Street, Somewhere, Florida, assessed value	**$150,000.00**

Certificate of Accuracy, Completeness, and Mailing:

Explanation:

All Personal Representatives are required by law to send a copy of the Inventory, to every person who has submitted a written request for a copy after receiving the "Notice of Probate." The copy should be sent when the inventory is filed with the Commissioner of Accounts.

If copies of the Inventory were mailed to the requesting party, then the Personal Representative must check block 'A', affirming that copies were mailed, and, on page four (4) of the Inventory form, the Personal Representative must fill in the names and addresses of the persons to whom copies were sent.

Before filing the 'Inventory for Decedent's Estate' form, be sure to do the following:

-Date and sign page 3 (All Personal Representatives are required to sign)

-Date and sign page 4 (if applicable & all Personal Representatives are required to sign)

-Write a check for the appropriate Inventory filing fee (Payable to: Commissioner of Accounts)

-Make at least two (2) copies of the Inventory; 1 for your records, and 1 for the Commissioner of Accounts Office to be filed with the original inventory.

When ready to file, mail ALL of the items listed below to the Commissioner of Accounts Office:

1. An original signed and completed Inventory form
2. One copy of the completed Inventory form
3. A copy of the Last Will and Testament (if applicable)
4. Payment for the Inventory Filing Fees (see fee schedule)

Mail to: Commissioner of Accounts
4 Cornwall Street, N.E.
Leesburg, VA 20176

Note:

If, after filing the Inventory, additional assets are discovered, or if errors are found that increase the total estate assets by **more than $25,000 over the Inventory Value,** an Amended Inventory must be filed with the Commissioner of Accounts within four (4) months from the date of discovery of the additional assets or the discrepancy.

However, if the after discovered assets or errors are **less than $25,000**, an Amended Inventory is **not** required and the adjustment(s) can be made on the First Account for the estate. (see" Account for Decedent's Estate" form).

Payment of Decedent's Debts

The Personal Representative is responsible for determining whether there are sufficient assets to pay all debts of the decedent.

Solvent[4] Estates

1. After the Personal Representative determines that there are sufficient assets, all legal debts can be paid as soon as feasible.
2. Claims of creditors are preferred over the rights of beneficiaries, or intestate heirs.
3. If there are disputed claims filed against the estate, the Personal Representative may want to request a Debts and Demands proceeding.(*see Debts & Demands Proceeding below)

Insolvent[5] Estates

1. The order of priority for payment of debts of the decedent in an insolvent estate is found in **Virginia Code §64.2-528 through 64.2-530.**
2. The Personal Representative may want to retain an attorney for assistance in completing the administration of an insolvent estate.
3. If there are disputed claims filed against the estate, the Personal Representative may want to request a Debts and Demands proceeding.(*see Debts & Demands Proceeding below)
4. When there are insufficient assets to pay all debts and demands, the Personal Representative must file with the Commissioner of Accounts, **on or before the date** set for the proceeding for receiving debts and demands, a listing of debts and demands setting forth the order of priority as provided in Virginia Code §64.2-528.(*see Debts & Demands Proceeding below)

Debts and Demands Proceeding

The Personal Representative, or attorney, may request, **in writing**, that the Commissioner of Accounts schedule a proceeding for receiving debts and demands against the decedent or the estate as provided in Virginia Code §64.2-550.

The Personal Representative is **required to provide notice** of the debts and demands proceeding to the claimants. (Virginia Code §64.2-550)
The Commissioner of Accounts will request evidence of certified mailings and return receipts of said notices.

After the Personal Representative files the accounting(s), and the Commissioner of Accounts files the report of the debts and demands hearing with the Probate Department,

[4] Solvent – able to pay debts; estate has sufficient assets to pay all decedent's debts
[5] Insolvent – unable to pay estate debts; estate does not have sufficient assets to pay all decedent's debts

the Personal Representative should proceed with a **Show Cause Order** for distribution as provided in Virginia Code §64.2-556 and Virginia Code §64.2-557.
Note: A copy of the entered **show cause order for distribution** must be filed with the Commissioner of Accounts with the final accounting.

