Estate Accounting:

Deceased Estate Accounting

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Wills and Estates for Legal Support Staff

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DECEASED ESTATE ACCOUNTING

INTRODUCTION

A personal representative has many important duties, but the most important is to administer the estate in the best interests of all the beneficiaries. This includes locating all the estate assets, making sure all the assets are appropriately managed and protected, paying estate debts (including taxes) and expenses, and determining the correct beneficiaries.[1] This information is summarized in the estate accounting. The purpose of this paper is to explain the elements of an accounting, provide tips for estate accounting, including timelines and parties involved, and highlight the consequences of failing to provide a proper accounting.

PART I: ACCOUNTING GENERALLY

What is it?

An accounting provides the details regarding the manner in which the estate is being administered; it is a record of the estate's financial transactions which the personal representative has classified, summarized and explained how assets are being administered. It provides beneficiaries or creditors with an understanding of how the estate's assets have been managed.

When is an accounting required?

According to Rule 97 of the *Surrogate Rules*, a personal representative must provide an accounting for his or her administration of an estate at regular intervals. This must be done within two years after the deceased's death, and every two years thereafter.[2] A Court can also require that an accounting be provided to a beneficiary earlier than every two years.[3] Accounting that occurs before an estate is finalized is referred to as an "interim accounting". An accounting at the end of the estate administration is termed a "final accounting".

Occasionally a personal representative can be required by the Court to provide an accounting because a "person interested in the estate"[4] has filed an application to compel an accounting from the personal representative. Examples of a "person interested in the estate" could be a residuary beneficiary, an unpaid claimant such as an unpaid creditor, a family member who has a potential

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[1] *Surrogate Rules*, AR 130/95 [*Surrogate Rules*], Schedule 1, "Personal Representatives' Duties".
[2] *Surrogate Rules*, R 97.
[3] *Surrogate Rules*, R 97(2).
[4] *Surrogate Rules*, R 57.

family maintenance and support claim under the *Wills and Succession Act*, or even the Public Trustee acting for a minor beneficiary of an intestate estate.

Who is entitled to a copy of the accounting?

Unless a Court orders otherwise, beneficiaries of specific gifts are generally not entitled to an accounting beyond the accounting for their specific gift.[5] An exception might be circumstances where a beneficiary's gift could not be distributed because the personal representative had to dispose of the asset to pay estate debts. Residuary beneficiaries are entitled to an accounting for the whole estate.

EXAMPLE:

Judy's mother, Emma White, died testate in 2011. Emma's will left a house to Judy's sister Fiona, a bank account with CIBC to Judy, and the residue of the estate (cars, investments, a cabin at Sylvan Lake) was left to Emma's adult grandchildren, Chris and Cleo. Judy is only entitled to the accounting regarding the CIBC bank account. Assuming that the specific bequest to Judy is available for distribution, Judy is not entitled to receive accounting of the other assets in her mother's estate, nor is she able to apply to the court for an order requiring the estate to provide accounting for the house or residue according to the *Surrogate Rule*s. Emma's grandchildren, however, are entitled to an accounting for the whole estate.

What does an estate accounting include?

An estate accounting includes a copy of the estate's financial statements. Rule 98 of the *Surrogate Rule*s states that the financial statements must include:

- An inventory of property and debts at the beginning and end of the accounting period. In an initial accounting, the beginning inventory of property and debts may mirror the inventory on the NC7. If additional assets or liabilities are located or if the values of the assets are less than indicated on the NC7, this should be highlighted and explained to beneficiaries.

- a statement identifying all property and money received during the accounting period as capital or income. On a bank account, the money called in from the account would be capital, but the interest earned in the trust account would be marked as income. Other income could include rental income from the estate's real property, selling a crop, etc.

[5] *Surrogate Rules*, R. 97(4).