



FIDUCIARY INVENTORY & ACCOUNTINGS

Preparing Financial Reports for Court Approval

by Layne T. Rushforth

1. **INTRODUCTION:** This memo is for those who have been officially appointed by the Court as a fiduciary with the responsibility to manage an "estate",¹ such as an Executor, an Administrator, a Guardian of the Estate², or a Trustee of a Testamentary Trust. In this memo, "we" refers to the law firm of THE RUSHFORTH FIRM, LTD., A Professional Law Corporation, and "you" refers to the court-appointed fiduciary. If you ever have a question about this memo or about what you should and should not do, please call us at (702) 255-4552.

a. **Scope of Memo:** This memo is for fiduciaries who are required to file a periodic accounting with the Court for the benefit of heirs, beneficiaries, or wards who are unable to legally act for themselves. This memo does not relate to accountings where the court is not involved, such as revocable living trusts and custodial gifts under the Uniform Act on Transfers to Minors unless a court-approved accounting required in conjunction with litigation or desired to avoid litigation.

b. **Asset Administration:** Generally, your task as fiduciary is to:

- i. Collect all assets³ belonging to the estate;
- ii. Manage and invest assets;
- iii. Pay debts and taxes; and
- iv. Distribute the remaining assets to the person(s) entitled thereto.

c. **Inventory and Accounting Generally:** Your first duty is to collect the assets belonging to the estate you are managing. Once those assets have been ascertained, you are required to file an inventory, which describes the assets in your possession and shows their value. The first inventory for a probate estate or guardianship is due within sixty days of your appointment.⁴ For a testamentary trust, the beginning inventory is usually shown as part of the decree of final distribution in the probate estate. The inventory becomes the "starting point" for the first accounting. In your first accounting, you will start with the inventory amounts, add receipts (including gains on sales), and subtract disbursements (including losses

¹The "estate" consists of all assets subject to the proceeding. Generally this includes assets held in the name of the trustee (for trusts), the decedent (for probates) or the ward (for guardianships). Assets held in joint tenancy do not generally belong to a probate estate but are generally considered to belong to a ward for whom a guardian has been appointed unless it can be shown that the ward made no contribution to the funds, and that his or her name is on the account solely to accommodate the other joint tenant.

²Some states use the term "conservator" to refer to a "guardian of the estate".

³In legal terminology, the words "property" and "assets" are used interchangeably. Real property outside of Nevada is not subject to the jurisdiction of the Nevada courts, and local legal counsel should be retained where such real property is located.

⁴NRS 144.010; NRS 159.085.



on sales) to show the Court what you have left (“assets on hand”). After the first account, you are generally required to file an annual accounting with to the Court, using the prior year’s asset’s on hand as the starting point for the new accounting. Unless the Court directs otherwise, this can be done on a fiscal year beginning with the first day of the month of your appointment. When the estate is ready to be closed, you will need to file a final accounting in conjunction with a petition for permission to make a final distribution of the estate. For some probate estates and trusts, the first account can also be the final account.

d. **Engaging a CPA:** Except for the simplest of estates, we strongly encourage all fiduciaries to engage a certified public accountant to keep track of the inventory, receipts, and disbursements and to prepare all required tax returns. You will normally be required by law to prepare and file a fiduciary income tax return (IRS Form 1041) for an estate, trust, or guardianship, and for probate estates that have a gross value exceeding the “applicable exclusion” for estate tax purposes,⁵ a federal estate tax return is required. Engaging a CPA will ensure that the fiduciary accounting and tax returns are properly coordinated. Under normal circumstances, the fees charged by the CPA are paid for from the funds of the estate, trust, or guardianship, and you will not be personally liable for such fees.

e. **Court Hearings:** Your accountings must be submitted annually to the court. A court hearing is also held annually, except in the case of testamentary trusts where a formal hearing can be held as infrequently as every three years. Anytime a hearing is required, a hearing date will be set according to the court's procedural rules. Routine matters are set for Fridays at 9:30 a.m. for probate and trust matters and for Wednesdays at 9:00 a.m. for guardianship matters, and a notice must be sent at least 10 days before the hearing by certified mail to the heirs and Will beneficiaries and any creditors who have requested notice. *Unless a petition or motion is contested, you will not usually need to attend the court hearings.* If you want to attend, let us know in advance so that we can meet you at the courthouse.

2. **RECORD KEEPING:** Once court documents have been filed showing your official appointment as a court-appointed fiduciary, you must take possession of the "estate".

a. **Inventory:** As mentioned above, your first responsibility as fiduciary is to make an inventory of all assets. The inventory must be filed with the court, and must include a value for each item. Bank accounts, publicly-traded securities, and vehicles listed in the "blue book" can be listed without a formal appraisal. Real estate, valuable jewelry, and other special collections should be appraised by an independent appraiser, whom you may select. Business interests can be valued by a certified public account or other business valuation expert. We can recommend appraisers and valuation experts who are qualified and whose fees are

⁵Internal Revenue Code § 2010(c) provides for an “applicable exclusion” for estate tax purposes, which is the cumulative amount that can pass free of estate tax. For federal estate tax purposes, under current law, the applicable exclusion has been, is, and will be: \$625,000 in 1998; \$650,000 in 1999; \$675,000 in 2000; \$1,000,000 in 2002 and 2003; \$1,500,000 in 2004 and 2005; \$2,000,000 in 2006, 2007, and 2008, \$3,500,000 in 2009; unlimited in 2010; and \$1,000,000 in 2011 and beyond.



reasonable. The value shown on the inventory should reflect the net value of each asset.⁶

b. Income and Principal: You *must* keep an exact record of all receipts and disbursements. Your records should reflect the source of each receipt, and should indicate whether it represents principal or income⁷.

