

## **TO HELP YOU UNDERSTAND INFORMAL PROBATE**

Informal/unsupervised probate is only one of several procedural options available to settle the estate of a deceased person. Estates probated informally are before the Probate Registrar and are not supervised by Probate Court. Informal probate is designed for estates in which a court adjudication is not required nor court supervision needed, and only for estates without uncertainties, legal disputes, or complex administrative requirements. Estates with such problems are not suitable for informal probate, and the Registrar may decline an application for informal probate. This does not preclude appointment in formal proceedings before the court.

The acceptance by the Registrar of an application for informal probate means only that the application meets statutory requirements, and does not constitute a recommendation of the informal procedure for that estate. The selection of informal probate or of an alternative procedural option is the responsibility of the attorney and/or the applicant.

With or without the advice of an attorney, the representative **IS PERSONALLY RESPONSIBLE** for probating the estate completely, correctly and according to statute, and to bring it to its prompt conclusions. Minnesota Statute 525.07 expressly prohibits the Judge, Registrar, or any employee of Probate Court from giving counsel or advice, or assisting with form preparation. Thus, most personal representatives engage an attorney to handle the informal probate, though in some cases the personal representative may proceed alone or with only the partial assistance of an attorney.

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The principal duties of the personal representative (hereafter P.R.) of a decedent's estate are to:

- Collect, inventory and appraise the assets,
- Protect and preserve the assets,
- Pay the taxes and debts of the decedent and his/her estate, and
- Distribute the remaining assets to the proper parties according to law.

The preliminary steps for initiating informal probate proceedings are to:

- Determine whether or not the decedent made a will,
- Prepare a list of the names, ages and addresses of decedent's spouse, children, heirs, devisees and other interested persons,
- Compile a list of the probate and non-probate assets and approximate indebtedness of the decedent, and
- If, after completing the above steps, it is not clear whether the estate is suitable for probate, review the matter with your attorney or the Probate Registrar.

**IF A DECEDENT LEFT A WILL (TESTATE):**

**FORMS REQUIRED BY STATUTE** – You are required to provide these forms unless otherwise directed by the Registrar or indicated below.

	<b>PROBATE FORM NUMBERS</b>	
	<u>Oswald</u>	<u>Miller-Davis</u>
	<u>Forms</u>	<u>&amp; other forms</u>
• <b>Application for Informal Probate of Will and for Informal Appointment of Executor:</b> This Form must be completed prior to being submitted. The original of decedent’s last will <b>MUST</b> accompany the application with a \$250.00 filing fee. M.S. 524.3-301 and Court Rule 403.	134	P-100
• <b>Renunciation of Right to Appointment or to Nominate:</b> Required <b>IF</b> executor nominated in Will declines to serve. Filed Together with application. M.S. 524.3-203©	125	P-006
• <b>Nomination of Personal Representative by Person Entitled to Priority:</b> Required in some estates in order for a proposed P.R. to establish priority for appointment. Filed together with application. M.S. 524.3-203©	126	P-005
• <b>Statement of Informal Probate of Will and Order of Informal Appointment of Executor:</b> M.S. 524.3-302 & M.S. 524.3-307	139	P-110
• <b>Acceptance of Appointment and Oath by Individual:</b> Must be completed, notarized and filed. M.S. 524.3-601 & 602	201	P-001
• <b>Notice of Informal Probate of Will and Appointment of Personal Representative and Notice to Creditors:</b> M.S. 524.3-306 and 524.3-310 and Court Rule 408(d) This notice must be published for two weeks in a legal newspaper. Applicant must also mail either a copy of the notice or a newspaper clipping of the Notice to all interested persons.	143	P-120
• <b>Affidavit of Mailing Order or Notice:</b> A copy of what you mailed (see above) must be attached to this affidavit. Affidavit must be completed, notarized and filed. M.S. 524.3-306 & Court Rule 408(d)	107	P-015

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**NOTE: NOTICE TO SURVIVING SPOUSE:** **IF** the decedent left a surviving spouse, applicant must give notice to the spouse of the following rights:

- The right to receive the decedent’s wearing apparel, furniture and household goods and other personal property as provided by law.
- The right to receive maintenance payments during administration of the estate as provided by law.
- The right to take an elective share of one-third of the augmented estate as provided by law and the homestead as provided by law. Court Rule 408(d).

