



# Probate: Self-Help Guide Settlement Without Administration

## **St. Croix**

### Mailing Address:

Post Office Box 929  
Christiansted, USVI 00821

### Physical Address

Superior Court of the  
Virgin Islands  
R.H. Amphlett Leader  
Justice Center  
RR1 9000  
Kingshill, USVI 00850

(340) 778-9750

## **St. Thomas**

### Mailing Address:

Post Office Box 70  
St. Thomas, USVI 00804

### Physical Address

Superior Court of the  
Virgin Islands  
Alexander A. Farrelly Justice Center  
Barbel Plaza South  
Parcel No. 8A, Estate Ross  
No. 8 Kings Quarter  
Charlotte Amalie, St Thomas 00802

(340) 774-6680

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## THE PURPOSE OF THIS SELF HELP GUIDE

There are a few different proceedings which may be filed in the Probate Court. Each case is different, so other documents may be required. This is a basic guide for the filing of a *Settlement Without Administration* probate in the Superior Court of the Virgin Islands.

A person that represents himself or herself before a court is proceeding *pro se*, a Latin term meaning “for oneself.” Although you can appear *pro se*, you are strongly advised to discuss the matter with an attorney who practices probate or estate law. The attorney can assist you in determining which proceeding is the most appropriate for your situation. Only an attorney that is a member of the [Virgin Islands Bar Association](#) can represent you in a probate process in the Virgin Islands. Your attorney is obligated by the Virgin Islands Supreme Court Rules of Professional Conduct to represent your interests and protect your legal rights.

Regardless of whether you have an attorney or not, ALL PROBATES MUST COMPLY WITH THE VIRGIN ISLANDS RULES OF PROBATE AND FIDUCIARY PROCEEDINGS. These rules are available on the Court’s website. You may contact the Clerk’s Office for assistance.

If you proceed without an attorney, it will be your responsibility to determine or select the proceeding appropriate for your situation. The staff of the Probate Court may not make the determination or select for you, since to do so may constitute the unauthorized practice of law.

It is your responsibility to properly complete all forms. The Clerk of the Superior Court **is not engaged in the practice of law and cannot give legal advice**. Therefore, you should not ask the clerk or the clerk’s staff to prepare your accounts or to advise you on the completion of forms or any legal issue. The staff is not permitted to perform clerical tasks for the public. The staff will be able to answer any basic questions about the standard forms and about any deadlines. If you need advice, you should consult an attorney, especially regarding disbursements of any funds, any questions about handling insolvent estates, or concerning taxes payable by the estate.

### Disclaimer

This Self-Help Guide only describes the basic settlement without administration requirements and directs you to the rules that govern those requirements. This Self-Help Guide is not a complete version of the Virgin Islands Rules of Probate and Fiduciary Proceedings ([V.I.R.Prob.](#)) This guide has no legal authority nor is it a substitute for requirements found in the [V.I.R.Prob.](#)

### Jurisdiction

The Superior Court has exclusive jurisdiction over the probating of wills and the administration of decedents’ estates. The settlement of estates of deceased persons and fiduciary relations is governed by 15 Virgin Islands Code Ann. § 1 through § 1267. The procedures which all probate and other fiduciary matters must follow are outlined in V.I.R. Prob.

### Contact with the Superior Court

All probates are filed with the Office of the Clerk of the Superior Court. You may only speak to the Superior Court about your case by contacting the Office of the Clerk of the Court. Parties cannot contact the Superior Court Magistrate Judges. The Superior Court contact information, for both the St. Croix and St. Thomas/St. John locations, can be found on the front cover of this Guide. The contact information is also available on the Judicial Branch website ([www.vicourts.org](http://www.vicourts.org)).

**Americans with Disabilities Act**

The Superior Court of the Virgin Islands is committed to fostering compliance with the Americans with Disabilities Act and to providing services, programs and activities in a way that assures accessibility for all users of the courts, including qualified individuals with disabilities. If you need accommodation for a disability, please contact one of the ADA Coordinators listed below at least 10 working days in advance.

