

CHAPTER 858

PROBATE — INVENTORY

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Cross-reference: See definitions in ch. 851.

858.01 Personal representative files; presumptions. (1) Except as provided by s. 865.11, the personal representative, within a reasonable time but no later than 6 months after appointment unless the court has by order extended or shortened the time, shall file an inventory of all property owned by the decedent. The inventory when filed shall show, as of the date of the decedent's death, the value of all property, what property is marital property and the type and amount of any existing obligation relating to any item of property. If a special administrator or personal representative has filed an inventory, no personal representative who is later appointed need file a further inventory unless additional property is found or the court orders otherwise.

(2) If the presumption under s. 766.31 (2) is overcome, the property is presumed deferred marital property.

History: 1973 c. 39; 1975 c. 331, 421; 1983 a. 186; 1985 a. 37.

Cross-reference: See s. 72.02 which describes property transfers subject to estate tax.

NOTE: See notes in 1985 Wis. Act 37, marital property trailer bill.

858.03 Persons interested may be informed of inventory. Not more than 5 days after filing an inventory with the court the personal representative shall mail or deliver to the surviving spouse and to all other persons interested, except those whose only interest is as a beneficiary of a monetary bequest or a bequest or devise of specific property, a statement indicating that the inventory has been filed and that a copy of the inventory, or a summary indicating the value of each item of property in which the person has an interest, will be sent to the person upon the person's written request to the personal representative. If any person to whom the statement is required to be sent makes a request, the personal representative shall comply within 5 days after receipt of the request. If a person interested to whom the statement is required to be sent is represented by a guardian of the estate or by a guardian ad litem, the statement shall be mailed or delivered to the guardian of the estate or the guardian ad litem but not to the person interested. If the person interested is in the military service and is represented by an attorney or an attorney-in-fact, the statement shall be sent to both the attorney or the attorney-in-fact 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.

History: 1991 a. 220; 1993 a. 486.

Cross-reference: See s. 879.26 which provides for waiver of this requirement.

858.05 Order to file inventory. If any personal representative neglects to file the inventory under s. 858.01 when required by law, the court shall call the personal representative's attention to the neglect. If the personal representative still neglects to file, the court shall order the personal representative to file the inventory. If, without reasonable cause shown, the personal representative refuses or neglects to comply with the order for 20 days after service of the order upon the personal representative, the personal representative may be held in contempt of court.

History: 1993 a. 486.

858.07 Contents of inventory. The personal representative shall include in the inventory all property subject to administration, and shall list joint and life tenancies. The personal representative shall include a statement of any encumbrance, lien or other charge upon each item.

History: 1975 c. 331, 421.

858.09 Inventory, certification, examination in court. The personal representative shall certify under oath that the inventory, to the best of the personal representative's knowledge, includes all property, encumbrances, liens or charges required to be shown therein. The court, at the request of any person interested in the estate or the property listed or on its own motion, may examine the personal representative on oath in relation thereto or in relation to any proposed addition thereto or deletion therefrom.

History: 1975 c. 331, 421.

858.11 Inventory of partnership property and liabilities by survivor. The surviving partner of any deceased person whose estate is being administered shall, if required by order of the court, file with the court a verified inventory of the partnership property and liabilities. If, after service of the order upon him or her, the partner without reasonable cause shown refuses or neglects to comply with the order for 20 days after the day set for compliance, he or she may be held in contempt of court.

History: 1977 c. 449.

858.13 When appraisal necessary. Except as provided in s. 858.15 all inventoried property shall be appraised by one or more disinterested persons appointed by the court. The appraiser or appraisers shall appraise each item in the inventory which is required to be appraised and certify to its value. If the property is situated in 2 or more counties, one or more appraisers may be appointed for each county.

History: 1975 c. 193, 331, 422.

858.15 When appraisal not necessary. Assets, the value of which is readily ascertainable without the exercise of judgment on the part of an appraiser, shall not be appraised. The value of these assets shall be shown in the inventory and verified by the personal representative, and the personal representative shall provide evidence of value as the court requires. Where evidence satisfactory to the court is produced to establish the value of any inventoried assets, no appraisal shall be required of the assets, unless a formal appraisal is requested by persons interested, the department of revenue, or by the court on its own motion.

History: 1973 c. 90; 1993 a. 486.

858.17 Supplemental inventory and appraisal. If any property not included in the inventory comes to the knowledge of the personal representative, the personal representative shall file a supplemental inventory or include the same in the personal representative's accounting. The personal representative shall have the property appraised unless it is of the type described in s. 858.15.

History: 1993 a. 486.