

IN THE COURT OF COMMON PLEAS, PROBATE DIVISION, GEauga COUNTY, OHIO
Judge Timothy J. Grendell

Information Sheet
Reopen Estate

WARNING

This Information Sheet is intended to provide you with an overview of the subject matter, effective as of the date noted in the upper left-hand corner. This Information Sheet is not intended to provide you with all legal information that may be necessary for you to decide upon a course of action, and the information provided may not be error-free, complete, or accurate. Moreover, this Information Sheet may not accurately describe the cited sections of the Ohio Revised Code or cited case law. Finally, this Information Sheet is not intended as a substitute for legal advice from a competent licensed attorney, who is familiar with all of the relevant facts of your case, and therefore the Help Center recommends that you seek legal advice from a competent licensed attorney that you select before taking any action. While the Help Center can provide you with a limited amount of general legal information, neither the Help Center staff nor any other Court employee can give you any legal advice.

Background

Sometimes after a probate estate is closed, in some cases many years later, the Estate Representative or another interested person will learn of a probate asset titled in the name of the Decedent that was not accounted for in the closed probate proceedings. Examples are stocks and bonds, a bank account, real property, a vehicle, etc. Persons that could have an interest in that newly discovered Probate Property are creditors (if the probate estate was insolvent), a surviving spouse, or other beneficiaries of the probate estate. While the Estate Representative of the closed probate proceeding has no duty to do so, if the Estate Representative, or any other interested person, wants to report the newly discovered Probate Property to the probate court, then the applicant should take the following action. Moreover, there may be additional reasons to reopen a close probate proceeding. One example is a survival claim or wrongful death claim that is discovered after a probate proceeding is closed.

- Initial Considerations.
 - Identify the Newly Discovered Probate Property. If the reason for reopening a probate proceeding is newly discovered probate property, then
 - Evidence of Ownership - obtain a copy of evidence of title and a description of the property. For example, (1) for real estate, a copy of the deed, (2) for a vehicle, the certificate of title (or registration of title) , (3) for a financial account, a copy of the latest statement, (4) for stocks and bonds, a copy of the stock certificate or the bond;
 - Insolvent Estate - determine whether the probate estate was insolvent. Creditors may have a claim to any newly discovered Probate Property. If the probate estate was insolvent, you will likely need to obtain guidance from the Court as to how to distribute the newly discovered Probate Property;
 - Appraisal - determine whether the newly discovered Probate Property must be

appraised. If the newly discovered Probate Property is real property, then obtain a copy of auditor's valuation or appraisal (by court- approved appraiser), or if a vehicle, then a copy of Kelley's Blue Book valuation.

- Any Other Property. Make a reasonable effort to determine if there is any other Probate Property that was not accounted for in the prior closed probate proceeding. For example, consider checking for "unclaimed funds." The Decedent may be owed unclaimed funds for any variety of reasons, including a deposit refund, forgotten bank account, expense reimbursement, wages, etc. Consider contacting the Ohio Division of Unclaimed Funds. The website is <https://www.com.ohio.gov/unfd/>. The website has a useful tool to search for unclaimed funds. The phone number is 877-644-6823. The mailing address is Ohio Department of Commerce, Division of Unclaimed Funds, 77 South High Street, 20th Floor, Columbus, OH 43215-6133.
- Ohio Estate Tax. Effective January 1, 2022, the Ohio Department of Taxation no longer requires or accepts any Ohio Estate Tax returns regardless of the decedent's date of death.¹ If you have any questions or concerns, then contact the Ohio Department of Taxation at EstateTaxOH@tax.state.oh.US. The Clerk will not accept the filing of Ohio estate tax form ET-22.
- Federal Estate Tax. Consider retaining estate tax counsel (an attorney or accountant) to advise you on whether a federal estate tax return (or amended tax return) must be filed with the IRS. You should review information set forth at <https://www.irs.gov/businesses/small-businesses-self-employed/estate-tax>.
- Identify Surviving Spouse, Beneficiaries, and Next-of-Kin. Verify whether a surviving spouse is still living, and the names of all living beneficiaries of the probate estate and the next-of-kin. Obtain the current address of all such persons.
- Identify Who should file to Reopen. If the applicant is (1) the prior fiduciary, (2) Sole Beneficiary, (3) Sole Next-of-Kin, or (4) the applicant previously filed an Application for Summary Release from Administration, then the process to reopen requires less documents.
- Not Resulting from Newly Discovered Assets. If there is no newly discovered probate property, then gather all relevant documents or appropriate affidavits to support the need to reopen the probate proceeding. For example, if the reason is a new survival or wrongful death claim, then perhaps an explanation letter from the personal injury attorney handling the claim.
- Medicaid Recovery. Determine whether the Ohio Medicaid Estate Recovery Unit must be notified on the reopening of the probate proceeding.
- Bond Requirement. Determine whether a surety bond may be required or whether the Court may dispense with a surety bond. See probate local rule 78.17.
- Release from Administration. Determine whether the initial probate proceeding was a Release from Administration. Depending upon the value of the initial probate property and the value of the new probate property, the Court may require a full administration, including the filing of an inventory and a final and distributive account.

¹ See R.C. 5731.21(D)

- Certificate of Transfer (R.C. 2113.61(D)). If an Application for Certificate of Transfer was previously filed and the estate needs to be reopened to allow for the filing of a Summary Release from Administration, then the form titled Application to Reopen Estate (GC PF 4.521C) must be filed. See “Checklist – Certificate of Transfer.”
- Summary Release from Administration. Determine whether the initial probate proceeding was a Summary Release from Administration. Depending upon the value of the initial probate property and the value of the newly discovered probate property, the Court may require a full administration, including the filing of an inventory and a final and distributive account, or possibly a Release from Administration. If the value of the initial probate property and the value of the newly discovered probate property still permits a Summary Release from Administration, then the applicant could prepare and file the form titled “Application to Reopen Estate – Summary Release from Administration” (GCPF 5.0R).
- Preparation of Documents. Regarding the preparation and filing of documents, see the checklist titled “Checklist – Reopen Estate,” located on the Court’s website.

LEGAL PRACTICE IN THE PROBATE COURT IS RESTRICTED BY LAW TO ATTORNEYS WHO ARE LICENSED BY THE SUPREME COURT OF OHIO. IF AN INDIVIDUAL WISHES TO HANDLE HIS OR HER OWN CASE, THAT PERSON MAY ATTEMPT TO DO SO, HOWEVER DUE TO THE COMPLEXITY OF THE LAW AND DESIRE TO AVOID COSTLY ERRORS, MANY PERSONS WHO HAVE MATTERS BEFORE THE COURT ARE REPRESENTED BY AN ATTORNEY.

IF YOU CHOOSE TO REPRESENT YOURSELF AND USE THE COURT’S FORMS, PLEASE BE ADVISED THAT STATE LAW PROHIBITS THE JUDGE, MAGISTRATE, AND EMPLOYEES OF THE GEauga COUNTY PROBATE COURT, INCLUDING THE HELP CENTER STAFF, FROM PROVIDING YOU WITH LEGAL ADVICE OR ASSISTING YOU IN THE SELECTION OR PREPARATION OF LEGAL FORMS. IF YOU NEED ADDITIONAL ASSISTANCE YOU WILL NEED TO CONTACT AN ATTORNEY OF YOUR CHOOSING.