

## TOP RULES FOR FIDUCIARIES

Your duties as a personal representative are set by law. Below are some important rules to assist you as you fulfill your duties; these aren't the only rules but are the more important ones. If you are a conservator or trustee of a trust, or a guardian of a minor or incapacitated person, there are additional special rules on investing and spending the money you hold, and you should consult an experienced attorney for those.

1. **KEEP MONEY SEPARATE.** DO NOT deposit any estate money in your account or use estate money to pay your bills—you could be subject to criminal penalties if you do. Open an estate account at a bank for all estate funds.
2. **GET CANCELED CHECKS FROM THE BANK.** You must file an "Accounting" (a detailed statement of everything that you received and disbursed) with the Commissioner of Accounts. You have to prove that someone actually received the money you say you paid. **THE ORIGINAL CANCELED CHECKS ARE REQUIRED**, or copies of the imaged checks--front and back--if the original checks are not available.
3. **CAREFULLY DETAIL ALL MONEY** that comes in or goes out. For EACH item, you need to write down **WHEN- WHO-WHAT/WHY-HOW MUCH**. Example: If you get a \$2.00 check from an insurance company, you need the **WHEN** (date you got it), **WHO** (name of insurance company), **WHAT/WHY** (payment on medical treatment or refund on premium) and **HOW MUCH** (the exact amount of the check). If you can, photocopy all checks before depositing them to the estate account.
4. **KEEP RECORDS.** Get a medium sized spiral notebook and use it as a diary. In it write everything you do in handling the estate you are in charge of--who you talk to, what was said, what was done. (*Do not give the "diary" to the Commissioner of Accounts but keep for your file in the event additional information is required regarding any estate business.*) For money, the checkbook register **MUST** be accurate. (Hint: Put money transactions in **BOTH** the notebook **AND** the checkbook register).
5. **GET RECEIPTS.** If you give someone personal property, you have to prove to the Commissioner that they accepted it and what it was worth. A receipt is the best way to do this.
6. **DON'T PAY BILLS AND DEBTS TOO QUICKLY.** If there's not enough money in the estate, you can be personally responsible if you overpaid creditors. **THIS INCLUDES THE FUNERAL BILL.** There are laws that say who is entitled to what payment when, and if you think there may not be enough money to pay everything, consult an attorney.
7. **ASK QUESTIONS.** There are strict and detailed rules for handling someone else's money; few people have experience doing it. Find a lawyer experienced in this area and use him/her as a resource. Ask questions—it is less expensive than making costly mistakes.
8. **KEEP ON TIME & USE THE FORMS.** Send notice to heirs and beneficiaries **within 30 days**, if required, and file affidavit with the Clerk's Office listing recipients of said notice or stating why notice was not required. Your **inventory** is due at the Commissioner's Office **in 4 months**; your **statement of account is due in 16 months**, or 6 months if you are guardian or conservator. You will personally owe any penalty assessed if it's late. There are special forms and report formats the Court requires you to follow; use them **AND Black Ink**. **Do not include any Social Security Numbers on any of the forms as these documents are a public record.** *Please be sure that you sign the certificates required on these forms.*
9. **TAKE CARE OF TAXES.** You are responsible for making sure all taxes are paid on time. If you're not sure what to do, get an accountant to help you.
10. **Get A SPECIAL TAX ID NUMBER.** (decedent's estates and trusts). An estate is a different person from the person who passed away. IRS laws require a new Tax ID number. The good news is that the IRS makes this really easy to do.
11. **DON'T DISTRIBUTE TOO QUICKLY** (or too slowly). The heirs of the estate want their money yesterday. Virginia law doesn't make you distribute for a year. If you give money to someone too early, and something happens that you need it back, you are legally responsible for it.

SEE REVERSE SIDE FOR ADDITIONAL NOTICES

**NOTICE REGARDING CHANGE OF RESIDENCY**  
(64.2-1409 & 64.2-1203)

Every personal representative who moves from Virginia and becomes a resident in another state shall inform the Clerk and the Commissioner of Accounts of this Court in writing of the new residence address within thirty (30) days of the date of the change in residency. Any person who fails to inform the Clerk and Commissioner of Accounts shall be subject to a civil penalty of \$50.

Should there no longer be a personal representative residing in Virginia, the Code of Virginia requires that a secured bond be in effect. The personal representative should contact the Clerk to make sure the appropriate bond is executed.

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**NOTICE FROM VIRGINIA DEPARTMENT OF THE TREASURY**

You are advised to check with the Virginia Department of the Treasury's Division of Unclaimed Property to see if the decedent has a claim to property being held there. They may be reached by calling toll free 1-800-468-1088.

Web site: [www.trs.virginia.gov](http://www.trs.virginia.gov)

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**TAX NOTICE**

If you are a Personal Representative of an estate, you are charged with the responsibility of filing any income, inheritance, or estate tax return required by State or Federal Law and an accounting of your handling of the estate.

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**Clerk:**

Gail H. Barb, Clerk  
Fauquier County Circuit Court

29 Ashby Street  
Warrenton, VA. 20186  
[www.fauquiercounty.gov](http://www.fauquiercounty.gov)

See [www.courts.state.va.us](http://www.courts.state.va.us) for forms

**Commissioner of Accounts:**

*effective 7/1/2012*

Gary M. Pearson  
9 Culpeper Street  
Warrenton, VA. 20186  
540 347-2660

**Assistant Commissioner of Accounts**

Patricia A. Woodward  
*Physical Address:*  
31 S. Second Street  
Warrenton, VA 20186  
*Mailing:* PO Box 1037  
Warrenton VA 20188  
(540) 347-1482