

# Voluntary Administration Checklist

(see Surrogate's Court Form SE-2A, rev. 4/98)

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

**Check Form To Make Sure Venue Is Correct - Appropriate County Is Listed**

**Fill In All Areas On All Pages of Affidavit - Also Mark When Not Applicable Where Necessary**

PET ¶ #	DESCRIPTION	YES	NO
	Is the captioned name exactly the same as it appears on the Death Certificate?		
	If A/K/A's, are they listed in the caption and also under ¶3 of affidavit?		
<b>1.</b>	<b>Is the petitioner eligible to act and qualify pursuant to SCPA §1303(a) or 1303(b)?</b>  (a) named executor/executrix if there is a will (b) surviving adult spouse of decedent (c) adult child (d) adult grandchild (e) parent (f) brother or sister (g) niece or nephew or aunt or uncle (h) others as set forth in SCPA §1303(a) or SCPA §1303(b)		
<b>2.</b>	<b>Has the interest of the affiant been checked and specified?</b>		
<b>3.</b>	<b>Enter decedent's name, including a/k/a's, domicile, date of death, place of death and citizenship. Does the information agree with the death certificate?</b>  <i>NOTE: A certified copy of the death certificate must be filed with affidavit.[see SCPA §1304(3)]</i>		
<b>4.</b>	<b>Check appropriate box. If decedent died with a will, the original will must be submitted with Affidavit [SCPA §1303(b)].</b>		
<b>5.</b>	<b>Check records of Surrogate's Court to make sure no previous application has been made in this estate for a voluntary administration or for letters of administration or for the probate of a will.</b>		
<b>6.</b>	<i>NOTE: Distributee: Any person entitled to take or share in property under EPTL §4-1.1 and 4-1.2. (SUBMIT A FAMILY TREE IF REQUIRED BY THE COURT.)</i>  <b>Check that name, complete mailing address and relationship of each distributee is listed.</b>  <i>NOTE: If alleged that the decedent was survived by no distributee or only one distributee or where the relationship of distributees to the decedent is grandparents, aunts, uncles, first cousins or first cousins once removed, the Court may require an Affidavit of Heirship as set forth in Uniform Rules 207.16(c).</i>  <i>NOTE: If there are any deceased distributees, provide a copy of the death certificate or provide the date of death.</i>		

PET ¶ #	DESCRIPTION	YES	NO
7.	Must be listed: name, bequest and full mailing address of each individual named in the will.		
<i>NOTE: Postcard Notices (may be in letter form) are to be mailed to each distributee and beneficiary listed in affidavit under ¶6 and ¶7, excluding affiant. [see SCPA §1304(4)]</i>			
8.	Check to be certain that value of personal property does not exceed \$30,000 for decedent dying on or after 1/1/09 (\$20,000.00 for decedent dying prior to 1/1/09 but on or after 8/29/96; \$10,000.00 for decedent dying prior to 8/29/96). [see SCPA §1301(1) and EPTL §5-3.1(a)(1-5)]		
9.	Must be listed: all assets of the decedent including bank accounts, stocks, insurance policies not payable to a named beneficiary and the value of each item. JOINT ASSETS AND SET-OFF PROPERTY ARE EXCLUDED. [see EPTL §5-3.1] Give specifics for each asset, i.e. name of bank, account number, etc. A certificate will be issued for each asset listed.		
10.	Must be listed: names of all creditors, including unpaid funeral expenses, and the amount owed to each creditor.		
11.	Court should advise the voluntary administrator of his or her duties and that they are required to account for the disposition of all assets.		
12.	This paragraph states that this proceeding will not determine the estate tax liability.		
13.	This paragraph states that if an administration or probate proceeding is commenced, voluntary administrator/trix must file account with the Court appointed fiduciary. [see SCPA §1307(2)]		
	<p>Is affidavit signed and properly notarized (including proper jurat and expiration date of notary's commission)?</p> <p>Is attorney's name, address and phone number listed?</p> <p>Has Part 130 Certification been completed?</p> <p>if <u>NOT</u>, has a separate attorney certification as to Part 130 signing requirements been included?</p>		
<b>If forms are computer generated, has a certification pursuant to Court Rules §207.4 been attached?</b>			

