



A Personal Representative's Guide to Probate of Non-Trust Property in the Ho-Chunk Nation Trial Court

Wa Ehi Hoci
W9598 Hwy 54 East
P.O. Box 70
Black River Falls, WI 54615
715.284.2722 (P)
715.284.3136 (F)
<http://www.ho-chunknation.com/>

Updated July 2018

TABLE OF CONTENTS

Frequently Asked Questions (FAQ) About Estate Administration.....	3
Intestate Succession Chart	6
Definitions.....	7
Checklist for Opening an Estate Administration.....	9
Checklist for Closing an Estate Administration.....	10

APPENDIX OF INSTRUCTION SHEETS

Petition for Probate of Non-Trust Property.....	11
Consent to Serve.....	14
Waiver and Consent.....	15
Order and Statement of Administration	16
Notice to Creditors.....	17
Notice of Hearing on Petition.....	18
Inventory.....	19
Estate Account	20
Estate Receipts	22
Affidavit of Service.....	23
Statement of Personal Representative to Close Estate.....	24
Declination to Serve or Resignation.....	25
Signature Bond.....	26
Claim Against Estate.....	27

FAQ and Cheat Sheet to Probate

1. Whose estates can be probated and who may file?
 - a. Any deceased Ho-Chunk Nation tribal member's estate may be probated in Ho-Chunk Nation Trial Court.
 - b. The following parties can file a *Petition for Probate*: 1) Person claiming to be an heir, 2) the Ho-Chunk Nation, or 3) the personal representative who was designated in the will. 8 HCC § 13.45a.
2. What types of estate administrations are there in the Ho-Chunk Nation Probate Code?
 - a. Exempt: estates less than \$5,000.00 and the decedent is survived by a spouse or minor child.
 - b. Non-exempt: all others.
3. How do I start an estate administration and what should be filed with the Petition?
 - a. Fill out and file a *Petition for Probate* along with a \$50.00 filing fee or the *Affidavit and Order to Waive Filing Fee*.
 - b. Include the following documents when you file the *Petition*:
 - i. A certified copy of the decedent's death certificate.
 - ii. A copy of the decedent's tribal enrollment card (if you have it).
 - iii. The original or a true copy of any will found or document alleged to be the last will and testament of the decedent if applicable.
 - iv. If the decedent had uncashed per capita payments or an Incompetent/Child's Trust Fund, include;
 - 1) Affidavits verifying the decedent did not owe any debts to the Nation from the following Ho-Chunk Nation governmental departments: Child Support Agency, Department of Treasury, Department of Justice, and Tribal Court.
 - 2) Quarterly Statement from Providence First Trust Company with the trust balance, or a letter from Treasury detailing the uncashed per capita check totals.
 - v. *PR002 - Notice of Hearing on Petition*
 - 1) This form will be returned to you by the Clerk so that you may send *PR002*, a copy of the *Petition*, and the documents included with the *Petition* to all of the interested parties. You will be required to file *PR010 - Affidavit of Service* at the Initial Hearing proving that you sent copies to the individuals if they did not waive notice by signing *PR017*.
 - vi. If you seek to be appointed as the personal representative, include these forms with the *Petition*: *PR009 - Consent to Serve*, *PR014 - Notice to Creditors*, *PR017 - Waiver and Consent Form* (if it was signed by the interested parties).

4. What happens after I file the required documents to start the administration?
 - a. The Court sets hearing dates and times - The Court may set a date for the following types of hearings depending on what is requested in the *Petition*:
 - i. Appointment of Personal Representative
 - 1) No Personal Representative needs to be appointed if:
 - a. Value of the decedent's property appears to be less than \$5,000;
 - b. No problems in administering the estate are foreseen; and
 - c. No one requests that one be appointed.
 - ii. Proving the will, if any.
 - iii. Determining heirship.
 - iv. Presumptive Death Declaration.
 - v. Determining whether the estate is an exempt estate upon petition by personal representative. §13.44b.
 - vi. Releasing the decedent's per capita trust fund or uncashed checks.
 - vii. Closing the Estate after the personal representative files *PR016 - Statement and Order to Close Estate*.
 - b. The court will return *PR002 - Notice of Hearing on Petition* to you.
 - i. It is your responsibility to provide a copy of this notice to all of the interested parties by registered or certified mail, or by personally delivering it to them at least 45 days before the hearing.
 - ii. File *PR010 – Affidavit of Service* showing you provided notice to the interested parties of any proceeding. §13.44b.
 - iii. If you do not know all of the interested parties' addresses, then you must provide a copy of *PR002 – Notice of Hearing on Petition* to the Hocak Worak for them to publish notice of the hearing in 3 consecutive issues at least 45 days before the hearing. You will also need to post this notice in 3 conspicuous areas around the Nation.
 - c. **PR provides notice to creditors**
 - i. Submit a copy of *PR014 - Notice to Creditors* within 15 days after the Clerk sends it back to you to the Hocak Worak for 3 consecutive issues, and post the Notice in 3 public places on the Nation's lands. § 13.49.
 - d. **PR files the Inventory** - The personal representative must file *PR013 - Inventory*¹ within 1 month after their appointment as personal representative.

¹ The Inventory is an important legal document that establishes the fair market value of assets on date of death and incorrect valuations can have a significant impact on the personal representative and distributees of the assets listed in the Inventory. Income tax basis problems and disputes about proportionate distribution of assets are examples of issues that may arise from improper valuation. Although you are not required to hire a qualified and disinterested appraiser to assist you in determining the value of assets, you should consider whether you have sufficient skills to appraise inventoried assets on your own. You may also wish to consult with a tax advisor or attorney before filing your Inventory.

- i. The appointment date is indicated in the file stamp on the *Letters Testamentary* that will be issued by the Court at or after the Appointment of Personal Representative Hearing.
- e. **PR pays the decedent's bills, taxes, and manages the estate.**

5. How do I complete the estate administration?

- a. The estate can be closed beginning 90 days after the first notice to creditors is published in the Hocak Worak.
- b. File the following documents to complete the estate administration:
 - i. Proof of publication for notice to creditors – include a copy of the Hocak Worak issues.
 - ii. *PR018 - Claims Against Estate* Forms if any creditors established claims.
 - iii. *PR012 - Estate Receipt* Forms signed by heirs/beneficiaries and claimants.
 - iv. Statement of Personal Representative to Close the Estate.
 - v. *PR011 - Final Estate Account*.
 - vi. *PR010 - Affidavit of Service*, showing that you provide copies of the documents listed above to the interested parties, unless they waived notice.
- c. The Court will schedule a Final Probate Hearing to determine the allowance of claims, the extent of the estate, and to direct final distribution of the estate.

6. WHAT SHOULD I KNOW ABOUT BEING PERSONAL REPRESENTATIVE?

First of all, a statement in a Will about who should serve as personal representative does not automatically allow you to start performing the duties of a personal representative; the statement in the Will is merely a nomination by the decedent. The Court must appoint you before you assume the duties of a personal representative. The document that shows others you are appointed as Personal Representative is called "Letters Testamentary." For a nominal fee, the Clerk of Court will supply you as many certified copies of this document as you feel you will need at any time throughout the estate administration process.

Serving as personal representative is a VERY important job. You may be required to post a bond to protect the assets in the estate. You must keep all interested persons informed of the status of the estate proceedings and complete the estate in a timely fashion.

