

Administration c.t.a. (after Probate)

Proceeding Checklist

(see Surrogate's Court Form CTA-1, rev. 7/98)

This Checklist is provided for your convenience while completing the petition and the checklist should not be returned to the Court.

NOTE: If, subsequent to the admission of a will to probate, the executor or administrator c.t.a. dies, resigns or for any reason is removed from office, and there is no executor or administrator c.t.a. qualified to act, a proceeding for the appointment of an administrator c.t.a. or administrator c.t.a., d.b.n. may be commenced in order to complete the administration of the estate. (SCPA §1418 and 1419).

NOTE: According to the Opinion of the State Comptroller 89-49, dated 11/27/1989, the fee to be charged on an administration c.t.a. proceeding is \$45.00.

Check that the office of the executor or administrator c.t.a. is vacant [SCPA §1418(1)]:

1. death certificate
2. proof of revocation
3. resignation (NOTE: an accounting may be required before fiduciary is discharged - SCPA §716)

NOTE: The Court may refuse to issue Letters of Administration c.t.a. if distribution is possible pursuant to SCPA §2207.

**Fill In All Areas On All Pages of Petition - Also Mark When Not Applicable Where Necessary
Check All Forms To Make Sure Venue Is Correct - Appropriate County Is Listed**

PET #	DESCRIPTION	YES	NO
	Secure the estate file folder		
	Is the captioned name exactly the same as it appears on the original proceeding?		
	Make sure that the file number is on the petition and all other supporting documents and should be the same file number as the original proceeding		
1a.	<p>Is the petitioner eligible to act and qualify pursuant to SCPA §1418?</p> <p>(a) sole beneficiary or if he/she is dead, to his/her fiduciary (b) to one or more residuary beneficiaries or, if any are dead, to his/her fiduciary (c) if there is no one eligible under (a) or (b) who will accept, the Court may issue letters to one or more persons interested in the estate or, if any be dead, to his/her fiduciary</p> <p>*NOTE: [see SCPA §1418(2)-(8) for additional classes]</p> <p>Check citizenship</p> <p>Has the interest of the petitioner been checked and specified?</p>		

PET #	DESCRIPTION	YES	NO
1b.	<p>Is the proposed administrator an attorney? If so, has a statement been provided pursuant to 22NYCRR 207.16(e)?</p> <p><i>NOTE: Latter will need an accounting (see 22NYCRR 207.52)</i></p>		
2.	<p>Check that the date of admission of Will to probate is correct and that the name of the original fiduciary is listed along with date of death or removal.</p>		
3.	<p><i>NOTE: Verify that all persons and parties interested in this proceeding having a right to letters of administration c.t.a. prior or equal to the petitioner under the provisions of SCPA §1418 and 1419 are listed.</i></p> <p>Check that the names, relationships, domiciles and interest of all parties are listed in the petition.</p> <p><i>NOTE: If there are any deceased interested parties, provide a copy of the death certificate or provide the date of death.</i></p>		
4.	<p>Check that all names, relationships, domiciles and interest of all persons and parties are listed who are beneficiaries named in the will other than those named in paragraph 3.</p> <p><i>NOTE: Form CTA-3 has to be submitted from all adult competent persons listed under 3 & 4 having a right to letters equal or prior to petitioner or a citation will be issued. <u>ALL INTERESTED PARTIES MUST CONSENT THAT BOND BE DISPENSED WITH OR FILING OF A BOND WILL BE REQUIRED.</u></i></p> <p><i>NOTE: If any interested parties have died subsequent to the death of the decedent, a statement should be included as to whether a legal representative has been appointed, and if so, their name and title, his/her address and the court which issued letters must be listed. If there has been no appointment the distributees of such post-deceased distributee must be listed giving names, relationship, domiciles and citizenship.</i></p> <p><i>NOTE: FOR INFANTS (Attach copy of birth certificate if required by court)</i></p> <p><i>NOTE: IF THERE IS A COURT-APPOINTED GUARDIAN (FIDUCIARY) SUBMIT PROOF OF APPOINTMENT.</i></p> <p><i>NOTE: IF THERE ARE UNKNOWNNS, the following proof has to be submitted: affidavit showing that diligent efforts have been made to locate unknown distributees or distributees whose whereabouts are unknown [Court Rules §207.16(d)]</i></p> <p><i>“DILIGENT SEARCH” requires extensive research, e.g.: cemetery and marriage records; telephone books; conversation with other distributees, neighbors, etc.; records of varied Surrogate’s Court; military records; Bureau of Immigration & Naturalization; Social Security Administration; Bureau of Vital Statistics; Department of Motor Vehicles; Bureau of the Census; City directories; Internet</i></p>		

PET #	DESCRIPTION	YES	NO
5.	Verify that there are no other persons interested in this proceeding other than those already mentioned.		
6.	Make sure outstanding debts or funeral expenses are listed. If NONE, so state.		
7a.& 7b.	<p>Check value of unadministered property</p> <p>Check estimated gross rents of real property (if any) for period of eighteen (18) months</p> <p>Check that any pending or contemplated causes of action on behalf of the decedent are listed and complete information is given</p>		
<i>NOTE: If inconsistent with amount shown in original proceeding, an explanatory affidavit may be required.)</i>			
	<p>Under WHEREFORE Clause: has all relief requested been checked and completed?</p> <p>Is petition dated, signed, verified, properly notarized (including proper jurat and expiration date of notary's commission)?</p> <p>Is Combined Verification, Oath and Designation signed? does it set forth proposed fiduciary's physical address?</p> <p>Is proposed fiduciary a Bank? use combined corporate verification, consent and designation [use page 4 of the petition]</p> <p>Is attorney's name, address and phone number listed?</p> <p>Is Part 130 Certification completed by attorney or self-represented party? if <u>NOT</u>, has a separate certification as to Part 130 signing requirements been included?</p>		
If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?			

Official Forms for this type of proceeding are:

- ☞ CTA-1 (7/98) Petition for Letters of Administration c.t.a. after Probate
- ☞ CTA-2 (7/98) Citation (make sure that the full relief requested is included in citation)
- ☞ CTA-3 (7/98) Renunciation of Letters of Administration c.t.a., Waiver of Process and Consent to Dispense with Bond (to be submitted by an adult competent party having a prior or equal right to that of petitioner) **NOTE:** The Court may fix a bond in an amount which will adequately protect creditors and interested persons who have not consented to dispense with a bond

COMMENTS AND COURT NOTES

The Court may fix a bond in an amount which will adequately protect creditors and interested persons who have not consented to dispense with a bond.

Proofs of Service of Citation must be filed with the Court at least two (2) working days before the return date.

Guardian Ad Litem will be appointed on or before the return day of process for all unknowns and persons under disability (SCPA §403).

Review carefully instructions to paragraphs 3 and 4 of the Petition and be sure interested parties are listed in the correct places.

Documents signed by Power of Attorney (Provide certified copy of POA and comply with Section 13-2.3 EPTL and 207.48 Uniform Rules).

Check to be certain all documents are properly acknowledged.

THIS MATERIAL IS PROVIDED FOR INFORMATIONAL/TRAINING PURPOSES ONLY. – It is intended for use in conjunction with review of the applicable statutes and rules of the Surrogate's Court and the Surrogate's Court Operations Manual.