Copies of these laws can be found on the back of the Affidavit of Mailing. A photocopy of these laws must be made and mailed to the surviving spouse and the back of the Affidavit of Mailing must be completed, notarized and filed.



- **Affidavit of Publication:** This form is provided by publisher upon completion of the time for publication;

-or-

- **Proof of Placing Order for Publication:** Some Registrars accept this form in lieu of the Affidavit of Publication prior to actual printing. The publisher signs this form at the time publication is arranged.

- **Letters Testamentary:** The Letters authorize the P.R. to act. 203 P-010  
Certified copies of Letter may be obtained from the Court Administrator for \$10.00 each. P.R. may **NOT** sell, encumber, lease or distribute real estate for 30 days from the date of issuance of the Letters, by statute. M.S. 524.3-310.

- **Inventory and Appraisement:** Within 6 months from appointment or 9 months from date of death, whichever is later, P.R. must mail a copy to the surviving spouse, to all residuary distributees, and to interested persons or creditors who require it. The inventory must list all **PROBATE** assets owned by the decedent, with reasonable detail, and indicate fair market value of each as of date of death, and the type and amount of any encumbrances thereon. Prepare this form as soon as possible to ensure an accurate record as of the date of death. It is recommended but not required that this form be filed with the Court. M.S. 524.3-706 and 708. 228 P-600

- **Final Account:** During administration and prior to preparing the final account, the P.R. should check with the Probate Division to see if any claims have been filed. After claims have been properly dealt with and the claims period has elapsed, the P.R. prepares the final account and furnishes a copy to the distributees whose interests are affected thereby and then may distribute the assets of the estate. It is recommended but not required that this form be filed with the Court. M.S. 524.3-1003(3) 263 P-605

- **Informal Probate: Personal Representative's Statement To Close Estate:** This form is required to close the estate after the administration has been completed. After administering the estate and the claims period has elapsed, the P.R. files the original with the Court Administrator. All claims must have been settled, all administrative expenses paid, and all assets, including real estate title, must have been distributed and transferred **BEFORE** filing the closing statement. Prior to filing the statement, P.R. must mail a copy to all distributees and to all creditors or claimants whose claims are not paid or barred. The P.R. is personally liable to the interested parties for damage or loss if the property is incorrectly or improperly distributed. M.S. 524.3-1003 276 P-682

**Tax Returns:** The P.R. is responsible for preparing and filing with the appropriate TAX department (not the Registrar) any fiduciary or estate tax returns required by state or federal law. The P.R. should direct questions about tax matters to the appropriate tax department, not to the Registrar. M.S. 524.3-709

(Minnesota) Estate and Fiduciary Tax Division. (612) 296-3781 Metropolitan area. Out state use Toll Free number 1-800-652-9094. (U.S.) IRS, Tax information, (612)644-7515.

**IF THE DECEDENT DID NOT LEAVE A WILL (INTESTATE):**

**FORMS REQUIRED BY STATUTE** – You are required to provide Probate Form No.’s These forms unless otherwise directed by the Registrar or indicated below.