For all practical purposes, a personal representative is acting in place of the decedent. You are expected to handle the assets of the decedent just as any prudent person would handle his or her own assets. Your duties will include taking possession of all the decedent's assets and filing an Inventory including the date of death values of all assets you have in your control. You may need to open a checking account. We cannot order that a checking account be opened, nor is it always needed. However, with a checking account you can keep accurate records of income and expenses. You will give notice to creditors and may give notice to interested persons by publication in the newspaper. Notice must also be given to interested persons by mail or personal service if Waiver and Consent forms cannot be obtained.

You may be converting assets to cash, selling real estate, running a business, insuring and keeping property in good repair. You will collect any income due to the decedent like interest, dividends, rent, etc. You will pay bills, settle proper claims or object to claims that are not appropriate. There may be final and fiduciary tax returns to complete. You are encouraged to utilize the services of a competent tax preparer or an attorney to help you with this aspect of the estate.

You must prepare a final Estate Account, showing all money and assets that came into the estate between date of death and distribution, and all money and assets that were paid out of the estate. To prepare an Estate Account, you can prepare a spiral notebook for “scheduling” your financial activities, such as receiving assets, paying bills or making distributions.

If you make entries in your notebook as these activities occur, there is less chance that you will make mistakes in your accounting and it will take less time to complete your Estate Account. It will also be easier for someone to help you complete your accounting if you have kept accurate records. You will distribute assets according to the Will and/or statutes and secure receipts from those receiving assets. Finally, you will file a Statement of Personal Representative to Close Estate.

IMPORTANT NOTE ON TAX LIABILITY: As personal representative, you are responsible for paying any taxes that are owed by the estate or the decedent, from the estate assets. These include the decedent’s gift and income taxes, as well as the income and estate taxes owed by the estate. You may incur personal liability for these taxes if they are owed and not paid from available estate assets. You should consult with an attorney or tax advisor about these issues if you have questions about potential tax liabilities of the decedent or the estate. You should investigate whether all potential taxes owed by the decedent were paid. A starting point would be for you or your advisor to review prior tax returns of the decedent, as well as any actions of the decedent that could give rise to income or gift tax liability.

Intestate Succession – Order of Descendancy

This is the order in which the estate will be distributed if the decedent died **without a will**.

You can note the names of each person to help you ensure you provide notice to all of the interested parties.

1. Spouse: _____

2. Eldest Child: _____

Other Children: _____

3. Father: _____

4. Mother: _____

5. Paternal Grandfather: _____

6. Paternal Grandmother: _____

7. Maternal Grandfather: _____
8. Maternal Grandmother: _____
9. Eldest Paternal Sibling: _____
10. Eldest Maternal Sibling: _____
- Other Siblings: _____
11. Eldest Grandchild: _____
- Other grandchildren: _____
12. Eldest Paternal Cousin: _____
13. Eldest Maternal Cousin: _____
14. Eldest Paternal Cousin's Child: _____
15. Eldest Maternal Cousin's Child: _____

DEFINITIONS

Administration: A court-supervised process to: 1) give notice to creditors and *interested persons*; 2) determine who the *heirs* are, 3) collect and inventory assets; 4) determine and pay federal and state taxes; 5) pay claims and administration expenses; 6) transfer assets of a decedent to heirs or to beneficiaries under a *Will* or *Codicil*; and 7) account for the disposition of assets that are collected.

Beneficiary: A person named in the *Will* or *Codicil* to receive an interest in property from a decedent; sometimes referred to as legatee.

Bequest and Devise: Used in a *Will* or *Codicil* to grant an interest in property.

Codicil: A written document made by the decedent that changes an existing *Will*. A *Codicil* and a *Will*, to be validly executed, must be executed with the signature of two witnesses and the signature of the testator or someone under his or her direction.

Deceased: A person who has died.

Decedent: The person who has died whose estate is subject to administration.

Domicile: Is the place where a person has his or her fixed and permanent home or residence to which he or she intends to return after any absence. It is not a special or temporary residence but a home or residence intended to be permanent for an unlimited or indefinite period.

Fair Market Value: A property's full value is defined as its fair market value, or the amount the property will sell for in an arms-length transaction on the open market between a willing seller not obliged to sell the property and a willing buyer not obliged to purchase it.

Heir: Any person, including a surviving spouse, who under state law is entitled under the statutes of intestate succession to an interest in property of the decedent.

Interested Person or Person Interested: Includes one or more of the following: 1) any *heir* of the decedent (even if not named in the *Will* or *Codicil*); 2) any beneficiary named in the *Will* or *Codicil*, and may include a beneficiary of a *trust*, the *trustee* of any existing *trust*, and a nominated *trustee* in the *Will* or *Codicil*; 3) the Personal Representative named in the *Will*.

Intestate: Not having made a valid *Will*. When a decedent has died "intestate," the distribution of assets follows the statutes of intestate succession.

Legal Description: A complete description of land recorded in a document filed with the register of deeds, such as occurs in a deed. Typically, this description is by lot number in a platted and recorded subdivision, or by "metes and bounds". A postal address is not a "*legal description*."

Personal Representative: Any person authorized to administer a decedent's estate. Evidence of this authorization is found in Letters Testamentary granted by the court. A personal representative may be nominated in a *Will* or *Codicil*.

Probate: Technically speaking, *probate* is the proof of the validity of a *Will* in court proceedings and the *probate* of the assets of a *decedent* involves the process of administering the assets as directed under the *Will*. However, *probate* or *probate administration* are terms often associated with administration of the property of persons who have died *intestate* (leaving no *Will*), as well as the property of minors, persons determined to be incompetent, and persons unwilling or unable to manage their income or assets.

Testate: Having made a valid *Will*. When a decedent has died "testate," distribution of assets follow the *Will*.

Testamentary Trust: An arrangement outlined in a *Will* in which one party, appointed by the court as *trustee* (sometimes a bank), holds and distributes property for the benefit of another.

Trustee: A person who holds in trust the title or power over property.

Will: A document, properly executed prior to death, which directs distribution of property after death and nominates who will care for and distribute property. It may nominate someone to care for minor children and/or handle assets in a testamentary trust. A *Codicil* and a *Will*, to be validly executed, must be executed with the signature of two witnesses and the signature of the testator or someone under his or her direction.

CHECKLIST FOR OPENING AN ESTATE ADMINISTRATION

TO OPEN AN ESTATE/RECEIVE LETTERS TESTAMENTARY

- ☐ **Petition for Probate** (PR001)
- ☐ **Consent to Serve** (PR009)
- ☐ **Notice to Creditors** (PR014)
- ☐ **Notice Setting Time to Hear Petition** (PR002) (if some of the interested parties did not sign onto PR017 Waiver and Consent Form)
- ☐ **Original Will** (and Codicils, if any)
- ☐ **Declination to Serve or Resignation** (if necessary) (PR008)
- ☐ **Waiver and Consent** (if any interested parties signed it) (PR017)

CHECKLIST FOR CLOSING AN ESTATE ADMINISTRATION

TO CLOSE AN ESTATE

☐ **Inventory** (with schedules) (PR013) – *Must be filed within 1 month after appointment as personal representative.*

☐ **Affidavit of Service (Probate)** (PR010)

- Showing that a copy of Will/Application/Notice was mailed to all interested persons who have not signed a Waiver and Consent.
- Showing that a copy of the Inventory was mailed to all interested persons.
- Showing that a copy of the Estate Account was mailed to all interested persons.

☐ **Proof of Publication**

(Obtained from newspaper where the Notice was published.)

