



STATE OF NEW YORK
UNIFIED COURT SYSTEM
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A. GAIL PRUDENTI
Chief Administrative Judge

JOHN W. McCONNELL
Counsel

MEMORANDUM

April 21, 2015

To: All Interested Persons

From: John W. McConnell

Re: Proposed adoption of new 22 NYCRR § 207.20 (Uniform Rules for Surrogate's Courts) relating to Inventory of Assets; and adoption of new Inventory of Assets form.

The Surrogate's Court Advisory Committee (SCAC) has recommended the repeal of section 207.20 of the Uniform Rules for Surrogate's Courts, relating to the requirement that a fiduciary or attorney of record furnish the court with a list of assets constituting the gross estate for tax purposes. The SCAC has recommended adoption of a new section 207.20 that would eliminate the need to file estate tax returns or provide detailed financial information about estate assets (Exh. A). A corresponding proposed new Inventory of Assets form would dispense with the need for detailed financial information and instead require the fiduciary to designate broad categories of value when setting forth the gross value of each asset type (Exh. B). According to the SCAC, there has been growing concern within the bar about the extent of disclosure required by the present rule (Exh. C), and the risk that such private information may be publicly disclosed.

Persons wishing to comment on this proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York 10004. **Comments must be received no later than June 17, 2015.**

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

The Inventory of Assets
22 NYCRR 207.20

The Surrogate's Court Advisory Committee recommends the repeal of § 207.20 of the Uniform Court Rules (22 NYCRR 207.20), the adoption of a new rule 207.20 "Inventory of Assets," and the creation of a new "Inventory of Assets" form as provided herein.

The proposal is necessitated by recent changes to various court rules and statutes which are designed to protect asset information from disclosure to non-parties. It is well documented that the increased use of the internet for financial transactions has resulted in a corresponding increase in identity theft. Various rules have been implemented which limit public access to personal financial information by use of redacting legal documents and restricting access to files. Presently, the asset information and inventory form require the fiduciary to disclose detailed account numbers and values for all of decedent's assets.

Additionally, there has been increasing concern within the bar with the extent of disclosure required by the present form and the likelihood that otherwise private information may be revealed following its filing. Although the current uniform court rule provides for the filing of an estate tax return in lieu of the inventory of assets, and that such return shall be protected from disclosure, attorneys nevertheless have found that such information has been disclosed. The new rule eliminates the filing of estate tax returns which contains information valuable to identify thieves, such as the decedent's Social Security number and bank account numbers. Moreover, particular concern has been raised with the need to reveal detailed information about non-testamentary assets and assets held in living trusts. But for the filing of the inventory, such information would not be filed with the court.

The committee considered whether the filing of the inventory continues to serve an important purpose. Court personnel find the availability of the inventory useful when a person interested in an estate seeks general information about decedent's assets. The proposed inventory and court rule are designed to provide such persons with a snapshot of the estate's assets which should be sufficient to determine whether an investigation is warranted.

The proposed new court rule and Inventory of Assets form seek to balance these concerns. In lieu of setting forth detailed financial information, the fiduciary shall be required to set forth the gross value for each asset type by a category. Where the "value" or "amount" is required to be reported, such value or amount shall be reported as being within one of the following categories: Category A-under \$10,000; Category B-\$10,000 to under \$20,000; Category C-\$20,000 to under \$50,000; Category D-\$50,000 to under \$100,000; Category E-\$100,000 to under \$250,000; Category F-\$250,000 to under \$500,000; Category G-\$500,000 or over. These categories are the same as those provided for determining the amount of the filing fee when seeking probate of a will or letters of administration. The reporting individual shall indicate the category by letter only for each type of probate asset.

Rule Proposal:

22 NYCRR 207.20 is hereby repealed.

22 NYCRR 207.20 is hereby adopted (New):

Section 207.20 Inventory of assets.

(a) The fiduciary or the attorney of record shall furnish the court with an Inventory of Assets form which identifies the following:

(1) those assets that either were owned by the decedent individually, including those in which the decedent had an partial interest, or were payable or transferrable to the decedent's estate, by indicating the total value thereof by letter only for one of the following categories: A- under \$10,000; B-\$10,000 to under \$20,000; C-\$20,000 to under \$50,000; D-\$50,000 to under \$100,000; E-\$100,000 to under \$250,000; F-\$250,000 to under \$500,000; G-\$500,000 or over; and

(2) those assets held in trust; those assets over which the decedent had the power to designate a beneficiary; jointly owned property; and all other non-probate property of the decedent by checking yes or no.

(b) The Inventory of Assets form shall be filed with the court within nine months of the date letters issued to the fiduciary or as the court otherwise directs.

(c) In the event the Inventory of Assets is not filed, the court may refuse to issue certificates, may revoke the letters and may refuse to issue new ones until such list has been filed

and the fees paid as provided in SCPA 2402. Failure to file such list of assets may also constitute grounds for disallowance of commissions or legal fees.