Distribution of Estate Assets

The Personal Representative cannot be compelled to make any distribution until six months after the date of qualification. (Virginia Code §64.2-554)

Distribution may be affected by any of the following:

1. Filing of any exemptions and allowances (i.e. family allowances, exempt property, homestead allowances) within **one year of date of death** as provided by Virginia Code §64.2-309 through Virginia Code §64.2-314.

2. Marriage or divorce of testator: (a) marriage after the date the will was signed by the decedent, Virginia Code §64.2-422; (b) Divorce or annulment after the date the will was signed by the decedent. Virginia Code §64.2-412.

3. Renunciation by spouse to take elective share under augmented estate provisions. Virginia Code §64.2-302 through Virginia Code §64.2-303.

4. Suit for aid and direction of will interpretation.

5. Death of a beneficiary **prior** to death of decedent. Virginia Code §64.2-418.

6. Death of an heir or beneficiary subsequent to the death of the decedent but prior to distribution-distribution must be made to the qualified Personal Representative of the deceased heirs' or beneficiaries estate.

7. Pretermitted (omitted) children. Virginia Code §64.2-419 and Virginia Code §64.2-420.

8. Ademption (bequest prepaid by testator or object of bequest no longer in existence).

9. Advancements. Virginia Code §64.2-417

10. Abatement (insufficient assets to fund all bequests).

11. Disclaimers. Virginia Code §64.2- 2603 et seq.

12. Will contest.

Account for Decedent's Estate

General Information

The Personal Representative is required by law to file a first accounting with the Commissioner of Accounts within sixteen (16) months after the date of qualification. When applicable, second and subsequent accountings are due sixteen (16) months after the date of the prior account, and should not cover more than a twelve (12) month period.

Example First Account: **Date of Death** - February 20, 2009
Date of Qualification - April 30, 2009
Due Date - August 30, 2010 (16 months from 4/30/09 date of qualification)
Time period Accounting covers - February 20, 2009 to April 30, 2010

Example Subsequent Account: **Ending date of last Account** - April 30, 2010
Due Date - August 30, 2011 (16 months from end date on last account 4/30/10)
Time period Accounting covers - **(12 months only)** - April 30, 2010-April 30, 2011

Documentation to prove all receipts and disbursements on the account must be filed with the Commissioner of Accounts along with the completed "Account for Decedent's Estate" form. This documentation includes:

- Original bank statements
- Broker's statements
- HUD-1 settlement statements
- Original receipts*
- Original billing statements*
- Original invoices*

*The Personal Representative **MUST** furnish the **original**. If the original document is unavailable and you use a copy, the copy must contain both sides (front & back), and must be made in accordance with admissibility requirements of Virginia Code §8.01-391.

Use the **"Decedent Account Summary" Form (CC-1680)**, available on the web at **www.loudoun.gov/probate**, under 'forms'. The Account Summary form **must be signed by each Personal Representative**. The Account must also be **typed or computer generated**, and a **signed original and one signed copy** must be submitted to the Commissioner of Accounts Office, along with the **appropriate filing fee**. ***See the fee**

schedule that the Clerk gave you at your qualification appointment for appropriate fees. Also, be sure to **number each page** in sequential order.

Valuation of Assets:

As Personal Representative, you must prepare applicable exhibits before you can prepare the account summary.

Carrying Value is the value established when the asset was acquired, that is, the value of an asset as reported on the Inventory; or, the cost of a new asset on the date of purchase.

Current Market Value is the value of an asset if the asset were sold as of the date of the end of the accounting period.

NOTE: Some assets such as bank accounts, certificate of deposits, and money market funds will have the **same carrying and current market value**.

In some special cases where the will creates a trust, or where a life estate is created, the receipts and disbursements must be allocated and apportioned to principal and income and you should refer to the Uniform Principal and Income Act, Virginia Code § 64.2-1000 et seq.

Preparing the "Account for Decedent's Estate" Form (CC-1680)

1. Beginning Assets

If filing a FIRST account, itemize the beginning assets from Part 1 and Part 3 of the Inventory for Decedent's Estate form that you filed four months after you qualified before the Clerk. Include the full description of each asset and the carrying value and market value.

