**FREQUENTLY ASKED QUESTIONS**

**What is The Public Administrator?**

The Public Administrator serves in a fiduciary capacity to provide professional estate management services to county residents who die without someone willing or able to handle their affairs. The powers of the Public Administrator are mandated by the Probate Code of the State of California. [http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=prob](http://www.leginfo.ca.gov/cgi-bin/calawquery?codesection=prob)

**When is an estate handled by the Public Administrator?**

The Public Administrator may be appointed under the following circumstances:

- When no executor or administrator has been appointed and the property is at risk of waste, loss or misappropriation.
- When appointed by the Court.
- When an heir nominates the Public Administrator or the Will names the Public Administrator as Executor.
- When there are no known heirs of the estate.
- For an heir who resides outside of the State of California and requests the Public Administrator.
- When the named Executor fails to act on a Formal Probate and no other person has a preferred right.
- In situations where the person with priority to act is not a resident of the United States.

**What is a Summary Estate proceeding?**

California law allows a Public Administrator to act as administrator of estates where the total value of the estate does not exceed $150,000. This Summary proceeding may be utilized exclusively by the Public Administrator. The minimum fee is $1,000.00. This proceeding is considerably more economical and efficient than a Formal Probate.

**Categories of Estates Handled by the Public Administrator**

**A. Indigent Estates**

These are estates without sufficient funds for disposition of the decedent remains and no heirs to take care of disposition arrangements. In situations where the assets of an estate are not sufficient to pay for disposition, the law requires disposition by the relatives of the decedent. If there are no relatives or other persons to act, the County assumes that responsibility.

**B. Summary Estates**

1. Estates not exceeding $50,000.00 in value. The Public Administrator may act without court authorization to marshal and distribute the assets of these estates pursuant to the Probate Code.
2. Estates valued at $50,000.01 to $150,000.00. The Public Administrator may act after an ex parte application seeking authority to summarily dispose of a small estate is approved by the court.
C. Probated Estates
These are estates over $150,000.00 in value. An estate of this size is handled by the Public Administrator under the jurisdiction of the Superior Court. The proceeding commences from the first filing of a petition and appointment of the Public Administrator. Other procedures subject to court approval include proving a will, sale of property, paying taxes and distribution of assets. An accounting is completed and submitted to the court to show what was done before the Public Administrator is discharged.

What is the overall objective of the administration of an estate?
The overall objective of the administration of an estate is to (1) collect a decedent’s assets (including partially owned assets), (2) determine and pay the debts, expenses, and taxes, and (3) distribute the balance of the assets to the persons (sometimes trusts) entitled to them.

When is the estate administration concluded?
The length of time for case investigation, administration of estate (sale of personal and real property), determination of heirship, final accounting and distribution of assets is from 12 months (an all cash estate) to 18-24 months for the average case (some cash, bank accounts and stock, real property). Since Court approval is mandatory for particular actions, some time periods are simply “wait time” to be heard in court. We, as any private attorney, must request and then be assigned a calendar date.

We have finished our work when there are no longer any assets in the name of the decedent or the estate and any court-administered estate has been closed.

Who is the Representative?
When probate is required (usually due to over $150,000 assets in the decedent’s name only), a representative must be appointed in court. The representative is called an “executor” when there is a will or an “administrator when there is no will. Other States use the generic term “legal representative.” This representative may be an individual(s) or a bank having trust powers, or a combination of both. When there is no will, the Court may appoint the closest relative(s) of the decedent who is willing and able to act or an individual or office nominated by the closest relative. Often, the named executor declines to act and nominates the Public Administrator to handle the estate.

What does the Representative do?
It is the Representative’s duty to collect and manage assets, keep records, pay debts and expenses, compute and pay income, death, and other taxes, and distributes the estate assets to the persons (sometimes trusts) entitled to them, all under supervision of the Court. Duties are performed with the ready assistance and advice of professionals (attorney, accountant, investment counsel, real estate consultant, etc.). The representative acts in the decedent’s stead to collect, manage, and then distribute his/her estate according to the will or intestacy laws.
What fees are the representatives entitled to?

The representative is entitled to a fee for services performed. In California, the probate fee is set by the Probate Code based on the value of the estate. Charges for extraordinary services (legal litigation, special property handling) may also be charged.

