Customer service is professional and compassionate at the probate court. This brochure is used to assist the public in understanding probate procedures. It is not legal advice.

The best advice the Probate Court can give you is to consult with an attorney.

Fees for the estate's attorney and other professionals assisting in tax matters, etc. are expenses of the estate. Those expenses are not the personal responsibility of the PR as long as the PR has performed his/her duties in accordance with the law.

SOUTH CAROLINA CODE OF LAWS
TITLE 62

- SC Code Ann. §62-7-303, (a), (b) and (c)
- SC Code Ann..§62-3-401
- SC Code Ann. §62-3-913 b
- SC Code Ann. §62-3-913 c
- SC Code Ann. §62-3-803
- SC Code Ann. §62-3-807 b

WHERE CAN I FIND INFORMATION ON THE PROBATE LAWS?

The SC Code of Laws, Title 62 may be found on our website at
www.greenvillecounty.org/probate

This brochure is meant to help the public understand probate procedures. IT IS NOT LEGAL ADVICE. Probate Court staff can only give procedural information. It is always recommended that you seek the advice of an attorney to assist you. See "Need Legal Assistance" brochure for information on obtaining an attorney. Probate Court staff cannot make a recommendation of an attorney.

MAY I DISTRIBUTE ESTATE ASSETS NOW THAT I AM APPOINTED AS THE PERSONAL REPERSENTATIVE?

Hon. Debora A. Faulkner
Probate Judge
Greenville County Probate Court
Estate Division – Suite 1200
301 University Ridge
Greenville, SC 29601
(864) 467.7170
www.greenvillecounty.org/probate

Updated: 10/2014

TRUE OR FALSE?

As soon as the court appoints a personal representative, that person can start transferring the assets immediately without regard to anything or anyone. FALSE!

It is recommended by the Court to wait to transfer estate assets until after (1) the inventory and appraisement (FORM 350ES) has been filed, (2) the creditor period has elapsed, and (3) estate administration expenses, taxes and debt have been paid.

Transferring estate assets is not an automatic power of the PR. Under many circumstances, such as the decedent dying without a will, the Court must formally approve transfers. Even if there is a Will and it gives broad powers, the Court recommends waiting to transfer real estate or other assets.

Generally, Personal Representatives should make sure all estate debts are properly filed and all valid debts paid before any beneficiary receives any portion of his/her inheritance. **Seek the advice of an attorney for exceptions to this general rule**.

Creditors have 8 months from the running of the news ad or one year from date of death to file claims against the estate. Taxing authorities are not bound by the 8 month time period.

Typical claims are unpaid medical bills, Medicaid recovery or credit card bills. There can also be claims from relatives or caregivers for the decedent. The law provides who and what should be paid first from estate assets. Distributions of estate assets before the 8 months could result in serious legal problems if there are insufficient assets in the estate to pay the claims. **If you find yourself in this situation, legal advice from an attorney is recommended.**

If the decedent had a judgment against him/her or the estate real estate goes into foreclosure, other rules apply and **you will need to seek the advice of an attorney**.

Currently, estate tax returns are due nine months from date of death and taxing authorities have three years to audit. Sometimes valuations placed upon estate assets may not be accepted by taxing authorities. This may result in a larger tax. If the estate does not have the funds to pay additional taxes, because assets have already been distributed to beneficiaries, the **Personal Representative will need an attorney and perhaps a tax specialist.**

Estate litigation can dictate who will inherit and what will be inherited pursuant to **SC Code Ann. §62-3-401**. **Check with your attorney before making any distribution while litigation is pending.**

The following proceedings are examples of litigation:

- ✓ WILL CONTEST
- ✓ DISCOVERY OF A SUBSEQUENT WILL
- ✓ COMMON LAW SPOUSE
- ✓ PATERNITY CASES
- ✓ BENEFICIARIES WHO CANNOT BE LOCATED
- ✓ MINOR BENEFICIARIES
- ✓ INTERPRETATION BY COURT OF AMBIGUOUS LANGUAGE IN WILL

TRUE OR FALSE?

The Probate Court staff can give me legal advice. FALSE!

PROBATE COURT STAFF CAN:

NEVER give you legal advice.

ONLY give procedural information

ALWAYS suggest that you seek advice of an attorney