If filing a second or subsequent account, itemize the total assets on hand at the end of the prior accounting period, including the full description of each asset and the carrying value and market value.

The TOTAL of the beginning assets must be entered on line number '1' on the Account for Decedent's Estate Summary Form (CC-1680)

2. Receipts

Itemize chronologically all interest, dividends, gross rental income, refunds, and any other income received during the accounting period by account. For example, show each quarterly dividend from XYZ Stock rather than a lump sum for the year.

Example:	**Value**	
ABC Bank Checking Account		
3-1-09 ABC Bank interest	$8.50	
3-5-09 Virginia Natural Gas, Refund	$30.00	
4-1-09 ABC Bank interest	$8.50	**TOTAL:**
5-15-09 IRS 2008 Tax refund	$1,200.00	**$1,247.00**

*Example continues on next page…

*this example continues from previous page:

Example:	Value	
ABC Brokerage Account:		
3-1-09 ABC MM Account, interest	$100.00	
3-5-0-9 AB Inc., dividend	$25.00	=$125.00
		TOTAL RECEIPTS:
		$1,372.00*

The TOTAL of the receipts must be entered on line number '2' on the "Account for Decedent's Estate" Summary Form (CC-1680).

3. Gains on Asset Sales

For securities sold by a broker, show the date of the sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price and the net gain.

Example:	Value	Gain
ABC Corporation, 300 shares		
3-1-09 carrying value	$14,388.53	
Sold 300 shares	$15,327.38	**NET GAIN:**
		$938.85

For real property sold, show the date of the sale, property description, to whom sold, total carrying value, gross sales price, and the net gain. Itemize the cost of sale from the settlement statement under disbursements. (I.e. recording fees, taxes, title, etc).

Example:	Value	Gain
Lot 1, Block 201 15th St. Leesburg, VA sold to John Smith		
3-15-09 carrying value	$250,000.00	
Gross Sales Price	$350,000.00	**NET GAIN:**
		$100,000.00

For miscellaneous items sold, show date of sale, description, name of purchaser, total carrying value, gross sales price, and net gain.

Example:	Value	Gain
2007 Chevrolet Suburban		
3-15-09 carrying value	$15,000.00	
Gross Sales Price	$18,000.00	**NET GAIN:**
		$3,000.00

The TOTAL of the net gains must be entered on line number '3' on the "Account for Decedent's Estate" Summary Form (CC-1680).

4. Adjustments

Itemize any additional **after-discovered** assets under $25,000.00:

Example:	**Value**	**Adjustment**
3-1-09 After discovered Asset		
1 U.S. Savings Bond, serial # 255555, face amount $500.00, maturity May 1, 2020		
Date of Death Value	$500.00	
Net increase in value		**$500.00**

Itemize **corrections** to assets previously reported:

Example:	**Value**	**Adjustment**
3-1-09 Asset Correction		
CCC Company, 200 shares, inventory value $40/share	$8,000.00	
Date of Death Value was $30/share	$6,000.00	
Adjustment		**-$2,000.00**

Itemize **mergers** and **name changes of securities** and **stock splits** showing the **effective date** and any **changes in the number of shares**.

Example:	**Value**	**Adjustment**
4-8-09 Merger and Name change		
Bell Atlantic Corp., 100 shares	$3,000.00	
Merger and exchange of shares Verizon Communications, 100 shares	$3,000.00	
Adjustment		$0.00

Itemize **acquisition** of additional **principal assets**:

Example:	**Value**	**Adjustment**
3-1-09 Asset Acquisition		
Dominion Resources, Inc.	$2,250.00	
Commission	$65.00	
Amount paid for Dominion Resources	-$2,315.00	
Adjustment		$0.00

Itemize shares acquired from **reinvested dividends** showing each reinvestment and the amount of stock purchase:

Example:	**Value**	**Adjustment**
3-1-09 Reinvested Dividends		
MFS Mun Bd Tr. 200 Shrs@11.25/shr	$2,251.68	
Less dividends used for purchase	-$2,251.68	$0.00

The TOTAL of the net adjustments must be entered on line number '4'.
Please note that an account will be returned as improper if it reflects a forced adjustment.

