


**ESTATES**
  
**APPENDIX TO FORMS**  
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## GENERAL INSTRUCTIONS

In addition to being governed by Part 25 of the *Supreme Court Civil Rules* (“Probate Rules”)<sup>(1)</sup> (which relate to estate proceedings and are referred to in this chapter), probate forms are also governed by:

- Rule 22-2 – Affidavits; and
- Rule 22-3 – Forms and Documents.

The forms in the Appendix to the Probate Rules contain instructions imbedded in them. We have elaborated on these instructions, removed them from the text in the Guide and set the instructions out in the usual way in the Guide; that is, the explanation with respect to the form, its use, completion, and processing are on the left side (even pages), and the text of form itself on the right (odd pages).

To complete the forms, insert the information between the `{ }` brackets. They are stop-coded. If you are using Evin Ross forms, you can navigate to each subsequent bracket or stop-code by pressing `F11`. These brackets *{and the instructions within them}* are removed as you complete the information.

Adapt the text by either deleting or leaving in the text in [square brackets] so that the grammar and the text work. . For example: “The Applicant[s] swear[s] ...” can be changed to “The Applicants swear...”. These are also stop-coded in the electronic precedents.

In general, when completing the forms, you should rely on Rule 22-3 of the *Supreme Court Civil Rules* that allows for the forms to be modified as long as the modification makes sense and you do not remove vital information so, when completing forms:

- delete all instructions in italics;
- delete all paragraphs that are not applicable to the situation;
- ensure that you are using the latest forms as they are or will be amended from time to time;

Never reply “N/A” or “Not-Applicable” when the question asks for a category of people or thing that doesn’t apply in the case. For example, in paragraph (2)(a) of the first Schedule to **Form P2 – Submission**, if there is no spouse, answer “none” or “no surviving spouse”.

Show the dates as follows: **12/May/1999**” or “**May 12, 1999**” and not “12/05/1993” or “05/12/1993”.

And finally, find out what your office procedure is for naming and saving documents, and generally the office’s preferred style and appearance of the documents.

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<sup>(1)</sup> “Probate Rules” in this chapter refers to Part 25 of the *Supreme Court Civil Rules*.

**FORMS AND DOCUMENTS (Rule 22-3)****Appearance of Documents**

Most of the prescribed forms in the Probate Rules have the words “**Rule 22-3 of the Supreme Court Civil Rules applies to all forms**” under the style of proceeding. When preparing court documents, remove these words. To save space, we have removed these words from the printed examples in the Guide but left them in the precedents, as some law firms and legal assistants prefer to leave them in.

Rule 22-3(2) states that unless the nature of the document renders it impracticable, every document prepared for use in the court must be in the English language, legibly printed, typewritten, written, or reproduced on 8 1/2 inch by 11 inch durable white paper or durable off-white recycled paper.

The first page of each document must contain a blank area extending at least 5 centimetres from the top of the page and at least 5 centimetres from the left edge of the page to allow the probate registry to stamp the document in the blank area.

The applicable forms must be completed to suit the circumstances, and each form must be completed by including the information required in accordance with any instructions included on the form (Rule 22-3(1)). Some probate forms have numerous multiple choices of which only one is applicable to the estate you are working on. For example: paragraph 5 of **Form P4 – Affidavit of Applicant for Grant of Probate or Grant of Administration with Will Annexed** (Long Form) reads:

“5. I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her important documents and

5 no testamentary document of the deceased dated later than the will has been found.

5 one or more testamentary documents dated later than the will has been found. I believe that the later testamentary document(s) is/are invalid or otherwise not relevant to this application for the following reasons:  
5 {*briefly state the reasons*}.”

If the first choice is applicable to the situation, you may amend the form (pursuant to Rule 22-3(1)) and delete the text that is not applicable (here, the second choice). The result would read as follows:

“5. I am satisfied that a diligent search for a testamentary document of the deceased has been made in each place that could reasonably be considered to be a place where a testamentary document may be found, including, without limitation, in all places where the deceased usually kept his or her documents and no testamentary document of the deceased dated later than the will has been found.”

The Probate Rules' instructions are to "check the box" which may be understood that one box is checked and the other options remain. We have taken the liberty to change the instructions and say "select the appropriate paragraph". In other words, when the instructions say "check the box," or "select the appropriate paragraph" you should leave the selected paragraph in and then delete any parts of the paragraph that are not applicable, so long as you ensure that the text flows logically and forms to a grammatically correct statement.

To check the box , double click on it and click on "checked" in the menu "Check Box Field Options". This will turn the box into: .

However, check with the supervising lawyer to determine your law office policy. Some law firms insist on leaving all the text in and just checking the appropriate box.

All of the precedents use "styles" and automatic paragraph numbering. For example, if there are four paragraphs (1, 2, 3, and 4) and you remove paragraph No. 2, the numbering moves up. The same thing happens when you add a paragraph. In addition, as some probate forms have many options, we have indicated the paragraph number as {Optional paragraph #} so, when you delete the optional paragraph does not apply, you are ensured that you have not deleted extra paragraphs or left paragraphs that do not apply.