☐ **Final Estate Account** with schedules (PR011)

☐ **Estate Receipt** (PR012)

- Each distributee must provide a receipt for all distributions received.
- Receipts can also be used to demonstrate that claims have been paid in full and satisfied.

☐ **Statement of Personal Representative to Close Estate** (PR016)

NOTICE: These instructions are only intended to provide information on how to fill out these forms. They are not intended to substitute legal advice. There may be additional documents and procedures for your particular type of action. If you have any legal questions regarding the specific facts of your case, please consult with an attorney.

For other questions, you may contact the Trial Court at (715) 284-2722. In addition, copies of the applicable law can be found on the Nation's website located at www.ho-chunknation.com/HCNLaws.aspx or by contacting the Ho-Chunk Nation Legislature at (715) 284-9343 or (800) 294-9343.

INSTRUCTIONS FOR PETITION OF DECEDENT'S NON-TRUST PROPERTY

Do not include these instruction sheets when you file the completed form.

A petition is an initial pleading that starts an action and states the basis for the court's jurisdiction, the basis for the petitioner's claim(s), and the demand for relief.

The petitioner is the party who brings the action to court i.e. the person who fills out the petition and is seeking to have the decedent's non-trust property probated.

The decedent is the person who is deceased.

Instructions:

- **Page 1, Lines 1-7:** Enter the name of the decedent on the line provided under "in the Interest of decedent." Enter your full, legal name on the petitioner line. There can be more than one petitioner. You do not need to write a case number. A case number will be assigned by the Court.
- **Page 1, Lines 8-9:** Notifies you that you have to fill out only the asterisked provisions if you seek a decedent's release of per capita and have already been appointed personal representative in another jurisdiction.
- **Page 1, Section II:** Provide the Court with your name, relationship to decedent, address, telephone number, email address, and tribal enrollment number.
- **Page 2, Section III, #1:** Check the corresponding box that applies to your situation. In other words, select whether the deceased individual was a Ho-Chunk tribal member or a minor child/ward. If you selected the box indicating that the deceased individual was a minor child/ward, specify whether you were a parent of the minor child/ward or a court appointed guardian of the child/ward.
- **Page 2, Section III, #2:** Enter the decedent's full, legal name on the line provided.

- **Page 2, Section III, #3:** Enter the decedent's tribal enrollment number on the line provided. Also, check the corresponding box that identifies the decedent's enrollment status.
- **Page 2, Section III, #4:** Verify whether the decedent lived on trust land when they died and check the corresponding box.
- **Page 2, Section III, #5:** Enter the decedent's date of birth on the line provided.
- **Page 2, Section III, #6:** Enter the decedent's date of death on the line provided.
- **Page 2, Section III, #7:** Check the corresponding item(s) that you are seeking to be probated. If you selected box #7(a), provide an affidavit from each of the following agencies certifying whether the decedent owed any debts to the Nation: Ho-Chunk Nation Child Support Agency, Ho-Chunk Nation Department of Treasury, Ho-Chunk Nation Department of Justice, Ho-Chunk Nation Trial Court. You may contact these agencies by calling the Nation's Tribal Office Building at (715) 284-9343 and asking to speak with the appropriate agency to determine whether any debts are owed.

If you selected box #7(b), then proceed to #8. Otherwise, skip to #9.

- **Page 2, Section III, #8:** Provide the names, addresses, and phone numbers of all the beneficiaries listed in the decedent's will. Skip to section 9 if the decedent did not have a will.
- **Page 3, Section III, #9(a):** Check the corresponding box that identifies whether the value of the decedent's non-trust estate is less than \$5,000.
- **Page 3, Section III, #9(b):** Check the corresponding box that identifies whether the decedent has a surviving spouse or minor child.
- **Page 3, Section III, #10:** Provide an estimate of the decedent's estate inventory. **NOTE:** "PR013 Inventory – Probate" must be filed within one (1) month after appointment of personal representative to document all other property.
- **Page 3, Section III, #11:** Provide the names and addresses of all the decedent's surviving family members. Also, provide their relationship to the decedent.
- **Page 3, Section III, #12:** Check the corresponding box that identifies whether there are any probate proceedings in other jurisdictions. If there is a probate proceeding in another jurisdiction, provide the name of the personal representative appointed in that proceeding and the name of the court.
- **Page 4, Section III, #13:** Check the box if you have attached copies of the decedent's death certificate.

- **Page 4, Section V:** A request for relief is what you are asking the court to do with your case - what do you want to occur in your case. Check the corresponding boxes if you want the court to appoint a personal representative, approve the decedent's last will and testament, find that the decedent died without a valid will, make a determination of heirs, make a declaration of presumptive death, or release decedent's per capita or trust fund. If you want to propose a certain individual to be appointed as personal representative, provide their name, address, and phone number. Also, state their qualifications on the lines provided.

NOTE: Make sure to include any of the required documents and check the corresponding boxes verifying you have attached those documents.

- **Page 5, Lines 1-18:** Be sure to read the statement that precedes your signature. If you are self-represented, you must date and sign the document. Do not sign the *Petition* until you are in front of a notary public. There are notary publics available most of the time at Wa Ehi Hoci. If you are represented by a lawyer, the lawyer must date and sign the document also.
- **Page 6:** Your attorney will fill out this page if you retained one – otherwise this page can be left blank.

INSTRUCTIONS FOR CONSENT TO SERVE FORM

Do not include these instruction sheets when you file the completed form.

PR009 – Consent to Serve should be included when you file the *Petition for Probate* if you agree to serve as the personal representative of the decedent's estate. The clerk will fill in the Case Number. Your attorney, if you secure one, should fill out the information in the box regarding who completed the form. Otherwise, that box can be left blank. Sign the form, print your name, address, phone number, and date.

INSTRUCTIONS FOR WAIVER AND CONSENT FORM

Do not include this instruction sheet when you file the completed form.

Waiver and Consent Purpose:

To obtain waivers of notice and consent of all interested persons to the use of estate administration and the appointment of the proposed personal representative. Also waives notice requirements for a hearing to open the estate.

A waiver and consent form or an appearance at a hearing is required from each interested person in the estate before Letters Testamentary can be issued to the Personal Representative. If the waiver and consent cannot be obtained and there is a Will nominating a personal representative willing to act, a hearing will be required to open the estate.

Instructions:

- Type or print the name of the decedent below the words “In the Matter of the Estate of...” Leave the case number blank, as the Clerk will assign the case number.
- Check the appropriate boxes on Line 5 and insert the dates, if applicable.
- If there is a Will, check the box on Line 6 and insert the date of the Will and date of any Codicil to the Will.
- In line 7 insert the name of the person seeking to be appointed as Personal Representative.
- The name of each interested person or beneficiary must be printed or typed in the box for this purpose and each must sign and date the form.
- Fill in the “Form completed by” box.

INSTRUCTIONS FOR STATEMENT OF ESTATE ADMINISTRATION

Do not include this instruction sheet when you file the completed form.

Statement of Estate Administration Purpose:

To grant the Petition for Probate and allow Letters Testamentary to be issued to the proposed Personal Representative.