5. Total

The total dollar amount of line #'s **1, 2, 3, and 4** must be inserted on line #5 of the account summary form.

6. Disbursements for Debts & Expenses

Itemize chronologically all disbursements by date, check number, payee, and the purpose of disbursement, including any expense for sale of real property as reflected on HUD-1 settlement statement. **Example:**

Date	Ck#	Payee	Purpose	Amount
3/1/09	#100	Clerk of Circuit Court	Probate Tax	**$500.00**
3/4/09	#101	EE Funeral Home	Funeral Service	**$3,000.00**
3/9/09	#102	Virginia Power	Final Power Bill	**$60.00**
5/6/09	HUD 1	ABC Realtors	Commission	**$6,000.00**
		Countrywide	Deed of Trust	**$100,000.00**
		Loudoun County	Recording Fees	**$40.00**
Total				**$109,600.00**

The TOTAL of the disbursements must be entered on line number '6'.

NOTES: A canceled check, bank produced check image OR a copy of the front and back of the check AND a signed invoice or receipt <u>from each</u> payee must be provided for each disbursement and must be organized chronologically by account.

If a reimbursement is made to a third party for expenses paid on behalf of the estate, you must provide an invoice or receipt for said expense and the third party's canceled check or credit card statement verifying payment.

7. Losses on Asset Sales

For securities sold by a broker: show the date of sale, the name of security, the total number of shares, the total number of shares sold, the total carrying value, the gross sales price, and the net loss.

Example:	**Amount**	**Loss**
3-1-09 ABC Corp 300 shares@$47.96/shr		
Carrying value of 60 shares	$2877.60	
5/1/09 Sold 60 shares	$2,500.00	

Computations: (14,388.53÷300 = $47.96) ($47.96 × 60 = $2,877.60) ($2,877.60 - $2500.00 = $**377.60**) [14,388.53-$2877.60=$11,510.93]*		**$377.60**

*240 shares remaining of ABC Corp. with remaining carrying value of $11,510.93

For real property sold: show the date of the sale, the property description, the total carrying value, the contract/gross sales price, and the net loss.

Example:	**Amount**	**Loss**
3-15-09 Sale 15 E. Market St. Leesburg VA		
Carrying value	$300,000.00	
Gross Sales Price	$250,000.00	
		$50,000.00

For miscellaneous items sold: show the date of sale, the description, to whom sold, the total carrying value, the gross sales price, and the net loss.

Example:	**Amount**	**Loss**
2007 Ford Mustang		
Carrying value	$8,000.00	
Contract/Gross Sales Price	$7,500.00	
Loss		**$500.00**

The Total from the above examples is $50,877.60.

The TOTAL of ALL of the NET LOSS must be entered on line number '7'.

8. Distribution to Beneficiaries

Itemize each specific bequest[6], in-kind distribution[7], interim and residuary distribution by date, a description and value of the assets distributed.

Example:		**Value**
	Beneficiary: Sally J. Doe	
7-6-09	House furnishings, Article Two of Will	$ 200.00
7-6-09	Stamp Collection, Article Three of Will	$ 2,000.00
11-01-09	Grandfather Clock, Article Three of Will	$ 1,000.00
11-01-09	Check #110, 50% residual beneficiary	$25,000.00
TOTAL		**$28,200.00**

The TOTAL value of the distributions must be entered on line number '8'.

[6] Specific monetary bequests must be paid within one (1) year or interest will begin to run at the legal rate (now6%)

[7] In-Kind distribution: distribution of assets such as personal property, specific bequest items, securities, etc.

Notes:

A **signed and notarized receipt from each beneficiary** must be provided acknowledging receipt of each item of tangible personal property distributed and the value thereof.

The Personal Representative should be aware that **if a specific bequest of money is not paid to the beneficiary within one year after a decedent's death**, interest shall run at the legal rate (now 6%) beginning one year after the date of death. (Virginia Code §64.2-425)

9. Assets on Hand

Itemize each assets remaining on hand at its carrying value and its market value at the end of the accounting period.