### **Style of Proceeding**

A document prepared for use in a proceeding must be headed with the style of proceeding (formerly known as the "style of cause") set out on the most recent originating pleading to be filed in that proceeding.

The Words "**FORM P# (Rule 25-#)**" do not form part of the style of proceeding and may be deleted. However, it may be clearer to leave them in, so as to easily identify the documents (e.g. when there are several different forms of affidavits).



**Save the style of proceeding (minus the name of the document) as a separate electronic file in the appropriate directory and retrieve it every time a new document is prepared. This will ensure consistency and save a lot of time and errors. Give the file the same name, e.g. "0-style". The "zero" will ensure that the file is at the top of the directory.**

In a Probate application the style of proceeding looks as follows (except for affidavits, see p. 7):

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**FORM P2 (RULE 25-(25-3(2))**

No. ❶ \_\_\_\_\_

❷ Vancouver Registry

❸ In the Supreme Court of British Columbia

❹ IN THE MATTER OF THE ESTATE OF JOSEPH PATRICK BLOE, DECEASED

❺ NAME OF DOCUMENT

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**❶ Court file number**

This is the number assigned to the court's file when it is opened. When typing the first documents of an application (e.g. **Submission for Estate Grant**), this number is not yet available as it will be stamped on the originating documents when they are filed in the Registry.

**❷ Registry name**

This is the location of the Probate Registry where the documents are filed.

**❸ Court name**

In British Columbia, all probate applications are made in the Supreme Court of British Columbia. The court's name is usually centered.

**❹ Title**

The title identifies the Deceased (see name of the Deceased below).

**❺ Name of document**

The name of the document appears immediately under the style of proceeding and is usually centered and bolded. It does not form part of the style of proceeding as it varies from one document to another.

**Name of the Deceased**

The Deceased may have been known by several names or the Deceased's assets may have been registered in several names (or several variations or aliases). For example, a married woman may have assets registered in her maiden name, in her married name, and perhaps in her second married name. Sometimes, the different name variations are the result of misspelling or clerical error.

In addition, the first and last names of a person in some other countries are shown in reverse order. For example, "Pauline Woo" in Canada would be "Woo Pauline" in some Asian countries. You will have to show both names in the probate application.

Under the new Probate Rules, show only the **legal** name of the Deceased in the style of proceeding – without any aliases – that is the usual name of the Deceased in the Will. However, in **Form P2 – Submission** – Part 1 – Information about the Deceased, under "Other names in which the deceased held or may have held and interest in property", show all the aliases in the following order:

- the name on the **Death Certificate** if different from the name in the Will;
- any other names the Deceased may have used, such as a maiden or married name, or the name in the passport; and/or

- any names which may appear on titles to assets – such as the Certificate of Title issued by the Land Title Office.

All the names listed in the *Form P2 Submission* (the legal name and the aliases) must be identical to the name in the *Results of Application for Search of Wills Notice*.

All the names that are shown in the *Form P2 – Submission* must be shown in the various Exhibits to the *Affidavits of Assets and Liabilities*.

If any aliases are listed in the *Submission*, the probate registry will include them in the grant (*Form P28*) as follows:

**“JOSEPH PATRICK BLOE, also known as  
JOE PATRICK BLOE, also known as JOSEPH PAT BLOE”, Deceased.**

If a different name is not included in Part 1 of the *Submission*, and the estate grant is issued without listing a variation of the name that an asset is registered in, then later, a statutory declaration regarding variation in the name of Deceased) will be required to deal with the asset which is registered in this different name (see *Statutory Declaration – Post-Application Documents*). There is an exception, the Land Title Office does not accept a Statutory Declaration to correct the name of the Deceased and you will have to make an application to amend the grant to include the missing name.

### **Accessible Address for Service**

If there are several applicants, they must adopt a single address for service that applies to all of them. The address for service must be an accessible address that complies with Rule 4-1(1) of the *Supreme Court Civil Rules*:

- if the applicant is represented by a lawyer, s/he must have an accessible address for the office of that lawyer; or
- if the applicant is not represented by a lawyer in the proceeding:
  - s/he must have an accessible address within 30 kilometers of the registry; or
  - if the applicant does not have an accessible address within 30 kilometers of the registry, s/he must have, as his or her addresses for service, both:
    - o an accessible address; and
    - o a postal address in British Columbia, a fax number or an e-mail address.

An applicant may also adopt additional addresses for service under Rule 4-1(2), provided that each additional address for service is applicable to all of the applicants. Rule 4-1(2) states that a party may have, in addition to the required address or addresses for service, one or more of the following as addresses for service:

- a postal address;
- a fax number; and/or
- an e-mail address.



**Ensure that the applicant’s address is the same in all documents filed.**

**AFFIDAVITS (RULE 22-2)**

An affidavit is a statement of facts made in writing by a person (the deponent) either by oath (sworn) or by affirmation (affirmed) in the presence of someone who has the authority to administer an oath or affirmation. An affidavit may be:

- sworn, which is the case in the majority of affidavits. “Sworn” means that the deponent is bound by his or her conscience, and implies an appeal to God (or a sacred object) to witness the deponent’s statement and to impose punishment if the deponent does not tell the truth; or
- affirmed, which is rare and means that the deponent solemnly and formally declares that the deponent tells the truth.

**Identification for Affidavits**

In addition to the style of proceeding described above, pursuant to Rule 22-2(3), all affidavits must be identified by a statement in the top right hand corner of the first page, showing:

- the name of the person swearing or affirming the affidavit;
- the sequential number of the affidavit by that person in the same application; and
- the date on which the affidavit is **made**. An affidavit is made (Rule 22-2(4)) when:
  - it is sworn or affirmed by the person swearing or affirming the affidavit;
  - that person signs the affidavit; and
  - the person before whom the affidavit is sworn or affirmed completes and signs the jurat and identifies each exhibit by signing a certificate placed on the exhibit (the “exhibit stamp”).

Below is an example of the header of an affidavit:

**FORM P9 (RULE 25-3(2))**

This is the *{1st/2nd/3rd/etc.}*  
affidavit of *{Name}* in this case and  
was made on *{dd/mmm/yyyy}*.

No. \_\_\_\_\_  
Vancouver Registry

**In the Supreme Court of British Columbia**

**IN THE MATTER OF THE ESTATE OF JOSEPH PATRICK BLOE, DECEASED**

**AFFIDAVIT OF DELIVERY**

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An affidavit may **not** contain statements as to the deponent's "information and belief" when it is made in respect of an application for a final order unless by leave of the court (Rules 22-2(12) and (13) of the *Supreme Court Civil Rules*). As an order for an estate grant is considered as a final order, affidavits leading to an estate grant cannot be sworn on information and belief unless by leave of court. However, as shown in this *Guide*, they can be sworn as being to the best of the deponent's knowledge.

If there are several applicants, it is important to determine how, where, and when the affidavits will be sworn or affirmed. It may be that the applicants live in different cities, provinces or even countries, and the affidavits will have to be made in different places at different times.

In those circumstances, before preparing the affidavit, the supervising lawyer or the personal representative should be consulted to determine what arrangements have been (or are being) made for the execution of the affidavit.

**Affidavits sworn/affirmed at the same time and place:**

- the opening phrase should read:  
 "We, **AAA**, {*occupation*} of {*address*}, and **BBB**, {*occupation*}, of {*address*},  
**JOINTLY AND SEVERALLY SWEAR/AFFIRM,"**

1. *Text of the Affidavit being sworn...*" etc.

- the jurat at the end should read:

**JOINTLY AND SEVERALLY SWORN/** )  
**AFFIRMED BEFORE ME** at the \_\_\_\_\_ )  
 of \_\_\_\_\_, in the Province of \_\_\_\_\_ ) \_\_\_\_\_  
 this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_ ) **AAA**  
 \_\_\_\_\_ )  
 A Commissioner for taking affidavits ) \_\_\_\_\_  
 for British Columbia. ) **BBB**  
 [or]: )  
 A notary public in and for the Province of \_\_\_\_\_ )

In addition to the signature of the commissioner or notary public in the jurat, all affidavits prepared for filing in the Supreme Court must include the name, legibly typed or written, of the commissioner (or notary public) before whom the affidavit was sworn as part of the jurat. The Supreme Court Registry recommends that a stamp showing the commissioner's or notary's name and contact information be affixed below the signature of the commissioner or notary.

If the affidavit is sworn before a notary, the notary's **seal must be affixed** under his/her signature.

**Affidavits sworn/affirmed at different times and/or in different places:**

- the opening phrase should read:

“I, **AAA**, {*occupation*}, of {*address*} and I, **BBB**, {*occupation*}, of {*address*},  
**SWEAR/AFFIRM THAT:**

1. *Text of the Affidavit being sworn...*” etc.

- separate jurats should be prepared for each person, as the affidavit will be usually sworn before different lawyers, notaries public or commissioners at different times:

**SWORN/AFFIRMED BEFORE ME** at \_\_\_\_\_ )  
 the \_\_\_\_\_ of \_\_\_\_\_, in the \_\_\_\_\_ )  
 Province of \_\_\_\_\_ )  
 this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_ )  
 \_\_\_\_\_ ) **AAA**  
 A Commissioner for taking affidavits )  
 for British Columbia. )

[or]:

A Notary Public in and for the Province of \_\_\_\_ )

**SWORN/AFFIRMED BEFORE ME** at \_\_\_\_\_ )  
 the \_\_\_\_\_ of \_\_\_\_\_, in the \_\_\_\_\_ )  
 Province of \_\_\_\_\_ )  
 this \_\_\_\_\_ of \_\_\_\_\_, 20\_\_ )  
 \_\_\_\_\_ ) **BBB**  
 A Commissioner for taking affidavits )  
 for British Columbia. )

[or]:

A notary public in and for the Province of \_\_\_\_\_)

Notes Section 60 of the *Evidence Act* (British Columbia) lists the persons who are (because of their office or employment) commissioners for taking affidavits for British Columbia, including judges, registrars, practicing lawyers, notaries public, and others.

If the affidavit is sworn/affirmed in a province of Canada other than British Columbia, the affidavit should be sworn before a notary public for that province, and the notary’s seal must be affixed.

In addition, if a notary is not available, if the affidavit is sworn/affirmed outside British Columbia (and Canada) and will be used in British Columbia, refer to section 63 of the *Evidence Act* (British Columbia) to ensure it is valid and effectual in British Columbia. It provides a list of persons before whom affidavits may be sworn outside British Columbia for use in British Columbia.

If the affidavit is sworn in the USA, add:

“*My commission expires:* \_\_\_\_\_”

The person before whom an affidavit is sworn or affirmed must initial all alterations in the affidavit and, unless so initialled, the affidavit must not be used in a proceeding without leave of the court. This is required by Rule 22-2(11).

An affidavit may be used in a proceeding even though it was made before the proceeding was started. This is permitted under Rule 22-2(15), and it is customary to use the words “In the Matter of an Intended Proceeding” in the heading in order to avoid any confusion or misleading of the court.

### **Exhibits to Affidavits**

Each page of the exhibit must be numbered.

The person before whom an affidavit is sworn or affirmed must identify each exhibit referred to in the affidavit by signing a certificate placed on the exhibit in the following form:

**THIS IS EXHIBIT “A”** referred to in the affidavit of *{NAME OF THE APPLICANT}* sworn before me at the *{City}* of \_\_\_\_\_, in the Province of British Columbia, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
A Commissioner for taking affidavits for British Columbia  
*[or:]*

A notary public in and for the Province of \_\_\_\_\_

The exhibit must be dated the same day that the affidavit is sworn or affirmed and must be signed by the same commissioner or notary public.



**STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION**  
**(also known as the “Disclosure Statement”)**

**General Notes**

The *Statement of Assets, Liabilities and Distribution* (sometimes called “*Disclosure Statement*” and often used as a shorthand term) is:

- a list of the Deceased’s assets (passing to the personal representative); and
- a list of the Deceased’s liabilities that charge an asset.

The Disclosure Statement is attached as an **Exhibit** to the various *Affidavits of Assets and Liabilities* (*Forms P10, P11 and P25*), and *Supplemental Affidavits* (*Forms Nos. P14, P15, and P26*). The titles of each part will be adjusted in the Forms chapter according to the kind of application. The explanation is in the body of each part.

In the case of *Form P10 – Affidavit of Assets and Liabilities for Domiciled Grant*, the Disclosure statement consists of two exhibits:

**EXHIBIT “A”**

**Exhibit “A”** is the list of assets on which the assets on which probate fees are payable and which has three parts (see below) and **Exhibit B** (see next page):

**❶ Part I      Real Property**

**Real Property within British Columbia (including mortgages and vendors’ and purchasers’ interests in agreements for sale)**

In this part, list only real property within British Columbia, except any property held in joint tenancy and deduct from the value of each such property all liabilities charging or encumbering such real property (such as mortgages registered against the property).

**❷ Part II      Tangible Personal Property**

**Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)**

In this part, list motor vehicles, boats, motor homes, furniture, clothing, jewellery, and any other tangible personal belongings and deduct from the value of each asset any liabilities charging or encumbering such asset (such as a bank loan to purchase a motor vehicle and registered in the Personal Property Registry).

**❸ PART III      Intangible Personal Property**

**Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)**

In this part, list all the intangible personal property (that cannot be touched by hand): for example: cheques and funds held by Deceased in banks or other financial institutions, life insurance policies, annuities, pensions and death benefits such as Canada Pension Plan, Old Age Pension and Veteran’s Pension, book debts, promissory notes or any other debts owing to the Deceased, securities for money, bonds, stocks and shares.

- ❹** Probate fees are payable on the gross value of the assets less secured debts.

**EXHIBIT A**

This is Exhibit A referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

\_\_\_\_\_  
A commissioner for taking affidavits for British Columbia

**STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION**

Full legal name of the deceased: . *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2}*
2. *{Include all names that have been listed in Form P2.}*

<b>Part I</b>	<b>Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)</b>	<b>Value at death</b>
	<b>❶ or NIL</b>	
	<b>TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA</b>	<b>\$_____</b>

<b>Part II</b>	<b>Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)</b>	<b>Value at death</b>
	<b>❷ or NIL</b>	
	<b>TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA</b>	<b>\$_____</b>

<b>Part III</b>	<b>Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)</b>	<b>Value at Death</b>
	<b>❸ or NIL</b>	
	<b>TOTAL INTANGIBLE PERSONAL PROPERTY</b>	<b>\$_____</b>
	<b>❹ GROSS VALUE OF ASSETS LESS SECURED DEBTS</b>	<b>❹ \$_____</b>

Notes: The heading contains the words “and Distribution” although there is no space in the form to disclose the distribution of the estate. These words were left in the form because the *Probate Fee Act* (which is not being amended by WESA) specifically refers to the word “distribution”.

**FORM P10****EXHIBIT B****STATEMENT OF REAL AND TANGIBLE PROPERTY OUTSIDE BRITISH COLUMBIA**

The Disclosure Statement in *Form P10 – Affidavit of Assets and Liabilities for Domiciled Estate Grant* only has been split into two separate statement:

**Exhibit A** (previous page) that lists the assets in British Columbia and intangible property anywhere in the world on which probate fees are payable; and

**Exhibit “B”** (opposite) that lists real property and the Tangible Personal Property outside British Columbia and is only applicable to *Form P10*.

In order to transfer assets situated outside British Columbia, it may be necessary to either to have the British Columbia grant resealed or obtain an ancillary grant in the jurisdiction where the asset it situated.

❶ **Part I Real Property**

**Real Property outside British Columbia (including mortgages and vendors’ and purchasers’ interests in agreements for sale)**

In this part, list all real property outside British Columbia, except any property held in joint tenancy and deduct from the value of each such property all liabilities charging or encumbering such real property (such as mortgages registered against the property).

❷ **Part II Tangible Personal Property**

**Tangible Personal Property outside British Columbia (including vehicles, furniture and other physical items)**

In this part, list motor vehicles, boats, motor homes, furniture, clothing, jewellery, and any other tangible personal belongings and deduct from the value of each asset any liabilities charging or encumbering such asset (such as a bank loan to purchase a motor vehicle and registered in the Personal Property Registry).

Note: There is no Part III as presumably, all Intangible Personal Property anywhere in the world that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand) would be listed in Exhibit A

*Form P10 - Continued*

**EXHIBIT B**

This is Exhibit B referred to in the affidavit of *{NAME}* sworn / affirmed before me on *{dd/mmm/yyyy}*.

\_\_\_\_\_  
A commissioner for taking affidavits for British Columbia

**STATEMENT OF REAL AND TANGIBLE PROPERTY OUTSIDE BRITISH COLUMBIA**

Full legal name of the deceased: *{LEGAL NAME OF DECEASED}*

Other names in which the deceased held or may have held an interest in property:

1. *{Include all names that have been listed in Form P2.}*
2. *{Include all names that have been listed in Form P2.}*

<b>Part I</b>	<b>Real Property outside British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)</b>	<b>Value at death</b>
<b>① or NIL</b>		
TOTAL REAL PROPERTY OUTSIDE BRITISH COLUMBIA		\$_____
<b>Part II</b>	<b>Tangible Personal Property outside British Columbia (including vehicles, furniture and other physical items)</b>	<b>Value at death</b>
<b>② or NIL</b>		
TOTAL TANGIBLE PERSONAL PROPERTY OUTSIDE BRITISH COLUMBIA		\$_____
GROSS VALUE OF ASSETS OUTSIDE BRITISH COLUMBIA		\$_____

## STATEMENT OF ASSETS, LIABILITIES AND DISTRIBUTION

### Ascertaining Assets

The steps leading to the preparation of all Affidavits of Assets and Liabilities – especially gathering information on assets and liabilities – are explained in the **Pre-Application Procedure** chapter. Verify the following for each asset listed in the *Disclosure Statement*:

- the description of the asset;
- the name in which the asset is registered or held (or title to the asset);
- the value of the asset as at the date of death; and
- any debt or liability charging (registered against) such asset, more particularly:
  - the name of the creditor;
  - the amount owing with respect to the debt as at the date of death; and
  - where registered (e.g. Land Title Office or Personal Property Registry) and the registration number.

Only list assets that form part of the estate. Do not include in the *Disclosure Statement* assets held jointly <sup>(1)</sup> or assets with a designated beneficiary, and do not add their value to the gross value of the estate. Follow exactly the guidelines to complete the *Disclosure Statement* set out under **Preparation**.

However, for estate administration purposes, keep a complete inventory of:

- all assets, whether those assets form part of the estate or pass outside the estate (such as assets held in joint tenancy or those with a designated beneficiary); and
- all debts and liabilities, especially those paid by the personal representative.

As the probate registrar has the authority to obtain further details regarding any asset “disclosed” or listed in the *Disclosure Statement*, the information regarding the asset must be in writing (not just a telephone call). Accordingly, the wording of the letters requesting the information must be specific and the replies from the holders of assets (such as banks, insurance companies, etc.) must be carefully checked upon receipt to ascertain that all the questions have been answered.

The probate registry will rely on the applicant to ascertain how the asset is held. For example: the registry does not verify whether property was owned on the basis of a community property regime in force in another province of Canada or one of the United States of America. The opinion of a lawyer or attorney may have to be obtained and the matter may have to be spoken to in chambers.

In general, if the value of an asset is difficult or impossible to obtain at the time of the preparation of the *Disclosure Statement*, you can apply for an *Authorization to Obtain Estate Information – Form P18* (in the case of any estate grant) or an *Authorization to Obtain Resealing Information – Form P27* (in the case of an application to reseal a foreign grant) (see **Assembling Information on Assets – Pre-Application Procedure**).

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<sup>(1)</sup> See explanation regarding joint bank accounts on page 28

## Security Interests

If a security interest (liability) is registered against a specific asset, the balance owing under that security interest as at the date of death may be deducted from the value of such asset.

Section 47(1) of WESA defined a “purchase money security interest” as a security interest taken in land or in tangible personal property that:

- secures credit, including interest charges, provided to the Will-Maker to acquire, improve or preserve the land or tangible personal property (for example a mortgage registered against the land or a bank loan registered when purchasing a motor vehicle); and
- is registered under the *Land Title Act* (in the Land Title Office) or the *Personal Property Security Act* (in the Personal Property Security Registry).

For example: a mortgage against the Deceased’s residence registered in the Land Title Office or a loan to purchase a motor vehicle in favour of a bank registered in the Personal Property Registry are deducted from the value of the residence or the car respectively.

There may be other monies owing by the Deceased which are “loosely” called mortgages, as they were originally borrowed to purchase real estate. If a loan or other indebtedness is **not** registered against the property at the time of death, even if such loan was originally taken specifically to purchase the property in question, the amount of such indebtedness is **not** deducted from the market value of such property.

## Fees payable

There are two kinds of fees payable to the Minister of Finance on behalf of the estate (see *Probate Fee Act* and **Fees – Helpful Information** chapter) with respect to the application:

- fees payable under the *Supreme Court Civil Rules* to commence a proceeding to obtain an estate grant (or reseal a foreign grant); and
- probate fees payable before the issue (or resealing) of any grant.

Probate fees are payable on the **gross** value of the estate (see definition below) within British Columbia, basically, all assets listed in Exhibit A,

The *Probate Fee Act* defines the value of an estate as being the gross value of the estate as set out in a *Statement of Assets, Liabilities and Distribution* exhibited to the affidavit leading to an estate grant or to a resealing, as the case may be:

- of the real and tangible personal property of the Deceased situated in British Columbia; and
- if the Deceased was ordinarily resident in British Columbia immediately before the date of death, the intangible personal property of the Deceased, wherever situated, that passes to the personal representative at the date of death.

Black’s Law Dictionary defines “intangible property” as property that has no “intrinsic and marketable value but is merely the representative or evidence of value, such as certificates of

stock, bonds, promissory notes and franchises”. Shares in a company (whether private or publicly traded), Canada Savings Bonds, etc. are considered “intangible personal property”.

The *Probate Fee Act* does not define the term “ordinarily resident”, so one must look to tax cases (*Income Tax Act*, for example: *Thomson v. Minister of National Revenue* [1946] 1 D.L.R. 689, *Queen v. Reeder* DTC 5160 and *Eastwood v. Minister of National Revenue* DTC 126) for a decision as to what constitutes “ordinarily resident”. A person’s ordinary residence is where the settled routine of his or her life takes place and where he or she regularly, normally, or customarily lives. This should be distinguished from “domicile”, which implies a place where a person has his or her permanent home. A person may have several residences but only one domicile.

Any issue as to whether the Deceased was “ordinarily resident” in British Columbia should be determined by the supervising lawyer and, in some cases, the accountant for the estate.

In summary:

- probate fees are payable on the net value of assets (after deducting secured liabilities) considered situated within British Columbia, that is:
  - real estate and tangible personal property of the Deceased situated in British Columbia, whether the Deceased was or was not ordinarily resident in British Columbia; and
  - intangible personal property of the Deceased, wherever situated, if the Deceased was ordinarily resident in British Columbia immediately before the date of death;
- probate fees are **not** payable on assets considered situated without (outside) British Columbia, that is:
  - real estate and tangible personal property of the Deceased situated outside British Columbia, whether the Deceased was or was not ordinarily resident in British Columbia; and
  - intangible personal property of the Deceased situated outside British Columbia, if the Deceased was not ordinarily resident in British Columbia immediately before the date of death (as in the case of a resealing of a foreign grant).

Where a grant of probate of administration is obtained in British Columbia and the estate includes assets situated in another jurisdiction, the British Columbia grant may not be accepted in the other jurisdiction for the purpose of transferring the assets situated there. In such circumstances, it may be necessary either to have the British Columbia grant resealed (if the other jurisdiction is a Canadian province, in the United States of America, the United Kingdom or a member of the British Commonwealth) or to obtain an ancillary grant (in any other case) in the jurisdiction outside British Columbia where the asset is situated. The procedure to “export” a British Columbia grant is beyond the scope this *Guide*.



## STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION

### PART I: Real Property within British (including mortgages and vendors' and purchasers' interests in Agreements for Sale).

Include all real property owned by the Deceased in British Columbia, except real property owned by the Deceased and one or more other persons as **joint tenants**.

Property registered in the **sole** name of the deceased or in joint names<sup>(1)</sup> may be affected by the *Family Law Act* and may or may not constitute an asset of the estate. Consult the supervising lawyer. If property becomes the subject of a successful *Family Law Act* claim, it may or may not affect the need to be disclosed, and in turn, affect the amount of probate fees payable.

#### **Fee Simple:**

Show the following information for each item and category of real property:

- ❶ Description of the type of property: a house (Deceased's residence), apartment building, condominium, land only, etc., and the street or civic address (including city or municipality where property is located).
- ❷ Legal description (copied exactly from the Land Title Office search, including Parcel Identifier Number).
- ❸ Name(s) of registered owner(s) specifying their interest (such as tenants-in-common) copied from the Land Title Office Search.
- ❹ Total value of the property, such as market value or assessed value (at the date of death). You may obtain this information from the following sources:
  - year of death Assessment Notice from B. C. Assessment Authority; or
  - appraiser; or
  - Contract of Purchase or Sale (if the property is being sold); or
  - real estate agent.

If there are several sources of information that show different values for the property, check which value should be used with the supervising lawyer (or the estate accountants), as it may be material for income tax purposes. The lowest value may not necessarily be the most advantageous.

- ❺ Manner in which the value of the property has been obtained – describe one of the sources listed in ❹. Do not attach to the *Disclosure Statement* the document evidencing the value of the property, but keep it on file.
- ❻ Financial charges **registered** against the property at the date of death (such as a Mortgage and/or an Agreement with respect to the *Land Tax Deferral Act* Program) with:
  - description (including Land Title Office Registration number); and
  - balance owing (including interest) as at the date of death.

If a loan or a debt is outstanding with respect to real property and is **not** secured by a **registered charge as at the date of death** (e.g. collateral security for another debt not relating to the property in question), do not show it here nor deduct it from the market value of the asset.

- ❼ Net value of the property (or the Deceased's equity in the asset): if the Deceased was the sole owner: market value less balance under registered financial charge.
- ❽ Value of the Deceased's interest. If the Deceased was one of several owners of the property (and not a joint tenant), and only had a partial interest in the property, show the Deceased's interest as a fraction of the net value of the property (for example: ¼, ½, ¾, **not** 10% or 25%).

*Continued...*

<sup>(1)</sup> See explanation regarding joint bank accounts on page 28

**EXHIBIT A**  
**STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION**

Part I Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at Death
<p><b>① Residence at 3456 West 72nd Avenue, Vancouver, B. C.</b></p> <p><b>② Legal Description:</b>  <i>PARCEL IDENTIFIER _____</i>  <i>Lot ____, Block ____, District Lot _____</i>  <i>Plan _____, New Westminster District</i></p> <p><b>③ Registered owners:</b>  <u><i>DECEASED'S NAME</i></u> {as it appears on Title}                      (as to an undivided one-quarter interest) and  <u><i>OTHER PARTY'S NAME</i></u> {see, Title}                      (as to an undivided three-quarters interest)</p> <p><b>④ Market value of the property:</b> \$950,000.00</p> <p><b>⑤ (Appraisal prepared by North West Realty Ltd.)</b></p> <p><b>⑥ Less:</b>                      Balance owing as at the date of death under Mortgage in favour of the North West Bank registered under No. AB45689 \$150,000.00</p> <p><b>⑦ Net value of the property:</b> <u>\$800,000.00</u></p> <p><b>⑧ Of which 1/4th (being the net value of the Deceased's undivided interest to the property)</b></p>	<p><b>⑧ \$200,000.00</b></p>
<p><i>Describe each property in a similar fashion with the necessary changes for each property. You can expand the table onto several pages.</i></p>	
<b>TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA</b>	<b>\$200,000.00</b>

Note: If you prepare this Exhibit A to be attached to the other Disclosure Statements, the information for the description of assets will basically be the same.

*Continued...*

**STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION****PART I: Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale) – *Continued.*****Mortgage in favour of the Deceased (the mortgagee):**

Show the following information:

- **Street or civic address** and name of the city or municipality where the property is located.
- **Legal description** (copied exactly from the Land Title Office search, including Parcel Identifier Number).
- **Land Title Office Registration Number** of the mortgage.
- **Name(s) of Mortgagor(s)** – registered owner(s) of the property.
- **Name(s) of Mortgagee(s)** specifying the Deceased's interest (such as tenants-in-common) copied from the Land Title Office Search. See introduction to Part I for discussion on joint tenancy.
- **Balance of principal money** owing at the date of death.
- **Amount of interest** owing and unpaid at the date of death (if any).
- **Total value as at the date of death:** aggregate of the balance of principal monies owing at the date of death plus any accrued interest to the date of death.
- **Value of Deceased's interest.** If the Deceased was one of several mortgagees (and not a joint tenant), and only had a partial interest in the mortgage, show the Deceased's interest as a fraction of the entire balance owing under the mortgage as at the date of death (for example:  $\frac{1}{2}$ ,  $\frac{1}{4}$ ,  $\frac{3}{4}$ , and not 10% or 20%).