Instructions:

- Type or print the name of the decedent below the words “In the Matter of the Estate of...” Leave the case number blank, as the Clerk will assign the case number.
- In Line 4, place a check in the appropriate box:
 - Check the first box if notice to interested persons had to be published.
 - Check the second box if all interested persons signed a Waiver and Consent form.
- In Line 5, insert the date of death and:
 - A. Check the box if there is no Will.
 - B. Check the box if there is a Will and insert the date of the Will and codicil.
- Check the appropriate box indicating where the Will is located.
- In Line 6, insert the name of the nominated Personal Representative.
- Read Line 7 and check the appropriate box.
- Below the words “THE JUDGE/CLERK OF COURT STATES:”
 - In Line 2, if there is a Will, insert the date of the Will.
 - In Line 3, if there is a Codicil, insert the date of the Codicil.
 - In Line 4, insert the name of the Personal Representative.
 - In Line 5, if Letters of Trust must also be issued, insert the name of the Trustee and check the appropriate box concerning a bond.
- Fill in the “Form completed by” box.

The Judge/Clerk of Court will insert any additional information required on this form and sign and date it.

INSTRUCTIONS FOR NOTICE TO CREDITORS

Do not include this instruction sheet when you file the completed form.

Notice to Creditors Purpose:

To set a deadline for filing claims in an estate administration in which all interested persons have signed waivers consenting to estate administration.

Instructions:

- At the top of the form insert the decedent's name just below the words "In the Matter of the Estate of..." The Clerk will fill in the case number.
- In the Notice to Creditors box:
 - Fill in decedent's name, DOB (date of birth), and DOD (date of death) next to the NOTICE TO CREDITORS OF THE ESTATE OF section.
 - Fill in the name of the personal representative.
 - The deadline for filing claims is 105 days from the date the Clerk of Court signs the Notice.
- In the lower left-hand corner of the form fill in the name, address and telephone number of the Personal Representative.

The Clerk will provide a signed copy to the Personal Representative.

The Personal Representative is responsible for submitting a copy of the Notice to Creditors to the Hocak Worak newspaper for publication in three (3) consecutive issues. It must be sent promptly, as the estate cannot be closed or distributed until at least ninety (90) days after the first publication. In addition, the notice must be posted in at least three (3) conspicuous places within the Nation.

The Personal Representative is also responsible for serving a copy of the Notice to Creditors to "all known or reasonably ascertainable creditors," as indicated on the form.

INSTRUCTIONS FOR NOTICE OF HEARING ON PETITION

Do not include this instruction sheet when you file the completed form.

Purpose:

To give notice to interested persons of the hearing time and date on the *Petition for Probate*.

Instructions:

- At the top of the form insert the name of the decedent's county of residence and add the decedent's name just below the words "In the Matter of the Estate of..." The Clerk will fill in the case number.
- Line 2: fill in decedent's date of birth, date of death, county, state and address.
- Line 3: List the names of any interested parties whose addresses are not known.
- The Clerk will fill in the necessary information on Line 4.
- The petitioner is responsible for mailing a copy of this Notice, a copy of the Petition for Probate, and a copy of the Will and Codicil (if any) to all interested persons.
- The Personal Representative is responsible for mailing a copy of this Notice to "all known or reasonably ascertainable creditors," as indicated on the form.
- The Personal Representative must also complete an Affidavit/Certificate of Service (Probate) indicating when a copy of this Notice, Petition for Probate and Will and Codicil were provided to all interested persons.
- Additionally, the Personal Representative is also responsible for forwarding a copy of this Notice to the newspaper for publication for 3 consecutive issues if the addresses of the interested parties are not known. It must be delivered to the newspaper promptly, as the first publication must occur within 15 days of the date the Probate Registrar signed the Notice. The personal representative must also post the notice in 3 public places around the Nation.

INSTRUCTIONS FOR INVENTORY

Do not include this instruction sheet when you file the completed form.

Inventory Purpose of Form: To identify and list the fair market value of property and assets owned by the deceased on the date of death that are subject to estate administration.

Instructions:

PAGE 1.

At the top of the form insert the name of the decedent's county of residence and add the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number.

- Fill in date of death
- Fill in total value of property/assets subject to administration (from page 2).
- Fill in total value of encumbrances, liens or other charges (from page 2).
- Fill in net value of property/assets subject to administration (from page 2).
- Sign inventory in front of a notary public (after all Schedules are completed on page 2).

Fill in the "Form completed by" box.

PAGE 2.

- Fill in case number.
- List/describe, by numbered Schedules, the property subject to administration and fair market values as of date of death. Include accrued interest and dividends, if any.
- List with each item of property any encumbrance, lien, or charge.

(NOTE: This is not meant for listing "charge cards." A "charge" is something like a lien or encumbrance on a specific item of property. A mortgage, for example, is an encumbrance on real estate).

- Identify each item of property that is marital property.

Attach supporting schedule, if necessary - read the form carefully.

INSTRUCTIONS FOR ESTATE ACCOUNT

Do not include this instruction sheet when you file the completed form.

Estate Account Purpose of the Form: To make a written accounting of the assets handled by the Personal Representative during the administration of an estate.

Instructions:

PAGE 1. (A summary of the total figures from the schedules located on page 3.)

At the top of the form insert the name of the decedent's county of residence and add the decedent's name just below the words "In the Matter of the Estate of..." Check the appropriate box. Fill in the case number. Check the box for personal representative and fill in the date of death of the decedent and the date on which you are completing the form.

Under "Receipts:"

- Inventoried Assets: Insert the Net Value of Property figure from the Inventory on file;
- Schedule A – Added Property: List the total of any property found after filing the Inventory other than dividends, interest or capital gains; an additional filing fee may be required.
- Schedule B – Dividends: List the total of any dividends received and not already listed in the Inventory;
- Schedule C – Interest: List the total of any interest received and not already listed in the Inventory;
- Schedule D – Capital Gains/Losses: List the total of any capital gains or losses;
- Schedule E – Other Receipts: List the total of any other property received and not accounted for in Schedules A-D.
- Balancing Totals: Add all the amounts in the "TOTAL" column regarding receipts and enter it in the space next to "Total". Under "Disbursements:"
- Schedule F – Funeral Expenses: List the total of the funeral expenses.
- Schedule G – Debts of Decedent: List the total of all debts paid.
- Schedule H – Claims: List the total of all claims paid.
- Schedule I – Taxes Paid: List the total of all taxes paid.
- Schedule J – Interest Paid: List the total of all interest paid.
- Schedule K – Administration Expenses: List the total of all administrative expenses paid.
- Schedule L – Other payments: List the total of all other bills paid other than attorney fees.
- Schedule M – Distributions Paid to Date: List the total of all partial payments made to the beneficiaries (or heirs, if there has been no Will admitted to administration) up to the date of preparing this Estate Account.

- Total Disbursements: Add all the amounts in the “TOTAL” column regarding disbursements (Schedules F-M) and enter it in the space next to the “total disbursements”.
- Schedule N – Assets on Hand: Value of assets that remain to be distributed.
- Balancing Totals: Add the total disbursements and the total assets on hand and enter that total as the “TOTAL” for the disbursements column.

NOTE: The totals for Receipts and for Disbursements and Assets on Hand MUST be the same. If they are not, there is an error.

Proposed Distribution of Assets on Hand (Schedule O): Should be the same figure as shown in Schedule N, above.

- Total Fees: Insert the amount of any personal representative fees, guardian ad litem fees, special administrator fees, and attorney fees (if none, state) paid during the administration of the estate.

The Personal Representative or Co-Personal Representatives must sign this document in front of a Notary Public.

PAGE 2.

- Insert the case number.
- Provide the information required in the “Form Completed by” box.
- Insert the names of the interested persons, their addresses and, if minors, their dates of birth.

PAGE 3.

