

INSTRUCTIONS FOR ADMINISTRATION OF ESTATE

THE STEPS – PROBATE – ADMINISTRATOR – PETITIONER

NOTICE: This form is ONLY for probate of personal property (anything that is not land and buildings) and real property (land and buildings) that is NOT Trust Land. Any Trust Land must be handled in a separate probate proceeding.

1. **Please read the instructions.** Read all of these instructions before completing this packet to make sure you understand what the Court needs from you to decide if it should appoint you as the administrator of the decedent's estate. An administrator (or executor) is a person the Court may appoint to distribute the property of the person who died without a will. If the Court appoints you, you take on certain legal responsibilities which are detailed further here, and you will submit more of the forms in this packet.

The following sections of the Shoshone and Arapaho Law and Order Code apply.

2. **Who may serve.** The following lays out the requirements to serve as an administrator under § 5-3-1 and 5-3-2:
 - A. *Valid heir.* You must be a valid heir of the deceased person. In order of priority, the Court will appoint: their spouse, their children (in descending order of age, with oldest first), blood relatives in order of closeness of tribal relationship, any adult tribal members, and finally any adult persons.
 - B. *Petition.* You must petition the Court for administration of the deceased person's estate by filling out this form. Submit it to the Clerk of the Wind River Tribal Court at 109 Norkok Rd, Ft. Washakie, WY.
 - C. *Filing Fee.* When you submit this petition, you must pay a \$100.00 filing fee. If you cannot afford the filing fee, you may file this form along with a *Motion for Leave to Proceed In Forma Pauperis* along with an *Affadavit of Indigency*, which the Clerk can give to you. If the Court grants your motion, the filing fee will be waived.
3. **Appointment.** The appointment of an administrator under § 5-3-3 happens as follows:
 - A. *Hearing is scheduled.* When you submit this Petition, you request a hearing on your appointment. The Clerk will schedule a hearing with the Court at the time you submit it and will let you know when to be there again.
 - B. *Notice.* After you have your hearing scheduled, the Clerk will send out "notice" to all of the family members you put on this form. This lets anyone who may be interested in the distribution of the deceased person's property a chance to be heard at your hearing. Note that your list of family members does not have to be perfect and include absolutely everyone at this point, but it should include any family who might be interested in and can attest to your ability to act as an administrator, **INCLUDING** people who may say negative things about you.

C. *Hearing.* After notice has been sent to other family members and interested parties, your hearing will take place. The Court will then decide if you should administer the deceased person's property.

4. **Post-Appointment.** Once you are appointed, under § 5-3-3 the following things will happen:

A. *Oath.* If you are appointed as administrator, you will be required to take an oath that you will faithfully and honestly administer the deceased person's property. The Court will decide if you should do this orally at the appointment hearing and/or whether you should submit form V-5 (attached to this packet).

B. *Bond.* You must submit a bond to be held by the Court while you act as administrator, which will be returned to you once the administration is complete. The Court will decide how much this bond is to be. This money is held by the Court to make sure you are faithfully administering the deceased person's property; if you fail to do so, you will lose this money. If you submitted a *Motion for Leave to Proceed In Forma Pauperis* along with an *Affidavit of Indigency*, the Court may take this into consideration and waive the bond requirement, but it is less likely to be granted than waiving the filing fee.

C. *Letters of Appointment.* After you have taken the oath and submitted the bond (if necessary), the Court will grant you Letters of Administration as proof that you are the administrator of the property of the deceased person. You may use these Letters to show any mortgage holders, car loan holders, or anyone else interested in the property that you have the authority to legally act on behalf of the deceased person.

5. **Duties.** Your duties as an administrator once appointed are laid out under § 5-3-3, 5-3-4, 5-3-5, and 5-3-10:

A. *Generally.* You have the following GENERAL duties, throughout the entire time you are the administrator:

- i. You must prosecute and defend all legal actions on behalf of the deceased person's property. It is **highly** recommended that you get an attorney if you expect any of the property to be involved in any additional legal proceedings; being an administrator without an attorney is difficult enough in the first place.
- ii. You must distribute the property in accordance with all orders of the Court.
- iii. You must ascertain (discover) and then pay all debts and legal obligations of the deceased person, before any remainder is distributed. The only exception to this is property that is considered "homestead," due to being either their spouse's home or their unmarried minor child's home. If there is such property, those heirs may receive a "homestead allowance" before any debts are paid.

