



*MILLE LACS BAND OF OJIBWE*  
*Court of Central Jurisdiction*  
*District Court*

**A Guide to Probate in the  
Mille Lacs Band of Ojibwe Court of Central Jurisdiction**

**For Self-Represented Persons**

This is an informational guide to filing and processing the probate of a Mille Lacs Band member's estate in the Mille Lacs Band Court of Central Jurisdiction District Court. It is intended only to give basic information about the steps one should take to start the probate process, the basic forms that may be used, and the legal requirements. It will be useful to a person who wants to start the probate (the petitioner) and/or the person who will be in charge of handling the estate (personal representative). This guide does not give any guidance on income or estate tax issues. Probate can become complicated so you are encouraged to seek legal advice from an attorney experienced in probate practice before starting this process. The court staff cannot provide you with legal advice. Enrolled Mille Lacs Band members may be eligible for legal services from Band Member Legal Aid if it is anticipated that the probate will be uncontested. Band Member Legal Aid can be reached at (320) 532-7798 or toll-free at (800) 709-6445.

The Mille Lacs Band does not have its own tribal probate code at this time so the District Court looks for guidance to the Minnesota Statutes, Chapters 524 and 525. Mille Lacs Band statutes and policies, and federal law and regulations govern probate involving homes or leased land located on lands under the jurisdiction of the Mille Lacs Band. This guide only covers property interests existing within Mille Lacs Band lands. If the person who passed owns other property elsewhere, please consult an attorney in the jurisdiction where the property is located. This guide does not cover probate of the estate of a deceased person for whom the United States holds an interest in trust or restricted land or trust personalty, including funds held in an Individual Indian Money ("IIM") account.

The forms mentioned in this Guide (designated by "MLBF") are available in paper form from the Mille Lacs Band District Court Clerk's office or on the Court's website found here: <https://www.millelacsband.com/services/tribal-court>. There is no court fee to file probate documents, but there are fees for service of process and certification of documents. The newspaper will charge separately for publication of notices. Even though the court staff cannot give legal advice, the court clerks can assist you with selecting the appropriate forms and arranging for service of some documents. The Probate Checklist (Form MLBF-001) found in the Appendix can help you move through the process.

## Terms to Know:

<b>Beneficiary:</b>	a person or entity eligible to receive a distribution from a person after that person's death
<b>Codicil:</b>	a legal document that modifies a will
<b>Court:</b>	the Mille Lacs Band District Court
<b>Creditor:</b>	a person or entity to whom a debt is owed
<b>Decedent:</b>	the person who died
<b>Devise:</b>	distribution of property by a will
<b>Devisee:</b>	a person or organization designated by will to receive property
<b>Distributee:</b>	a person, other than a creditor or purchaser, who receives property of a decedent from the personal representative
<b>Escheat:</b>	the transfer of estate assets or property to a government (such as the Mille Lacs Band) in the event that an individual dies without a legal will and has no heirs
<b>Estate:</b>	all the land, funds, and personal property owned by the decedent
<b>Fee Land:</b>	fee simple ownership of real estate; duration of ownership is not limited, the land may be sold, rented, or left to the owner's heirs
<b>Formal Probate:</b>	proceedings where a formal petition is filed to ask the court to appoint a personal representative with a hearing in front of a judge
<b>Heirs:</b>	people entitled to the decedent's property under the laws of intestate succession
<b>Interested Person:</b>	people or entities having a property right in or claim to the decedent's estate; includes heirs, devisees, children, spouse, creditors, and/or the Mille Lacs Band (particularly the Housing Department)
<b>Intestate:</b>	an estate with no will
<b>Non-Probate Assets:</b>	assets owned by a decedent not requiring probate to effect transfer of ownership (most often assets held jointly between the decedent and another living person or payable on death)