- Insert the case number.
- List Schedules A-O: List in detail the amounts for each schedule, for example:

Schedule F – Funeral Expenses:

Sunset Monuments	\$2,700.00
John’s Funeral Home.....	5,580.47
The total of this Schedule.....	\$8,280.47

(This should then be inserted on Page 1 of the Estate Account in the Disbursements column, Funeral Expenses Schedule F.)

INSTRUCTIONS FOR ESTATE RECEIPT

Do not include this instruction sheet when you file the completed form.

Estate Receipt Purpose of the Form: To show that creditors, heirs, beneficiaries or trustees have received what is due them from the decedent's estate.

Instructions:

At the top of the form insert the name of the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number.

1. Check the "personal representative" box and describe the property covered by the issuance of the receipt. (Cash payment, items of personal property, stocks, bonds, etc.)
2. Check the appropriate No. 2 box if this is a distribution to an heir/beneficiary other than a trust.
3. If the receipt is for a claim against the estate, place a check in No. 3, fill in the name of the claimant and the amount of the claim.
4. If this is a distribution to a living or testamentary trust, place a check in No. 4 and insert the name of the trust.

Fill in the "Form completed by" box.

Recipient signs the receipt, adding his or her address and the date signed.

The original of this form is filed with the Ho-Chunk Nation Trial Court

NOTE: A receipt is required for all distributions in an estate.

INSTRUCTIONS FOR AFFIDAVIT OF SERVICE

Do not include this instruction sheet when you file the completed form.

Affidavit of Service Purpose of the Form: A sworn statement indicating the names and addresses of all interested persons to whom various documents are mailed.

Instructions:

At the top of the form insert the name of the decedent's county of residence and add the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number. When you complete this form, you are swearing that you mailed a copy of a specific document OR documents to a certain party or parties concerned with the estate.

- Insert your name where indicated and the city and state where you live.
- Insert the mailing or service date next.
- In the "Documents Provided" section, insert the name of the document or documents that you have mailed or served.
- Check the box to indicate whether the original of that document(s) is already in the estate file in the Ho-Chunk Nation Trial Court or if a copy of that document(s) is attached to the affidavit.
- Insert the names and addresses of all the individuals/businesses/creditors to which you have mailed a copy of the document you inserted earlier in this form and state the type of service (i.e. mail, personal service).
- Fill in the "Form completed by" box.

DO NOT SIGN THIS FORM until you are in front of a Notary Public. There are notaries at Wa Ehi Hoci that can notarize the document.

INSTRUCTIONS FOR STATEMENT OF PERSONAL REPRESENTATIVE TO CLOSE ESTATE

Do not include this instruction sheet when you file the completed form.

Statement of Personal Representative to Close Estate Purpose of Form: To verify that the Personal Representative has completed the estate.

Instructions:

At the top of the form insert the name of the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number.

- Read paragraphs 1-3 and 5-6 and determine if you have completed all tasks.
- In No. 4, check the appropriate box and if claims have not been paid, insert the arrangements made to accommodate those unpaid claims.
- In No. 7, insert the amount of any attorney fees paid.

The Personal Representative must sign the Statement in front of a Notary Public.

The original of this document must be filed in the Ho-Chunk Nation Trial Court.

INSTRUCTIONS FOR DECLINATION TO SERVE OR RESIGNATION

Do not include this instruction sheet when you file the completed form.

Declination to Serve or Resignation Purpose of the Form: To allow the person who has been nominated in the Will as personal representative or executor to decline to act as such personal representative or executor. This form may also be used if a Personal Representative, or Trustee must resign.

Instructions for Declination:

At the top of the form insert the name of the decedent's name just below the words "In the Matter of the Estate of..." The Clerk of Court will fill in the case number.

- In 1, check the appropriate box or boxes that apply.
- The person who is declining to act must sign and date this form where indicated and fill in the "Form completed by" box.

Instructions for Resignation:

At the top of the form insert the name of the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number.

- Check the box for your title.
- Give the reason for your resignation.
- The person who is resigning must sign and date where indicated and fill in the "Form completed by" box.

Original of this form is filed with the Ho-Chunk Nation Trial Court.

INSTRUCTIONS FOR SIGNATURE BOND

Do not include this instruction sheet when you file the completed form.

Signature Bond Purpose of the Form: Guarantees compliance with the terms of the bond, and is the proposed personal representative's promise to faithfully perform his or her duties in the administration of the estate.

Instructions:

At the top of the form insert the name of the decedent's name just below the words "In the Matter of the Estate of..." Fill in the case number if one has already been assigned.

- Principal and Surety can be either the same individual or separate individuals. The Principal is the personal representative. The surety is the individual willing to be personally liable to the estate should there be a loss of assets as a result of wrongdoing or mismanagement.
- Insert the amount of bond as determined by the Clerk of Court (based on the estimated value of the estate).
- Check the box which corresponds with your title.
- The Principal must sign where indicated and the signature must be witnessed by two people.
- Any Surety must sign where indicated, in front of a Notary Public.
- In the lower left-hand corner of the form, complete the "Form completed by" box.
- If the bond is approved, the Clerk of Court will complete the remainder of the form.

The original is filed with the Ho-Chunk Nation Trial Court.

INSTRUCTIONS FOR CLAIM AGAINST THE ESTATE FORM

Purpose of the Form: This is the form that creditors file to make a claim against the estate of the decedent. They can either present it to the personal representative at the address noted in the Hocak Worak publication of the Notice to Creditors, or present it to the Court Administrator/Clerk of Court if the creditor is unable to submit it to the personal representative or if there is no personal representative.

Instructions:

- The creditor will fill out their Name, Address, and Phone Number in Section 1.
- The basis for the claim and amount of the claim should be entered in Section 2, or else the box next to “See Attached” should be checked if the creditor is including another sheet with additional information.
- One of the boxes in Section 3 should be checked indicating either that there is a bill that is already due, or will be due in the future, and the future due date should be noted.
- The creditor should note in Section 4 whether there have been any payments made on the claim.
- This form should be signed by the claimant before a notary public.

**IN THE
HO-CHUNK NATION TRIAL COURT**

In the Interest of Decedent:

_____,
Decedent's Name & Date of Death (if known)

By _____,
Petitioner.

**PETITION FOR PROBATE OF
DECEDENT'S NON-TRUST PROPERTY**

Case No.: **PR** _____ - _____
[assigned by the Court]

The asterisked () items are the only items that need to be filled out if you are **solely** seeking a release of the decedent's per capita.*

I. JURISDICTION

This Court has the authority to dispose of Ho-Chunk Nation members' non-trust property pursuant to the HO-CHUNK NATION PROBATE CODE FOR NON-TRUST PROPERTY, 8 HCC § 13.

II. PETITIONER'S INFORMATION

***A.** The following information relates to the petitioner:

1. Name: _____
2. Relationship to Decedent: _____
3. Address: _____
(state physical address also if P.O. Box is listed)

City State Zip Code
4. Phone: (_____) _____ (_____) _____
Home Work
5. E-mail Address: _____
6. Ho-Chunk Nation Tribal Enrollment No.: _____

Surviving Spouse's Rights: If a married person domiciled on Nation trust or restricted land passes, the surviving spouse has a right to elect to take an elective share of one-third ($\frac{1}{3}$) of the non-trust estate of the decedent, less funeral and administration expenses, family allowance and enforceable claims against the estate, plus the value of all property in excess of one-thousand dollars (\$1,000.00) transferred by the decedent to any person other than the surviving spouse in the three (3) years preceding the decedent's passing, to which the surviving spouse has not joined by written consent. 8 HCC § 13.36.