The fee schedule is set by statute:

<table>
<thead>
<tr>
<th>Estate Assets</th>
<th>Fees</th>
</tr>
</thead>
<tbody>
<tr>
<td>First $100,000</td>
<td>4% Administration</td>
</tr>
<tr>
<td>Next $100,000</td>
<td>3% Administration</td>
</tr>
<tr>
<td>Next $800,000</td>
<td>2% Administration</td>
</tr>
<tr>
<td>Next $9,000,000</td>
<td>1% Administration</td>
</tr>
</tbody>
</table>

The law also provides for statutory attorney’s fees based on the same fee schedule as that of the administrator.

This schedule covers ordinary services calculated on the “estate accounted for” or gross estate. Extraordinary fees may be charged for extra services (tax work, litigation, and matters outside normal services). These fees are based primarily on time and labor required at standard hourly rates at time of service. Charges may vary (different rate for attorney time versus that of an associate) and depending on type of work performed. All fees are subject to Court approval and not paid until so approved.

What are examples of extraordinary fees?

Tax work, litigation, matters outside normal services such as preliminary distributions, complex accounting or investigation.

What expenses are paid by the estate?

Fees such as insuring real property, paying utilities and homeowner association fees, towing services, fees for formal appraisals, stockbrokers, heirship firms, labor and hauling fees, storage fees, etc.

What role does the attorney play?

The primary responsibility of the attorney is to represent the representative in court (open/close the estate, handle claims and will contests, and all court proceedings) and advise the representative how to fulfill his duties without incurring liability for errors or failure to take certain required actions timely. County Counsel is the attorney for the Public Administrator and acts on her behalf for all court appearances and other legal work.

Attorney fees are based on a statutory schedule as discussed or a reasonable standard (time spent, risks and responsibilities, results achieved). The fees customarily charged are comparable to those of a private attorney for estates of similar size and complexity.
### Are other professionals involved?

Where economical and practical to do so, some recordkeeping and tax work will be performed by accountants on a fee basis. Stockbrokers and real estate brokers may be employed, charging a percentage of the value of the assets sold. Stockbrokers are retained to transfer securities for a small per item charge.

### What role does the beneficiary play when the Public Administrator handles an estate?

The beneficiary is kept advised via legal notices of the location, date and purpose of hearings. You may receive notices regarding sale of real property, heirship petitions and other pertinent legal matters. It is not necessary to attend these hearings, simply an option.

### What role does the Deputy Public Administrator Case Manager play?

A Deputy Public Administrator Case Manager may contact you to clarify disposition of memorabilia (*old photos, keepsakes*), degree of kindred to the decedent, and the like. Our goal is to advance the case to the earliest distribution and closure within time constraints permitted by the Court. No routine status reports are issued except to the Court. If you have specific questions, please address them in writing to the case manager.

At final accounting, each beneficiary who will “take” from the estate will receive a copy of the accounting (the same filed with the court) which lists all income received and disbursements made during administration of the estate assets. It is mandatory for any individual or organization who is a beneficiary to provide their Social Security number or tax ID number prior to distribution.

### As a beneficiary, may I request a particular item of personal property?

If the item of personal property has been valued by the probate referee, the estate is solvent, and all entitled beneficiaries have agreed in writing, a beneficiary may be distributed an item in kind. This means that if a beneficiary is also entitled to a cash distribution they will receive their statutory share minus the value of the item of personal property. If there is no agreement, the item will be placed for sale and any beneficiary will have the opportunity to purchase it at public auction.

### How much control does a beneficiary or family member have over the Public Administrator's estate administration?

When the Public Administrator has been nominated by a decedent’s family, our goal is to work in the best interest of the estate. As mentioned above, our overall objective is to 1) collect a decedent’s assets (including partially owned assets), (2) determine and pay the debts, expenses, and taxes, and (3) distribute the balance of the assets to the persons (sometimes trusts) entitled to them. With this in mind, the Public Administrator does not take direction from beneficiaries regarding how to liquidate assets, which vendors to use, or which legal direction to take. We work in a manner that is most expedient to bring an estate to closure. This means we cannot accommodate requests or the preferences of multiple parties. However, beneficiaries may keep in close contact with the Deputy Public Administrator case manager regarding the status of the administration, final accounting and distribution.
**When will the estate be distributed?**