<b>Personal Representative:</b>	person in charge of handling the decedent's estate
<b>Personal Property:</b>	any asset or property other than real estate that can be personally handled (examples include vehicles, furniture, boats, jewelry, and collectibles)
<b>Petitioner</b>	the person who starts the probate process by filing a petition in the District Court
<b>Probate Assets:</b>	assets owned solely by the decedent
<b>Residuary Beneficiary:</b>	a person who receives probate assets that are not specifically left to another designated person
<b>Restricted Land:</b>	land owned by one or more tribes or individual Indians; the ability to convey or encumber the property requires approval of the United States.
<b>Separate Writing:</b>	a document or list, referenced in a will, that disposes of only tangible personal property
<b>Testate:</b>	estate with a will
<b>Trust Land:</b>	land owned by the United States for the benefit of one or more tribes or individual Indians
<b>Will:</b>	a written document, legally executed, by which a person directs how his or her assets (estate) are to be distributed upon death

## What is Probate?

Probate is the legal process of distributing and settling the estate of a person who has died (the decedent). The decedent's property is gathered and inventoried, his or her debts are paid, and everything left over is distributed to the heirs or persons named in a will. Probate begins by filing an application with the District Court. The probate process must be started within three (3) years after the decedent's death. Probate ends when all debts and taxes are paid and all assets are distributed. If there is a disagreement about the will or the distribution of the estate, the District Court judge will resolve the differences. Due to the required timelines of the probate process, it can take a number of months to close out an estate.

## When is Probate Needed?

The need for probate depends on the amount and type of property the decedent owns and whether it is owned alone or with other people. Unless real estate is owned in joint tenancy with right of survivorship or placed in a trust, it must be probated.

## What Property Is Not Subject to Probate?

Certain kinds of property and assets do not need to be probated. They can pass to another person outside of the estate. These non-probate assets include property owned as joint tenants such as real estate or a vehicle, jointly held bank accounts, payable-on-death accounts, life insurance proceeds to a specific beneficiary, and retirement/pension benefits with a designated beneficiary.

## What Should I Do to Prepare?

1. If you do not already have one, **apply for a death certificate** for the person who died from the county vital records office or the Minnesota Department of Health. Walk-in service is available at county vital records offices only. You must be a person with a "tangible interest" in order to obtain a death certificate. Such persons include the decedent's spouse, sibling, child, grandchild, great-grandchild, parent, grandparent or great-grandparent, and legal guardian. Other persons and entities may also have the required legal interest. After signing and dating the application in front of a notary public, you must show valid identification and pay the fee.
2. **Locate the will**, if there is one. File it with the Court.
3. **Determine who will act as personal representative.** (See below for information about who has eligibility and priority to serve as personal representative.)
4. **Determine who the interested parties are**, for example, persons named in the will or who have a relationship to the decedent and may be a potential heir. Write down their legal names, addresses, telephone numbers, and Social Security numbers. The "Table of Heirship" in the Appendix may help you to identify heirs.

5. **Create a list of all the bills and debts** that the decedent owes. Write down the names, addresses and phone numbers of the creditors. Determine what balance is owed to each creditor.
6. **Locate the decedent's storage units and safe deposit box**, if any. If payments are not kept up on the storage unit, the facility can quickly foreclose on the unit and auction the items off.
7. **Identify any life insurance, retirement or pension plans, or any other benefits** the person who died has or has been receiving payments from.
8. **Notify the Mille Lacs Band Office of Budget and Management** that the decedent has passed so that per capita payments can be held while the estate is being probated.
9. After being appointed as personal representative, **file a request with the U.S. Post Office to redirect their mail** if the decedent had a different address from you. Complete **Form 3575, Change of Address** and bring it and a certified copy of your Letters to the decedent's local post office. (It is important to do this very soon after receiving your Letters so that you can identify the decedent's creditors to give them notice of the probate proceedings).

### **What Do I Do If the Decedent Passed More than 3 Years Ago?**

A Determination of Descent process is available when all the following conditions exist:

- Decedent passed away more than three (3) years ago;
- Decedent has left real or personal property; and
- No probate proceedings have been commenced in any other jurisdiction.

Any interested person may file a **Petition for Determination of Descent** (MLBF-006) with the court to determine the descent of the property and assign title to the rightful successors. Upon receipt of the petition, the court will order a hearing. The Court Clerk will mail notice of the hearing to the interested parties and/or potential heirs listed on the petition.

