

# WILLS, TRUSTS AND ESTATES NEWSLETTER

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## Estate Administration 101: Taking Inventory in Virginia, Maryland and the District of Columbia

By Lauren Keenan Rote



This is the second article in the Estate Administration 101 series. The prior article covered an introduction to the duties of an executor and explained how to “qualify” as executor with the court. Once qualified, one of the first tasks of the executor is to prepare and file an estate inventory.

### What is an Estate Inventory?

In short, the inventory is a summary of all assets owned by the decedent (even if only partially owned) at the time of his or her death (with a few exceptions). The values provided for each item should be *fair market value* at the date of the decedent’s death. Fair market value is the price that an unrelated third party would pay to purchase the item on the open market. If certain items are particularly unique or special, you may wish to seek assistance from a professional appraiser in setting a fair market value. Assets for which there is an established market value, such as stocks and bonds, should be reported at the value as of the date of the inventory. Real estate may be listed one of two ways: 1) by the assessed value; or 2) the fiduciary may submit an appraisal for fair market value.

### Deadlines for Filing an Inventory

The deadline for filing an inventory varies by state. In Virginia, an inventory is due within four months after the date of qualification of an executor. The inventory is filed with the Commissioner of Accounts (in Virginia) and the Register of Wills (in Maryland and District of Columbia) within the county where the will was probated. If the decedent died *intestate* (meaning without a will), the inventory is due to the commissioner of accounts or register of wills for the county in which the decedent was domiciled prior to his or her death. In the District of Columbia and Maryland an inventory is due within three months of appointment.

There is also a fee for filing an inventory, which, again, varies from state to state and is often a sliding scale fee based on the value of probate assets within the estate. In addition to the inventory, Maryland also requires an information report for assets partially owned by the decedent at the time of his or her death but not included on the inventory.

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## Property Included in an Inventory

Most jurisdictions have a standard inventory form that you must complete. An inventory generally includes all property within a decedent's personal estate and under their supervision and control at the time of their death, any interest in multiple party accounts in any financial institutions, and all real estate over which the executor has a power of sale (regardless of whether such real estate is within the state or not).

It is important to know which assets are considered part of the probate estate and which are not. The assets in the probate estate are accountable by the fiduciary. Some non-probate assets are included on the inventory form while some are not. All assets, probate and non-probate, may be subject to a District of Columbia, Maryland or Federal estate tax. Maryland also assesses an inheritance tax. You may wish to consult an estate planning attorney to assist in the characterization of the decedent's assets to best ensure that the assets will be listed in the proper location within the inventory and related forms.

## Changing an Inventory after It's Filed

In the event that an inventory is filed, but after filing additional property is discovered, the executor can (and should) file an amended inventory with the commissioner of accounts. In some jurisdictions, the executor may be able to ask for leave from the commissioner to show any such assets on the next regularly scheduled accounting.

## Best Practices for Preparing an Inventory

The best way to prepare an inventory is to walk through the decedent's residence and make a list of all items specifically mentioned in the decedent's will or any items with significant value. Listing items of tangible personal property with an estimated value of more than \$500.00 separately is a good rule of thumb. Grouping several similar items together is acceptable, and you can generally estimate the personal property value for the remainder of the estate if the true value is unknown.

It's important to make a note of any valuable personal property within the residence, such as collections, artwork,

etc. In addition, you should review the decedent's personal papers to determine which banks they had accounts with and any other non-tangible assets of the estate such as brokerage accounts, annuities, life insurance policies, certificates of deposit, etc. The decedent's computer is often a helpful resource to inventory non-tangible assets if you can access it, as well as talking with the decedent's attorney, financial planner or tax preparer. Also, an executor may uncover financial account statements or other items of interest by reviewing the decedent's mail.

In addition to the commissioner of accounts, who will review the inventory, any party who received notice of probate or qualification (see previous article in series, Estate Planning 101: Qualifying as Executor) may request a copy of the inventory. It is important as fiduciary of the estate that you fulfill any such requests for a copy. The Virginia inventory form requires that an executor mail copies to anyone entitled to a copy who has requested one.

