

## Department of State

## § 72.46

consular officer, therefore, must satisfy himself that the evidence which he accepts is sufficient to relieve him as provisional conservator. Friends, traveling companions, employers, and business associates are not competent to relieve the consular officer of the duties and responsibilities enumerated in the regulations in this part, unless duly authorized as legal representatives of the estate (see § 72.18). Satisfactory evidence of a claimant's right to the personal estate of a decedent may be supplied in the manner indicated in § 72.44.

### § 72.44 Evidence of claimant's right to estate.

(a) *Letters testamentary.* A certified copy of the letters testamentary (an instrument issued by a court of law under which a person, named as executor by a will, formally takes charge of the estate and proceeds to carry out the directions in the will) is prima-facie evidence of the executor's right to take possession of the personal estate.

(b) *Letters of administration.* A certified copy of the letters of administration (an instrument issued by a court of law in intestate proceedings appointing an administrator to take charge of the property of a decedent) is prima-facie evidence of the administrator's right to take possession of the personal estate.

(c) *Affidavit of next of kin.* When a decedent dies intestate, and the personal estate consists only of clothing and similar personal effects appraised at little or no commercial value, or in cases where the consular officer is fully satisfied of the legal right of the claimant and the value of the estate does not warrant the expense of probate proceedings, he may be justified in considering as satisfactory evidence an affidavit executed by the decedent's next of kin. The affidavit of the next of kin should be corroborated by the sworn statements of two persons acquainted with the affiant and familiar with the facts of the case. In any event, the consular officer must satisfy himself of the legal right of the claimant or claimants to the decedent's effects before releasing the property that he has in his possession, and he must decide whether

an affidavit is acceptable in lieu of a certified copy of the letters testamentary or the letters of administration.

### § 72.45 Shipment of personal estate to the United States.

(a) When the consular officer is requested to ship to the United States the personal estate in his possession, he should deliver it to a forwarding company selected by the legal representative. Clearance by Customs in the United States will be facilitated if the personal estate is accompanied by a consular certificate identifying it and indicating its nature. If the entire shipment is covered by a single bill of lading, a certificate attached to the original bill of lading covering the shipment would be sufficient; otherwise a certificate should accompany each parcel, box or case.

(b) Extra copies of the bill of lading can serve as a receipt from the forwarding company, one copy to be attached to the consular officer's final statement of account (§ 72.50), and one copy to be retained in the office files. If shipment by registered or insured parcel post, or by other safe means covered by receipt, is possible, there is no objection to forwarding the estate in this fashion, and postal or other receipts should be disposed of in the manner described above, with the original attached to the final statement of account. The personal effects of Foreign Service personnel (see § 72.27) and of personnel of other Government agencies (except Department of Defense and Coast Guard personnel) should be consigned to the United States despatch agent at the port of entry, for forwarding to the legal representative.

### § 72.46 Consular action on disagreements between claimants.

If rival claimants or administrators (administrators may be appointed in different jurisdictions) demand the personal estate in the consular officer's possession, he should refuse to deliver the estate until an agreement has been reached, or judgment rendered, as to which claimant or administrator should receive it, and the consular officer so informed in writing. If, after one year, agreement has not been reached

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between rival claimants, or judgment rendered, the consular officer should notify all parties concerned and sell the entire personal estate at auction in the manner prescribed by § 72.37, with the exception of jewelry, heirlooms, and articles which may have sentimental value to relatives, regardless of intrinsic value. Should any of the personal property not have been taken into physical possession previously (see § 72.29), the consular officer should take possession of such property and, after preparing a supplementary inventory in the manner prescribed in §§ 72.35 and 72.36, include this portion of the estate with that already in his possession. The proceeds of the sale should be converted into United States dollars and after payment of local debts (§ 72.39) and collection of the fee prescribed by § 72.52, should be transmitted, with any unsold portion of the estate in the consular officer's possession, to the Department of State for forwarding to the General Accounting Office for safekeeping and lawful disposition as conservator of the estate (22 U.S.C. 1175).

**§ 72.47 Consular action on unproved claim to estate.**

If the evidence of a claimant's right to receive the estate is not considered sufficient to relieve the consular officer of his responsibility as provisional conservator, he may elect a period of time, not less than one year from the date of the decedent's death, within which settlement must be effected, in order to obviate interminable delay in disposing of the estate. In the consular officer's discretion, he may before releasing the estate, require the claimant to give bond in an amount fixed by the officer himself to run for such period of time as he may designate, in order to protect himself against other possible claims against the estate. If claim to the estate is still unproved at the expiration of the period set, or the claimant refuses to meet the conditions of any bond which the consular officer may require, the consular officer should dispose of the entire personal estate in the manner prescribed by § 72.46.

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**§ 72.48 Consular action on unclaimed estates.**

If, after the expiration of one year from the date of the decedent's death, a legal representative has not appeared to claim the estate, the consular officer should dispose of the entire personal estate in the manner prescribed by § 72.46.

**§ 72.49 Disposition of estate upon departure of responsible officer.**

(a) *Responsibility vested in officer, not post.* For the purpose of the regulations in this part, the consular officer who actually takes possession and disposes of the personal estate of the deceased, i.e., the officer whose signature appears on the inventory of effects, is considered to be the responsible officer. Consequently, upon his departure from the post, either on transfer or extended leave, provision should be made for the disposition of any estate remaining unsettled at the time of his departure.

(b) *Procedure when estate held for less than one year.* When the personal estate is held less than one year, the personal effects in the departing officer's possession should be turned over to another officer at the post against a receipt therefor, in triplicate, identifying the property and cash on hand by reference to the inventory (§§ 72.35 and 72.36) and the trust fund records of the post.

(c) *Procedure when estate held for more than one year.* When the estate has been held for more than one year, the personal effects in the departing officer's possession should be forwarded to the Department for transmission to the General Accounting Office in the manner prescribed by § 72.46 and accounted for in accordance with § 72.50 unless circumstances as described in §§ 72.46 and 72.47 warrant continuing efforts to effect agreement between rival claimants, or to establish an unproved claim. If the estate is not forwarded to the Department, it should be turned over to another officer at the post in the same manner authorized by paragraph (b) of this section.

**§ 72.50 Final statement of account.**

The consular officer must account directly to the parties in interest and to the courts of law in estate matters. Consequently, he must keep an account