### **Who Can Be Appointed as Personal Representative?**

The personal representative (sometimes referred to by non-lawyers as an "executor") has the duty of settling and distributing the decedent's estate. To be granted authority to act as personal representative, a person must qualify to serve, be appointed by court order, and be issued **Letters Testamentary** or **Letters of Administration**. Minnesota Statute § 524.3-203 provides that the following persons unless otherwise disqualified, have priority to serve as personal representative in descending order:

1. A person nominated in a will;
2. The decedent's surviving spouse if he or she is a devisee (will receive property under a will's terms);
3. Other devisees;
4. The decedent's surviving spouse;
5. Other heirs of the decedent;
6. A creditor forty-five (45) days after the decedent's death, or
7. The decedent's conservator who has not been discharged ninety (90) days after the decedent's death.

### **What are the Personal Representative's Responsibilities?**

The probate cannot move forward without the appointment of a personal representative for the estate. Once appointed by court order, the personal representative is responsible for the following:

- Publish notice of the probate proceedings to interested persons and the decedent's creditors
- Collect, inventory, and possibly appraise the decedent's assets
- Protect the estate's assets
- Provide interested parties with an inventory of estate assets
- Monitor for creditors' claims against the estate
- Pay the debts and taxes of the decedent and the estate
- Distribute the remaining assets to the proper persons
- Close the estate by the filing of a closing statement

### **How Do I Start Probate Proceedings?**

The Mille Lacs Band District Court uses as guidance the State of Minnesota statutes that govern "formal probate." Formal probate only means that the Mille Lacs Band District Court Judge will supervise the probate, as the Band does not have a Probate Court Registrar like a county does.

The person who starts the probate proceedings is called the Petitioner. Often this is the same person that has been named as the personal representative in the will or who has been determined to be the best person to serve as the personal representative. The Mille Lacs Band Housing Department has also filed as the petitioner when the Department has an interest in the decedent's estate (usually a lease or housing loan). Probate proceedings may be started at least 120 hours (5 days), but not more than 3 years, after the decedent's death. Follow the steps below to get started:

- (1.) File the appropriate petition making sure that you provide the names and mailing addresses of all the interested person you can identify so that they can be notified that the probate is starting:
  - a. If the decedent had a will, the petitioner completes and files a **Petition for Probate of Will and Appointment of Personal Representative** (MLBF-002)  
OR
  - b. If the decedent had no will, the petitioner completes and files with the Court a **Petition for Adjudication of Intestacy, Determination of Heirs and Appointment of Personal Representative** (MLBF-003).
- (2.) These forms must also be completed and filed with the Court:
  - Proof of death (certified copy of death certificate, if not available, can submit a copy of the obituary or funeral receipt)
  - Acceptance of Appointment and Oath by Individual** (MLB-004)
- (3.) The Court Clerk will arrange for service of the petition on the interested persons. Efforts will be made to serve the persons in hand if they are located on Mille Lacs Band lands, or by certified mail if located off Band lands.
- (4.) The Court Clerk will set the petition for a hearing and send a Notice of Hearing to the petitioners and the interested persons.
- (5.) The Court will hold the hearing and if it finds that all the interested persons received notice and that the person seeking to be appointed as Personal Representative is entitled to priority, it will issue **Letters of General Administration** (if there is no will) or **Letters Testamentary** (if the personal representative was named in the will) to the person(s) appointed as personal representative. The personal representative should ask the Court Clerk for two (2) certified copies of the **Letters** in case a certified copy needs to be provided to banks or other institutions.
- (6.) After the hearing, the Court will issue a **Notice of Probate, Appointment of Personal Representative and Notice to Creditors**. This is the notice that will alert potential heirs, interested parties, and the decedent's creditors that the probate has been started.

### **What Are Steps to Locate and Notify Creditors?**

The probate of an estate does not only facilitate the proper distribution of the decedent's assets but also pays off the decedent's debts. A creditor may file a claim against an estate for debts arising during the decedent's lifetime, as well as obligations arising after death, including funeral expenses, headstone costs, and expenses of estate administration. Although the ultimate responsibility for bringing claims to the personal representative's attention is the creditors', the

personal representative must provide notice to the decedent's creditors upon his or her appointment. Notice must be provided in two ways: by publication and by directly mailing notice.