	<u>Oswald Forms</u>	<u>Miller-Davis &amp; Other Forms</u>
<ul style="list-style-type: none"> <li>● <b>Application for Informal Appointment of Administrator:</b> This form must be completed prior to being Submitted along with a \$250.00 filing fee. M.S. 524.3-301 &amp; Court Rule 403</li> </ul>	135	P-103
<ul style="list-style-type: none"> <li>● <b>Nomination of Personal Representative by Person Entitled to Priority:</b> Required in some estate in order for proposed P.R. to establish priority for appointment. Filed together with application. M.S. 524.3-203(2)</li> </ul>	126	P-005
<ul style="list-style-type: none"> <li>● <b>Order for Informal Appointment of Administrator:</b> M.S. 524.3-307</li> </ul>	145	P-113
<ul style="list-style-type: none"> <li>● <b>Acceptance of Appointment and Oath by Individual:</b> Must be completed, notarized and filed. M.S. 524.3-601 and 602</li> </ul>	201	P-001
<ul style="list-style-type: none"> <li>● <b>Notice of Informal Appointment of Personal Representative and Notice to Creditors:</b> M.S. 524.3-310 and Court Rule 408(d)</li> </ul> <p style="margin-left: 20px;">This notice must be published for two weeks in a legal newspaper. Applicant must also mail either a copy of the notice or a newspaper clipping of the Notice to all interested persons.</p>	149	P-123
<ul style="list-style-type: none"> <li>● <b>Affidavit of Mailing Order or Notice:</b> A copy of what you Mailed (see above) must be attached to this affidavit. Affidavit must be completed, notarized and filed. M.S. 524.3-306 and Court Rule 408(d)</li> </ul>	107	P-015

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- The right to receive the decedent’s wearing apparel, furniture and household goods and other personal property as provided by law.
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- **Proof of Placing Order for Publication:** Some Registrar's accept this form in lieu of the Affidavit of Publication prior to actual printing. The publisher signs this form at the time publication is arranged.
- **Letters of General Administration:** The Letters authorize the P.R. to act. Certified copies of Letters may be obtained from the Court Administrator for \$10.00 each. P.R. may **NOT** sell, encumber, lease or distribute real estate for 30 days from the date of issuance of the Letters, by statute. M.S. 524.3-310 204 P-010
- **Inventory and Appraisement:** Within 6 months from appointment or 9 months from date of death, whichever is later, P.R. must mail a copy to the surviving spouse, to all residuary distributees, and to interested persons or creditors who request it. The inventory must list all **Probate** assets owned by the decedent, with reasonable detail, and indicate fair market value of each as of date of death, and the type and amount of any encumbrances thereon. Prepare this form as soon as possible to ensure an accurate record as of the date of death. It is recommended but not required that this form be filed with the Court. M.S. 524.3-706 and 708. 228 P-600
- **Final Account:** During administration and prior to preparing the final account, the P.R. should check with the Probate Division to see if any claims have been filed. After claims have been properly dealt with and the claims period has elapsed, the P.R. prepares the final account and furnishes a copy to the distributees whose interests are affected thereby and then may distribute the assets of the estate. It is recommended but not required that this form be filed with the Court. M.S. 524.3-1003(3) 263 P-605
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Application for appointment as Personal Representative is made to the Probate Registrar. Call the Registrar's office at (651) 430-6292 or (651) 430-4425 to find out the procedure to initiate an informal probate proceeding.

All forms must be completed by typing or printed legibly in **BLACK INK**. A file number will be assigned to the estate at the time of filing the application, and must be indicated on all forms filed throughout the probate proceeding.

Most Probate Courts are unable to provide or sell forms. Generally, stationers who now sell other legal forms will also stock the probate forms. If you cannot find the forms in your community, they may be purchased from the following companies using the form numbers indicated:

**MILLER-DAVIS COMPANY**

2575 University Avenue West  
Suite 200  
St. Paul, MN 55114  
(651) 642-1988  
(800) 752-4221

**BLOOMINGTON STORE (MILLER-DAVIS)**

9424 Lyndale Avenue South  
Bloomington, MN 55420  
(952) 888-7743

**OSWALD PUBLISHING COMPANY**

P.O. Box 817  
New Ulm, MN 56073  
(800) 782-3532

You may also use the State Web site for more information.

[www.mncourts.gov/district/2/?page=768](http://www.mncourts.gov/district/2/?page=768)

**Suppliers of Ready-To-Use Legal Forms**

This listing of legal form suppliers is provided to suggest possible options to those seeking legal forms. It should not be considered a complete listing of all possible resources. These suppliers should also not be considered the only sources for legal forms. You can also contact the Court Administrator in your county, who may have forms available to suit your needs, or any county law library, which should have books of sample forms for those who prefer to format and create their own forms.