1 **III. DECEDENT'S INFORMATION**

2 *1. I am petitioning the Court for probate of the decedent's non-trust property on behalf of:
3 (choose one)

- 4 ☐ an adult deceased Ho-Chunk Tribal Member, OR
5 ☐ a deceased minor child/ward as a: (please specify)
6 ☐ parent of the minor child/ward, OR
7 ☐ a court-appointed legal guardian of the estate of the child/ward

8 *2. The decedent's full legal name is: _____

9 *3. The decedent's Ho-Chunk Nation tribal enrollment number is: No. 439A00 _____

10 Enrollment status: ☐ Enrolled ☐ Removed from membership

11 *4. Did the decedent reside on Ho-Chunk Nation trust or allotment lands?: ☐ Yes ☐ No
12 ☐ Unknown

13 *5. Decedent's Date of Birth: _____

14 *6. Decedent's Date of Death: _____

15 *7. Indicate which item(s) you are seeking to be probated:

- 16 ☐ *a. Children's/Incompetent's Trust Fund or Per Capita Distribution
17 ☐ b. Will
18 ☐ c. Estate without a will

19 **8. Will Beneficiaries – skip to #9 if #7b was not selected.**

20 Names and contact information of beneficiaries listed in decedent's will:

Name	Address	Phone Number

25 Attach additional sheets if necessary. ☐ Check this box if additional sheets are attached.

26 **9. Exempt Estate**

27 A non-trust estate having an appraised value which does not exceed five thousand dollars
28 (\$5,000.00) and which is to be inherited by a surviving spouse and/or minor children of
the deceased shall be exempt from the claims of all general creditors and the probate
thereof may be summarily concluded.

- a. Is the value of the non-trust estate less than \$5,000?: ☐ Yes ☐ No
b. Did the decedent have a surviving spouse or minor child?: ☐ Yes ☐ No

***10. Estate Inventory**

***A.** If requesting a release of decedent's per capita:

Per Capita Amount	
--------------------------	--

B. Estimated Value of Decedent's Entire Estate: \$ _____

NOTE: "PR013 Inventory – Probate" must be filed within one (1) month after appointment of personal representative to document all other reasonably ascertained property.

11. Interested Parties - Names and addresses of decedent's living family members:

Relationship to Decedent	Name(s)	Address(es)
Spouse		
Eldest Living Child		
Other Children		
Father		
Mother		
Paternal Grandfather		
Paternal Grandmother		
Maternal Grandfather		
Maternal Grandmother		
Eldest Living Brother		
Eldest Living Sister		

Attach additional sheets if necessary. ☐ Check this box if additional sheets are attached.

***12.** Are there any probate proceedings in another jurisdiction?: ☐ Yes ☐ No

If so, provide the name of the personal representative appointed in that proceeding and the name of the court:

☐ ***13. I certify that I have included a certified copy of the decedent's death certificate with this *Petition*.** If not, explain why not: _____

1 **V. REQUESTED RELIEF**

2 ☐ 1) *Release of decedent's per capita disbursement or trust fund.

3 ☐ I included the required *Statement* from Providence First Trust Company, or from
4 the Ho-Chunk Nation Department of Treasury that details the total amount.

5 ☐ I included the four (4) required *Affidavits* from the Ho-Chunk Nation
6 Department of Justice, the Ho-Chunk Nation Child Support Agency, the Ho-Chunk
7 Nation Department of Treasury, and the Ho-Chunk Nation Court.

8 ☐ 2) The surviving (living) spouse invokes their right to an elective share of one-
9 third of the non-trust estate.

10 ☐ 3) Approval of decedent's last will and testament.

11 ☐ I included the required original will, or a copy if the original couldn't be
12 obtained.

13 ☐ 4) Designation as an Exempt estate - (*decedent is survived by a spouse or minor child*
14 *and the estate is less than \$5,000.00*)

15 ☐ 5) A finding that the decedent died without a valid will.

16 ☐ 6) Determination of heirs.

17 ☐ 7) Declaration of Presumptive Death

18 ☐ 8) Appointment of a personal representative

19 8a. Proposed Personal Representative Information

Name	Address	Phone Number

20 8b. Statement of the proposed personal representative's qualifications:

21 8c. The following documents **must** be filed with this *Petition* if the petitioner is seeking
22 to be appointed the personal representative: (*check the box to verify that the form is*
23 *included with the Petition.*)

24 ☐ PR009 – Consent to Serve, or PR008 – Declination to Serve

25 ☐ PR014 – Notice to Creditors

26 8d. The following document may also be filed with the *Petition* if applicable:

27 ☐ PR017 – Waiver and Consent Form

28 (*if interested parties do not object to the Petition and signed onto the form.*)

NOTICE:

*It is the duty of the Petitioner to arrange a hearing date/time with the Court, to send a copy of the *Petition* and its attachments to the parties, and to provide notice of the hearing to the interested parties.

*The Notice of Hearing must be sent at least forty-five (45) days before the time set for the hearing by certified or registered mail.

*If the address, or identity of any person is not known and cannot be ascertained by reasonable diligence, notice of the hearing must be posted in three (3) conspicuous places within the Nation at least forty-five (45) days before the time set for the hearing and published in the official Ho-Chunk Nation newspaper for three (3) consecutive issues.

☐ Check this box to certify that you have *included PR002 – Notice Setting Time to Hear Petition*, or *PR017 – Waiver and Consent* signed by all of the interested parties.

The Clerk will give you back *PR002* with the hearing date and time noted on the form. You must send this filled out copy of *PR002* with the *Petition* and its attachments to the interested parties who have not waived notice. You are required to file *PR010 - Affidavit of Service* proving that you sent copies to the interested parties.

By affixing my signature below, I swear that I provided the above information in good faith and with the belief that each statement represents a true and accurate account of the facts based upon adequate research and investigation. I recognize that the Ho-Chunk Nation Judiciary may impose sanctions if it determines that I made statements in bad faith, including intentional misstatements or statements made upon inadequate research or investigation. I also recognize that the foregoing admonition extends to include the omission of material facts or law, which I knew, or should reasonably have known, would impact or prove relevant to the action.

RESPECTFULLY SUBMITTED this ____ day of _____, 20____.

*Petitioner's Printed Name: _____

*Petitioner's Signature: _____

*SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20____ at

City State

Notary Public for _____
State

My commission expires: _____

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Name of Attorney/Lay Advocate (if any)	Signature of Attorney/Lay Advocate
Mailing address of legal counsel: _____	

E-mail address of legal counsel: _____	
Telephone number of legal counsel: _____	
Facsimile number of legal counsel: _____	
Ho-Chunk Bar Number of Counsel: _____	

If the attorney/lay advocate is not a member of the Ho-Chunk bar: ☐ a *Motion to Appear Pro Hac Vice* has been attached in accordance with *Ho-Chunk Nation Rules of Civil Procedure*, Rule 16(B),1; and/or ☐ I have applied for membership in the Ho-Chunk bar in accordance with the *Ho-Chunk Nation Rules for Admission to Practice*.

IN THE MATTER OF THE ESTATE OF

Consent to Serve

Case No. _____

1. I consent to serve as personal representative of the estate.
2. I accept the duties, submit personally to the jurisdiction of the court in any proceeding relating to the estate that may be instituted by any interested person and agree to be bound by the laws of the Ho-Chunk Nation.
3. I will file any required bond.
4. I am at least 18 years old and legally competent.

