

## **INSTRUCTIONS — INVENTORY FOR ESTATE OF INCAPACITATED ADULT**

**GENERAL:** You are required by law to file an inventory with the Commissioner of Accounts within four months after you were sworn in as a fiduciary for an incapacitated person (your “date of qualification”). This inventory must include all of the incapacitated person's (i) personal estate under your supervision and control, (ii) real estate, (iii) legal or equitable ownership interest in any real or personal property that will pass to another at the incapacitated person's death by a means other than testate or intestate succession, and (iv) rights to periodic payments of money. You must report the assets as they existed on the date of your qualification, even though they have changed form or are not in existence on the date the inventory is prepared.

If you discover any other assets after you file your inventory, you must make an additional report to the Commissioner of Accounts by (i) filing an amended inventory showing all assets of the estate, (ii) by filing an additional inventory showing only the after discovered assets, or (iii) with the permission of the Commissioner of Accounts, by showing the after discovered assets on the estate's next regular accounting. The filing must be made, or the permission of the Commissioner of Accounts must be obtained, within four months after you discover the assets.

**VALUATION:** The value to be placed on assets listed on the inventory is their fair market value as of the date of your qualification, and not the date the inventory is prepared. When available, you should use exact dollar and cent values; do not round off specific values to a higher or lower amount. Real estate may be listed at its value as assessed for local real estate taxes. For all other property, fair market value is normally “the price at which the property would change hands between a willing buyer and a willing seller in the retail market, with neither one being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.” An explanation must be attached if any other method is used to value an asset. Do not reduce the gross value of property by the amount of any outstanding mortgage, loan, lien, or other claim against the property. Special valuation rules that apply to certain assets are mentioned later. If you have a question about determining the fair market value of any asset you should seek assistance from an accountant, a lawyer, any other appropriate professional, or the Commissioner of Accounts. Any reasonable expenses incurred in determining the values to place on estate assets, such as appraisals, are allowable as an administrative cost of the estate.

**JOINT PROPERTY AND SURVIVORSHIP PROPERTY INCLUDED:** You must include in Part 5 the incapacitated person's interest in assets held by that person and another jointly with the right of survivorship or held by the incapacitated person and that person's spouse as tenants by the entirety. You must also include in Part 5 the incapacitated person's interest in any assets passing to another at death by way of a survivorship provision, a payable on death (POD) provision, or a transfer on death (TOD) provision; and also include in Part 5 any of the incapacitated person's property or money payable to another person under a beneficiary designation contained in a life insurance policy, IRA, pension, or other contractual arrangement.

**Part 1. The incapacitated person's personal estate under your supervision and control.** List in Part 1 of the inventory only those assets that are in the incapacitated person's sole name. Even if they are in the incapacitated person's name, do not list them in Part 1 if they are designated to go to another person at the incapacitated person's death (such as by a payable on death designation on an account, bond, certificate of deposit, stock certificate, etc.); instead list such assets on Part 5. Assets should be clearly identified, listed in reasonable detail, and valued as of your qualification date (not the date the inventory is prepared). Groupings of similar property, such as personal effects and household property may be listed together; however, if any article is worth over \$500 it should be listed separately. Articles that have a higher value as a collection (stamps, coins, or other collectibles) should be valued as a collection and not individually. Uncashed checks should be listed separately and not included with the cash on hand. Motor vehicles and water craft should include make, model and year. Checking, savings, and other accounts or deposits should include the institution's name, type of account, account number, any accrued interest and any maturity date.

Stocks and mutual funds, whether held in certificate form, book account form or in a brokerage account, must be listed separately and should include company name, number of shares, and price per share. Bonds and promissory notes should include the issuer's name, face amount, interest rate, and maturity date for each item. A sole proprietorship is not a separate entity like a partnership, corporation, or limited liability company, but rather an accumulation of assets that a person uses in a business, and thus the name of the proprietorship should be listed as a heading with the various personal assets which comprise it listed thereunder. (Proprietorship real estate should be listed in Part 2, 3 or 4.) Leases of real estate are personal property to be listed on this part. If, in unusual circumstances, there are assets for which there is no recognized market value, such as some partnership interests, stock in closely held corporations or legal claims against others, they may be valued at \$1.00 or an estimate of value until better information is obtained.

**GENERAL INSTRUCTIONS FOR REAL ESTATE:** Include in the description of each piece of real estate (or partial interest therein) a street address, if there is one, and the city or county in which the real estate is located. If an appraisal has been obtained, use that value, otherwise use the value as assessed for local real estate taxes, and state which value is used. The real estate's gross value is not to be reduced by the amount of any outstanding mortgage, loan, lien, or other claim against the property. Interests in condominiums and cooperatives are real estate, but leases of real estate are personal property and should be listed on Part 1.

**Part 2. The incapacitated person's real estate in Virginia over which you have a power of sale.** If (i) the court has not entered an order imposing any restrictions on the sale of the incapacitated person's Virginia real estate, or (ii) if any restrictions imposed by the court have been satisfied, list such Virginia real estate in Part 2.

**Part 3. The incapacitated person's other real estate in Virginia.** List all of the incapacitated person's other Virginia real estate in Part 3.

**Part 4. The incapacitated person's other non-Virginia real estate.** List in this part all of the incapacitated person's real estate or partial interests in real estate not situated in Virginia whether or not located in the U.S.

**Part 5. The incapacitated person's interest in any real or personal property that will pass to another at the incapacitated person's death by way of survivorship or beneficiary designation.** You must include in this part the incapacitated person's interest in assets held by that person and another jointly with the right of survivorship or held by the incapacitated person and that person's spouse as tenants by the entirety.

You must also include in this part the incapacitated person's interest in any assets passing to another at death by way of a survivorship provision, a payable on death (POD) provision, or a transfer on death (TOD) provision; and also include any of the incapacitated person's property or money payable to another person under a beneficiary designation contained in a life insurance policy, IRA, pension, or other contractual arrangement.

There is a special rule for determining the incapacitated person's interest in a joint account or certificate of deposit, and in a payable on death (POD) account or certificate of deposit in a bank or credit union. The interest of the incapacitated person and others will normally be determined by the proportion of the net contributions made by each one to the sums on deposit, except that an account or deposit between persons married to each other will normally be treated as belonging to them equally.

**Part 6. The incapacitated person's interest in any trust.** You must include in this part the incapacitated person's interest in any trust whether created by the incapacitated person (often called a "living trust" or "self-settled trust") or another party. If the incapacitated person is entitled to payments from a trust fund created by someone else, these payments should be listed in Part 8 of the inventory.

**Part 7. The incapacitated person's rights to periodic payments from certain agencies of the U.S. government.** This part requires the disclosure of periodic payments of certain federal benefits that are paid on behalf of an incapacitated adult to a designated representative (whether the conservator or another) for which the designated representative (often called a representative payee) is required to report to a federal agency. (Payments for which a designated representative is not required to report to a federal agency are reportable in Part 8.) As a general rule, only Social Security payments, Supplemental Security Income (SSI) benefits, Department of Veterans Affairs benefits and Black Lung benefits will be listed in this section. If the designated representative is required by the agency to file a separate report with that agency regarding the use of the funds, Virginia law requires the conservator to disclose the existence of these federal benefits on the Inventory and the Account, but does not require the conservator to account for the use of these benefits. However, if these funds are commingled with other conservatorship funds, they must be included in the Account (see Instructions to Account).

Show the value of these payments on an annualized basis. For example, "Monthly Social Security benefits of \$250 ..... Value \$3,000."

**Part 8. The Incapacitated person’s right to periodic payments from any other source.** Include all periodic payments other than those that belong in Part 7. Part 8 should include periodic payments from a retirement plan, a disability program, an annuity, a trust fund, etc. Although payments from such sources as the Office of Personnel Management (OPM) and the Defense Finance and Accounting Service (DFAS) are from the U.S. government, they are retirement pay based on employment. Neither OPM nor DFAS require a conservator to file a report with them regarding the use of those funds. Therefore, these payments must be included in Part 8 of the Inventory and be fully accounted for in your accounts.

Show the value of these payments on an annualized basis. For example: “Monthly Civil Service Annuity of \$1,500 ..... Value \$18,000.”