

ND STATE COURTS

Informal Administration of an Estate

Informal Probate

OFFICE OF STATE COURT ADMINISTRATOR

Informal Administration of an Estate

Table of Contents

Introduction

Handling the Small Estate in North Dakota in Informal Proceedings

First-Step - Listing of Property

Safe Deposit Box

Estate Tax

Income Tax

Non-Probate Property

Opening and Probating the Estate

A. Probate Estate \$50,000 or Less

B. Probate Estate Greater than \$50,000 or Real Property

1. If decedent left will

2. If decedent did not leave a will

C. Priority for Appointment as Personal Representative

Duties of Personal Representative

A. Times within which certain steps must be taken

B. Times after which certain steps may be taken

C. Times after which certain steps cannot be taken

Distribution of the Estate

A. If a Will

B. If no Will

Closing the Estate

Appendix A

Time Schedule Informal Probate Proceedings

Times after which certain steps may be taken

Times within which certain steps must be taken

Times after which certain steps cannot be taken

Appendix B

Checklist of Forms

Forms for estate less than \$50,000, no real property

Forms for estate greater than \$50,000 with a will

Forms for estate greater than \$50,000 no will

Appendix C

Glossary of Terms

Forms

Introduction

North Dakota has adopted the Uniform Probate Code, which allows a person to informally probate a Will and have a personal representative appointed without the necessity of a court appearance or a court hearing, as long as the proper forms are filed and the correct procedures followed.

The purpose of this packet is to help North Dakota citizens understand the procedures that must be followed and forms that must be filed with regard to the informal probate of a Will and/or the appointment of a personal representative of an estate of a deceased citizen. Since each estate has different needs, it's important to know the proper methods of managing a particular estate. The information in this packet should assist in selecting and filing the correct forms with the court in order to informally administer an estate and to have, if needed, a personal representative appointed. The necessary probate forms may be purchased from the district court or obtained online at ndcourts.gov Checklist of Forms. The North Dakota tax forms are available from the State Tax Commissioner, State Capitol, Bismarck. The federal income and estate tax forms are available from your local IRS office and on the internet.

This packet has limitations. It can't and won't address every legal question that could arise in a particular estate, nor does it cover all the responsibilities and liabilities of the personal representative and/or the heirs, such as the filing of income tax returns. Matters not properly handled could create problems and expense for the estate and the heirs if they must be dealt with after the estate is initially closed.

Therefore, since each estate, no matter how small, can raise many serious legal questions, you're advised that you're proceeding at your own risk. The law forbids the district court judge or court personnel to give legal advice on how to administer an estate. In legal matters, you should exercise caution and good judgment in proceeding without the advice of an attorney.

If, after reviewing this packet, you're unable to determine how or whether to proceed, consult an attorney licensed to practice in North Dakota.

References to N.D.C.C. or in [] mean the North Dakota Century Code. The Century Code is available at most public and university libraries and at the district court's office in each county.

Handling the Small Estate in North Dakota in Informal Proceedings

First Step - Listing of Property

Most of the work required to be done in an estate is the legal and orderly transfer of the decedent's property to the persons entitled to receive it. The first step to be taken in any estate is to prepare a list (See Fig. A) of all the property owned by the decedent (the person who has died). The value of each item is the fair market value as of the date of the decedent's death.

Figure A:

INVENTORY	A PROBATE PROPERTY	B PROBATE PROPERTY	C NON- PROBATE PROPERTY
DESCRIPTION OF PROPERTY	Owned Solely by Decedent	Owned by decedent and others (as tenants in common)	Owned Solely by decedent or by decedent and others (as joint tenants)
REAL PROPERTY (such as house, lake cabin, farmland, oil or mineral rights, life estate.)	\$	\$	\$
PERSONAL PROPERTY A. Money, notes, S. cash (such as c.d.'s & bank accounts)	\$	\$	\$
B. Stocks and bonds	\$	\$	\$
C. Insurance	\$	\$	\$
D. Miscellaneous (such as vehicles, personal belongings, tools, farm equipment)	\$	\$	\$
SUBTOTALS	\$	\$	\$
Total value of property in Column A			\$
Total value of property in Column B			\$
Total value of property in Column C			\$
TOTAL VALUE OF ESTATE ASSETS			\$
*Non-probate means such property as life estates, trusts, insurance proceeds payable to a designated beneficiary and gifts in contemplation of death, as well as property held in joint tenancy.			

The list should identify the amount of any encumbrance (debt or lien) that exists on any item of property. [N.D.C.C. 30.1-18-06.] All reasonable steps must be taken for the management and protection of the property. [N.D.C.C. 30.1-18-09.]

Safe Deposit Box

- A. If a decedent rented a safe deposit box jointly with another person or persons, no court order or affidavit is needed for the other person to access the box [N.D.C.C. 30.1-23-05].
- B. If a safe deposit box was rented in decedent's name alone, prepare an Affidavit for Access to Safe Deposit Box ([Form 8](#)) and present signed Affidavit to bank.
- C. On the first visit to bank, remove decedent's will. Will is to be filed with the court if the estate needs to be probated.

Estate Tax

Consult an accountant for the most current information on estate tax.

Income Tax

Estate income tax returns may be required if the estate had gross income of \$600 or more for the tax year. Forms and instructions are available from the Internal Revenue Service and State Tax Commissioner.

Non-Probate Property

- A. Real property owned by decedent and others as joint tenants is transferred by filing a certified death certificate and property description with the county recorder.
- B. Other non-probate property interests are transferred or terminated by presenting a death certificate to the holder.

Opening and Probating the Estate

A. Probate Estate \$50,000 or Less and No Real Property.

If the total value of the probate property (Fig. A, Columns A and B) less the encumbrances on those items of property is \$50,000 or under and no real property is involved [N.D.C.C. 30.1-23-01]:

1. After 30 days have elapsed since decedent's death, prepare Affidavit for Collection of Personal Property ([Form 1](#)).
2. Present Affidavit to holder of the personal property for transfer to successor (person entitled to receive it).

B. Probate Estate Greater Than \$50,000 or Real Property.

If total value of probate property (Fig. A, Columns A and B) less the encumbrances on those items of property is over \$50,000, or if the probate property includes real property, appoint personal representative to administer the estate and distribute decedent's property to the person or persons entitled to receive it, as follows:

1. If decedent left a Will.

Anytime after five days of decedent's death, file with district court:

- a. Application for Informal Probate of Will and Appointment of a Personal Representative ([Form 2](#)).
- b. Letters Testamentary ([Form 4](#)).
- c. Statement of Informal Probate of Will and Appointment of a Personal Representative ([Form 3](#)).
- d. Original Will of decedent.
- e. Filing fee of \$80.

2. If decedent didn't leave a Will, after five days of decedent's death, file with district court:

- a. Application for Informal Appointment of Personal Representative in Intestacy ([Form 17](#)).
- b. Letters of Administration ([Form 19](#)).
- c. Statement of Informal Appointment of Personal Representative ([Form 18](#)).
- d. Filing fee of \$80.

C. Priority for appointment as personal representative [N.D.C.C. 30.1-13-03].

1. Person or persons nominated in decedent's Will.
2. Alternate person or persons nominated in decedent's Will.
3. The surviving spouse of the decedent who is entitled to receive property of the decedent under the decedent's Will.
4. Other persons entitled to receive property of decedent through the decedent's Will.
5. The surviving spouse of the decedent.
6. Other heirs of the decedent.
7. The guardian or conservator of the decedent at the time of the decedent's death.
8. A trust company.
9. Forty-five days after decedent's death, any creditor.

If the person seeking appointment doesn't have highest priority, secure a signed Waiver of Appointment ([Form 9](#)) from **all** persons who have a higher or equal right to the appointment. File waivers with the district court along with other appointment documents.

Duties of Personal Representative

No bond is required of a personal representative who is administering an estate under the guidelines of this packet. However, the personal representative is acting as a trustee of the estate property. If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for loss or damage resulting from the improper conduct.

The duties of a personal representative appear in Chapter 30.1-18 of the North Dakota Century Code. A personal representative must keep accurate records of all receipts and disbursements ([Form 14](#)). The personal representative must keep estate property separate from their own property until the assets are distributed. Although the assistance of an attorney isn't required for informal proceedings, the personal representative should consult with an attorney if uncertain how to proceed.

A. Times within which certain steps **must** be taken.

1. Within 30 days after appointment, prepare Notice and Information to Heirs and Devisees ([Form 5](#)). Send copy to each heir and devisee [N.D.C.C. 30.1-18-05, see also 30.1-14-06].
2. Within six months after appointment or nine months after the death of the decedent, whichever is later, prepare the inventory ([Form 10](#)). File the original inventory with district court [N.D.C.C. 30.1-18-06]. If the inventory *isn't* filed with the court, mail a copy of the inventory to each of the heirs in an intestate estate or to each of the devisees if a will has been probated, and to any other interested persons who request a copy.
3. After appointment, send Affidavit Forwarding Application to Human Services ([Form 7](#)), copy of application for appointment ([Form 2](#) or [17](#)), and a list of surviving joint tenants to the Department of Human Services, State Capitol, Bismarck, ND 58505 [N.D.C.C. 50-06.3-07].
4. Within three months after mailing Notice to Creditors ([Form 6](#)) to creditors who are known to the Personal Representative and after first publication of Notice to Creditors, or within three years after decedent's death if notice to creditors has not been published and mailed, creditors must file any claims against the estate [N.D.C.C. 30.1-19-01; N.D.C.C. 30.1-19-03].
5. Within 60 days after the time for original presentation of a claim has expired, if the claim is to be disallowed, it must be disallowed in writing or will be deemed to be approved and must then be paid [N.D.C.C. 30.1-19-06].
6. Within nine months after decedent's death, if filing requirement exists^(u), U.S. Estate Tax Return and supporting documents must be filed and tax paid.
7. Within 15 months after decedent's death, if U.S. Estate Tax Return was filed, the N.D. Estate Tax Return and supporting documents must be filed and tax paid [N.D.C.C. 57-37.1-07].
8. Within three years after decedent's death, creditors may file claims in estates in which Notice to Creditors was not published [N.D.C.C. 30.1-19-03].

B. Times after which certain steps **may** be taken.

1. Any time after appointment of personal representative, Notice to Creditors ([Form 6](#)) may be published, but this isn't required [N.D.C.C. 30.1-19-01].
2. If Notice to Creditors is published, three months after first publication, personal representative shall proceed to pay claims allowed in the following order of priority [N.D.C.C. 30.1-19-05]:
 - a. Costs and expenses of administration.
 - b. Reasonable funeral expenses.
 - c. Debts and taxes with preference under federal law.
 - d. Reasonable and necessary medical and hospital expenses of the last illness of the decedent, including compensation of persons attending the decedent.
 - e. Unpaid child support obligations.
 - f. Debts and taxes with preferences under other laws of this state.
 - g. All other claims.
3. After assets have been gathered and all claims paid, the personal representative may distribute remaining assets to the heirs. Personal property is distributed by Personal Representative's Assignment ([Form 13](#)). Real property is distributed to heirs and devisees by Personal Representative's Deed of Distribution ([Form 11](#)). Real property that is sold by a Personal Representative is transferred by a Personal Representative's Deed ([Form 12](#)). Deeds must be recorded along with a certified copy of personal representative's Letters Testamentary ([Form 4](#)) or Letters of Administration ([Form 19](#)), certified on or after the date of the deed.

C. Times after which certain steps **can't** be taken.

1. Three months after first publication of Notice to Creditors, time for filing claims expires. No claims may be filed by creditors after this date [N.D.C.C. 30.1-19-03].
2. Three years after decedent's death - generally no informal proceedings for appointment of personal representative may be started [N.D.C.C. 30.1-14-01].
3. Three years after decedent's death - time for filing claims expires in estates in which Notice to Creditors **wasn't** published. No claims may be filed by creditors after this date [N.D.C.C. 30.1-19-03].

Distribution of the Estate

Distribution is made as follows:

A. If a Will.

If decedent left a Will, according to the decedent's Will, except:

1. A devisee may renounce in writing devisee's interest under the Will [N.D.C.C. 30.1-10.1].
2. A surviving spouse may elect in writing, within the later of nine months after decedent's death or six months after probate of the Will, to take one-half of the augmented estate regardless of what is specified in the Will. Notice to interested persons and a court hearing are required on the written petition filed with the court and personal representative [N.D.C.C. 30.1-05-01 and 30.1-05-05].

B. If no Will.

If the decedent left no Will, according to N.D. laws of intestate succession, as follows [N.D.C.C. 30.1-04]:

1. If decedent left a surviving spouse, the share of the intestate estate which a surviving spouse receives is [N.D.C.C. 30.1-04-02]:
 - a. If there are no surviving descendants (such as children or grandchildren) or parent of the deceased or if all of the surviving descendants of the deceased are also descendants of the surviving spouse and there is no other descendant of the surviving spouse who survives the decedent (for example, children from a prior marriage of the surviving spouse), the surviving spouse receives the entire intestate estate.
 - b. If there are no surviving descendants, but the decedent is survived by a parent or parents, the surviving spouse receives the first \$300,000 of the estate assets, plus three-fourths of the balance of the intestate estate.
 - c. If there are surviving descendants of the decedent, all of whom are also descendants of the surviving spouse, and surviving spouse also had descendants who are not descendants of the decedent (i.e., surviving spouse has descendants from a prior marriage), the surviving spouse receives the first \$250,000 of the estate assets, plus one-half of the balance of the intestate estate.
 - d. If there are surviving descendants, one or more of whom are not descendants of the surviving spouse, the surviving spouse receives the first \$150,000 of the estate assets plus one-half of the balance of the intestate estate.

2. If part of the intestate estate **doesn't** pass to the surviving spouse as listed above, or if there is no surviving spouse, the intestate estate passes as follows:

- a. To the descendants of the decedent, who will take by representation.
- b. If there are no surviving descendants, to the decedent's parent or parents equally if both survive, or to the surviving parent.
- c. If there are no surviving descendants or parent, to the descendants of the decedent's parents or either of them by representation (i.e., decedent's brothers and sisters, then nieces and nephews).
- d. If there are no surviving descendants, parent, or descendants of a parent, but the decedent is survived by one or more grandparents or descendants of grandparents:
 - i. Half of the estate passes to the decedent's paternal grandparents equally if both survive, or to the surviving paternal grandparent, or to the descendants of the decedent's paternal grandparents or either of them if both are deceased, by representation; and
 - ii. The other half passes to the decedent's maternal relatives in the same manner.
- e. If there is no surviving descendant, parent, or descendant of a parent, but the descendant is survived by one or more grandparents or descendants of grandparents on the paternal but not the maternal side, or on the maternal but not the paternal side, to the descendant's relatives on the side with one or more surviving members in the manner as described in subsection d above.
- f. If there is no surviving spouse, descendant, parents, descendant of a parent, grandparent, or descendant of a grandparent, but the intestate decedent has one deceased spouse who has one or more descendants who survive the decedent, to those descendants by representation or has more than one deceased spouse who has one or more descendants who survive the decedent, the estate is divided into as many equal shares as there are deceased spouses, each share passing to those descendants by representation.

3. An heir may renounce an interest and the surviving spouse make the election as in the estate where there is a Will.

Closing the Estate

A. After the claims have been paid and assets of the estate distributed, the estate is closed as follows:

1. For small estates⁽²⁾ in which Notice to Creditors **hasn't** been published, file Sworn Statement of Personal Representative Closing a Small Estate ([Form 16](#)). It may be filed with district court anytime after assets have been distributed [N.D.C.C. 30.1-23-03 and 30.1-23-04].
2. For any size estates in which Notice to Creditors has been published, file Personal Representative's Verified Statement to Close Estate ([Form 15](#)). It may be filed with district court anytime after assets have been distributed, but not before three months after the first publication of Notice to Creditors [N.D.C.C. 30.1-21-03].