Signature_____
Name Printed or Typed_____
Address_____
Telephone Number_____
Date

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)

HO-CHUNK NATION TRIAL COURT,

For Official Use

IN THE MATTER OF THE ESTATE OF

—

**Waiver and
Consent**

Case No. _____

1. I am by law an interested person in this estate.
2. I am not a minor.
3. I have not been found incompetent and I do not have a guardian.
4. I waive any further notice of the hearing. I enter my appearance in this matter, and consent to the requests made in the *Petition for Probate*.
5. I have received a list of all interested persons, and *(Choose one)*
 - ☐ a copy of the will dated _____ and codicil(s) (if any), dated _____.
 - ☐ a notice of the nature and amount of the bequest contained in the will dated _____ or codicil(s) (if any), dated _____.
 - ☐ decedent died leaving no will.
- ☐ 6. I consent to the admission of the will dated _____ and codicil(s) (if any), dated _____.
7. I consent to the appointment of _____ as personal representative(s) in this estate.
- ☐ 8. Other: _____

Name Printed or Typed	Signature	Date

Form completed by: (Name)	
Address	
Telephone	Bar Number (If any)

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF _____

☐ Amended

**Order and Statement
of Estate Administration**

Case No. _____

A Petition for Probate to administer the decedent's estate was filed.

THE JUDGE/CLERK OF COURT FINDS:

1. The petition is complete, including verification.
2. The petitioner is an interested person.
3. The court has jurisdiction and is the proper venue.
4. The requests and consents regarding the estate administration are complete and notice was
☐ given to all persons entitled to notice.
☐ waived.
5. The decedent died on (Date) _____, leaving
☐ A. no will.
☐ B. a will dated _____; codicil(s) (if any) dated _____; that
☐ was/were in possession of the court
☐ accompanied the application
☐ was/were probated elsewhere and an authenticated copy accompanies the application
and is a valid uncontested document(s) executed in compliance with the statutes and does not expressly
prohibit informal administration.
6. The nominated personal representative(s) _____

is/are not disqualified by law or otherwise deemed unsuitable.
7. ☐ No administration is pending before the court in another jurisdiction, OR
☐ Administration is pending before the court in another jurisdiction.
- ☐ 8. Other: _____

THE JUDGE/CLERK OF COURT STATES:

1. The petition for probate is granted.
 - ☐ 2. The will dated _____ is admitted.
 - ☐ 3. The codicil(s) (if any) dated _____ is/are admitted.
 4. Letters Testamentary are issued to _____
☐ and no bond is required.
☐ upon filing and acceptance of ☐ a signature bond. ☐ a surety bond in the sum of \$ _____.
 - ☐ 5. Letters of trust are issued to _____
for the following trust: _____,
☐ and no bond is required.
☐ upon filing and acceptance of ☐ a signature bond. ☐ a surety bond in the sum of \$ _____.
 - ☐ 6. Other: _____
- ☐ See attached.

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)

Judge/Clerk of Court

Name Printed or Typed

Date

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF _____

☐ Amended

Notice to Creditors

Case No. _____

Notice to Newspaper and Personal Representative:

The personal representative is responsible for providing the deadline for filing a claim against the decedent's estate to all known or reasonably ascertainable creditors.

This notice shall be published for three (3) consecutive issues; the first publication date must be within 15 days from the date underneath the Clerk of Court's signature.

Here is the language that should be published in the newspaper:

NOTICE TO CREDITORS OF THE ESTATE OF: _____
A *Petition for Probate* was filed in the Ho-Chunk Nation Trial Court. You have 90 days from the date of the first publication of this notice to present your claims to the personal representative, _____, or the Clerk of Court at P.O. Box 70, Black River Falls, WI 54615. The deadline for filing claims is _____.
Only those claims so presented may be paid from the estate.

Clerk of Court

Name Printed or Typed

Date

Form completed by: (Name)

Address

Telephone

Bar Number (If any)

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF _____

☐ Amended

**Notice of Hearing on
Petition for Probate**

Case No. _____

PLEASE TAKE NOTICE:

1. A *Petition for Probate* was filed.
2. The decedent, with date of birth _____ and date of death _____ was domiciled in _____ County, State of _____, with a mailing address of _____.
3. The names or addresses of the following interested person are not known or reasonably ascertainable:

4. The petition will be heard at Wa Ehi Hoci, W9598 Hwy 54 E, Black River Falls, WI, 54615, before Judge _____, on (Date) _____ at (Time) _____.

You do not need to appear unless you object. The petition may be granted if there is no objection.

If you require reasonable accommodations due to a disability to participate in the court process, please call 715-284-2722 at least 10 working days prior to the scheduled court date.
Please note that the court does not provide transportation.

Clerk of Court

Name Printed or Typed

Date

DO NOT PRINT the following text when publishing this notice.

*** IF not all of the addresses of the interested parties are known, give this form once it is returned to you filled out by the Clerk of Court to the newsletter staff for publication ***

Notice to Petitioner:

The petitioner is responsible for providing a copy of this notice, a copy of the will and codicils (if any), and a copy of the petition to all interested persons by certified mail or personal service at least 45 days before the hearing. If the address, or identity of any person is not known and cannot be ascertained by reasonable diligence, the petitioner must post a copy of the notice in at least three (3) conspicuous public places within the Nation at least forty-five (45) days before the time set for the hearing and publish the notice in the official newsletter of the Ho-Chunk Nation, currently known as the Hocak Worak, for three (3) consecutive issues. See 8 HCC § 13.65a(2).

Notice to Newspaper:

Notice must be given by publication of this form in the official newsletter of the Ho-Chunk Nation for three (3) consecutive issues with the first publication occurring at least forty-five (45) calendar days prior to the hearing date noted in Section 4.

IN THE MATTER OF THE ESTATE OF

Inventory☐ Amended

Case No. _____

UNDER OATH, I STATE:

As personal representative, I certify that to the best of my knowledge this inventory with schedules includes:

1. All property subject to administration.
2. Any encumbrance, lien or other charge against each item of property.
3. Identification of marital property, if any.

I will furnish a copy of this inventory to all persons interested as required by law.

SUMMARY OF PROPERTY SUBJECT TO ADMINISTRATION (Value of Decedent's Interest on date of death)	Date of Death
Total value of property subject to administration	\$
Minus total value of encumbrances, liens or other charges against each item of property	(\$)
Net Value of Property Subject to Administration (cannot be less than \$0)	\$

Provide itemized lists on attached schedules and clearly designate any marital property interests.**NOTE:** A statutory filing fee must accompany this form.

State

County of _____

Subscribed and sworn to before me on _____

Notary Public/Court Official

Name Printed or Typed

My commission/term expires:



Personal Representative

Name Printed or Typed

Address

Telephone Number

Date

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)

Number	Supporting Inventory Schedules (Description of property including digital property, legal description of real estate, and related encumbrances, liens or other charges against each item.)	Value of Decedent's Interest on Date of Death

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF _____

☐ Amended

☐ Interim

☐ Final

☐ Supplemental

Estate Account

Case No. _____

UNDER OATH I VERIFY:


I am the personal representative of this estate and this estate account is true and correct. The following is my account of the administration of this estate from (Date of Death or Date of prior account)

to (Date) _____. **List interested persons on page 2.**

RECEIPTS	TOTAL	DISBURSEMENTS	TOTAL
Net Value of property, subject to administration from Inventory (or assets on hand as of last account)		Funeral Expenses Schedule (F)	
Added Property to which the decedent was entitled to on Date of Death not included in Inventory or Prior Account Schedule (A)		Debts of Decedent (G)	
Dividends (B)		Claims (including those by judgment) (H)	
Interest (C)		Taxes Paid (I)	
Capital Gains (Losses) (D)		Interest Paid (J)	
Other Receipts (E)		Administration Expenses (K)	
		Other Payments (L)	
		Distributions Paid to Date (M)	
		TOTAL DISBURSEMENTS	
		Assets on Hand (N)	
TOTAL		TOTAL	

Totals in each column must be the same.

