

## 10 Things North Carolina Executors Should Know

- 1. Mandatory Accountings.** Unlike many states, North Carolina does not allow beneficiaries to waive accountings of estate income and expenses. Accounts must be submitted each year for approval by the Court.
- 2. Taxable Commissions.** As executor, you are entitled to a commission for your work. However the amount must be approved by the court, and constitutes taxable income to you. Maximum commissions are 5% of estate receipts and 5% of estate expenses. If you are the sole beneficiary, generally you will save yourself money by not taking a commission. Approval can sometimes take several months, which delays administration.
- 3. Court Appointment Required.** You do not have legal authority to act as executor until you have submitted an Application for Probate and Letters to the Clerk of Court, and have been granted Letters Testamentary.
- 4. Fiduciary Duty.** As executor, you must act fairly towards all beneficiaries, and may not personally gain from the administration of the estate, other than by court-approved commissions. You can be held personally liable for negligent acts or omissions, such as allowing property to substantially lose value.
- 5. Joint Accounts.** If you jointly own a bank account with the decedent, those funds should not be added to the estate (with very limited exceptions). Joint accounts belong to the surviving joint owner.
- 6. Court Fees.** The court charges \$4.00 per \$1,000 of property in the estate (generally excluding real property). Court fees are based on the value of the assets and are capped at \$6,000. The fee is due when the Inventory is filed, and a minimum of \$15 is due with each accounting filed thereafter.
- 7. Tax Returns.** In addition to the decedent's final return, except in very small estates, you must file an income tax return for the estate. Tax rates for estates are much steeper than for individuals, so in larger estates proper planning can provide substantial income tax savings.
- 8. Attorneys' Fees.** Assistance of an attorney is indispensable in many estates. However, most counties require that attorneys' fees be approved by the court prior to approval of an accounting. As with commissions, approval can take a few months.
- 9. Delay.** Waiting for the court to approve accountings, fees and commissions often takes an unreasonable amount of time, causing the estate to remain open longer than really necessary.
- 10. Public Record.** All documents filed in an estate, including the Will, the Application (names and address of beneficiaries) Inventory, accountings, etc. are available to anyone