B. If no proceedings involving the Personal Representative are pending in the court one year after either closing statement is filed, the appointment of the personal representative terminates.

Appendix A: Time Schedule for Informal Probate Proceedings

Times after which certain steps *may* be taken:

Five (5) days after decedent's death - informal proceedings may be started.

Thirty (30) days after decedent's death - Affidavit for Collection of Personal Property may be prepared and presented.

Anytime after appointment of personal representative - personal representative may publish Notice to Creditors.

Three (3) months after first publication of Notice to Creditors - personal representative must pay claims allowed in order of priority.

Three (3) months after first publication of Notice to Creditors, Closing Statement may be prepared and filed by the personal representative at this time if assets are distributed.

Anytime after assets of the estate have been distributed, Closing Statement may be prepared and filed by the personal representative in estates in which Notice to Creditors **hasn't** been published.

Times within which certain steps *must* be taken:

Within thirty (30) days after appointment of personal representative - Notice of Appointment of personal representative must be sent to heirs and devisees.

After appointment of Personal Representative - send copy of Application for Appointment of Personal Representative and list of names of devisees, surviving joint tenants, and heirs to the Department of Human Services.

Within sixty (60) days after the time for original presentation of claim has expired, if claim is to be disallowed, claim must be disallowed in writing or it will be deemed to be approved and must then be paid.

Within three (3) months after first publication of Notice to Creditors - creditors must file any claims against the estate within this time period.

Within six (6) months after appointment of Personal Representative or nine (9) months after the death of the decedent, whichever is later, inventory must be prepared and copies distributed to heirs/devisees or original filed with district court.

Within nine (9) months after decedent's death, if required, United States Estate Tax Return must be prepared and filed and tax paid.

Within fifteen (15) months after decedent's death, if required, North Dakota Estate Tax Return must be prepared and filed and tax paid.

Within three (3) years after decedent's death, creditors may file claims in estates in which Notice to Creditors **hasn't** been published.

Times after which certain steps *can't* be taken:

Three (3) months after first publication of Notice to Creditors, time for filing claims expires. No claims may be filed by creditors after this date.

Nine (9) months after decedent's death or six (6) months after probate of decedent's will, whichever occurs last, surviving spouse may no longer petition to take their elective share in the augmented estate after these time limits.

Three (3) years after decedent's death, generally no informal proceedings for appointment of personal representative may be started.

Three (3) years after decedent's death, time for filing claims expires in estates in which Notice to Creditors **wasn't** published. No claims may be filed by creditors after this date.

Appendix B

Checklist of Forms

You may use this sheet to list or check off the most common forms you may need to file in order to administer an estate. These forms can be purchased from any district court or obtained online at ndcourts.gov. Tax forms may be obtained free from the State Tax Commissioner and Internal Revenue Service.

If a form isn't in this guidebook, you'll need to either create the probate document yourself or retain an attorney to do so.

___ [Figure A](#) - Inventory of Decedent's Property

Forms for estate less than \$50,000, no real property

___ [Form 1](#) - Affidavit for Collection of Personal Property

Forms for estate greater than \$50,000, with a will

___ [Form 2](#) - Application Informal Probate/Appointment of Personal Representative

___ [Form 3](#) - Statement of Informal Probate and Appointment of Personal Representative

___ [Form 4](#) - Letters Testamentary

___ [Form 5](#) - Notice and Information to Heirs & Devisees

___ [Form 6](#) - Notice to Creditors

___ [Form 7](#) - Affidavit Forwarding Application to Human Services

___ [Form 8](#) - Affidavit for Access to Safe Deposit Box

___ [Form 9](#) - Waiver of Right of Appointment

___ [Form 10](#) - Inventory and Appraisal

___ [Form 11](#) - Personal Representative Deed of Distribution

___ [Form 13](#) - Personal Representative Assignment

___ [Form 14](#) - Record of Receipts & Disbursements

___ [Form 15](#) - Personal Representative Verified Statement to Close Estate

___ [Form 16](#) - Sworn Statement of Personal Representative to Close a Small Estate

Forms for estate greater than \$50,000, no will

___ [Form 17](#) - Application for Informal Appointment of Personal Representative in Intestacy

___ [Form 18](#) - Statement of Informal Appointment of Personal Representative

___ [Form 19](#) - Letters of Administration

___ [Form 5](#) - Notice and Information to Heirs and Devisees

___ [Form 6](#) - Notice to Creditors

___ [Form 7](#) - Affidavit Forwarding Petition to Human Services

___ [Form 8](#) - Affidavit for Access to Safe Deposit Box

___ [Form 9](#) - Waiver of Right of Appointment

___ [Form 10](#) - Inventory and Appraisalment

___ [Form 11](#) - Personal Representative Deed of Distribution

___ [Form 12](#) - Personal Representative's Deed (Sale of Real Property)

___ [Form 13](#) - Personal Representative's Assignment

___ [Form 14](#) - Record of Receipts & Disbursements

___ [Form 15](#) - Personal Representative Verified Statement to Close Estate

___ [Form 16](#) - Sworn Statement of Personal Representative to Close a Small Estate

Appendix C

Glossary of Terms

Augmented Estate - The value of the estate reduced by funeral and administration expenses, homestead, and family allowances and exemptions, and enforceable claims to which is added the value of certain specified property transfers and property owned by the decedent's surviving spouse at the decedent's death - see North Dakota Century Code §30.1-05-02(2). The surviving spouse may elect to take one-half of it in lieu of a share in the will or an intestate share.

Bond - A written agreement with an insurance company or other surety that, in the event that the personal representative causes a certain loss to the estate, the insurance company or surety will make up that loss.

Decedent - A deceased person; the person who died.

Descendant - All descendants of all generations, with the relationship of parent and child at each generation being determined by the definition of child and parent contained in N.D.C.C. Title 30.1. (See also N.D.C.C. Ch. 30.1-01, N.D.C.C. Ch. 30.1-04.)

Devisee - A person who takes the decedent's property through a provision in the Will.

Encumbrance - A claim or liability on property whose value is lessened because of that claim or liability; includes easements, mortgages, liens, etc.

Estate - All the property that the decedent owned or had an interest in on the date of death.

Heir - A person entitled to take the decedent's property according to the laws of intestate succession.

Informal Proceedings - Appointment of personal representative and administration of an estate with limited supervision by the court or notice to interested persons. However, an interested person can apply to the district court for formal proceedings or supervision by the court, in which case the court will determine how to proceed.

Interested Persons - Includes heirs, devisees, children, spouse, creditors, beneficiaries, and any others having a property right in or claim against the estate of a decedent which may be affected by the particular proceeding.

Intestate - A decedent who left no Will.

Intestate Succession - The laws that stipulate who is to take the decedent's property if the decedent dies without a Will or if the decedent's Will does not dispose of all the property.

Issue - A person's lineal descendants of all generations; includes a person's children, grandchildren, great grandchildren, etc.

Joint Tenants - Persons who own property with the equal right to share the property during their lives; on one person's death, the property passes to and is then owned by the survivor or survivors.

Lien - A claim against property to secure a debt.

Non-probate Property - That portion of the decedent's estate that passes automatically, such as to the surviving joint tenant(s) or to a designated beneficiary.

Personal Property - All property other than real property; includes money, stock, automobiles, household furnishings, etc.

Personal Representative - Person or persons appointed by the court to settle and distribute the estate of a decedent.

Probate Property - That portion of the decedent's estate which passes by decedent's Will or by the laws of intestate succession.

Property - Includes both real and personal property or any interest therein, and means anything that may be the subject of ownership.

Real Property - Land and things attached to the land such as buildings.

Security Interest - A claim against property that is held to make sure money is paid or that something is done; includes mortgages, liens, etc.

Successors - Persons, other than creditors, who are entitled to property of a decedent under the decedent's Will or under the laws of intestate succession.

Venue - The proper district court for the filing of the informal proceeding forms and for dealing with any problems that may be raised during the course of administration of the estate.

Endnotes:

[1.](#) Tax Laws are subject to change. Check with state and federal tax offices for current exemptions.

[2.](#) See N.D.C.C. 30.1-23-03 for the definition of "small estates".

INVENTORY	A PROBATE PROPERTY	B PROBATE PROPERTY	C NON- PROBATE* PROPERTY
DESCRIPTION OF PROPERTY	Owned Solely by Decedent	Owned by decedent and other(s) as tenants in common	Owned Solely by decedent or by decedent and other(s) as joint tenants
REAL PROPERTY (such as house, lake cabin, farmland, oil or mineral rights, life estate)	\$	\$	\$
PERSONAL PROPERTY	\$	\$	\$
A. Money, notes & cash (such as c.d.'s & bank accounts)			
B. Stocks and bonds	\$	\$	\$
C. Insurance	\$	\$	\$
D. Miscellaneous (such as vehicles, personal belongings, tools, farm equipment)	\$	\$	\$
SUBTOTALS	\$	\$	\$
Total value of property in Column A			\$
Total value of property in Column B			\$
Total value of property in Column C			\$
TOTAL VALUE OF ESTATE ASSETS			\$

*Non-probate means such property as life estates, trusts, insurance proceeds payable to a designated beneficiary and gifts in contemplation of death, as well as property held in joint tenancy.

Instructions For Form 1: Affidavit For Collection Of Personal Property Of The Decedent ([30.1-23-01](#))

Form 1 allows personal property to transfer without court involvement. You **don't** file the Affidavit for Collection of Personal Property of the Decedent with a North Dakota state district court.

You may use the Affidavit if the estate meets the following requirements:

- At least 30 days have passed since the person died;
- The total net value of the probated property (minus any debts or other encumbrances on the property) is less than \$50,000.00;
- There's **no** real property (real estate) that is part of the probated estate (*see* the personal property and real property definitions on Page 18 of this guidebook);
- No probate case is started or completed in a North Dakota state district court, a court of any other state, or a tribal court; and
- The heir claiming the personal property by affidavit is entitled to it by will or intestate succession.

The completed Affidavit is presented to whoever holds the personal property for transfer to the person entitled to receive it. **If you need a court order to transfer the property, you can't use this form.**

Note: You may wish to contact the holder of the personal property to find out if they will accept the Affidavit as a way to transfer the personal property to you. If the Affidavit won't be accepted, see options B.1. and B.2. on Page 4 of this guidebook.

If the deceased person **didn't** leave a will, you need to determine who the heirs of the estate are according to North Dakota's intestate succession laws. Intestate succession laws dictate who takes the deceased person's property if they died without a will. *See* Pages 8-9 of this guidebook for distribution of the estate if there's no will.

The Person Entitled To The Property By Will Or Intestate Succession Fills Out The Form

- Name, Address, and Telephone No. of Attorney:** Write "Not Applicable" in this section.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- State of:** Fill in the name of the state where you'll sign the Affidavit (i.e., North Dakota).
- County of:** Fill in the name of the county where you'll sign the Affidavit.
- _____, **being duly sworn . . . :** Fill in your name, the name of the person completing and signing this Affidavit.
- Paragraph 1:** Fill in the name of the deceased person and their date of death.
Because: Fill in whether you were named in the will as the heir or successor. If there's no will, fill in your relationship to the deceased person from Pages 8-9 of this guidebook.
- Paragraphs 2, 3, 4:** These statements **must** be true.
- Number 5(a):** This statement **must** be true.
- Number 5(b):** List the specific personal property you wish to collect.
Belonging to the deceased and presently held by: Fill in the name of the entity (business, etc.) holding the personal property you wish to collect.
- Signature Block:** This **must** be signed & dated in front of a notary public or clerk of court.

If you need assistance with the form, [consult a lawyer](#) licensed to practice in North Dakota.

AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY OF THE DECEDENT. (N.D.C.C. 30.1-23-01).

Name, Address, and Telephone No. of Attorney

Attorney _____ for:

In the Matter of the Estate of _____, Deceased.

AFFIDAVIT FOR COLLECTION OF PERSONAL PROPERTY OF THE DECEDENT

STATE OF _____ }

}
}
}
}

SS.

County of _____ }

_____, being duly sworn, states the following:

1. I am the successor of _____
who died on _____, _____, because:
2. The value of the entire estate of the decedent, wherever located, less liens and encumbrances, does not exceed \$50,000.
3. Thirty (30) days have elapsed since the death of the decedent.
4. No application or petition for the appointment of a personal representative of the decedent's estate is pending or has been granted in any jurisdiction.
5. (a) As successor of the decedent, I am entitled to the payment of any sums of money due and owing the decedent and to the delivery of all tangible personal property belonging to the decedent and to the delivery of all instruments evidencing a debt, obligation, stock or chose in action belonging to the decedent.
(b) As successor of the decedent, I am entitled to payment or delivery of*

belonging to the decedent and presently held by:

_____ Affiant Signature

_____ Affiant Address

_____ City, State, Zip Code

_____ Telephone Number

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

_____ Notary Public or Clerk of Court

If Notary, my Commission expires: _____ County, _____

*Specify debt, personal property, instrument, obligation, stock or chose in action.

Instructions For Form 2: Application For Informal Probate Of Will And Appointment Of A Personal Representative ([30.1-14-01](#))

You may use the **Application for Informal Probate of Will and Appointment of a Personal Representative (Form 2)** if the estate meets the following requirements:

- The deceased person left a will;
- You're on the priority list of people who can be appointed personal representative of the estate (see Page 5 of this guidebook for priority of appointment);
- There are no known disputes regarding the will or your appointment as personal representative;
- Less than 3 years have passed since the deceased person's date of death;
- All people above you and equal to you on the priority list **must** sign a Waiver of Appointment (see Waiver of Appointment ([Form 9](#)) and Page 5 of this guidebook).

Venue: You must decide the North Dakota county where you file your informal probate documents. This is called venue. Venue for the first probate proceeding after a person's death is:

1. The North Dakota county where the deceased person was domiciled (resided) at the time of death.
2. If the deceased person wasn't domiciled in North Dakota, any North Dakota county where property of the deceased person was located at the time of their death.

The Person Applying To Be The Personal Representative Fills Out Form 2

- Name, Address, and Telephone No. of Attorney:** Write "Not Applicable" in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Paragraph A(1):** Fill in your name (you're the person applying to be appointed personal representative). **Also**, state who you are on the priority list for appointment as personal representative to the deceased person (see Page 5 of the guidebook).
- Paragraph A(2):**
 - Fill in the deceased person's date of death and their age at the time of death.
 - Fill in the county and state where the deceased person was domiciled at the time of death.
 - Fill in the **name, age, relationship, and address** of the surviving spouse, children, heirs and devisees (see definition of "devisees" on Page 15 of this guidebook) of the deceased person.
- Paragraph A(3):** Fill in why venue is in this county (see Venue instructions above).
- Paragraph A(4):** If no other personal representative has been appointed after "**whose letters have not been terminated**", write "not applicable". If a personal representative has already been appointed, fill in the information.
- Paragraph A(5):** If you haven't received any demands, after "**except as follows**", write "not applicable". If you've received any demands, fill in the name(s) of the entity (business) or person.
- Paragraph A(6):** This statement must be true.
- Paragraphs B(1)(2) and (3):** These statements must be true.
- Paragraph C(1):** Fill in the month, day, and year in which the will was executed (signed).
- Paragraph C(2):** Fill in your name, address, and priority for appointment (see Page 5 of this guidebook).
- Signature Block:** This **must** be signed & dated in front of a notary public or clerk of court.

The Person Applying To Be The Personal Representative Fills Out Form 3: Statement Of Informal Probate Of Will And Appointment Of Personal Representative

- Name, Address, and Telephone No. of Attorney:** Write “Not Applicable” in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Fill in **only** the information you know on the remainder of the form. Leave blank any information you don’t know.
- Don’t** sign or date this form. If the judge approves your Application (Form 2), the judge signs and dates this form.