It is difficult to give a specific answer as to exactly when distribution will take place since so many factors are out of the control of the Public Administrator. The length of time for case investigation, administration of estate (sale of personal and real property), determination of heirship, final accounting and distribution of assets is from 12 months (an all cash estate) to 18-24 months for the average case (some cash, bank accounts and stock, real property). Since Court approval is mandatory for particular actions, some time periods are simply "wait time" to be heard in court. We, as any private attorney, must request and then be assigned a calendar date. We have finished our work when there are no longer any assets in the name of the decedent or the estate and any court administered estate has been closed. For your own peace of mind, do not plan your financial affairs upon the expectation that you will be receiving a certain amount on a certain date.

**While the estate is in administration, is the money in the estate earning interest?**

Yes, the Public Administrator maintains all funds in insured interest bearing accounts except when they are needed to pay claims and other expenses.

**Can I put in a claim for my expenses?**

If you actually paid any debts of the decedent or incurred charges directly connected with the decedent's death or paid any part of the funeral expenses, you must file a Creditor's Claim within four (4) months after the appointment of the Administrator. Creditor Claim forms may be obtained from the Superior Court of California Probate Business Office or you may contact the Deputy Public Administrator Case Manager to obtain one.

**Why don't I receive regular reports on the progress of the estate?**

When the Public Administrator has been nominated by a decedent's family, our goal is to work in the best interest of the estate. With this in mind, it is our first obligation to devote our efforts to the actual administration of the estate but will attempt to accommodate specific requests for information from beneficiaries within reason.

**Do I need to hire an attorney to represent my interests?**

Anyone with a legal interest in an estate may retain legal counsel. County Counsel represents the Public Administrator in the administration of the estate. If, however, your right to inherit is not clear, or substantial claims affecting the whole inheritance have been filed, you may choose to retain legal counsel to represent your special interests. The fees for such attorney representation are a matter for private agreement between you and your attorney and they are not charged against the estate.

**How is estate property sold?**

All sales are governed by the California Probate Code. All probate assets are appraised by a Court-appointed appraiser. The law imposes certain restrictions on the sale of assets for less than their appraised value. All personal property is sold at auction by open bid to the highest bidder. Securities are sold without notice. All real property is sold only after notice of sale and confirmation by the Court. After confirmation, a 60-day escrow is opened. The buyer must close in 60 days.
If I inherit from an estate, must I pay estate taxes?

The Public Administrator will issue a K-1 tax statement to all beneficiaries who receive a distribution from an estate after the Public Administrator files a final estate return. It is suggested you consult your tax professional if you have specific questions regarding your tax liability.

STAGES OF ADMINISTRATION – OVERVIEW

Initial Stage:

Deputy Public Administrator investigates to determine the type and size of the estate and will protect assets from waste, loss or misappropriation, if necessary. She will contact and locate family to determine if they wish to act as administrator of the estate. If the family declines to act as administrator of the decedent’s estate, she will obtain letters of declination from them as well as nomination letters, nominating the Public Administrator to act. With the assistance of County Counsel, the Public Administrator will then prepare the Petition for appointment and the Superior Court of California will set the matter for hearing.

Second Stage:

After Letters of Administration are issued, we proceed with the business of the estate (obtaining an appraisal of all assets the decedent held as of date of death and filing with Court, closing bank accounts, selling personal and real property; applying for death benefits; evaluating and determining heirship; assessing for tax liability of the estate).

Final Stage:

In the final stage of administration, the Public Administrator approves and pays or denies creditor claims, makes a final review of and pays all tax liability and prepares a final accounting of estate assets with the Court. The Court sets a date for a final hearing.

If you are an heir of the estate, you will receive a copy of the Final Accounting and Notice of Hearing setting a final hearing date. At that hearing and after Court approval of the accounting, an Order is issued permitting payment of claims, awarding the Public Administrator her fees, and distributing the remainder to the entitled beneficiaries of the estate. The Court handles recording the order, obtains the Judge’s signature and returns the order to the Administrator within four to six weeks after the hearing date. Distribution is made within two weeks of receipt of this Order.