<b>FEE SCHEDULE</b>	SCPA/EPTL§ or Rule #
<p style="text-align: center;"><b>Have the proper fees been included with affidavit?</b></p> <p style="text-align: center;">\$1.00 for filing affidavit</p> <p style="text-align: center;">\$ .25 for each certificate (only for decedents dying prior to 7/6/99)</p>	1304(4)

<b>COMMENTS AND COURT NOTES</b>		<b>Form Number</b>	SCPA/EPTL§ or Rule #
When Permitted	May be used when a fiduciary is needed to transfer estate assets (personal property only) and the value of the assets does not exceed the following: \$30,000 - for decedents dying on or after 1/1/09 \$20,000 - for decedents dying from 8/29/96 through 12/31/08 \$10,000 - for decedents dying from 6/15/81 through 8/28/96 \$5,000 - for decedents dying from 6/24/75 through 6/14/81 \$3,000 - for decedents dying prior to 6/24/75 Amounts exclusive of property set off under EPTL §5-3.1.		1301
Documents Always Required	<ul style="list-style-type: none"> <li>•Affidavit in Relation to Settlement of Estate under Article 13</li> <li>•Certified Death Certificate</li> <li>•Original Will (if one exists)</li> <li>•Report and Account in Settlement of Estate</li> </ul>	SE-2A  SE-1D	1304(3) 1304(3) 1303(b) 1307(2)
Documents Sometimes Required	<ul style="list-style-type: none"> <li>•Renunciation of Voluntary Administration</li> <li>•Copy of funeral bill</li> <li>•Obituary Notice</li> <li>•Affidavit of Disinterested Party/Sole Heirship Affidavit</li> <li>•Family Tree Chart</li> <li>•Amended Affidavit</li> <li>•Death Certificate of deceased spouse, distributee</li> </ul>	SE-1C  FT-1 SE-2B	1303  207.16(c) 207.16(c) 207.46

## COMMENTS AND COURT NOTES (continued)

Only one certificate of appointment will be issued for each asset or item listed in paragraph 9 of the Affidavit (SE-2A). If additional certificates are needed after Affidavit is filed, use Amended Affidavit (Form SE-2B).

A voluntary administrator MAY NOT be used to pass title to real property held in the decedent's name. **[However, pursuant to Real Property Law §321(5)(a) a voluntary administrator may sign a discharge of mortgage.]**

A bank account must be opened for any money received by the voluntary administration, see SCPA §1307(1).

Review carefully instructions to ¶6 and ¶7 of the Affidavit and be sure interested parties are listed in the correct places.

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

Check to be certain all documents are properly notarized.

### Estates, Powers and Trusts Law Section 5-3.1 - Exemption for Benefit of Family

If a person dies leaving a surviving spouse the following items of personal property vest in such surviving spouse, and if there is no surviving spouse, such items of property vest in the decedent's children under the age of 21 years, if any:

- (1) Household items (furniture, clothing, etc...) not exceeding a total value of \$10,000.00.
- (2) Family Bible, pictures, videotapes, computer tapes, discs, software, books not exceeding a total value of \$1,000.00.
- (3) Domestic animals with their necessary food for 60 days, farm machinery, one tractor and one lawn tractor, not exceeding in aggregate value \$15,000.00.
- (4) One motor vehicle not exceeding in value \$15,000.00.
- (5) Money or other personal property not exceeding in value \$15,000.00, except that where assets are insufficient to pay the reasonable funeral expense of the decedent, the personal representative must apply such money or other personal property to defray any deficiency in such expenses.

*(This is not a complete reprint of the law regarding family exemptions. Please see EPTL §5-3.1 for the full text of the law.)*

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