(d) If any additional filing fees are due, they shall be paid to the court at the time of the submission of the inventory.

EXHIBIT B

**SURROGATE'S COURT OF THE STATE OF
NEW YORK
COUNTY OF _____**

In the Matter of _____X

Deceased.
_____X

TO BE FILLED OUT BY COURT CLERK

Total Probate Assets (see below)	_____
Filing fee SCPA 2402(7)	\$ _____
Filing fee paid	\$ _____
Balance (Refund) Due	\$ _____

INVENTORY OF ASSETS (Rule §207.20)

The undersigned, a fiduciary or attorney for the fiduciary of the above Decedent's estate, certifies that the following constitutes the gross testamentary estate and identifies whether non-probate assets exist. Whenever a "value" or "amount" is required to be reported, such value or amount shall be reported as being within one of the following categories: CategoryA-under \$10,000; CategoryB-\$10,000 to under \$20,000; CategoryC-\$20,000 to under \$50,000; CategoryD-\$50,000 to under \$100,000; CategoryE-\$100,000 to under \$250,000; CategoryF-\$250,000 to under \$500,000; CategoryG-\$500,000 or over. The reporting individual shall indicate the category by letter only.

Date of Death: _____ Date of Letters: _____ Type of Letters: _____

Name of Fiduciary(ies) and if changed fiduciary(ies) address: _____

PROBATE ASSETS

CATEGORY

- | | |
|--|-------|
| 1. REAL ESTATE: | _____ |
| 2. STOCKS AND BONDS | _____ |
| 3. INSURANCE PAYABLE TO ESTATE | _____ |
| 4. IRAs, 401Ks PAYABLE TO ESTATE | _____ |
| 5. MORTGAGES OR NOTES HELD BY DECEDENT | _____ |
| 6. CASH | _____ |
| 7. MISCELLANEOUS | _____ |
| TOTAL PROBATE ASSETS | _____ |

NON-PROBATE ASSETS - CHECK YES OR NO TO EACH OF THE FOLLOWING

- | | |
|---|----------------|
| 8. LIVING TRUST | ___ Yes ___ No |
| If yes, set forth the name of the Trustee(s) _____ | |
| 9. GIFTS IN EXCESS OF FEDERAL ANNUAL EXCLUSION
MADE WITHIN 3 YEARS OF DECEDENT'S DEATH | ___ Yes ___ No |
| 10. JOINTLY HELD PROPERTY | ___ Yes ___ No |
| 11. INSURANCE PAYABLE TO BENEFICIARY | ___ Yes ___ No |
| 12. IRAs, 401Ks PAYABLE TO BENEFICIARY | ___ Yes ___ No |
| 13. ANNUITIES | ___ Yes ___ No |
| 14. POWERS OF APPOINTMENT | ___ Yes ___ No |
| 15. CAUSE(S) OF ACTION | ___ Yes ___ No |
| If yes, identify court, index number and interested party _____ | |

Certified to be true on the ___ day of _____, 20__.

Signature _____ Print Name

Attorney's Name, Address & Telephone #: _____

EXHIBIT C

Section 207.20 Value of estate.

(a) The fiduciary or the attorney of record shall furnish the court a list of assets constituting the gross estate for tax purposes, but separately listing:

(1) those assets that either were owned by the decedent individually including those in which the decedent has a partial interest, or were payable or transferrable to the decedent's estate; and

(2) those assets held in trust, those assets over which the decedent had the power to designate a beneficiary, jointly owned property, and all other nonprobate property of the decedent. This list of assets shall be filed with the court by the latter to occur of the following events:

(i) if the estate is required to file a Form 706 Federal Estate Tax Return, the due date for the filing of such return, including any extensions of time received for the filing thereof;

(ii) if the estate is not required to file a Form 706, the due date for the filing of the New York State Estate Tax Return, including any extension of time received for the filing thereof;

(iii) if the estate is not required to file a New York State Estate Tax Return, six months from the issuance of temporary or preliminary letters, limited letters, ancillary letters, full letters of administration or letters testamentary. At any time after six months from the date of the decedent's death, if any "person interested," as that term is defined by SCPA 103(39), makes a written request for such a list, the fiduciary or attorney of record shall furnish the list, within 21 days of the mailing of such request, in as complete a form as is then possible.

(b) The requirement for filing a list of assets may be satisfied by the filing of a summary schedule together with a copy of either Form 706 Federal Estate Tax Return, Form 706NA Federal Estate Tax Return for Nonresident Aliens, or New York State Estate Tax Return TT-385 or ET-90.

(c) In the event such list of assets is not so filed, the court may refuse to issue certificates, may revoke the letters and may refuse to issue new ones until such list has been filed and the fees paid as provided in SCPA 2402. Failure to voluntarily file such list of assets may also constitute grounds for disallowance of commissions or legal fees.