The personal representative must publish the **Notice of Probate, Appointment of Personal Representative and Notice to Creditors** in a legal newspaper in the county where the probate proceedings were started. For cases filed in the Mille Lacs Band District Court, notices are usually published in the *Mille Lacs Messenger*. You should go to the newspaper's office with your court-issued notice and pay the publication fee. The notice must be published once a week for two (2) consecutive weeks. The notice must provide the name and address of the personal representative and must inform creditors that their claims will be barred unless presented within four (4) months after the publication date. Once the notice has been published the second time, the personal representative must file with the Court an **affidavit confirming publication**. The newspaper will provide this to you. It is advisable that the personal representative cut out copies of the published notice to include with the affidavit.

In addition to publishing the notice in the newspaper, the personal representative must also provide the notice to interested parties and creditors. The notice informs each known or identified creditor that it must present its claim within one month after the date of the service of the notice or be forever barred from filing a claim. You can identify these creditors by looking through the decedent's bills, financial records, and other mail sent to the decedent after death. After mailing the required notices, the personal representative must file a **Certification of Mailing Notice or Order** (MLBF-005) with the Court identifying the name and address of each interested person or creditors to whom notice was mailed.

Known creditors who have been served with a copy of the notice must present their claims to the personal representative within the later of: (1) four (4) months after the date of the first publication in the paper of the notice to creditors; or (2) one month after they have been served with notice. Creditors who are only entitled to notice by publication must present their claims within four (4) months from the date of the first publication of the notice. With certain exceptions, claims that arose after the decedent's death must be presented within 4 months after the claim (expense) arose.

### **What is Required for the Inventory?**

American probate law does not reflect traditional Ojibway mourning practices and treatment of a deceased person's personal property. Traditional practice may include burning or destroying some personal effects or redistributing the property. Some objects may be placed in the grave with the person who passed. Not all tribal people, however, follow such practices. Under Minnesota probate law, from which the Mille Lacs Court of Central Jurisdiction seeks guidance, an inspection and listing, called an inventory, of the property of the person who passed is to be conducted. You should inform the District Court Judge if some items were destroyed or distributed as part of the mourning process. The Court will be mindful of that practice when reviewing the inventory.



Within six (6) months after appointment, or nine (9) months after the decedent's death, whichever is later, the personal representative must prepare and file with the Court an inventory and possibly, an appraisal. The purpose of the inventory is to provide interested parties (such as the spouse and children), with a reasonably detailed description and fair market value of each probate asset that was owned by the decedent on the date of death. The inventory should also include the description and the amount of the decedent's debts on the date of death. Once prepared, the personal representative must mail or deliver a copy of the inventory to:

- (1.) the surviving spouse, if there is one;
- (2.) all residuary distributees; and
- (3.) any interested persons or creditors who have requested a copy.

The personal representative should gather as much information and documentation as possible regarding the estate's assets and debts. Most of the information can be collected by using the **Inventory** form (MLBF-008) or an asset and debt list. The inventory creates a starting point for the probate administration. The inventory list may change over time as additional assets and debts are located.

### **What Needs to Happen with Real Estate, Mortgages or Leases?**

There are several types of land interests in Band lands: fee, restricted and trust land. The most common arrangement is for the Mille Lacs Band to lease a parcel of restricted or trust land to a Band member—often at a minimal cost for a period of twenty-five (25) years. With the consent of the Band Assembly, the lease may be renewed. The lease will contain a provision in which the person leasing the land names a beneficiary to receive the balance of the lease in the event of death. This beneficiary designation will determine who will be able to use the leased land. It is important to locate a copy of the lease (most often through the Department of Natural Resources) early in the process to find out who the beneficiary is.

In general, non-Mille Lacs Band members and non-Indians are not entitled to receive by devise or descent any interest in land located within the jurisdiction of the Band. 21 MLSBA § 101. An exception to this prohibition is made for when an enrolled Band member dies intestate leaving a surviving spouse and/or children who are non-Band members or non-Indians. The surviving spouse or children are entitled to a right of survivorship (a "life-time estate on the trust or restricted property") that allows them to live on the decedent Band member's leased land. 21 MLBSA §102. It must be noted, however, that the spouse and children actually only inherit the amount of time left on the decedent's lease. For example, if the decedent had a 25-year lease and passed away after 15 years, the spouse and/or children would inherit the remaining 10 years.