Proposed distribution of Assets on Hand (Schedule O)	
Total Fees Paid during Administration: Personal Representative Guardian Ad Litem Special Administrator Attorney	

State _____ of _____ 

County of _____ Personal Representative/Special Administrator

Subscribed and sworn to before me on _____ Name Printed or Typed

Notary Public/Court Official Address

Name Printed or Typed

My commission/term expires: _____ Telephone Number

Date

Form completed by: (Name)	Telephone Number	Bar Number (If any)
---------------------------	------------------	---------------------

Address

ESTATE ACCOUNT SUPPORTING SCHEDULE

List of Interested Persons

The names and mailing addresses of all interested persons are as follows:

(For any person with disabilities, also list any guardian of estate; for any person in the military, also list attorney or attorney in fact; and for any minor, list date of birth.)

Name	Mailing Address	If Minor, Date of Birth

Schedule (A - O)	Estate Account Supporting Schedules (List details of each schedule)	Amount

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF _____

☐ Amended

Estate Receipt

Case No. _____

1. I received from the personal representative of the estate the following:

Describe items of property or monies received

☐ 2. This is a ☐ partial ☐ full distribution of my share of the estate.

☐ 3. This is a full satisfaction of the claim filed by _____ in the amount of \$ _____.

☐ 4. This is a distribution of funds to trust. [Identify Trust] _____.

☐ 5. Other: _____.



Signature

Name Printed or Typed

Address

Date

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)

HO-CHUNK NATION TRIAL COURT,

For Official Use

IN THE MATTER OF

☐ Amended

**Affidavit of Service
(Probate)**

Case No. _____

I, (Name) _____ of (City) _____,
State of _____, being sworn, state that on (Date) _____, I
provided copies of the following documents:

Documents Provided

- ☐ the original of which is on file, OR
☐ a copy of which is attached (no original on file)

to the following named persons at the mailing address as listed:

☐ See attached

NAME	MAILING ADDRESS	TYPE OF SERVICE***

*** **TYPE OF SERVICE:** Refer to *HCN Rules of Civil Procedure*, Rule 5, for proper manner of service.

Type of Service:

- ☐ Personal Service
☐ Mail
☐ Certified mail return receipt requested

Signature

Print or Type Name

Address

Telephone Number

Date

Form completed by: (Name)	
Address	
Telephone Number	Bar Number (If any)

IN THE MATTER OF THE ESTATE OF _____

☐ Amended**Personal Representative's
Statement to Close Estate**

Case No. _____

I VERIFY THAT I, OR A PRIOR PERSONAL REPRESENTATIVE WHOM I HAVE SUCCEEDED:

1. Gave notice to interested persons and to creditors as required by law and the time for filing claims expired prior to the date of this statement.
2. Fully administered the estate by making payment, settlement, or other disposition of all claims presented, expenses of administration, reasonable funeral and burial expenses, death and other taxes, except as otherwise specified below.
3. Inventoried the assets of the estate, furnished a copy of the inventory to interested persons and distributed the assets to the persons entitled to them.

4. ☐ Am aware of no unpaid claims, expenses or taxes outstanding.
☐ Made the following detailed arrangements to accommodate any outstanding liabilities:
_____ ☐ See attached

5. Sent a copy of this statement to all distributees of this estate and to all creditors or other claimants of whom I am aware whose claims are neither paid nor barred.

6. Furnished a full account of the administration, in writing, to all persons whose interests are affected.

7. The amount of attorney fees paid or to be paid from estate assets is \$_____.

8. Understand that if no proceedings challenging this statement or otherwise involving me as personal representative are pending in the court 6 months after this statement is filed, my appointment as the personal representative terminates.

State _____ o 

County of _____

Subscribed and sworn to before me on _____

Personal Representative

Name Printed or Typed

Notary Public/Court Official

Address

Name Printed or Typed

Telephone Number

My commission/term expires:

- _____

Date

IN THE MATTER OF THE ESTATE OF

☐ Amended**Declination to Serve
or Resignation**

Case No. _____

☐ **DECLINATION TO SERVE**

1. I was named in the will or codicil of the decedent to serve as
 - ☐ personal representative.
 - ☐ testamentary trustee.
2. I have not undertaken any duties in this capacity.
3. I decline to serve in this capacity.

☐ **RESIGNATION**

1. I am the
 - ☐ personal representative.
 - ☐ testamentary trustee.
 - ☐ Other: _____
2. I resign for the following reason(s): _____
3. I request that the court accept my resignation.
4. I understand that I will not be discharged until
 - A. I have completed all required duties and filed any required documents;
 - B. a successor is appointed (if needed), AND
 - C. the court issues an order of discharge.

Signature_____
Name Printed or Typed_____
Address_____
Telephone Number_____
Date

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

☐ Amended

IN THE MATTER OF THE ESTATE OF _____

**Signature Bond in
Estate or Trust
Proceedings**

For the following trust: _____

Case No. _____

Date of Birth

I, [Name]_____, principal,
and [Name]_____, surety, are
liable to the Court in the sum of \$_____ for which payment I/we bind my/ourselves
and my/our estate(s), jointly and severally.

If the principal faithfully performs duties as

- ☐ personal representative; ☐ special administrator; ☐ testamentary trustee;
☐ petitioner;
☐ assignee, to satisfy liability to creditors or other persons interested in the estate;
☐ Other: _____

then this bond obligation shall be void; otherwise it shall remain in full force and effect.

I acknowledge that failure to perform my duties could result in the garnishment of my per capita payments.

Witnessed By:

Witness Signature

Signature of Principal

HCN Tribal ID#:

I, being sworn as a surety, state that I am an enrolled Ho-Chunk Nation tribal member. I acknowledge that my
per capita payment may be garnished for the action/inaction of the principal in the amount of this bond.

State of _____
County of _____
Subscribed and sworn to before me on _____

Signature of Surety

Name of Surety

Notary Public/Court Official

Surety HCN Tribal ID#:

Name Printed or Typed

Address

My commission/term expires: _____

APPROVED BY:

Court Official

Name Printed or Typed

Date Bond Approved

HO-CHUNK NATION TRIAL COURT, _____

For Official Use

IN THE MATTER OF THE ESTATE OF

Claim Against Estate

☐ Initial
☐ Amended

Case No. _____

UNDER OATH I STATE:

1. The name and address of the claimant is:

Name _____

Address _____
[Street, City, State, Zip]

Phone Number _____

2. The nature and amount of this claim is: (If claim is based on a written document, attach a complete copy.) ☐ See attached

Nature of Claim	Amount of Claim
	\$
	\$

3. This amount is ☐ due.
☐ not yet due and will or may become due on (Date) _____.

4. No payments were made on this claim which is not credited, and there were no offsets except: _____

State _____ of _____
County of _____
Subscribed and sworn to before me on _____

Notary Public/Court Official

Name Printed or Typed

My commission/term expires: _____

Form completed by: (Name)

Address

Telephone Number

Bar Number (If any)



Claimant or Claimant's Representative

Name Printed or Typed

Address

Telephone Number

Date