(d) If any additional filing fees are due, they shall be paid to the court at the time of the submission of any of the documents described in subdivision (a) of this section.

Historical Note

Sec. filed Jan. 9, 1986; amds. filed: Feb. 16, 1988; Sept. 23, 1991; May 4, 1992; April 27, 1993; Jan. 12, 1998 eff. April 1, 1998. Repealed (a), (b), renum. and amd. (c)-(e) to (a)-(d).

SURROGATE'S COURT OF THE STATE OF NEW YORK _____ **COUNTY**
In The Matter of the Estate of _____ **LIST OF ASSETS/INVENTORY**
 (Rule §207.20(a))

_____ **Deceased.** **FILE NUMBER** _____

The undersigned, a fiduciary or an attorney for the above estate, certifies that the following recapitulation constitutes the gross estate (for tax purposes) of the above decedent. The following documents are attached:
 [] a detailed list of assets; or a copy of one of the following: [] Form ET-90; [] Form TT-385; [] Form 706 or Form 706NA.

IF FORM ET-90 IS ATTACHED, ALL RIGHTS TO SECRECY UNDER TAX LAW §994 ARE WAIVED

Date of Death: _____ Date of Letters: _____ Type of Letters: _____

Name of Each Fiduciary: _____

(Address, if changed): _____

RECAPITULATION OF ATTACHED SCHEDULES:	Non-Probate, Joint or Trust Property	Individually Owned By Decedent or Payable to Estate
A. Real Estate	\$ _____	\$ _____
B. Stocks and Bonds	_____	_____
C. Mortgages, Notes, Cash, etc.	_____	_____
D. Insurance on Decedent's Life	_____	_____
E. Jointly Owned Property	_____	_____
F. Miscellaneous & Trust Property	_____	_____
G. Transfers During Decedent's Life	_____	_____
H. Powers of Appointment	_____	_____
I. Annuities	_____	_____
TOTALS	\$ _____	\$ _____

Cause of Action Pending for
 Wrongful Death or Conscious
 Pain and Suffering:
 Amount Claimed \$ _____

Filing Fee Under §2402(7) _____
 Filing Fee Initially Paid _____
 Balance (Refund) Due _____

Certified to be true on _____, 20____

ATTORNEY
 Name: _____
 Address: _____
 Phone: _____
 I-1 5/2013

Signature

Print Name

GROSS ASSETS
(Attach Additional Page If Necessary)

A. REAL ESTATE (Individually owned property)

<u>Description</u>	<u>Date of Death Value</u>
_____	_____
_____	_____
_____	_____

B. STOCKS AND BONDS (Individually Owned)

<u>Description, Including Face Amount of Bonds and Number of Shares</u>	<u>Date of Death Value</u>
_____	_____
_____	_____
_____	_____

C. MORTGAGES, NOTES AND CASH (Including Bank Deposits)
(Jointly owned property should be reported at E and trust property at F)

<u>Description</u>	<u>Date of Death Value</u>
_____	_____
_____	_____
_____	_____

D. INSURANCE ON DECEDENT'S LIFE

(1) Payable to Estate

<u>Description</u>	<u>Date of Death Value</u>
_____	_____
_____	_____

(2) Payable to Named Beneficiary

<u>Description</u>	<u>Date of Death Value</u>
_____	_____
_____	_____

E. JOINTLY OWNED PROPERTY (Real and Personal Property)

(1) Real Estate

<u>Description</u>	<u>Joint Tenant</u>	<u>Date of Death Value</u>
_____	_____	_____
_____	_____	_____

(2) Stocks and Bonds

<u>Description</u>	<u>Joint Tenant</u>	<u>Date of Death Value</u>
_____	_____	_____
_____	_____	_____

(3) Mortgages, Notes and Cash

<u>Description</u>	<u>Joint Tenant</u>	<u>Date of Death Value</u>
_____	_____	_____
_____	_____	_____

F. OTHER MISCELLANEOUS PROPERTY

(1) Individually Owned

<u>Description</u>	<u>Date of Death Value</u>
_____	_____
_____	_____

(2) Firearms (Check appropriate box)

- Yes, see attached Firearms Inventory Form
- None

Date of Death Value

(3) Assets Passing to the Estate from Employment

Description

Date of Death Value

(4) Trust Property

Description

Date of Death Value

G. TRANSFERS DURING DECEDENT'S LIFE

Description

Date of Death Value

H. POWERS OF APPOINTMENT

Description

Date of Death Value

I. ANNUITIES

Description

Date of Death Value

CAUSE OF ACTION for decedent's wrongful death and for conscious pain and suffering, as well as any other type of action.

<u>Description</u>	<u>Court in which Action Pending</u>	<u>Index Number</u>	<u>Amount Demanded</u>
_____	_____	_____	_____
_____	_____	_____	_____