There is often a house located on the leased land in which the surviving spouse and/or children have been living. The decedent, as a Band member, may have obtained a mortgage from the Band's Housing Department to pay for costs relating to the house, for example, construction ex-

penses. The Mille Lacs Band Housing Department has decided in some situations that a surviving spouse is entitled to inherit the structure (usually a house) on the leased site as personal property and may assume the leasehold mortgage previously entered into by the Band member-decedent.

In the event of the death of an enrolled member who dies intestate without an heir eligible to receive the interest in trust or restricted land, the decedent's interest shall escheat to the Mille Lacs Band. Land ownership, lease and mortgage issues can be complicated so the personal representative should speak with the Band's Department of Natural Resources and/or Housing Departments for more information.

The decedent may own an interest in land that is held in trust or in restricted status by the United States and/or funds held in an IIM account. These types of interests must be probated using a Bureau of Indian Affairs ("BIA") process and forwarded to the Office of Hearings and Appeals ("OHA") for disposition. They cannot be probated in the Court of Central Jurisdiction. If the decedent owned these interests, the personal representative must notify any one of these offices to inform the agency of the decedent's death: the agency or BIA regional office nearest to where the decedent was enrolled, any agency or BIA regional office, or the Trust Beneficiary Call Center in the Office of Special Trustee. The Minnesota Agency located in Bemidji, MN, directly serves the Minnesota Chippewa Tribe ("MCT") and its six Bands, including the Mille Lacs Band of Ojibwe. The Minnesota Agency is located at 522 Minnesota Avenue NW, Federal Building, Room 418, Bemidji, MN 56601-3062 and its phone number is (218) 751-2011. More information can be found on the BIA Midwest Regional Office website here: [BIA Midwest Region](#).

### **How Do I Distribute the Estate's Assets?**

If a decedent's estate is not probated within three (3) years of his or her death, a **Petition for Determination of Descent of Property** (MLBF-006) must be filed. This petition requests the Court to probate the estate and determine which persons are entitled to receive a distribution of estate property. Notice of the petition will have to be provided by mail to all interested persons and persons who have filed a demand for notice.

Prior to distributing the estate's assets, the personal representative must make sure the time for filing of creditors' claims has expired and he or she has paid all outstanding claims. If the decedent has left a valid will, then the personal representative will distribute the assets in accordance with the will's provisions. If property that is mentioned in a will is no longer in the estate (perhaps the decedent sold it or otherwise transferred it before death), the personal representative should alert the Court during a status hearing. The personal representative should have each distributee sign a receipt for the property that they received. Form **Receipt for Distribution or Payment of Claim** (MLBF-011) or another suitable receipt may be used. The personal representative should retain a copy of each receipt.

If there is no will, the estate property will be distributed according to intestate succession laws. See the "Table of Minnesota Heirship" in the Appendix. The law generally provides that, without

a will, the estate will pass to the decedent's surviving spouse, if still alive. However, in situations where either spouse has children from other marriages or relationships, the spouse's share may be less than that entire estate. If the spouse is not alive, the estate will pass to the decedent's children in equal shares. You should consult an attorney to determine exactly how an estate will be divided if the decedent did not have a will.

Once the time for the filing of creditors' claims has expired, the outstanding expenses relating to the decedent have been paid and the inventory has been compiled and filed with the Court, the personal representative will file the **Schedule of Distribution and Payment of Claims** (MLBF-009). This document reports to the Court what expenses have been paid, the status of the creditors' claims, what distributions have been made to the heirs or devisees, and what remaining distributions from the remaining estate need to be made. **What if a Person Was Left Out of the Will?**

#### *Spouse*

There are certain situations where even though a spouse or child is not included in a will, under the law he or she may be still be entitled to a share of the estate. This circumstance can sometimes happen when a spouse has children from a previous relationship and wants to ensure that certain assets bypass their surviving spouse and reach his or her biological children. Minnesota law may prevent this from happening through the "Spousal Elective Share" which grants the surviving spouse the right to a percentage of the deceased spouse's assets. The law also a surviving spouse to claim certain assets as "exempt property." This property includes the house (or perhaps a right to live in a house), one car, \$15,000 worth of personal property, and an allowance of up to \$2,300 per month for up to 18 months. In addition, to the exempt property, a surviving spouse is eligible for an elective share, based on the length of the marriage. The elective share is a minimum of \$75,000 and calculated on a graduating scale. For example, a one-year marriage can result in an elective share of 3% but a marriage of fifteen (15) years or more allows for 50%.