i. The initial "principal" is made up of the assets shown on the original inventory. As additional assets are discovered, these are "principal" items which need to be reflected on a supplemental or amended inventory. Your records must reflect changes in the nature of the assets, so that you can report to the Court the exact nature and value of the assets you hold at any given time.

ii. "Income" includes interest, dividends, and other profits gained from the assets of the estate. Income includes the gain (or loss) on the sale of assets, but we ask that you show such transactions separately.

iii. For example, if you sell an asset, the cash received is not a new asset, but simply a conversion of one asset (car) to another (cash). Your records would show a "disbursement" of the car and a "receipt" of the cash. The difference between sales price received and the inventory value is shown as a gain or loss.

iv. As another example, if you receive a payment on a promissory note or other debt that was shown on the inventory as an asset, the interest amount is "income" and the amount paid down on the loan is "principal". The present value of the note is reduced by the amount of principal that is now represented by the cash payment.

c. Journal Entries: You are not expected to be an accountant, but even if you are, you are expected to keep meaningful records of all transactions. While keeping a balanced checkbook is necessary, it is often not enough. You should keep track of all transactions in a ledger.

i. As receipts and disbursements are made, you should clearly indicate the source of each receipt, the recipient of each disbursement, and the nature of each. If you have diversified assets, you may wish to keep a separate ledger for each asset.

ii. We strongly recommend that you use a "double entry" bookkeeping

⁶The "net value" is the gross value of the asset less the value of any known liens or encumbrances, including mortgages and other liabilities. The inventory should reflect the net value and how it was calculated.

⁷"Principal" refers to all assets, such as a bank account, stock, car, home, and the like. "Income" refers to revenues generated from the principal includes interest, dividends, rent, royalties, and the like. Income also includes compensation for the decedent's personal services, such as salary and bonuses. Some payments may include income and principal, such as a mortgage payment which represents both interest and principal.



system so that each entry reflects a "credit" to one account and a "debit" to another. For example, a payment of a medical bill is a "debit" to the "Checking" account and a "credit" to the "Creditors' Claims" account (in a probate) or "Medical Expenses" account (in a guardianship). A receipt of a mortgage payment may be a "debit" to the "Checking" account, and a credit to both "Interest Income" and "Mortgages Receivable".

d. Computerized Records: If you have a computer at your disposal, you may be able to use the computer to keep the records you need. Depending on the complexity of the estate, you may be able to use a spreadsheet program, a database program, or a specialized fiduciary accounting program. We do not sell computer software and we cannot let you use ours, but you may wish to discuss any computerized system with us before you purchase software.

3. FIRST ACCOUNTING: You must file an account or accounting with the court by the statutory deadline. For guardians and testamentary trustees, the first account is filed approximately one year after the court appointment, but for Executors and Administrators, the first account is due within six months after your appointment.⁸

a. Content of Account: The account usually consists of the following reports (which are attached as exhibits to the petition asking for the court to approve the account):

i. Income transactions:

- (1) Receipts;
- (2) Disbursements;
- (3) Income balance on hand.

ii. Principal transactions:

- (1) Receipts;
- (2) Disbursements;
- (3) Summary of sales transactions, showing the gain or loss, if any, on each transaction.
- (4) Principal balance on hand.

iii. A detailed schedule of assets on hand, including all items, whether classified as income or principal. This is essentially an updated inventory as of the end of the accounting period, but it is not usually necessary for us to include updated valuations or appraisals.

b. Summary of Account: A recapitulation of the account must be provided as part of the account. The recapitulation might look something like this:

⁸NRS 150.080.



<i>CHARGES</i>	
<i>Description</i>	<i>Amount</i>
Inventory	\$ 304,851.49
Receipts	\$ 9,183.06
Gains on Sales	\$ 2,232.32
Other Charges	\$ 0.00
TOTAL CHARGES	\$ 316,266.87
<i>CREDITS</i>	
<i>Description</i>	<i>Amount</i>
Disbursements	\$ 23,432.43
Losses on Sales	\$ 1,900.00
Assets on Hand	\$ 290,934.44
TOTAL CREDITS	\$ 316,266.87

The "Total Charges" represent the total amount for which you are responsible, and the "Total Credits" represent the amount actually accounted for. Of course, the amount for which you are responsible and the amount which you can account for should be identical.

4. **SUBSEQUENT ACCOUNTINGS; DISTRIBUTIONS:** Each year you will have to file a similar accounting with the Court until the estate is fully distributed or until the estate proceeding is terminated. You or your accountant will need to prepare the accounting reports (as outlined in subsection 3.a., above).

a. A probate proceeding is terminated when creditors have been paid and the estate is ready for final distribution. A testamentary trust proceeding is terminated when the trust instrument calls for final distribution of the remaining assets. A guardianship proceeding is terminated when the ward dies or no longer needs a guardian (when a minor turns age 18 or an adult is adjusted to no longer be incompetent or otherwise in need of a guardian).

b. The final accounting is like any annual accounting, but it also proposes a distribution of the estate. A probate estate is distributed to the decedent's heirs or Will beneficiaries. A testamentary trust is distributed to the designated beneficiaries. A ward's estate is distributed to the ward if the ward no longer needs a guardian or to the ward's probate estate if the ward has died.



c. After the final distribution, when distributees' receipts are filed with the court, the court will issue an order entitled "Final Discharge", which releases you from any further responsibility for the estate. At that point, the legal proceeding is completed.

NOTE: This memo provides general information only and does not contain legal, accounting, or tax advice. For brevity, this memo is oversimplified and should not be relied on for any particular situation. Although this memo may discuss tax issues, this is not a "covered opinion" as defined in Circular 230 issued by the U. S. Treasury Department, and nothing in this memo can be relied upon to avoid any tax penalties.

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