RR1 9000 Kingshill, USVI 00850 VI ADA Coordinator: Kevin Williams Mon. – Fri. 8:00 am – 5:00 pm Phone: (340)778-9750 TTY: (340) 778-0644	#8174 Subbase St. Thomas, VI 00802 ADA Coordinator: Koya S. Ottley Mon. – Fri. 8:00 am – 5:00 pm Phone: (340) 774-6680 TTY: (340) 693-4118
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## STEP 1: BEGINNING THE PROBATE

Filing a Settlement Without Administration Probate means mailing, hand-delivering or electronically filing (“e-filing”) a document called a “Petition for Probate Without Administration” in the Superior Court and paying the docketing fee. If you do not have an attorney, you do not have to e-file. If you choose not to e-file, you will be a “conventional filer” and the rules regarding e-filing will not apply to you. To find out how to e-file, see Frequently Asked Questions (FAQ) herein: **How do I “e-file” documents?**



The Petition for Settlement without Administration must include:

- Name and resident of deceased
- Decedent’s date of death (with certified copy death certificate attached)
- Names, addresses, whether adult or minor, relationship to decedent, and proportionate share entitled to decedent’s heirs at law (if testate, list devisees and residuary heir)
- Heirs accept the estate purely, simply and unconditionally. In a testate estate all devisees must consent in this same manner. (All heirs-at-law don’t have to accept “purely, simply...,” just those taking under the will).
- Prayer that the heirs be recognized as the legal heirs of the deceased and placed in full possession of the estate.

**FORM #1** shows the format that you can use to file your Petition for Settlement without Administration.

### Required Redactions: Rule 15(C)

Parties must refrain from including, or must partially redact where inclusion is necessary, the following personal information:

- Social Security Numbers (if the number is required, only the last 4 digits)
  - Names of minor children and victims of sexual assault crimes (only initials)
  - Dates of birth (if required, only the year)
  - Financial account numbers (in relevant, only the last 4 digits)
  - Home addresses (in criminal cases, if required, only the city or island)
- **Original Documents** required to be filed to open estate:
    - Death Certificate: an original certified copy of the death certificate; and
    - Declaration: an unsworn declaration made under penalty of perjury, or a notarized affidavit, signed by an attorney or a relative of the deceased or some other interested person

**Once the petition meets the above requirements the following must also be presented:**

- Consent(s) to petition from all the heirs at law. If testate, must also have consents from all devisees as well as heirs at law (*15 V.I. Code Ann. §84*) Note: *citations are not available because tacit acceptance of debts is not binding, acceptance of estate must be express. See Form #2.*
- Beneficiaries
  - If any of the Beneficiaries are deceased, copies of the Death Certificates for the deceased beneficiary will need to be filed with the Court.

- Each beneficiary must sign the Petition for Settlement without Administration or a separate joinder thereto (waiver/consent).
- Inventory of decedent’s property, personal and real, stating the value of each item at time of decedent’s death. It must be sworn to by two (2) responsible persons. (15 V.I. Code Ann. § 192). **See Form #3**
- Guardianship: Motion for appointment of a guardian or guardian *ad litem* for such heirs or next of kin as may be minors, persons with disabilities, incapacitated persons or protected persons, if necessary.
  - Minor’s consent required if fourteen (14) years or older.
  - The guardian ad litem verified response to the original petition for probate of a will or administration. However, a guardian cannot accept on behalf of a minor until after an inventory and appraisal is filed. Nonetheless, minors cannot be bound to the debts of the estate beyond their net equity in the assets of the decedent’s estate. (Super. Ct. R. 192(e), 15 CODE ANN. §196).

## STEP 2: DOCKETING THE PROBATE

### Filing Requirements

- Mail or hand-deliver to the Superior Court or e-file the Petition in the Virgin Islands Superior Court Electronic Filing System.
- “Serve” the Petition by hand-delivering an exact copy (i.e. “personal service”) or mailing an exact copy of the Petition you filed in the Superior Court to:
  1. The heirs at law (if testate, list devisees and residuary heir)
  2. Pay the \$150.00 “Docketing Fee”



-Or –

If you do not believe you can pay the fee, you can file an Application to Proceed “In Forma Pauperis” (Latin for: in the form of a pauper) using the Application to Proceed In Forma Pauperis form that is available on the Judicial Branch website, [www.vicourts.org](http://www.vicourts.org) (go to “[For Pro Se Litigants](#)” then “Court Forms” then “Superior Court” then “Office of the Clerk”. Double click on “[Application to Proceed In Forma Pauperis.](#)” In this application you must show the Superior Court that you cannot pay for your probate filing by including:

1. an “affidavit” saying, in detail, the reasons you are unable to pay the fee
  2. Other documentation showing your inability to pay the fee
  3. A statement of the issues you intend to present to the Superior Court in your application.
- After you file the Petition in the Superior Court, the Superior Court Clerk’s Office will send you a “Docketing Letter and Notice of Judge Assignment.” The purpose of a Docketing Letter and Notice of Judge Assignment is to inform you that the Superior Court has received your Petition, to provide you with the Magistrate Judge and Case Number that has been assigned to your case. The case number on the docketing letter must be used in the caption of all future contact with the Superior Court.
  - If you did not pay the Docketing Fee when you filed the Petition, it will order you to pay the Docketing Fee in 5 days, or else your petition may be dismissed.
  - For all cases, the only way for any party to request anything from the Court is to file a document called a “Motion”. V.I. Rule of Civil Procedure 5 discusses the requirements for a motion. The motion must be served on all parties, so that all parties may respond to the request.

## Electronic Docket

- Once the Superior Court sends you a Docketing Letter, all documents filed in your Petition will be available for you to see on the Virgin Islands Judicial Electronic Filing System , located at the Virgin Islands Judicial Branch website: [www.vicourts.org](http://www.vicourts.org)
- If you want to look at everything that has been filed in your V.I. Superior Court case, you can go to the Judicial Branch website.
  1. Once there, click on “[E-services](#)”
  2. Then under Search Cases Online click on “Search Now” and follow the instructions

### STEP 3: AFTER FILING YOUR PETITION

- Within 30 days of filing the petition for settlement without administration, you must publish a notice of the petition for settlement without administration and instruction to all persons having claims against the estate to present, or deliver to the petitioner, such claim(s), verified by affidavit, to a place within the territory specified in the notice, within 30 days from the date of the notice, and that all persons indebted to the estate are required to make prompt payment to the petitioner. The notice is to be published, once a week for four (4) consecutive weeks, in a newspaper of general circulation published within the territory, and in the judicial division and jurisdiction in which the deceased died or left assets. See Forms #4.
- Within 14 days from the last date of publication, proof of publication (see form #5) must be filed along with all claims against, and payments made to, the estate, if any, along with a proposed judgment (see Form #6).

### STEP 4: THE COURT’S DECISION

The court may, upon receipt of the proof of publication, claims and payments, if any, and proposed judgment, set the matter for a hearing to occur or the court may issue the judgment without a hearing.

### STEP 5: AFTER THE COURT’S DECISION

If the judgment recognizing the persons entitled to property places them in possession of it, the property, if real estate, should be described in detail in the judgment. The judgment is to be registered with the office of the recorder of deeds of the proper judicial division of said judgment and proof provided to the Court.





## Important Terms

- **Probate** is the court procedure by which a will is proved to be valid or invalid. It is the legal process wherein the estate of a decedent is administered.
- **Decedent** is a person who has died.
- **Intestate** is the legal term that refers to the estate of a deceased person who dies without leaving a will.
- **Testate** is the legal term that refers to the estate of a deceased person who leaves a will.



- **Will** is a written declaration of a person's wishes concerning the distribution of property standing in his or her name after death executed in accordance with specific legal procedures.
- **Executor** is the legal term that refers to the person named in a will to manage and settle an estate and to carry out the directions and mandates of the decedent.
- **Fiduciary** is the legal term that refers to an individual who holds property in a position of trust for another such as an executor, administrator, trustee, guardian, or conservator.
- **Affidavit** is a voluntary statement of facts written down and sworn to by the person making the declarations before an officer authorized to administer oaths, such as a notary public

## Frequently Asked Questions - Probate Division



### **What is Probate?**

Probate is the court procedure by which a will is proved to be valid or invalid.

### **Why is probate necessary?**

Probate is necessary to protect the assets of the decedent for their heirs, creditors, and other persons due money from the estate, and to ensure the collection of money due the estate. Probate provides for the payment of outstanding debts and taxes, as well as the expenses of administration and distribution of the estate to the heirs.

### **When should you file a probate petition?**

A probate action should be commenced as soon as possible after the decedent's death.