The Person Applying To Be The Personal Representative Fills Out Form 4: Letters Testamentary

The **Letters Testamentary** is the document which, once signed by the judge, gives you the power to act as personal representative for the estate.

- Name, Address, and Telephone No. of Attorney:** Write “Not Applicable” in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Only Fill Out And Sign** the second paragraph section. The rest will be filled out by the court.

Filing The Documents

File the following documents with the court:

1. Form 2: Application for Informal Probate of Will and Appointment of a Personal Representative;
2. Form 3: Statement of Informal Probate of Will and Appointment of a Personal Representative;
3. Form 4: Letters Testamentary; and
4. Original Will of deceased person.

You may also need to file the following document(s):

1. Form 9: Waiver of Right to Appointment (for every person equal or higher in priority for appointment to you);
2. Certified Copy of Death Certificate.

Pay the filing fee: At the time you file your completed informal probate forms, you’re required to pay a filing fee of \$80.00 to the North Dakota Clerk of District Court.

If paying the filing fee is a financial hardship, you may ask the court to waive the \$80.00 filing fee.

The Filing Fee Waiver Request – District Court/Small Claims Court form set is available at ndcourts.gov/legal-self-help/fee-waiver.

The completed Filing Fee Waiver Request forms are filed at the same time as your completed informal probate forms.

APPLICATION FOR INFORMAL PROBATE OF WILL AND APPOINTMENT OF A PERSONAL REPRESENTATIVE. (N.D.C.C. 30.1-14-01).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

APPLICATION FOR INFORMAL PROBATE OF WILL AND APPOINTMENT OF A PERSONAL REPRESENTATIVE

I, as the applicant, provide the following information:

A. (1) I am _____, (state name and interest of applicant)

(2) Decedent died on _____, _____ at the age of _____ years.

At the time of death, the decedent was domiciled in _____ County, _____ (State), and is survived by the following persons who are the surviving spouse, children, heirs and devisees of the decedent.

Name	Age	Relationship	Address
------	-----	--------------	---------

(3) Venue for this case is in this County because _____

(4) No personal representative has been appointed whose letters have not been terminated, except _____, whose address is _____, was appointed personal representative on _____, _____, in _____ County, _____ (State).

(5) I have not received any demand for notice and am unaware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere, except as follows: _____

(6) The time limit for informal probate and appointment has not expired.

B. (1) The original or an authenticated copy of decedent's last will, if not already in the possession of the court, is filed with this application.

(2) That I, to the best of my knowledge, believe the will to have been validly executed.

(3) After the exercise of reasonable diligence, I am unaware of any instrument revoking the will; and I believe the instrument is the decedent's last will.

C. (1) The original of decedent's will was executed on _____ (Month/Day/Year).

(2) The name, address, and priority for appointment of the person whose appointment is sought are as follows: _____

I request the above described will be admitted to informal probate, and that I be appointed personal representative of the decedent's estate.

Applicant Signature

Address

Telephone Number

STATE OF _____ }
 } ss.
County of _____ }

_____, being duly sworn, states as follows:

That I am the applicant in the foregoing application; that I have read the same and believe the statements therein to be true to the best of my knowledge.

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

Notary Public or Clerk of Court

If Notary, my commission expires: _____ County, _____

STATEMENT OF INFORMAL PROBATE OF WILL AND APPOINTMENT OF A PERSONAL REPRESENTATIVE. (N.D.C.C. 30.1-14-03, 30.1-14-08)

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

**STATEMENT OF INFORMAL PROBATE OF WILL
AND APPOINTMENT OF A PERSONAL REPRESENTATIVE**

The application of _____ for informal probate of the last will of _____, deceased, and the appointment of a personal representative having come before the Court this _____ day of _____, 20_____, and it appearing that:

1. The decedent died on _____, 20_____, and at least one hundred twenty (120) hours have elapsed since the decedent's death; and
 - (a) The application is complete;
 - (b) The application contains the applicant's oath or affirmation that the statements contained therein are true to the best of the applicant's knowledge and belief; and that all of the statements required by law to be made in the application have been made;
 - (c) The applicant appears to be an interested person as defined by the laws of this state;
 - (d) On the basis of the statements in the application, venue is proper;
 - (e) The will to which this appointment relates appears to be the original, duly executed and apparently unrevoked, will of the decedent and is in the court's possession;
 - (f) Any notice required by the laws of this state has been given and the application is not within Section N.D.C.C. 30.1-14-04.
 - (g) From the statements in the application it appears that the person whose appointment is sought is entitled to appointment by priority;
 - (h) The time limit for the original probate of this will has not expired.

2. A personal representative has not been appointed in another county in this state and neither the will subject of this application nor any other will of the decedent has been the subject of a previous probate order.

NOW, THEREFORE, IT IS ORDERED as follows:

1. The application for informal probate is granted and the will of _____ dated _____, _____, is admitted to informal probate.
2. The application for informal appointment of a personal representative is granted and _____ is appointed as personal representative of the estate of _____, deceased, without bond (or upon giving bond in the amount of \$ _____).
3. Letters Testamentary shall be issued to _____ upon qualification and acceptance.

Dated this _____ day of _____, _____.

Judge/Clerk

LETTERS TESTAMENTARY. (Informal Probate.) (N.D.C.C. 30.1-14-01).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

LETTERS TESTAMENTARY
(Informal Probate)

The will of _____ having been admitted to informal probate,
_____ is appointed personal representative of the estate.

WITNESS: Hon. _____, Judge/Clerk of the District Court, County of
_____, State of North Dakota, with the seal of the Court affixed the _____ day
of _____, 20_____.

Judge/ Clerk Signature

STATE OF _____ }
 } ss.
County of _____ }

I, _____, accept the duties of personal representative of the estate of
_____, deceased, and will perform, according to law, the duties of personal
representative of the estate of _____, deceased.

Personal Representative Signature

STATE OF NORTH DAKOTA }
 } ss.
County of _____ }

I, the undersigned, _____ of the District Court of
_____ County certify that the foregoing is a full, true, and correct copy of the original Letters on file
with the Court and that on the date of this certificate they were in full force and effect.

Dated _____, _____, _____

_____, _____ of Court

NOTICE AND INFORMATION TO HEIRS AND DEVISEES. (N.D.C.C. 30.1-18-05).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

NOTICE AND INFORMATION TO HEIRS AND DEVISEES

To the heirs and devisees of the above named estate:

1. The decedent, _____, died on or about the _____ day of _____, _____.
2. You have or may have an interest in the estate of the decedent:
3. _____, whose address is _____

 was appointed personal representative of the estate on the _____ day of _____,
 _____, and filed a bond in the amount of \$ _____.
4. Papers and information relating to the estate are on file in the District Court in _____ County, North Dakota, at _____ (city), North Dakota; and that fewer than thirty (30) days have passed since the date of appointment of the personal representative.
5. This estate is being administered by the Personal Representative under the Uniform Probate Code without supervision by the Court. All recipients of this Notice are further informed that each of them is entitled to information regarding the administration of this estate from the Personal Representative.
6. All recipients are further notified that any of them may petition the court in any matter relating to this estate, including distribution of assets and expenses of administration.

Dated this _____ day of _____, _____.

Personal Representative

Address

NOTICE TO CREDITORS. (N.D.C.C. 30.1-19-01).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

NOTICE TO CREDITORS

NOTICE IS HEREBY GIVEN that the undersigned has been appointed personal representative of the above estate. All persons having claims against the deceased are required to present their claims within three months after the date of the first publication or mailing of this notice or the claims will be forever barred. Claims must either be presented to _____, personal representative of the estate, at _____ or filed with the Court.

Dated this _____ day of _____.

Personal Representative

Address

Attorney _____ for _____

First publication on the _____ day of _____.

IN DISTRICT COURT

IN THE MATTER OF THE ESTATE OF _____, DECEASED.

**AFFIDAVIT FORWARDING COPY OF APPLICATION
TO DEPARTMENT OF HUMAN SERVICES**

STATE OF NORTH DAKOTA }
 } ss.
County of _____ }

_____, being first duly sworn on oath,
deposes and says that I am the _____ of the Estate of _____, Deceased;
and

That I did forward copies of the application commencing probate proceedings, together with a list of the names of the legatees, devisees, surviving joint tenants, and heirs at law to the estate to the North Dakota Department of Human Services, State Capitol, Bismarck, North Dakota 58505, pursuant to Sections 50-06.3-07 and 50-24.1-07, N.D.C.C..

Dated _____, _____.

Personal Representative Signature

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

Notary Public

_____, County, North Dakota

My commission expires: _____

STATE OF NORTH DAKOTA }
 }
County of _____ } ss.

IN THE MATTER OF THE ESTATE OF _____, DECEASED.

AFFIDAVIT FOR ACCESS TO SAFE DEPOSIT BOX

To: _____ (bank or trust company)

1. _____, lessee of safety deposit box number _____ died on _____
_____.

2. The box may contain (check all that apply)
_____ the will of the lessee;
_____ the deed to a burial lot or a document containing burial instructions for the lessee; or
_____ property belonging to the estate of the lessee.

3. I am an interested person and wish to open the box:
(1) To conduct a will search;
(2) To obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or
(3) To make an inventory of the box.

4. There has been no application for, or appointment of, a personal representative or administrator of the decedent's estate.

5. No contents of the box, other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements, will be removed.

Dated this _____ day of _____, _____.

Affiant

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

Notary Public

_____, County, North Dakota

My commission expires: _____

WAIVER OF RIGHT TO APPOINTMENT. (N.D.C.C. 30.1-13-03).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

WAIVER OF RIGHT TO APPOINTMENT

I, _____, am the _____ of and one of the heirs at law of the above named decedent and have an equal priority to be appointed personal representative of the estate of the decedent. I waive my right to such appointment and request appointment by the Court of _____, to act as personal representative, without bond.

This waiver is filed with the Court pursuant to N.D.C.C. 30.1-13-03.

Dated this _____ day of _____, 20_____.

Affiant

Address: _____

Telephone: _____

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

Notary Public

_____, County, _____

My commission expires: _____

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

INVENTORY AND APPRAISEMENT

_____, the Personal Representative of the Estate of the above-named Decedent, states that the following inventory contains a true statement of all the property owned by the Decedent at the time of death on _____, so far as is known to the Personal Representative.

Further, the values set forth for each item are the fair market values of the property as of the date of the decedent's death, and the inventory sets forth the type and amount of any encumbrances that exist with reference to any item.

REAL PROPERTY OWNED SOLELY BY DECEDENT:
(provide legal description)

\$ _____

REAL PROPERTY OWNED JOINTLY BY DECEDENT:
(provide legal description)

\$ _____

TOTAL VALUE OF REAL PROPERTY

\$ _____

PERSONAL PROPERTY OWNED SOLELY BY DECEDENT

\$ _____

PERSONAL PROPERTY OWNED JOINTLY BY DECEDENT

\$ _____

TOTAL VALUE OF PERSONAL PROPERTY

\$ _____

GROSS ESTATE

Real Property

\$ _____

Personal Property

\$ _____

\$ _____

LIENS, MORTGAGES, ENCUMBRANCES

\$ _____

TOTAL VALUE OF NET ESTATE IN NORTH DAKOTA

\$ _____

Dated this _____ day of _____, 20____.

STATE OF)
)
COUNTY OF) ss.

_____, being first duly sworn, says that I am the Personal Representative of the Estate of the above-named Decedent; that the foregoing Inventory and Appraisal contains a true statement of all the estate of Decedent that has come to my knowledge or possession and particularly of all money belonging to the Decedent and of all just claims of the Decedent against me; and of all liens, mortgages, or other encumbrances on the real and personal property of Decedent.

Personal Representative

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

Notary Public

_____ County, _____

My Commission Expires: _____

Instructions For Form 11: Personal Representative's Deed of Distribution

Real property is distributed to heirs and devisees by Form 11: Personal Representative's Deed of Distribution.

The Personal Representative's Deed of Distribution is recorded with the County Recorder's Office in the county where the real property is located.

This deed **must** be recorded along **with** a certified copy of a Personal Representative's Letters Testamentary (Form 4) or Letters of Administration (Form 19), **certified on or after the date of the deed.**

The Personal Representative Fills Out The Form

Page 1

- Paragraph starting "This Indenture. . . ."
 - Fill in the day, month, and year the deed is signed;
 - Fill in the Personal Representative's name;
 - Fill in the name of the estate (name of deceased person);
 - The large blank area is for you to list the names and addresses of each person who will be receiving a portion of the real property (Grantee(s)).
- Paragraph starting "Whereas, Grantor. . . ."
 - Fill in the name of the estate (name of deceased person).
- Paragraph starting "Whereas, Grantee(s). . . ."
 - Review.
- Paragraph starting "Now Therefore. . . ."
 - List the name of each person who is receiving a portion of the real property (this is the same as paragraph 1) and indicate what percentage they are receiving.

Page 2

- Top of Page 2:
 - Fill in the North Dakota county where the real property is located;
 - Fill in the **full** legal description. (You can usually find this on a title or another deed – don't use the description from a tax statement – that isn't a full legal description).
- Signature Line:
 - The Grantor (Personal Representative) signs on the signature line.
 - Under the signature line, list the name of the deceased person as you have on page 1.
- The deed **must** be signed & dated in front of a notary public or clerk of court.

The Grantee or Agent Signs and Dates the Consideration Paragraph.

The Consideration paragraph is located at the bottom of page 2. This form indicates the deed is a transfer which resulted as a settlement of an estate under [N.D.C.C. 11-18-02.2\(6\)\(d\)](#). If that statement **isn't correct for your situation**, you **can't** use this form.

This is all of the information the ND Legal Self Help Center can provide to you about the deed of distribution. Assistance with deed forms is outside the scope of the services the Center can provide.

If you need assistance with the form or have questions about whether this form is correct for your situation, [consult a lawyer](#) licensed to practice in North Dakota.

Personal Representative's Deed of Distribution

This Indenture, made this _____ day of _____, 20____, by and between _____, personal representative of the estate of _____, deceased, hereinafter referred to as Grantor, and

hereinafter referred to as Grantee(s), **Witnesseth:**

Whereas, Grantor is the duly appointed and acting personal representative of the estate of _____, deceased, and

Whereas, Grantee(s) is/are entitled to distribution of certain real property hereinafter described from the state of the decedent.

Now, Therefore, Grantor does grant, convey, transfer and distribute all of the right, title, and interest of the decedent and the estate to Grantee(s) in the following proportions:

in and to the following described real property situated in _____ County, North Dakota (*full legal description*):

together with the appurtenances thereto:

Witness, the hand of the Grantor:

Personal Representative of the Estate of _____, Deceased

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, personal representative of the estate of _____, deceased.

Notary Public
_____, County, _____
My Commission Expires: _____

I certify that the requirement for a report or statement of full consideration paid does not apply because this deed is a transfer which resulted as a settlement of an estate. (N.D.C.C. 11-18-02.2(6)(d)).

Signed: _____
(Grantee or Agent)

Date: _____

Instructions For Form 12: Personal Representative's Deed (Sale of Real Property)

Real property that is sold by a Personal Representative is transferred by Form 12: Personal Representative's Deed.

The Personal Representative's Deed is recorded with the County Recorder's Office in the county where the real property is located.

This deed **must** be recorded along **with** a certified copy of a Personal Representative's Letters Testamentary (Form 4) or Letters of Administration (Form 19), **certified on or after the date of the deed.**

The Personal Representative Fills Out The Form

Page 1

- Paragraph starting "This Indenture. . . ."
 - Fill in the day, month, and year the deed is signed;
 - Fill in the Personal Representative's name;
 - Fill in the name of the estate (name of deceased person);
 - Fill in the name of the person(s) who are buying the land (Grantee(s));
 - Fill in the post office address(es) of the Grantee(s).
- Paragraph starting "Whereas, Grantor. . . ."
 - Fill in the name of the estate (name of deceased person).
- Paragraph starting "Whereas, Grantee(s). . . ."
 - Review.
- Paragraph starting "Now Therefore. . . ."
 - List the sum (dollar amount) the Grantee(s) is/are paying for the real property;
 - List the county where the real property is located;
 - List the state where the real property is located
 - The large blank area at the bottom is for you to fill in the **full** legal description. (You can usually find this on a title or another deed – don't use the description from a tax statement – that isn't a full description).

Page 2

- Signature Line:**
 - The Grantor (Personal Representative) signs on the signature line.
 - Under the signature line, list the name of the deceased person as you have on page 1.
- The deed **must** be signed & dated in front of a notary public or clerk of court.

The Grantee or Agent Signs and Dates the Consideration Paragraph.

The Consideration paragraph is located at the bottom of page 2. You must check and complete the correct box for your situation.

1st box: Check this box and enter the amount for which the real property was sold.

Or

2nd box: Check this box if you are certifying this is a sale which resulted as a settlement of an estate and is exempted under [N.D.C.C. 11-18-02.2\(6\)\(d\)](#). (If that statement **isn't correct for your situation**, you **can't** use this form.)

This is all of the information the ND Legal Self Help Center can provide to you about the Personal Representative's Deed. Assistance with deed forms is outside the scope of the services the Center can provide.

If you need assistance with the form or have questions about whether this form is correct for your situation, [consult a lawyer](#) licensed to practice in North Dakota.

**Personal Representative's Deed
(Sale of Real Property)**

This Indenture, made this _____ day of _____, 20____, by and between _____, personal representative of the estate of _____, deceased (Grantor), and _____, Grantee(s) whose post office address is _____.

Witnesseth:

Whereas, Grantor is the duly appointed and acting personal representative of the estate of _____, deceased, and

Whereas, Grantee(s) desires to purchase decedent's interest in certain real property hereinafter described;

Now, Therefore, Grantor, in consideration of the sum of _____ does grant, convey, transfer and sell to Grantee(s) all of the right, title, and interest of the decedent and the estate in and to the following described real property situated in the County of _____, State of _____ (full legal description):

Witness, the hand of the Grantor:

Personal Representative of the Estate of
_____, Deceased

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
20____, by _____, personal representative of the
estate of _____, deceased.

Notary Public
_____, County, _____
My Commission Expires: _____

(You **must** check and complete a box. Check only **one** box (☑))

I certify that the full consideration paid for the property described in this deed is
\$_____.

Or

I certify that the requirement for a report or statement of full consideration paid does not apply
because this deed is exempted by N.D.C.C. 11-18-02.2(6)(d).

Signed: _____
(Grantee or Agent)

Date: _____

PERSONAL REPRESENTATIVE'S ASSIGNMENT. (N.D.C.C. 30.1-18-03).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

PERSONAL REPRESENTATIVE'S ASSIGNMENT

THIS INDENTURE, made this _____ day of _____, _____, by and between _____, personal representative _____, of the Estate of _____, deceased, hereinafter referred to as Assignor, whether one or more, and _____, whose post office address is _____, hereinafter referred to as Assignee, whether one or more, WITNESSETH:

WHEREAS, Assignor is the duly appointed and acting personal representative of the Estate of _____, deceased, and

WHEREAS, Assignee is entitled to distribution of certain personal property hereinafter described from the Estate of the decedent,

NOW, THEREFORE, Assignor does assign, transfer, release and distribute to Assignee the following:

PERSONAL REPRESENTATIVE'S ASSIGNMENT. (N.D.C.C. 30.1-18-03).

WITNESS, the hand of the Assignor:

Personal Representative _____ of the
Estate of _____,
Deceased

STATE OF _____ }
 } ss.
County of _____ }

The foregoing instrument was acknowledged before me this _____, day of _____, _____, by _____, personal representative _____ of the estate of _____, deceased.

Notary Public
_____, County, _____
My commission expires: _____

PERSONAL REPRESENTATIVE'S VERIFIED STATEMENT TO CLOSE THE ESTATE. (N.D.C.C. 30.1-21-03).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

PERSONAL REPRESENTATIVE'S VERIFIED STATEMENT TO CLOSE THE ESTATE

STATE OF _____ }
County of _____ } ss.

_____, being duly sworn, states as follows:

- 1. I am the duly appointed, qualified and acting personal representative of the above estate.
- 2. I have published notice to creditors as provided in N.D.C.C. 30.1-19-01 and have filed proof of publication of such notice. The first publication occurred more than three months prior to the date of this statement.
- 3. I have fully administered the estate of the decedent by making payment, settlement or other disposition of all claims which were presented, expenses of administration and estate, inheritance and other death taxes except as follows:
 - 4. I have distributed the assets of the estate to the persons entitled to the assets in the amount and manner to which they are entitled. (By agreement with the distributees the assets were distributed subject to outstanding liabilities of the estate.)
 - 5. I have sent a copy of this statement to all distributees of the estate (and to all creditors or claimants of the estate whom I am aware whose claims are neither paid nor barred), and I have furnished a full account in writing of my administration to the distributees whose interests are affected thereby.
 - 6. This statement is filed for the purpose of closing this estate and terminating the appointment of the undersigned pursuant to N.D.C.C. 30.1-21-03.

Personal Representative

STATE OF _____ }
 }
 County of _____ } ss.

_____, being first duly sworn,
 says that ___he is the personal representative of the above estate and that ___he has read the foregoing statements and knows the
 contents thereof, and verily believes the statements made therein to be true.

 Signature

 Address

 City, State, Zip Code

 Telephone Number

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

 Notary Public

_____ County, _____

My Commission expires:_____

SWORN STATEMENT OF PERSONAL REPRESENTATIVE CLOSING A SMALL ESTATE. (N.D.C.C. 30.1-23-04).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

**SWORN STATEMENT OF PERSONAL REPRESENTATIVE
CLOSING A SMALL ESTATE**

STATE OF _____ }
 } }
County of _____ }

ss.

_____, being duly sworn, states the following under oath:

- 1. I am the duly appointed, qualified and acting personal representative of the above estate, appointed on _____, _____, in the above Court.
- 2. To the best of my knowledge, the value of the entire estate, less liens and encumbrances, did not exceed the homestead allowance, exempt property, family allowance, costs and expenses of administration, reasonable funeral expenses, and the reasonable, necessary medical and hospital expenses of the last illness of the decedent.
- 3. I have fully administered the estate by disbursing and distributing it to the persons entitled thereto.
- 4. I have sent a copy of the closing statement to all distributees of the estate and to all creditors or other claimants of whom I am aware whose claims are neither paid nor barred and have furnished a full account in writing of personal representative's administration to the distributees whose interests are affected.
- 5. No order of the Court prohibits closing of the estate and the estate is not being administered by a supervised personal representative.

This statement is filed for the purpose of closing the above estate and terminating my appointment as personal representative pursuant to N.D.C.C. 30.1-23-04.

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

Notary Public

_____ County, _____

My commission expires: _____

Instructions For Form 17: Application For Informal Appointment Of Personal Representative In Intestacy ([30.1-14-01](#))

You may use the Application for Informal Appointment of Personal Representative in Intestacy (Form 17) if the estate meets the following requirements:

- The deceased person **didn't** leave a will;
- You're on the priority list of people who can be appointed personal representative of the estate (see Page 5 of this guidebook for priority of appointment);
- There are no known disputes regarding your appointment as personal representative;
- Less than 3 years have passed since the deceased person's date of death;
- All people above you and equal to you on the priority list **must** sign a Waiver of Appointment (see Waiver of Appointment (Form 9) and Page 5 of this guidebook).

Venue: You must decide the North Dakota county where you file your informal probate documents. This is called venue. Venue for the first probate proceeding after a person's death is:

1. The North Dakota county where the deceased person was domiciled (resided) at the time of death.
2. If the deceased person wasn't domiciled in North Dakota, any North Dakota county where property of the deceased person was located at the time of their death.