Example:

Assets on Hand	Carrying Value	Market Value
ABC Bank, Checking Acct #1111	$25,200.00	$25,200.00
XYZ Brokerage, MM Acct # 2222	$75,800.00	$75,800.00
Coin Collection	$3,500.00	$3,500.00
ABC Corporation, 300 shares	$10,000.00	$8,000.00
CCC Company, 200 shares	$6,000.00	$7,000.00
Dominion Resources, 100 shares	$2,300.00	$3,400.00
Verizon Communications, 100 shares	$3,000.00	$4,000.00
TOTAL VALUES	**$125,800.00**	**$126,900.00**

The TOTAL of the <u>Carrying Value</u> must be entered on line number '9'. **

****The Total of the <u>Market Value</u> must be entered below line number '10'**

Notes:

The Personal Representative will be required to provide verification of the existence of each asset. This includes bank statements, (reconciled to agree with your account balance) broker's statements, copies of K-1 forms, copies of promissory notes, Certificate of Deposit Statements, titles to vehicles and watercraft.

10. Total

The total dollar amount of line #'s **6, 7, 8, and 9** must be inserted on line #10 of the account summary form, **AND** this total MUST **equal** the total listed on **line #5** of the account summary form. Each total must be to the penny (rounding is not acceptable).

Certificate of Mailing

If copies of the Accounting were mailed to a requesting party, then the Personal Representative must check block 'A' affirming that copies were mailed, and, on page

two (2) of the Account Summary Form, the Personal Representative must fill in the names and addresses of the persons to whom the copies were sent.

Before filing the 'Account for Decedent's Estate' form, be sure to do the following:

-Date and sign page 1 (All Personal Representatives are required to sign)

-Date and sign page 2 (if applicable & all Personal Representatives are required to sign)

-Write a check for the appropriate Account filing fee (Payable to: Commissioner of Accounts)

-Be sure to number each page in sequential order.

-Make at least two (2) copies of the Accounting; 1 for your records, and 1 for the Commissioner of Accounts Office.

When ready to file, mail ALL of the items listed below:

1. An original signed completed Account Summary Form for Decedent's Estate together with an itemized list for each figure on the Summary Form and stated supporting documentation.
2. One copy of the completed Account Summary Form for Decedent's Estate together with an itemized list for each figure on the Summary Form.
3. Payment for the Account Filing Fees (see fee schedule)

Mail to: Commissioner of Accounts
4 Cornwall Street, N.E.
Leesburg, VA 20176

Compensation for Administration of Estate

General Information

A Personal Representative is entitled to "reasonable" compensation for administering an estate. (Virginia Code §64.2-1208)

The Personal Representative's compensation is for the **complete** handling of the administration of the estate. **Compensation is not an honorarium, but it is based on services rendered by the Personal Representative.**

Compensation Guidelines for Personal Representative

If you have any questions regarding Personal Representative Compensation, please contact the Commissioner of Accounts Office <u>BEFORE YOU TAKE A FEE</u>.

Principal Fee (one-time fee)
5% of the first $400,000.00
4% of the next $300,000.00
3% of the next $300,000.00

2% over $1,000,000.00
Over $10,000,000.00 – by agreement with the Commissioner (consultation required)
AND
Income (taken annually)
5% of income receipts (not including capital gains)

Successor Personal Representative
When a Personal Representative is succeeded by another, the annual fees shall be pro-rated, and an additional compensation fee may be allowed, but only if the Commissioner of Accounts or the Court determines this to be appropriate.

Co-Personal Representative
One fee will be divided equally among the Co-Personal Representatives. The Co-Personal Representative's may agree among themselves on a different division. In case of a dispute concerning the division of the compensation fee, the Commissioner of Accounts may hold a hearing to resolve the dispute, but only if ALL of the Personal Representatives first agree to the use of this hearing procedure.

Important Notes about Compensation for Personal Representatives:
The Commissioner of Accounts may deviate from the above compensation guideline on a case-by-case basis, if necessary, to insure that each Personal Representative receives "reasonable compensation" for services provided.

The Commissioner of Accounts will also allow a deviation from the above compensation guideline if the will clearly sets out the Personal Representative compensation in a specific dollar amount or percentage OR, if all interested parties give informed consent and agree in writing to the amount of compensation.

The value of real estate will be considered for compensation purposes only if the Personal Representative has the power to sell the real estate, AND the Personal Representative is directed by the will to sell the real estate, by all beneficiaries, or if selling the real estate is in the best interest of the estate.

Fees paid to an attorney or accountant employed by the Personal Representative to perform duties that could be performed by the Personal Representative will be deducted from the compensation due to the Personal Representative. "Reasonable fees" paid to attorneys or accountants for tax work, litigation, or other professional services reasonably necessary for the orderly administration of the estate need not be deducted from the Personal Representative's compensation.

Bond

When you qualified as Personal Representative, you signed a Bond guaranteeing your performance as required by law. The Probate Department's Clerk determined the dollar amount of every Personal Representative's bond, and also determined whether the bond shall be secured or unsecured. (Virginia Code §64.2-504)

Unsecured Bond

This bond only requires the Personal Representative's signature.

Secured (surety) Bond

This bond requires both the Personal Representative's signature and the signature of a third party (usually a corporate surety).

Bond Increase

If there is an increase in the value of the assets under your control as Personal Representative, and the dollar value of the assets becomes greater than the dollar amount set on your bond at the time of qualification before the Clerk, you will be required to sign a new bond to increase the dollar amount on the bond. You will receive notification from the Clerk to execute a new bond within a set deadline. If you do not sign a new bond by the deadline given, your powers of appointment as Personal Representative may be revoked due to an insufficient bond.

Bond Reduction

If there is a decrease in the value of the assets under your control and the dollar values of the assets become less than the dollar amount set on your bond at the time of your qualification, you can request a reduction in the amount of the bond. **A bond reduction request can only be considered after an inventory or accounting has been approved by the Commissioner of Accounts showing that the assets on hand, plus anticipated income, are less than the current bond amount. Please mail a written request for a bond reduction to the Probate Department's Clerk.**

Penalties

The Code of Virginia provides for certain penalties if a Personal Representative does not properly file the required documents with the Commissioner of Accounts Office in a timely manner. (See Fee Schedule provided at your time of qualification). **Any penalties are to be paid from the Personal Representative's personal assets and NOT from the assets of the estate.**

Late Fee

For failure to file an inventory, accounting or supporting documentation within the time required by law, the Personal Representative will be assessed a late filing fee.
Personal Representative's who fail to settle their accounts in a timely manner shall forfeit their compensation unless good cause can be shown for their delay.

Summons

If the Personal Representative fails to respond to letters from the Commissioner of Accounts regarding the filing of an inventory or accounting, or fails to provide appropriate supporting documentation, a summons will be issued and served upon the Personal Representative by the Sheriff. Upon service, the Personal Representative has thirty (30) days in which to submit the required information to the Commissioner of Accounts.

Court Appearance

If a summons deadline is not met, the Commissioner of Accounts will report the delinquency to the Court and will request that a Show Cause Order be entered against the Personal Representative.
After the Court issues a Show Cause Order, the Personal Representative will be required to appear in the Circuit Court of Loudoun County. The Personal Representative will have to explain to the Judge why he/she has not complied with the law. The Court may revoke the Personal Representative's powers, and may also impose a fine not to exceed $500.00.

In accordance with Virginia Code § 64.2-1216, any Personal Representative who is a practicing attorney at law and fails to responds to a summons shall be reported to the Virginia State Bar.

Any fees or fines incurred because of delinquency must be paid by the Personal Representative, individually and personally, and cannot be paid from the estate assets.

Change of Address

Please report any change of address or phone number to the Probate Department's Clerk and the Commissioner of Accounts within thirty (30) days of the date of the change. **Any person who fails to inform the Clerk and the Commissioner shall be subject to a civil penalty of $50.00. Virginia Code § 64.2-1409.**

A glossary of commonly used probate terms can be found at:
www.loudoun.gov/probate