#### *Child or Grandchild*

Under Minnesota law, if a testator omits any of his or her children or a grandchild, the omitted person(s) are entitled to receive the same share of the estate which they would be entitled to as if the decedent died without a will. This situation may arise when the child was born after the will was executed, or if the testator never knew that the child existed. The child or grandchild will not be allowed to receive a share if it appears that the omission was intentional and not caused by accident or mistake.

## **What If A Person Does Not Want to Receive a Distribution?**

There may be a time when a person who is entitled to receive a distribution from the estate wants to refuse it, for example, perhaps he or she wants the property to go to another individual. A **Disclaimer** (MLBF-007) is used to avoid the transfer. If a disclaimer is made, distribution will be made as if the person disclaiming had predeceased the person who died. The property then passes directly from the decedent to the person now entitled to receive the property as a result of the disclaimer. A person disclaiming cannot direct the property to a person other than the one who would be entitled to receive it. The disclaimer must be done in writing, filed within nine (9) months of the decedent's death, and a copy sent to the personal representative.

## **What Taxes Must be Paid?**

### *Income Tax*

The final individual income tax return of the decedent is prepared and filed in the same manner as when he or she was alive. File the return using Form 1040, or if the decedent qualifies, one of the simpler forms in the 1040 series (Forms 1040-EZ or 1040-A). If the decedent has not done so, you may also have to file individual income tax returns for the year(s) preceding the year of death. You may find IRS correspondence in the decedent's personal records that will alert you that the decedent did not file the required income tax returns. You may also obtain verification of non-filing from the IRS using IRS Form 4506-T, Request for Transcript of Tax Return. It is important to look into the status of the decedent's income tax returns because any unpaid income taxes must be paid out of the estate as a debt of the decedent, and any income tax refunds will be added to the estate's assets. Consult a tax professional for guidance.

### *Estate Tax*

Federal law provides that an individual can transfer up to a certain threshold amount to someone other than a spouse before incurring estate tax. As the amount that is exempt from tax varies from year to year, view the Internal Revenue Service's website at [www.irs.gov](http://www.irs.gov) for the most current federal estate tax exclusion amount. The 2017 Tax Cuts and Jobs Act (TCJA) dramatically increased the amount an individual could shield from estate tax from \$5.5 million to \$11.4 million in 2019.

The Mille Lacs Band does not impose an estate tax. As of January 1, 2019, the State of Minnesota estate tax exemption amount will increase to \$2.7 million. Under current law, the Minnesota exemption will increase again to \$3.3 million in 2020. Estate tax issues are complex and the advice of an experienced estate tax attorney is advisable.

## **How Long Do I Have to Close the Estate?**

As a general rule, the personal representative should have the estate settled and a closing statement filed within eighteen (18) months of the date the personal representative was appointed. The Court will set periodic hearing dates to ensure that the probate is progressing in a timely

manner. The personal representative must attend these hearings. The Court will issue a decree or order of complete settlement when the probate is completed.

### **How Do I Close the Estate?**

After proper notice has been given to the interested persons, the creditors' claim period has run, the estate's assets have been collected, inventoried, and distributed by the personal representative, the personal representative can begin the process of closing the estate. Prior to the closing of the estate and the discharge of the personal representative, a **Final Account** (MLBF-010) must be prepared by the personal representative and filed with the court. It will be very helpful to the personal representative to have created a detailed inventory and to keep complete records of decedent's income received, expenses and claims paid and distributions to heirs and devisees made. Receipts for items distributed to each named beneficiary or claims paid should be filed with the Final Account. A copy of the Final Account must be sent by the personal representative to each beneficiary.

The last form the personal representative must complete is the **Personal Representative's Statement to Close Estate** (MLBF-009). The Statement to Close Estate must be filed with the Court, and copies mailed to all distributees, unpaid creditors or other claimants that the personal representative is aware of. The Statement to Close Estate cannot be filed until four (4) months after the personal representative was appointed or the first creditors' notice publication date—whichever is later. Usually, four (4) months after the notice publication date will be the controlling date.

### **When are the Personal Representative's duties done?**

The personal representative's appointment expires one year after the closing statement is filed if there are no pending proceedings. Leaving the appointment in place for one year gives the personal representative the opportunity to complete the transfer of property, make distributions, correct misdescriptions or improper identification of assets, or to transfer property that was not included in the will or was discovered later in the probate process after the inventory was originally completed ("omitted property").

# APPENDIX

## MILLE LACS BAND COURT OF CENTRAL JURISDICTION

### PROBATE CHECKLIST

(Do not file with Court)

NOTE: This is not intended to be an exhaustive list of all the responsibilities of the Petitioner/Personal Representative. It is only for general guidance. Consult with an experienced probate attorney for additional assistance.

ESTATE OF:	
DATE OF DEATH:	CASE NO.
<input type="checkbox"/> TESTATE <input type="checkbox"/> INTESTATE	
PERSONAL REPRESENTATIVE(S):	
Name:	Name:
Address:	Address:
Phone:	Phone:
Email:	Email:
Fax:	Fax:

	Activity	Date Due	Date Done
1.	Obtain death certificate, locate Will and file		
2.	Determine who will act as Personal Representative(s)		
3.	Determine all interested parties, including names, addresses and SS #'s		
4.	Complete documents & file		
	<input type="checkbox"/> Petition		
	<input type="checkbox"/> Personal Representative's Acceptance		
5.	Receive hearing date		
6.	Attend hearing & receive certified copies of Letters and Notice of Probate, Appointment of Personal Representative, & Notice to Creditors ("Notice")		

	<b>Activity</b>	<b>Date Due</b>	<b>Date Done</b>
7.	Mail Notice to decedent's spouse, children, interested parties and known creditors & complete Certificate of Mailing		
8.	Have Notice published in paper		
9.	File Affidavit of Publication		
10.	Obtain list of all bills/debts and pay/disallow		
11.	Obtain legal descriptions of real estate and copies of leases		
12.	Safe deposit box opening		
13.	File Post Office Form 3575 to change mail address		
14.	Confirm insurance on all real/personal property		
15.	Identify employee retirement accounts or other benefits		
16.	Contact Minnesota Dept. of Commerce/Office of Unclaimed Property		
17.	Gather info re: outstanding debts and payments owed (contact the Mille Lacs Band Office of Management and Budget)		
18.	Last date for filing claims		
19.	Due date for Decedent's final income (Form 1040) tax returns. Retain <input type="checkbox"/> Accountant <input type="checkbox"/> Attorney for preparation assistance if needed.		
20.	Confirm payment of medical bills by insurance companies		
21.	Pay funeral and burial expenses		
22.	Apply for all refunds		
23.	Identify and confirm values/title on vehicles and other all assets		
24.	Prepare Inventory, file and serve residuary devisees		
25.	Pay real estate taxes (if any)		
26.	Pay creditors claims		
27.	Distribute estate assets and collect receipts from distributees		
28.	Prepare and file Statement of Distribution and Payment of Claims, send copies		
29.	Prepare and file Final Account		
30.	Prepare and file Personal Representative's Statement to Close Estate		

# Table of Minnesota Heirship

IF NO SPOUSE SURVIVES

(Source: Minn. Stat § 524.2-103)

**DECEASED**



To determine heirs: Start with Level 1, proceed down column from top. If no heir is available at that Level, continue to next Level, following down the columns until an heir is determined.

Level 1	Level 2	Level 3	Level 4*	
Children  ↓  Grandchildren	Parents	Brothers/ Sisters  ↓  Nephews/ Nieces  ↓  Grand Nephews/ Nieces	Maternal Grandparents	Paternal Grandparents
			Level 5*	
			Maternal Uncles/ Aunts  ↓  First Cousins	Paternal Uncles/ Aunts  ↓  First Cousins
			↓  First Cousins once removed	↓  First Cousins once removed
			↓  First Cousins twice removed	↓  First Cousins twice removed

**NOTE** - If the appropriate heir cannot be determined by reference to Levels 1-5, additional information about heirship is included in Minnesota Statutes section 524.2-103, which you should review with the assistance of an attorney.

\*For Levels 4-5, half to each side by representation; if no survivors on one side, then all to the other side.