

# **RESPONSIBILITIES OF EXECUTOR**

## **NOTICE OF PROBATE OF WILL (PURSUANT TO R 4:80-6):**

Within 60 days after the date of the probate of a Will the Executor shall notify all next of kin and beneficiaries under the Will.

\* \* \* These beneficiaries and next of kin are to be notified at their last known address.

\* \* \* Said notice to be in writing.

\* \* \* Indicate *your* name, address and a statement that a copy of the Will shall be furnished upon request.

\* \* \* Within 10 days of completing the above, a proof of mailing (copy of letter sent and Post Office receipt of mailing), is to be filed with the Sussex County Surrogate Court. A filing fee of \$5.00 per page is due and payable to the *Sussex County Surrogate*.

**NOTE:** If the names or addresses of any next of kin and beneficiaries are not known or cannot be reasonably determined, then a notice of probate of the Will shall be published in the newspaper of general circulation in the County, naming or identifying those persons as having a possible interest in the probate estate.

**NOTE:** If the Will indicates a present or future charitable use or purpose, like notice and a copy of the Will shall be mailed to the Attorney General.

Office of the Attorney General  
Hughes Justice Complex  
Po Box 080  
Trenton, New Jersey 08625

**FEE:** The check for the \$5.00 per page fee should be made payable to the *Surrogate of Sussex County*. If fee receipt requested, provide a stamped, self-addressed, legal sized envelope.

Gary R. Chiusano  
Sussex County Surrogate  
3 High Street, Suite 1  
Newton, New Jersey 07860

**New Jersey Department of Law and Public Safety**  
**Division of Law**  
**Treasury – Revenue, Estates and Taxation Section**  
**Charitable Trust Unit**

**FAQs – Frequently Asked Questions**

**1) Should the Attorney General be notified of all estate and trust matters involving a charitable gift?**

Yes, the Attorney General's Office should be notified and kept apprised of any estate or trust matters which involve or may affect a charity or a charitable interest.

**2) What should be submitted to the Attorney General for review of an estate and/or trust accounting?**

An accounting submitted to the Attorney General's office for approval should generally follow the requirements of Rule 4:87-3 of the New Jersey Court Rules, and must include all backup documentation. Submissions should also have each category listed in R. 4:87-3 on a separate schedule for ease of review. In particular, the accounting should include, at a minimum, the following items:

- a clear (legible) copy of the will, including any codicils;
- a Notice of Probate (Rule 4:80-6);
- a complete list of all estate assets as of the date of death;
- a complete list of all income earned by the estate;
- a complete list of any increases or changes in the corpus;
- a complete list of all disbursements and/or expenses, with copies of receipts to support expenses;
- if a reserve is listed, please provide a breakdown of estimated expenses;
- a proposed distribution schedule, with any applicable tax apportionment clearly indicated;
- a calculation of executor's or co-executors' commissions;
- affidavit of attorneys' fees;
- a copy of release and refunding bonds executed by the charities for all distributions made and remaining to be made; and
- if a New Jersey Transfer Inheritance Tax return is filed with the New Jersey Division of Taxation, please include a copy of such return. If no return was required to be filed with the New Jersey Division of Taxation, and the bequest is a residual bequest, please provide a proforma return in the package submitted.

Please send all documentation electronically to our e-mail address at [charitiesunit@law.njoag.gov](mailto:charitiesunit@law.njoag.gov) (preferred) or mail it to the address above. After receipt of this information, we may request additional documentation or information in order to complete our review.

Please note that bank statements, check books, ledgers, and tax returns by themselves are not accepted in lieu of an accounting.

**3) How do I serve the Attorney General in the event of litigation involving a charity or charitable bequest in an estate and/or trust?**

Please serve the Attorney General's Office electronically as per R. 4:28-4(b) of the New Jersey Court Rules at [NJAG.ElectronicService.CivilMatters@law.njoag.gov](mailto:NJAG.ElectronicService.CivilMatters@law.njoag.gov), and send a courtesy copy to the Charitable Trust Unit email address listed below. With adequate notice, the Attorney General can choose whether or not to participate in the litigation.

**4) Do we need to include a cover letter?**

Please include a cover letter or covering email when sending documentation to the Attorney General's Office. The cover letter/email can simply list the documentation attached to the email. If commissions or attorney's fees were not taken and/or not paid, please state so in the cover letter or email. If there is any other information that would be helpful and/or is important to the review, please include it in the cover letter or email.

**5) What happens if a charity no longer exists?**

When a charity no longer exists, the cy pres doctrine may apply. The cy pres doctrine states that if the original objective of the settlor or the testator became impossible, impracticable, or illegal to perform, a court may amend the terms of the charitable trust or bequest to, as closely as possible, mirror the original intent of the testator or settlor to prevent the trust from failing. However, only the court may implement the cy pres doctrine to order the charitable bequest to a different, but similar, charity. You must file a petition with the court to apply the cy pres doctrine, and seek relief from the court to obtain such an order allowing the bequest to go to a different charity than the one listed in the will or trust. Moreover, you must send a copy of the petition filed with the court to our office, pursuant to number 3, above.

**6) Is the Charitable Trust Unit part of the Division of Taxation?**

The Charitable Trust Unit is not associated with the Department of the Treasury - Division of Taxation; and therefore, does not have access to Division of Taxation's records, nor can it opine or comment on any state or federal tax issues. Questions regarding inheritance taxes, returns, or other tax information should be directed to the Division of Taxation. Their website is: <https://www.state.nj.us/treasury/taxation/>.

**7) What is the contact information for the Charitable Trust Unit in the Attorney General's Office?**

State of New Jersey  
Department of Law and Public Safety  
Division of Law  
25 Market St., 6<sup>th</sup> Floor  
P.O. Box 106  
Trenton, NJ 08625-0106  
Attn: Charitable Trust Unit  
Phone: (609) 376-2891  
Fax: (609) 777-3515  
Email: [charitiesunit@law.njoag.gov](mailto:charitiesunit@law.njoag.gov)

NOTICE OF PROBATE OF WILL

In the Matter of the Estate of

\_\_\_\_\_, Deceased:

TO BENEFICIARIES & NEXT OF KIN:

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

\_\_\_\_\_

PLEASE TAKE NOTICE that the Will of \_\_\_\_\_

was probated in the Sussex County Surrogate Court, on

\_\_\_\_\_.

The undersigned executor will furnish you with a copy of said Will upon request.

**I do hereby certify to the following in compliance with R. 4:80-6:**

**1.** I am the executor under the Will of \_\_\_\_\_, deceased, **2.** I have mailed to all next of kin and to all beneficiaries named in the Will notice, sending them to their last known addresses, on (date) \_\_\_\_\_. **3.** If the names or addresses of any next of kin and beneficiaries were not known or not reasonably determined, then a notice of probate of the Will was published in the newspaper of general circulation in the County, naming or identifying those persons as having a possible interest in the probate estate and a copy of said notice is attached **4.** If the Will indicated a present or future charitable use or purpose, like notice and a copy of the Will was mailed to the attorney General of the State of New Jersey and is listed on the attached Notice of Probate.

Executor: \_\_\_\_\_

Executor: \_\_\_\_\_

Address: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Dated: \_\_\_\_\_