The Person Applying To Be The Personal Representative Fills Out Form 17

- Name, Address, and Telephone No. of Attorney:** Write "Not Applicable" in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you'll file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Paragraph A(1):** Fill in your name (you're the person applying to be appointed personal representative). **Also**, state who you are on the priority list for appointment as personal representative to the deceased person (see Page 5 of the guidebook).
- Paragraph A(2):**
 - Fill in the deceased person's date of death and their age at the time of death.
 - Fill in the county and state where the deceased person was domiciled at the time of death.
 - Fill in the **name, age, relationship, and address** of the surviving spouse, children, heirs and devisees (see definition of "devisees" on Page 15 of this guidebook) of the deceased person.
- Paragraph A(3):** Fill in why venue is in this county (see Venue instructions above).
- Paragraph A(4):** If no other personal representative has been appointed after "**whose letters have not been terminated**", write "not applicable". If a personal representative has already been appointed, fill in the information.
- Paragraph A(5):** If you haven't received any demands, after "**except as follows**", write "not applicable". If you've received any demands, fill in the name(s) of the entity (business) or person.
- Paragraph A(6):** This statement must be true.
- Paragraph B (line 1):** Review [N.D.C.C. 30.1-14-01\(d\)](#).
- Paragraphs B(1):** Review [N.D.C.C. 30.1-02-01](#). After "**is not being probated because**" write "Not applicable" if there is **no** unrevoked will. If there is a will, explain why the will isn't being probated.

- Paragraph B(2):** Fill in your priority for appointment as personal representative (see Page 5 of the guidebook). If there are no other people who have higher or equal priority, write “none”. If there are other people who have higher or equal priority, list their names.
- After “WHEREFORE, I request that”:** Fill in your name.
- Signature Block:** This **must** be signed & dated in front of a notary public or clerk of court.

The Person Applying To Be The Personal Representative Fills Out Form 18: Statement Of Informal Appointment Of A Personal Representative - Intestacy

- Name, Address, and Telephone No. of Attorney:** Write “Not Applicable” in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Fill in **only** the information you know on the remainder of the form. Leave blank any information you don’t know.
- Don’t** sign or date this form. If the judge approves your Application (Form 17), the judge signs and dates this form.

The Person Applying To Be The Personal Representative Fills Out Form 19: Letters Of Administration

The **Letters of Administration** is the document which, once signed by the judge, gives you the power to act as personal representative for the estate.

- Name, Address, and Telephone No. of Attorney:** Write “Not Applicable” in this section.
- Probate No.:** Leave blank – the Clerk of Court assigns the probate case number upon filing.
- County:** Fill in the North Dakota county where you file this probate case.
- In the Matter of the Estate of . . . :** Fill in the name of the deceased person.
- Only Fill Out And Sign** the second paragraph section. The rest will be filled out by the court.

Filing The Documents

File the following documents with the court:

1. Form 17: Application for Informal Appointment of Personal Representative in Intestacy;
2. Form 18: Statement of Informal Appointment of a Personal Representative - Intestacy; and
3. Form 19: Letters of Administration.

You may also need to file the following document(s):

1. Form 9: Waiver of Right to Appointment (for every person equal or higher in priority for appointment to you);
2. Certified Copy of Death Certificate.

Pay the filing fee: At the time you file your completed informal probate forms, you’re required to pay a filing fee of \$80.00 to the North Dakota Clerk of District Court. If paying the filing fee is a financial hardship, you may ask the court to waive the \$80.00 filing fee.

The Filing Fee Waiver Request – District Court/Small Claims Court form set is available at ndcourts.gov/legal-self-help/fee-waiver.

The completed Filing Fee Waiver Request forms are filed at the same time as your completed informal probate forms.

APPLICATION FOR INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE IN INTESTACY. (N.D.C.C. 30.1-14-01).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

APPLICATION FOR INFORMAL APPOINTMENT OF PERSONAL REPRESENTATIVE IN INTESTACY

I, as the applicant, provide the following information:

A. (1) I am _____ (state name and interest of applicant)

(2) Decedent died on _____, _____, at the age of _____ years. At the time of death, the decedent was domiciled in _____ County, _____ (state), and is survived by the following persons who are the surviving spouse, children, heirs and devisees of decedent.

Name	Age	Relationship	Address
------	-----	--------------	---------

(3) Venue for this case is in this County because _____

(4) No personal representative has been appointed whose letters have not been terminated, except _____, whose address is _____, was appointed personal representative on _____, _____, in _____ County, _____ (state).

(5) I have not received any demand for notice and am unaware of a demand for notice of any probate or appointment proceeding concerning the decedent that may have been filed in this state or elsewhere, except as follows: _____

(6) The time limit for informal appointment has not expired.

B. I further state pursuant to Section N.D.C.C. 30.1-14-01(d):

(1) That after the exercise of reasonable diligence, I am unaware of any unrevoked testamentary instrument relating to the property having a situs in this state under Section 30.1-02-01, except such instrument as attached hereto, or described herein, is not being probated, because _____

(2) The priority of the person whose appointment is sought is _____, and the names of any other persons having a prior or equal right to the appointment under Section 30.1-13-03 are as follows: _____

WHEREFORE, I request that _____ be appointed personal representative of decedent's estate and that letters of administration be issued to the appointee upon qualification and acceptance.

STATE OF _____ }
County of _____ } ss.

_____, the applicant above, being duly sworn, states as follows:

I have read the application and believe the statements therein to be true to the best of my knowledge.

Applicant Signature

Address

Telephone Number

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

Notary Public

My Commission expires: _____, County, _____

STATEMENT OF INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE - INTESTACY. (N.D.C.C. 30.1-14-08)

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

STATEMENT OF INFORMAL APPOINTMENT OF A PERSONAL REPRESENTATIVE - INTESTACY

The application of _____ for informal appointment of a personal representative having come before the Court this _____ day of _____, _____, and it appearing that:

1. The decedent died on _____, _____, and at least one hundred twenty (120) hours have elapsed since the decedent's death; and
 - a. The application is complete, in that;
 - b. The application contains the applicant's oath or affirmation that the statements contained therein are true to the best of the applicant's knowledge and belief; and that all of the statements required by law to be made in the application have been made;
 - c. The applicant appears to be an interested person as defined by the laws of this state;
 - d. On the basis of the statements in the application, venue is proper;
 - e. Any notice required by the laws of this state has been given;
 - f. That from the statements in the application, it appears that the person whose appointment is sought has priority entitling the appointment.

NOW, THEREFORE, IT IS ORDERED, that:

1. _____ is informally appointed personal representative of the estate of _____ deceased, without bond (or upon giving bond in the amount of \$ _____).
2. Letters of Administration shall be issued to _____ upon qualification and acceptance.

Dated this _____ day of _____, _____.

Judge/Clerk

LETTERS OF ADMINISTRATION. (N.D.C.C. 30.1-14-07).

Name, Address, and Telephone No. of Attorney

Space below for use of District Court only

Probate No. _____

Attorney _____ for:

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF NORTH DAKOTA

In the Matter of the Estate of _____, Deceased.

LETTERS OF ADMINISTRATION

_____ is appointed personal representative of the estate of _____, deceased.

WITNESS: Hon. _____, Judge/Clerk of the above entitled Court, with the seal thereof affixed the _____ day of _____, _____.

Judge/Clerk Signature

STATE OF NORTH DAKOTA }
 } ss.
County of _____ }

I accept the duties of personal representative of the estate of _____, deceased, and will perform, according to law, the duties of the personal representative.

Date _____

Personal Representative Signature

STATE OF NORTH DAKOTA }
 } ss.
County of _____ }

CERTIFICATE

I, the undersigned, _____ of the District Court of _____ County, certify that the foregoing is a full, true and correct copy of the original Letters on File with the Court and that on the Date of this certificate they were in full force and effect.

Dated _____, _____.

_____ of Court