B. *Things you must do: within ONE (1) Month.* You must do the following things within the first MONTH of being appointed:

- i. **POSSESSION.** First, take possession of any of the property which you now administer. This means that you should gather up things such as car keys, house keys (for any property that is NOT Trust Land), and any other personal property of the deceased person such as jewelry, electronics, etc. At this point, if there are renters of the property, you do not need to evict anyone, but let them know that you are the new administrator and that it may be distributed to someone who may want to do that in the near future.
- ii. **KNOWN RELATIVES.** You must file and submit a list of all known relatives of the deceased person (Form V-4A, attached to this packet). At **THIS** point, you must include absolutely **EVERYONE** you know, and even people you don't know. You must do some research and find anyone who is alive, related to them, and may be entitled to some of the deceased person's property. NOTE: It is considered perjury to lie on all of these forms. If you do not truthfully answer EVERY section of all of these forms, you may be subject to prosecution if the Court discovers you left anyone out who otherwise should have been notified. In addition, you may ALSO be subject to lawsuit by any family members you left out. So, DO YOUR HOMEWORK!
- iii. **INVENTORY AND APPRAISEMENT.** You must submit an Inventory and Appraisal of all of the property you are administering. This is partly why it is important for you to take possession of everything, so you can gather it all up and submit Form V-4B ("*Inventory and Appraisal of Estate*"). Gather up all of the deceased person's property, list it all out, and give everything a value that you can **REASONABLY** expect it to have. If it is a car, for example, give the Blue Book value based on the online calculator. As another example if it is a house, use the numbers that realtor.com or Zillow gives you. This form does not have to be perfect as it is just an initial accounting, but do not make any serious errors or you may have trouble later on.

C. *Things you must do: within NINETY (90) days.* You must do the following within 90 days of being appointed:

- i. **MAKE NOTICE TO CREDITORS.** You must do what is called "notice by publication." This means that you must let everyone who may be a creditor of the deceased person's property know that they have died, and that the time to collect on their debt is now or it will be forfeit. To do this, submit Form V-7 ("*Notice to Creditors*") to the Clerk for the record, and to a newspaper of general circulation on the Reservation. You must have the Notice published by the newspaper **TWICE** within 90 days. Any creditors are supposed to contact either **YOU** or the Clerk within 90 days of the **FIRST** publishing to let you know that they intend to collect on a debt the deceased person owed. If they contact you **BEYOND** the 90 days, you should let the Clerk

and/or the Court know that they cannot legally collect because they did not file on time.

D. *Things you must do: within ONE HUNDRED TWENTY (120) days.* You must do the following things within 120 days of being appointed:

- i. **MAKE A FULL ACCOUNTING.** Gather up all the family members, buyers, etc. who believe they are entitled to some of the deceased person's property. Make decisions on what goes to who, and what gets sold. When you've done that, fill out Form V-8 ("*Accounting and Final Report*"), which shows the Court where all of the property will be going. Basically, this is your "plan" for distribution of all the stuff. If all goes according to the plan, most of your work is completed after you submit this form. If you need an attorney to help you with this part (which is often the case), or if you feel that you need to be paid for your time in making the estate plan, you must also submit Form V-9 ("*Computation of Attorney/Administrator Fees*") along with V-8, which lets the Court know what amount of the money will go to making a plan for distribution.

6. **The Code.** The Shoshone and Arapaho Law and Order Code sets out all the requirements for asking the Court to appoint you as an administrator. The Code can be provided to you upon request of the Court Clerk.

7. **Regarding legal advice.** If you need legal advice filling out the Petition, you may contact Legal Aid of Wyoming at 1877-432-9955. If you qualify for services, someone will be assigned to help you. The Court Clerk cannot provide you with legal advice; they may only help you understand this form so you can fill it out properly.

WIND RIVER TRIBAL COURT

Shoshone and Arapaho Tribes
Wind River Indian Reservation
P.O. Box 608
Fort Washakie, Wyoming 82514
307-332-6702

REGARDING THE ESTATE OF: _____)
)
)
NAME OF DECEASED PERSON _____) Case No. _____
)
DATE OF DEATH _____)

PETITION FOR APPOINTMENT OF ADMINISTRATOR

COMES NOW _____ (print your name), Petitioner, asks this Court for an order appointing them as the administrator/executor of the above-named deceased person's intestate estate. Petitioner notes that the decedent, who died without a will, has an estate worth more than \$1000 which needs distribution through orders by this Court. Petitioner claims to be a legal heir of the decedent by virtue of being their _____ (your relationship to the deceased person), and is thus qualified under S&A LOC § 5-3-1 to petition this Court for appointment as administrator/executor of their estate.

Petitioner also presents this Court with the following information regarding the decedent's other potential heirs and interested parties (please attach additional pages if necessary):

Name	Address	Relationship to Deceased

WHEREFORE the above being the case to the best of Petitioner's knowledge and belief, Petitioner respectfully requests this Court schedule a hearing on the matter of their appointment as administrator/executor of this person's intestate estate.

DATED this ____ day of _____, 20____.

 Petitioner (Sign your name)

 Print your name

 STOP

 FOR THE CLERK

Subscribed and sworn to before me this ____ day of _____, 20____.

(seal)

 Court Clerk/Notary Public

My commission expires: