

Section 31 - Inventory - Conservatorship Estates

31.10 Time for Filing

The inventory must be filed within 30 days after the issuance of letters.

Extensions of the time to file will only be granted on a showing of good cause. One extension of time, of not more than 30 days, for the filing of the inventory may be granted by the clerk upon the filing of a written application for good cause shown. Requests for further extension of time will be considered by the Judge, Commissioner or Deputy Commissioner.

If there is an asset (e.g., stock in a closely-held corporation), for which the value may not be readily ascertained, an inventory shall be promptly filed listing the asset as "value undetermined" but listing all other assets with their values. An amended inventory stating the value of the asset shall be filed as soon as the value is determined and, in any event, on or before the due date of the first annual settlement.

References: Form 10260, Form 10264
§§ 475.145, 473.233, 473.240

31.20 Citation - Failure to File Inventory

Failure to timely file an inventory will result in the issuance of a Notice of Delinquent Inventory notice of continuance stating that unless the inventory is filed within two weeks, an order for citation will issue to show cause why the conservator should not be removed. If a citation issues, the conservator and his/her attorney must appear at the hearing unless it is continued. The citation will be dismissed upon:

- 1) the filing of the inventory;
- 2) the payment of the citation costs; and
- 3) obtaining the dismissal from the Judge, Commissioner or Deputy Commissioner.

The costs of the citation may not be paid from the assets of the estate.

31.30 Contents

The inventory must contain a list of all protectee's property valued as of the date of adjudication. In addition to assets held solely in the protectee's name, all assets in which the protectee has an interest must be listed, such as trust assets, entirety property, jointly held real property, multiple party bank accounts and other jointly held personal property. The inventory must show the fractional interest of the protectee as a tenant in common, if any. The name(s) of any individual who has an interest in the property, in addition to the protectee, must be reflected on the inventory.

The protectee's income and benefits from all sources must also be listed indicating the amount and frequency of periodic payments. The corpus of any trust, if the amount is known, in which a protectee has a vested interest must be listed as information only items on the inventory. Such amounts must not be included in the value column or ending totals.

Changes in the nature of assets made subsequent to adjudication but prior to preparation of the inventory should be reflected in the first settlement, not in the inventory. For example, an uncashed social security check must be listed under personal property (category 5) on the inventory. When cashed, it must be shown as a wash entry on the settlement debiting the cash amount and crediting the appropriate inventory number and amount. All original, supplemental and amended inventory values must be date of adjudication values. However, when real property is acquired during the administration of the estate such as when property is inherited or purchased with estate funds, then the inventory value is the value on the date of acquisition. Personal property acquired during the administration of the estate may be brought in on the next settlement and valued on the date of acquisition. See Section 31.60, Supplemental Inventory.

References: Form 10260
§§ 473.233, 473.237

31.40 Multiple Party Accounts - Jointly Held Property

All property in which the protectee has a joint or entirety interest must be included on the inventory and the entire value of the property included in the value column. See Section 31.20 as to the requirement to list all property in the inventory. For methods of inventorying various types of jointly held property, see Section 31.50. The names of any joint tenant or tenant by the entirety must be included with the description of the asset.

Reference: § 475.145

31.50 Description of Property

NOTE: Categories of property should be grouped together in the inventory, i.e., all real property together, all common stock together and so forth.

31.50.1 REAL PROPERTY

State legal description and street address including the city, county and state. If encumbered, show balance due, subtract from appraised value as shown and set forth only "equity" in value column. The attorney should verify the legal description and ownership of record. Include real property located in other states. Note that this is different from a decedent's estate where real property located in another state is not included in the inventory.

NOTE: The inventory must show the fractional interest of the protectee, if any. The names(s) of any individual who also has an interest in the property must be reflected on the inventory.

31.50.2 FURNITURE, HOUSEHOLD GOODS AND WEARING APPAREL

No detailed appraisal or listing of specific items is required, unless items which have a significant value such as valuable antiques and objects of art, are found to be assets of the estate.

31.50.3 CORPORATION STOCKS

State number of shares, class of stock, full name of company and value on date of adjudication. List accrued dividends through the date of adjudication as a separate but related inventory item.

31.50.4 MORTGAGES, DEEDS OF TRUST, BONDS, NOTES AND OTHER WRITTEN EVIDENCE OF DEBT

For mortgages, state: name of mortgagor or other identifying data; issue date; face value; maturity date; rate and due date of interest; unpaid principal balance and accrued interest at date of adjudication. List accrued interest to date of adjudication as a separate but related inventory item.

For notes, state: name of obligor or other identifying data; issue date; face value; maturity date; rate and due date of interest; unpaid principal balance and accrued interest at date of adjudication; and a brief description of security for note, if any. List accrued interest to date of adjudication as a separate but related inventory item. If the note is secured by Deed of Trust, provide identifying information. See preceding paragraph regarding mortgages above.

For bonds, state: name or other identifying data; face value; issue date; maturity date; rate and due date of interest; serial number; date of adjudication value; and amount of interest accrued to date of adjudication. List accrued interest to date of adjudication as a separate but related inventory item.

31.50.5 BANK ACCOUNTS, MONEY, BURIAL PLANS AND INSURANCE POLICIES

State specific names and locations of banks, type of account, account number, deposit balances and accrued interest to date of adjudication. For life insurance policies owned by the protectee, whether on his/her life or the life of another, list the company name, policy number, cash value, face value, and beneficiary. For burial plans, include the name of the company, value and policy number, if any.

31.50.6 CONTRACTS FOR DEED RELATING TO SALE OF PROTECTEE'S PROPERTY

The legal description shall be shown under the heading "Real Estate" with nothing in the value column. A parenthetical reference should be made to the appropriate item of personal property. The contract itself shall be described under "Personal Property" with the value of which is the unpaid balance on the date of adjudication.

31.50.7 CONTRACTS FOR DEED RELATING TO PURCHASE BY PROTECTEE

The contract right shall be described under personal property listing the original amount of the contract and the unpaid balance for information only. For purposes of value, list the value of the underlying property less the amount owed on the contract on the date of adjudication. If the contract is fully performed and the legal title is conveyed to the protectee's estate during the administration, the inventory shall be amended listing the legal description under "Real Property" and the value at the time legal title was conveyed.

NOTE: This valuation is an exception to the general rule that estate property is valued at the date of adjudication.

31.50.8 REAL PROPERTY, UNPERFORMED, ENFORCEABLE CONTRACT

If a protectee executed an enforceable real property contract for sale and conveyance of real property, the legal description together with a description of the contract shall be shown under the heading "Real Property" with the amount shown in the value column to be the net contract price.

31.50.9 OIL AND GAS LEASES, ROYALTY AND MINERAL INTERESTS

Mineral interests may be real or personal property depending upon the state from which they originate. All such interests must be listed. Note that this requirement is different from decedents' estates where real property interests located in another state are not included in the inventory.

31.50.10 TRUST ASSETS OF WHICH PROTECTEE IS A BENEFICIARY

As an information item only, list the name of the trust, trustees and corpus of trust, if known. Describe the protectee's interest in the trust, noting whether the protectee has any power over the trust. Do not place the amount of the corpus in the value column. Any trust income payable to the protectee must be stated. See Section 31.50.11 below.

31.50.11 PERIODIC INCOME

State source of income, amount and frequency of payment but do not include amounts in the value column. Include benefits such as Social Security, Veterans Administration, Railroad Retirement, Civil Service, other pensions and income from a trust.

Reference: § 475.145

31.50.12 ALL OTHER PERSONAL PROPERTY

Include any other personal property which does not fit one of the preceding categories on the inventory. For example, list automobiles, (make, model, year and VIN) mobile homes, collections (stamp, coin, etc.), tools, equipment and sole proprietorship business or partnership interest. Do NOT include the detailed business or partnership inventory. For sole proprietorship and partnership interest, list only the net value of the protectee's interest.

References: §§ 473.220, 473.230

Practice Tip: Any asset with a VIN such as trailers, motorcycles, boats, motors, mobile homes, etc. should be specifically listed on Appendix A with their VIN.

31.50.13 PROPERTY POSSESSED BY PROTECTEE, BUT OWNED OR CLAIMED TO BE OWNED BY ANOTHER

List separately from other property, together with a statement as to the knowledge of the conservator as to its ownership. Do NOT place value in the value column.

NOTE: Categories of property should be grouped together in the inventory, i.e., all real property together, all common stock together and so forth.

31.60 Supplemental Inventory

Additional assets discovered subsequent to the filing of the original inventory may be included in a supplemental inventory or, if the additional assets consist of property other than real property, then the assets may be shown on the next settlement without the necessity of a supplemental inventory. Any supplemental inventory should carry a balance forward of the total value of all personal property previously inventoried. All supplemental inventories must be executed by the conservator.

References: Form 10260, § 473.240

31.70 Amended Inventory

Amended inventories to correct errors and make changes may be filed at any time. All amended inventories must be executed by the conservator. Amended inventories may be filed to provide a value that was originally listed as "undetermined value," but are not to be filed to reflect accounting transactions, which must instead be included in the settlement. Each amended inventory should be denominated as "First Amended Inventory", "Second Amended Inventory" and so forth.

Reference: Form 10260

31.80 Orders Pending Inventory

Generally, no order in an estate, except in emergency situations or involving perishable property, will be granted until the original inventory has been filed.

31.90 Lawsuits

Where there is a pending lawsuit in which the protectee is plaintiff, the inventory must state "Litigation-Value Undetermined" and list the style of the case, case number and identify the court

in which it is pending. Instead of filing an amended inventory, a copy of any settlement agreement or judgment entry shall be filed with the next settlement and the proceeds from the lawsuit, if any, shall be brought in on that settlement. See Section 38.20.3 regarding minors' personal injury claims.

Practice Tip: Settlement of any litigation involving the protectee will require Court approval if over \$1,000. See § 475.130.

[END OF SECTION]