



Duties and Responsibilities of a Personal Representative

A personal representative (PR) is an individual or entity appointed by the Probate Court to administer the estate of someone who has passed away. The PR may be someone who was named in the will of the decedent or, if there was no will or the will did not nominate a PR, someone else who steps forward to serve. The duties and responsibilities of a PR are governed by the Maine Probate Code. If the decedent had a will, the will may provide further guidance for the PR and it may outline the powers granted to the PR. The decedent's estate remains open until the PR has fulfilled all of the estate's obligations. This article identifies and explains the general responsibilities of a PR in Maine. (For more general information regarding the probate process, please refer to this firm's article entitled "Understanding the Probate Process.")

Send notices

The Probate Code requires the PR to provide notification of his or her appointment to the decedent's heirs and devisees. The PR is also responsible for notifying known creditors of the estate that the estate is being probated. The Register of Probate will arrange for publication of the notice to attempt to reach unknown creditors.

Prepare inventory

The PR is required to prepare an inventory of the probate estate. The inventory identifies the assets that belonged to the individual at the time of death and that are part of the probate estate. The inventory must be prepared within ninety days after the PR is appointed and it must be provided to certain interested parties.

Open an estate account

The PR typically opens a bank account into which the estate's assets are deposited. This account is also used to manage the income and expenses of the estate. If the estate will earn interest income or other income, the estate account needs its own identity for tax purposes. The PR must obtain a tax identification number (EIN) for the estate from the Internal Revenue Service.



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Pay allowances, administrative expenses, taxes, claims, and debts

Before paying any debts of the estate, the PR should satisfy any relevant homestead, exempt property, or family allowances. The PR should then pay the costs and expenses of administering the estate, including: the PR's fees, if any; legal and accounting fees; rental and maintenance costs for estate-owned property; and court costs and filing fees. The PR can also pay funeral expenses from the estate. The PR must then pay, settle, or otherwise dispose of valid claims against the estate, including bills and debts that the decedent incurred during life as well as any MaineCare claims. Creditors that wish to make a claim against the estate have a four-month period in which to do so.

The PR may need to file the decedent's final income tax return for the period from January 1st to the date of death. If the estate earns income, the PR will also need to file a fiduciary income tax return covering the period from the date of death to the date that the estate is closed. Depending on the net value of the estate after expenses and other deductions, the estate could owe federal estate tax or Maine estate tax. Large estates may also be exposed to the generation-skipping tax. The PR should consult with an accountant to address these issues.

Keep records and keep beneficiaries informed

The PR must keep good records of the business of the estate. It may be appropriate to get appraisals of estate property. The PR should also keep careful records of income

and deductions for tax purposes. Before distributing the estate, the PR will need to prepare an accounting. The accounting includes information about the assets, income, and expenses of the estate and about the distribution and disposition of the assets and income. The PR has a responsibility to provide this information to the beneficiaries of the estate.

File Discharge of Estate Tax Lien on real estate

The State of Maine places an inchoate lien on real property that the decedent owned on the date of his or her death to prevent the sale of property until any Maine estate tax is paid or until the PR demonstrates that no estate tax is owed. However, very few Maine estates owe estate tax, so the PR usually requests a release of the lien from Maine Revenue Service.

Make distributions to heirs and devisees

When the business of the estate is complete, the PR can distribute the assets. If there are assets not disposed of by will, the assets will be distributed to family members in an order prescribed by the Maine intestacy statute.

Close the estate

When the administration of a decedent's estate is complete, the PR can close the estate by filing a sworn statement. If no proceedings involving the PR are pending one year after the PR files the closing statement, the appointment of the PR terminates. The estate can also be closed by a formal proceeding in which the PR is discharged from his or her duties by order of the Probate Court.

This article is intended to provide information of a general nature only. It does not provide or replace professional legal advice, and it does not establish an attorney-client relationship with Rudman Winchell. Please consult an attorney for advice regarding your specific circumstances.

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