

CHAPTER 862

PROBATE — ACCOUNTS

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862.01 When personal representative shall account. Except where final settlement is by sworn statement under s. 865.16, every personal representative shall file in the court a verified account of his administration:

- (1) When he files a petition for final settlement;
- (2) Upon the revocation of his letters;
- (3) When he submits his application to resign;
- (4) At any other time when directed by the court either on its own motion or on the application of any person interested.

History: 1973 c. 39.

Cross Reference: See 863.33 for requirement that estates be completed promptly.

862.03 Account of incompetent, deceased or removed personal representative. (1) **INCOMPETENT PERSONAL REPRESENTATIVE.** If a personal representative is adjudged incompetent, his account shall be filed by his guardian, or if his guardian fails to file then by his bondsman. If neither the guardian nor the bondsman files an account, the court shall appoint a special administrator to file the account of the incompetent personal representative.

(2) **DECEASED PERSONAL REPRESENTATIVE.** If a personal representative dies, his account shall be filed by the personal representative of his estate, or if his personal representative fails to file then by a special administrator of his estate or by his bondsman.

(3) **REMOVED PERSONAL REPRESENTATIVE.** If a personal representative is removed and fails to file his account, his account shall be filed by his bondsman. If the bondsman fails to file, the court shall appoint a special administrator to file the account of the personal representative who has been removed.

(4) **PAYMENT FOR PREPARATION.** The person who prepares and files an account in accordance with this section shall be allowed the reasonable value of his services to be paid out of the estate, and the fees of the incompetent, deceased or removed personal representative shall be reduced accordingly.

History: 1973 c. 90.

862.05 What charged to personal representative. Every personal representative shall be charged in his accounts with all the property of the decedent which comes to his possession; with all profit and income which comes to his possession from the estate and with the proceeds of all property of the estate sold by him.

862.07 Value at which to account; what accounts to contain. The personal representative shall account for the property of the decedent at the value at which it is shown in the inventory. Accounts rendered to the court by a personal representative shall be for a period distinctly stated and shall show by debit and credit each item with which he is chargeable. The account shall first show the total value of the property with which he is chargeable according to the inven-

tory or, if there has been a prior accounting, the amount of the balance of the prior account; it shall show all income or other property received and gains or losses from the sale of any property; and it shall show all payments, charges and losses. The final account shall itemize all property available for distribution and all property previously distributed and show its inventory value or if acquired by the personal representative during administration, its acquisition value.

Cross Reference: See 71.08 (6) which requires the personal representative to file with the assessor of incomes such withholding tax returns (reports) for wages paid, sales tax returns and income tax returns as are due from the decedent and his estate.

862.09 Hearing on settlement of account; notice. Upon the filing of any account, the court shall set a date for hearing and notice thereof shall be given in accordance with s. 879.03. Unless notice is waived, the account must be filed not less than 3 weeks before the date set for hearing. An account so filed may be brought up to date on the day of the hearing. If any account shows that the assets in the estate are insufficient to pay the creditors in full, notice of that fact and of the filing of the account shall be given to all creditors who have filed claims against the estate and whose claims have not been disallowed.

862.11 Copy of account to be given to persons interested. At the time he gives notice of hearing of allowance of any account or secures waivers of notice of hearing, the personal representative shall mail or deliver a copy of the account to every person interested whose distribution from the estate is affected by the information, other than inheritance tax information, contained in the account. If any person interested is represented by a guardian or guardian ad litem, a copy of the account shall be mailed or delivered to the guardian or guardian ad litem but not to the person interested. If the person interested is represented by an attorney for persons in military service a copy of the account shall be mailed to both the attorney for persons in military service and the person interested. Failure of the personal representative to comply with this section does not affect the jurisdiction of the court as to persons interested.

Cross Reference: See 879.26 which provides for waiver of this requirement.

862.13 Objections to account. At the hearing on an account of a personal representative or at any time prior thereto, any person interested may file objections to any item or omission in the account. All such objections shall be specific.

862.15 Settlement of account. The court must be satisfied of the correctness and legality of the account before allowing it. If the personal representative is present at the hearing, he may be examined on oath upon any matter relating to his account and the settlement of the estate. The court may refuse to approve the account unless the personal representative is present at the hearing.

862.17 Accounts; failure of personal representative to file. If any personal representative fails to file his account as required by law or ordered by the court, the court may, upon its own motion or upon the petition of any person interested, either order the personal representative to file his account by

a day certain or the court may proceed under s. 857.09. If after having been ordered to file his account by a day certain, the personal representative fails to comply with the order, the court shall proceed under s. 857.09.