

## Department of Justice

## § 104.4

(3) The victim was not required by law to file a federal income tax return for the year 2000.

(c) *Spouse*. The Special Master shall identify as the spouse of a victim the person reported as spouse on the victim's federal tax return for the year 2000 unless:

(1) The victim was married or divorced in accordance with applicable state law on or after January 1, 2001; or

(2) The victim was not required by law to file a federal income tax return for the year 2000.

(d) *The Act*. *The Act*, as used in this part, shall mean Public Law 107-42, 115 Stat. 230 ("Air Transportation Safety and System Stabilization Act"), 49 U.S.C. 40101 note.

(e) *Victim*. The term *victim* shall mean an eligible injured claimant or a decedent on whose behalf a claim is brought by an eligible Personal Representative.

[66 FR 66282, Dec. 21, 2001, as amended at 67 FR 11245, Mar. 13, 2002]

### § 104.4 Personal Representative.

(a) *In general*. The Personal Representative shall be:

(1) An individual appointed by a court of competent jurisdiction as the Personal Representative of the decedent or as the executor or administrator of the decedent's will or estate.

(2) In the event that no Personal Representative or executor or administrator has been appointed by any court of competent jurisdiction, and such issue is not the subject of pending litigation or other dispute, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the person named by the decedent in the decedent's will as the executor or administrator of the decedent's estate. In the event no will exists, the Special Master may, in his discretion, determine that the Personal Representative for purposes of compensation by the Fund is the first person in the line of succession established by the laws of the decedent's domicile governing intestacy.

(b) *Notice to beneficiaries*. Any purported Personal Representative must, before filing an Eligibility Form, provide written notice of the claim (in-

cluding a designated portion of the Eligibility Form) to the immediate family of the decedent (including, but not limited to, the decedent's spouse, former spouses, children, other dependents, and parents), to the executor, administrator, and beneficiaries of the decedent's will, and to any other persons who may reasonably be expected to assert an interest in an award or to have a cause of action to recover damages relating to the wrongful death of the decedent. Personal delivery or transmission by certified mail, return receipt requested, shall be deemed sufficient notice under this provision. The claim forms shall require that the purported Personal Representative certify that such notice (or other notice that the Special Master deems appropriate) has been given. In addition, as provided in § 104.21(b)(5) of this part, the Special Master may publish a list of individuals who have filed Eligibility Forms and the names of the victims for whom compensation is sought, but shall not publish the content of any such form.

(c) *Objections to Personal Representatives*. Objections to the authority of an individual to file as the Personal Representative of a decedent may be filed with the Special Master by parties who assert a financial interest in the award up to 30 days following the filing by the Personal Representative. If timely filed, such objections shall be treated as evidence of a "dispute" pursuant to paragraph (d) of this section.

(d) *Disputes as to identity*. The Special Master shall not be required to arbitrate, litigate, or otherwise resolve any dispute as to the identity of the Personal Representative. In the event of a dispute over the appropriate Personal Representative, the Special Master may suspend adjudication of the claim or, if sufficient information is provided, calculate the appropriate award and authorize payment, but place in escrow any payment until the dispute is resolved either by agreement of the disputing parties or by a court of competent jurisdiction. Alternatively, the disputing parties may agree *in writing* to the identity of a Personal Representative to act on their behalf, who may seek and accept payment from the Fund while the disputing parties work to settle their dispute.