### **What are the filing fees associated with filing a probate petition?**

The filing fee for probate petitions is One Hundred Fifty Dollars (\$150.00). Upon the Court's entering of the Final Adjudication in each probate matter, a Final Adjudication Assessment Fee is charged.

### **What documents do I need to support a Probate Petition?**

The following documents are needed to support a probate petition:

- The certified death certificate of the decedent. The certificate must bear a raised seal.
- Proof of the decedent's ownership of property.
- The original will, if the decedent died testate or an evidentiary hearing will be scheduled to determine the validity of a copy of the will.
- An authenticated will and record of cover proceeding in an ancillary probate.



## **If a family member dies, how do I get their property transferred to the person who is entitled to receive it?**

The deceased person's property would have to be probated; therefore you should seek the advice of an attorney. Based on the amount of the assets and the size of the estate, the attorney would know the appropriate petition should be filed. The attorney would then file the appropriate petition with the court. The filing fee for probate petition is \$150.00.

## **I have a question about my case. Who do I ask?**

All verbal communication with the Court can only be done with the Office of the Clerk. The Office of the Clerk will do its best to help you understand the procedures you must follow. However, you must remember that the Office of the Clerk cannot give you legal advice.

The only method to communicating with the Magistrate Judges is by written motion, served on all parties.

## **How do I “e-file” documents?**

As of August 31, 2020, if you want to become an E-filer, you must:

- Go to the Virgin Islands Judicial Branch website, [www.vicourts.org](http://www.vicourts.org)
- Go to “[E-Services](#)”, click on “e-Filing” then click on “Become and E-Filer Today”
- Click on “Become an E-filer Today”
- Fill in the information.
- When it comes to “Type” select “E-File User”
- If you e-file documents, your documents will be on time if the document is filed before 11:59 p.m., Atlantic Standard Time, on the document’s due date.
- If you abuse your e-filing ability (for example by filing documents that are not part of the record or repeatedly filing documents that do not comply with the Court’s Rules) the Clerk of the Court can take your ability to e-file away from you.

## **What if I don’t have access to a computer?**

You may file your documents by mailing or hand-delivery.

## **Five Types of Probate Petitions**



A **probate petition** is the procedure by which the estate of a deceased person is distributed to his or her heirs. There are four types of probate petitions:

1. There is a petition for the Administration of Testamentary Estates, which is filed in accordance with [V.I. R. Prob. Rule 3](#) and 15 V.I Code Ann. § 232.
2. There is a petition for the Administration of Intestate Estate, which is filed in accordance with [V.I. R. Prob. Rule 4](#) and 15 V.I. Code Ann. § 232.
3. There is a Summary Administration, which is filed in accordance with [V.I. R. Prob. Rule 22](#) and 15 V.I. Code § 167. Summary Administration is an *abbreviated* form of probate typically used when assets are valued at \$100,000.
4. There is a petition for the Settlement without Administration, which is filed in accordance with [V.I. R. Prob. Rule 23](#) and 15 V.I. Code Ann. § 191 and § 198. Settlement without Administration

is permissible that when a person dies intestate, leaving no debts or such debts as his heirs choose to assume and pay. The heirs must accept the estate “purely, simply and unconditionally.”

5. Finally, there is the petition for the Administration of Ancillary Probate, which is filed in accordance with [V.I. R. Prob. Rule 24](#). Where real and/or personal property, located within the United States Virgin Islands has been devised or bequeathed by the written will of a nonresident testator, the devisees or legatees entitled under the will, to the property in the United States Virgin Islands may apply to the Superior Court to be placed in the possession of such property. This procedure is not applicable where the decedent dies intestate.

#### **COURT FEES RELATED TO PROBATE**

Application for Probate or Administration over \$200	\$150.00
Certified Copy of Any Record	\$3.00/page
Copy of Document	\$1.00/page
Electronic Transcripts of proceedings (in digital courtrooms)	\$50.00
Exemplification of Court Records	\$50.00
Guardianship Matter	\$75.00
Last Will & Testament	\$75.00
Notary to Signature	\$5.00
Record Searches (15 yrs. from date of search)	\$75.00
Record Searches (Less than 15 but more than 5 yrs.)	\$25.00
Record Searches (Less than 5 yrs.)	\$10.00
Return Check Fee	\$50.00
Service of Subpoena	\$50.00
Wills for Safekeeping	\$75.00



## FORMS