

FARMINGTON-BURLINGTON PROBATE COURT

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QUICK REFERENCE GUIDE FOR PROBATING ESTATES IN CONNECTICUT

1) Introduction: What is Probate?

- a. **Technically** under CT law everyone MUST go to probate to file their Estate Tax Return, even if non-taxable (in reality many people do not ever file)
- b. **Probate Estate vs. Gross Estate:**
 - i. Probate Estate = assets in the name of the decedent alone. No other owners. Solely owned property.
 - ii. Gross Estate = anything in the name of the decedent, or that the decedent had an interest in. Non-solely owned property.
- c. Heirs vs. Beneficiaries.
 - i. Heirs = by law, lineal decedents/relatives of decedent
 - ii. Beneficiaries = anyone named under will or trust to receive property
- d. There are **three ways to proceed** in administering an estate under Connecticut law. All procedures are based on the Total Solely Owned Assets (assets in the decedents name alone and NOT jointly held property).
- e. The Minimum probate fee that is charges is **\$50**, *regardless of what size of estate comes through*. The Maximum fee for probate is **\$12,000**. The size of the probate fee depends on the GROSS taxable estate and is assessed upon receipt of the CT-706 OR CT-706NT tax returns.
- f. Helpful websites: <http://www.jud.ct.gov/probate/Default.htm> and www.farmingtonprobatecourt.com

2) Tax Purposes Only Estate

- a. NO PROBATE ASSETS – 100% Non-Solely Owned.
 - i. If there are **no solely owned assets**, you MAY proceed with a Tax Purposes Only Estate.
 - ii. The court MAY issue orders/decrees (*petitioner's probate certificate*) granting the distribution of jointly held assets or occasionally Non-Probate assets
 1. Ex: Payable on death Accounts, transfer on death accounts, retirement accounts, life insurance, etc).
- b. Filings:
 - i. Affidavit for Filing Will Not Submitted to Probate (with original will, if no Will then not needed for filing)
 - ii. Death Certificate
 - iii. Deeds for Real Property (if applicable)

- iv. Estate Tax Form CT-706 NT – due within six (6) months of death
 - c. Receive and pay probate bill
 - d. Await for Opinion of No Tax from Court
 - e. Record any Certificate(s) Releasing Estate Tax Liens on Land Records
- 3) Small Estates (Affidavit Estates, Short Form)
- a. SOLELY OWNED ASSETS UNDER \$40,000)
 - i. If solely owned assets are under \$40,000 and no solely owned real estate, you MAY proceed with a short form estate
 - ii. No Executor/Administrator is appointed; No letters/appointments issued.
 - iii. Court may issue orders to distribute *solely owned* assets
 - iv. Distributions MUST be in accordance with laws of intestate in CT.
 - 1. Essentially, any surviving spouses or children may inherit the solely owned property.
 - v. Also, any jointly held property MAY receive a special court order called a petitioner's probate certificate.
 - b. Filings
 - i. Affidavit in Lieu of Administration
 - ii. Affidavit for Filing Will Not Submitted to Probate (with original will, if no Will then not needed for filing)
 - iii. Death Certificate
 - iv. Copy of paid funeral bill
 - v. Deeds for Real Property (if applicable)
 - vi. Estate Tax Form CT-706 NT – due within six (6) months of death
 - c. Receive and pay probate bill
 - d. Await for Opinion of No Tax from Court
 - e. Record any Certificate(s) Releasing Estate Tax Liens on Land Records
 - f. Receive decree/order transferring personal property
- 4) Full Estates
- a. SOLELY OWNED ASSETS \$40,000
 - i. If solely owned assets are over \$40,000 = must use full estate proceedings.
 - ii. An executor/administrator will be appointed by the court and "Letters of Administration" (appointment) will be issued by the court.
 - iii. This process takes approximately 6 months to a year to complete and requires accountings, hearings, notice to creditors, claims procedures, etc.
 - b. Filings
 - i. Application for Administration or Probate of Will

- ii. Original Will (if applicable)
 - iii. Death Certificate
 - iv. Bond – if required, may be waived by will
 - v. Inventory (within 60 days of appointment of executor/administrator)
 - vi. Deeds for Real Property (if applicable)
 - vii. Estate Tax Form CT-706 NT – due within six (6) months of death
 - viii. Accounting of all estate activity: Interim/Final accounting or Statement in Lieu of Accounting
- c. Hearings
- i. On application – streamlined if notice waived by heirs
 - ii. Final accounting – at end of probate process
 - iii. For sale of real estate – unless specific power granted by will
- d. Appointment and Admission of Will
- i. Court issues fiduciary certificates granting authority to executor/administrator
- e. Creditors/Claims procedures = Notice to Creditors published in Hartford Courant, the newspaper then bills the estate, and Creditors then have five (5) months to bring claims to fiduciary/court.
- f. Receive and pay probate bill
- g. Await for Opinion of No Tax from Court
- h. Record any Certificate(s) Releasing Estate Tax Liens on Land Records
- i. Receive decree/order transferring personal property
- j. Account to Court on all estate activity
- k. Affidavit of Closing: dispose of any reserves and inform court of distributions made

The proposed distribution should agree with distribution under Connecticut's intestacy laws, which are discussed below.

Rules of Descent and Distribution — Connecticut

(C.G.S. §§45a-437, 45a-438, 45a-439)

Decedent Dies

Intestate

Survived by:

Descent and Distribution

Spouse only	Spouse takes ALL property [C.G.S. §45a-437].
Spouse and Issue ¹ .	A. If all of decedent's issue are ALSO issue of spouse, spouse takes \$100,000 and one-half of the remainder of ALL property ^{2,3} . Issue take the other one-half (1/2) of the remainder in equal shares per stirpes. B. If one or more of the decedent's issue ARE NOT issue of spouse, spouse takes one-half (1/2) of ALL PROPERTY. Issue takes one-half (1/2) of ALL property in equal shares per stirpes (C.G.S. §45a-433, 45a-437(a)(3),(4)).
Spouse and Parent(s) but no Issue	Spouse takes \$100,000 ³ and three-quarters of remainder of ALL property. Parent or parents take the other one-quarter (1/4) of the remainder [C.G.S. §45a-437(a)(2)].
Issue but no Spouse	ALL property goes to the issue in equal shares per stirpes (C.G.S. §45a-438).
Parent or Parents ⁴ but neither Spouse nor issue	ALL property goes to the parent(s) (C.G.S. §45a-439), provided that any such parent(s) who have abandoned a minor child shall not share in such child's estate (C.G.S. §45a-439).
Brothers and Sisters	ALL property goes to the decedent's brothers and sisters and their issue in equal shares, per stirpes (C.G.S. §45a-439).
None of the Above	ALL property goes in equal shares to the next of kin in equal degree.

1. By "issue" we refer to children and/or their descendants. An adopted child and his or her descendants take the same share as does a natural child and his or her descendants [C.G.S. §45a-731(4)]. As to children born out-of-wedlock, see C.G.S. § 45a-438. Such children inherit from their mothers just as any other children would. They inherit from their fathers *provided* the father:

a) has been adjudicated the father by a Court of competent jurisdiction or b) has acknowledged in writing under oath that he is the father or c) paternity has been established by the Probate Court after the death of the father or the child by clear and convincing evidence that he had/had acknowledged in writing that he is the father of the child and has openly treated the child as his. (For the procedure to establish paternity, see the discussion of paternity claims in the "Miscellaneous" section of this *Manual*.)

2. There is no curtesy (husband's right to part of his deceased wife's property) or dower (wife's right to part of her deceased husband's property) in Connecticut.