

THE ATTORNEY'S CORNER: PROBATE INVENTORY AND APPRAISAL



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By Stephen C. Ross, Esq.

May 31, 2014 (San Diego County) – The court appoints a personal representative at the commencement of a probate proceeding to administer the decedent’s estate. One of the primary duties of a personal representative during probate administration is to collect the decedent’s real and personal property. An Inventory and Appraisal (I&E) must be filed with the court as part of the probate. The I&E a public record of all probate property the decedent owned or had an interest in at the time of death.

Property passing outside of probate is not included in the I&E. Such property includes: assets held in a trust; assets passing pursuant to a beneficiary designation; assets designated as payable on death (POD) or transferable on death (TOD); and, assets held as joint tenants.

The I&E is important for the following reasons:

1. It provides information to the personal representative who must account to the court for all probate assets;
2. Beneficiaries are apprised of the nature and extent of the probate estate administered for their benefit;
3. Creditors are informed of the nature and extent of probate assets available to satisfy their claims;
4. The court is aided in determining the amount of bond required for the personal representative, conditions under which probate assets may be sold and the length of time and amount of family allowance to be paid;
5. The IRS is aided in computing estate taxes; and,
6. The probate referee uses it to determine the value of specific assets and of the total probate estate at the time of death.

The personal representative should file the I&E with the court within four months after being appointed unless the court extends the time to file. A separate filing fee (currently \$435.00) must be paid at the time the I&E is filed. The court may revoke the representative’s authority if he or she refuses or neglects to file the I&E within the prescribed time. The representative may be personally liable if injury is caused by the failure to file.

Stephen represents estate planning, trust, will, probate, trust administration, business formation, stepparent adoption and family law matters. He conducts estate planning and probate seminars throughout San Diego County. For more information or to schedule a seminar contact Stephen at (619) 795-8524, stephen@stephenrosslaw.com or visit www.stephenrosslaw.com.

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