There are three legal form publishers for Minnesota, Miller Davis Company, Booth Documents and Publishers, and Oswald Publishing Company. The listings for Miller-Davis and Booth include their main offices, as well as other office product suppliers that have contracts with these companies to provide outlets for their forms. These other suppliers do not necessarily carry a complete line of forms from the main publisher, so it is advisable to check the availability of a particular form or forms before traveling to one of these other suppliers.

**For Miller-Davis Company legal forms:**

Miller Davis Company (main office)	(651) 642-1988
2575 West University Avenue	(800) 752-4221
St. Paul, MN 55114	

*Forms available via phone purchase with a credit card*

**Other suppliers of Miller Davis forms include:**

Miller Davis Office Products	(952) 888-7743
9424 Lyndale Avenue South	
Bloomington, MN 55420	

Burnsville Office Supplies	(952) 890-8022
2526 East Highway 13	
Burnsville, MN	

**For Booth documents legal forms:**

Booth Documents & Publishers (main office)	(651) 674-4413
716 Main, PO Box 519	
North Branch, MN 55056	

*Forms available via phone purchase with a credit card*

**Other suppliers of Booth Documents forms:**

Kopy Boy  
556 South Lake Street  
Forest Lake, MN 55025

(651) 464-2776

*Good supplier after main office; carries most of Booth's available stock*

**Legal Forms are also available from:**

Oswald Publishing Company  
509 Center Street, P.O. Box 817  
New Ulm, MN 56073

(800) 782-3532

*Forms available via phone purchase with credit card or prepaid by check*

**TAX RETURNS:** The P.R. is responsible for preparing and filing with the appropriate TAX department (not the Registrar) any fiduciary or estate tax returns required by state or federal law. The P.R. should direct questions about tax matters to the appropriate tax department, not to the Registrar. M.S. 524.3-709

(Minnesota) Estate and Fiduciary Tax Division (612)296-3781 Metropolitan area. Out of state use Toll free number (800) 652-9094. (U.S.) IRS, Tax information, (612) 644-7515.



**IF THE ESTATE ASSETS INCLUDE ANY REAL ESTATE**

- This pamphlet does not indicate which forms should be prepared and recorded to convey real estate title, since different fact situations require different forms, and because the recording of these documents are not done in Probate Court or supervised by the Probate Registrar.
- To protect marketable title and to avoid burdensome corrective measures, an attorney experienced in probate real estate conveyances should handle the sale or distribution of real estate from a decedent's estate.



## G L O S S A R Y

<b>Codicil:</b>	a legal instrument that modifies a will.
<b>Creditor:</b>	a person or party to whom a debt is owed.
<b>Devise:</b>	disposition of property by will.
<b>Devisee:</b>	person or organization designated by will to receive property
<b>Distributee:</b>	person, other than a creditor or a purchaser, who receives property of a decedent from the personal representative.
<b>Estate:</b>	all of the property of the decedent.
<b>Formal Proceedings:</b>	proceedings conducted before a judge.
<b>Heirs:</b>	persons entitled to the property of the decedent under the laws of intestate succession.
<b>Informal Proceedings:</b>	unsupervised proceedings conducted before the Probate Registrar.
<b>Interested Persons:</b>	includes heirs, devisees, children, spouse, creditors, and any others having a property right in or claim to the estate of the decedent.
<b>Intestate:</b>	estate with no will.
<b>Non-Probate Assets:</b>	assets owned by the decedent not requiring probate to effect transfer of ownership.
<b>Personal (P.R.) Representative:</b>	individual in charge of handling the estate of the decedent.
<b>Probate Assets:</b>	assets owned <b>SOLELY</b> by the decedent.
<b>Registrar:</b>	the official of the court who administers informal probate.
<b>Separate Writing:</b>	documents or lists, as referenced in a will, that dispose of only tangible personal property.
<b>Testate:</b>	estate with a will.
<b>Will:</b>	a written instrument, legally executed, by which a person makes disposition of his or her estate to take effect after death.