## Conclusion

The inventory is a baseline for valuing the property within the estate. This baseline is used by the court to verify that the decedent's assets were properly distributed in accordance with the terms of the decedent's will after authorized payments of debts of the decedent and of the estate have been addressed. It's important to realize that the values given in the inventory may be updated in subsequent accountings with the court when items are sold for a value different from that shown on the inventory. The valuation of assets for an inventory has tax implications; therefore, fiduciaries are advised to consult with a tax advisor before filing an inventory. The valuations of assets for estate tax purposes have different guidelines and the various valuation options may result in significant estate tax savings. The more accurate you can be early in the administration process, the easier the next steps will be.

In the next article of this series, we'll cover accountings and best practices for keeping good records and making distributions or sales of property from an estate.

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## Succession Planning for CPAs

By Lauren Keenan Rote



For most professionals, building their business into a successful enterprise has been their life's work and is likely their most valuable asset, yet so many fail to plan for its future success and continuation. Most people (CPAs and others alike) don't like to think about the inevitable; no one wants to ponder their own mortality or believe that they will ever face a time when they cannot continue to do what they love. However, as an estate planning attorney, I can tell you that planning for the future of your family or your business, while a little intimidating at first, can be a very empowering process.

Recently a client came to me with the desire to have a succession plan prepared for her CPA practice. She has been a sole-practitioner for many years and wanted the peace of mind of knowing that someone would be there to take care of her clients if she could no longer do so.

My client had done a lot of the initial legwork. She had found a similarly situated CPA with whom she had a close professional relationship and asked him if he would take over her practice if she could no longer manage it. He agreed, and I drafted a business continuation agreement between the parties. Working with my client to plan for the future of her practice, a practice she had worked very hard to build, highlighted this need within the CPA community – a need for succession planning. According to AICPA's (American Institute of CPAs) 2012 Succession Survey, only 46 percent of multi-owner firms and 6 percent of sole practitioners have a written succession plans. Put differently, 94 percent of sole practitioners have no planning for the future of their business.

As the large pool of baby boomer partners of large and small accounting firms alike enter and near retirement age, succession planning becomes even more critical. It's not only important for the existing partner or owner, but also critical for the employees who remain within the firm so they experience a smooth transition to new leadership, for a

CPA's surviving spouse and family who may rely on income from the practice for their support, and for the firm's clients so they understand that their needs will not go unmet due to an unexpected or unanticipated changing of the guard.

### Step One of Succession Planning: Set a Timeline

The first step in planning for the succession of your CPA practice (and for any business, really) is to set a timeline. If you know you plan to retire, what do you plan to do with your firm at that time? Do you plan to transition it to a family member or a junior employee? If so, what steps need to happen before they are prepared to take the helm? Do you plan to sell? If so, to whom, and for what terms? Will the intended buyer have the funds necessary to make the purchase or is a buy-sell agreement funded by life insurance required? What if something happens in the short-term and you can no longer manage the affairs of your practice? Do you have someone briefed on the ways of your practice and what they need to do if they must step into your shoes unexpectedly?

### Step Two: Answer Key Questions to Plan for Your Succession

There are many questions that need to be answered. The sooner you begin the planning process the more prepared you can make yourself, your associates and your successors.

A good succession plan will address the following:

- Who will be in the key leadership positions? Will the positions be filled by internal candidates or from outside the firm?
- What level of training needs to occur to prepare the new leaders for their new responsibilities?
- How will the transition occur? Does a purchase or sale need to happen first?
- If a sale is necessary, how will it be funded?
- Are there surviving spouses that rely on the business for their support? If so, how should they be compensated?
- Should the agreement be reciprocal?

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### **Step Three: Put Necessary Legal Documents and Agreements in Place**

Once you answer these important questions, the final step is putting the necessary legal documents and agreements in place to effectuate your plan. You may use a business continuation agreement between parties. You may wish to make it reciprocal if you and another CPA agree to take over for one another. You may also choose to address your plan for your firm's succession in your revocable living trust (this works particularly well if you intend to sell the practice or have a family member manage things). Another alternative approach to consider is a buy-sell agreement with a partner, multiple partners or another key employee within your firm. In the case of sole practitioners, you may need to consider asking the owner of another similarly sized firm to serve as your successor, as my client did.

### **Conclusion**

There is no standardized succession plan, but it's important that it's tailored to meet the needs of your business. The more lead time you can give yourself to think through all the various details, the better.

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