*Continued...*

## STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION

### PART I: Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)– *Continued.*

**Agreement for Sale (Purchaser)** (under which the Deceased (the purchaser) is buying real property, the Deceased's interest in an Agreement for Sale as the purchaser of the property):

Show the following information:

- **Street or civic address** and name of the city or municipality where the property is located.
- **Legal description** (copied exactly from the Land Title Office search, including Parcel Identifier Number).
- **Land Title Office Registered Number** of the Agreement for Sale.
- **Name(s) of Vendor(s)** – registered owner of the property.
- **Name of Purchaser(s)** specifying the interest (such as tenants-in-common) copied from the Land Title Office Search. See introduction to Part I for discussion on joint tenancy.
- **Total market value:** obtain this information from the following sources:
  - year of death Assessment Notice from B. C. Assessment Authority;
  - an appraiser;
  - Contract of Purchase and Sale (if the property is being sold);
  - real estate agent.

Note: Do not attach to the *Disclosure Statement* the document evidencing the value of the property, but keep it on file.

- **Balance owing** at the date of death under the Agreement for Sale (and on any other encumbrances, such as a Mortgage).

**Net value** or the value to be shown in the *Disclosure Statement* as the **value at death:** calculated as follows: market value less the balance owing under any mortgage or other financial encumbrance. This is also called the **equity** of the owner(s) in the property. Show this value if the Deceased was the sole purchaser under the Agreement for Sale.

- **Value of Deceased's interest.** If the Deceased was one of several purchasers under the Agreement for Sale (and not a joint tenants), and only had a partial interest in the Agreement for Sale, show the Deceased's interest as a fraction of the net value as at the date of death (for example:  $\frac{1}{2}$ ,  $\frac{3}{4}$ ,  $\frac{1}{4}$ , and not 10% or 20%).

*Continued...*

## STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION

### PART I: Real Property within British Columbia (including mortgages and vendors' and purchasers' interests in agreements for sale)– *Continued.*

**Agreement for Sale (Vendor)** (under which the Deceased (the vendor) is selling real property, and receiving payments – the Deceased's interest in an Agreement for Sale as the Vendor of the property):

Show the following information:

- **Street or civic address** and name of the city or municipality where the property is located.
- **Legal description** (copied exactly from the Land Title Office search, including Parcel Identifier Number).
- **Land Title Office Registered Number of Agreement for Sale.**
- **Name(s) of Vendor(s)** specifying the interest (such as tenants-in-common) copied from the Land Title Office Search – see introduction to Part I for discussion on joint tenancy.
- **Name(s) of Purchaser(s).**
- **Balance of principal money** owing to the Vendor at the date of death.
- **Amount of interest** owing and unpaid at the date of death (if any).
- **Total value at death** of the balance of principal at the date of death plus any interest.
- **Value of Deceased's interest:** If the Deceased was one of several vendors (and not a joint tenant) and not had a partial interest in the Agreement for Sale, show the Deceased's interest as a fraction of the entire value as at the date of death (for example:  $\frac{1}{4}$ ,  $\frac{1}{2}$ ,  $\frac{3}{4}$ , not 10% or 20%) depending on how that interest is registered.

Note: The market value of the property is irrelevant in this case because what is at issue is the balance owing to the Deceased under the Vendor's Agreement Sale, which is not dependant on market changes to the property's value.

*Continued...*

**STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION****PART II: Tangible Personal Property within British Columbia (including vehicles, furniture and other physical items)****Tangible Personal Property**

Property registered in the sole name of the deceased or in joint names may be affected by the *Family Law Act* and may or may not constitute an asset of the estate. Consult the supervising lawyer. If property becomes the subject of a successful *Family Law Act* claim, it may or may not affect the requirement to be disclosed, and in turn, the amount of probate fees payable.

Some examples of descriptions acceptable to the Registry with respect to personal property are shown below to assist the legal assistant with the wording.

**Motor Vehicle:**

- **Make and model.**
- **Year.**
- **Serial number and license plate number.**
- **Name of Owner** (N.B. If more than one owner is registered, ownership is usually considered to be “joint” and the Deceased’s interest is transferred to the other owner(s) by right of survivorship).
- **Market value** of vehicle.
- **Balance owing under any financial charge** or encumbrances **registered** against the vehicle with the Personal Property Registry.
- **Value at death:** market value of the vehicle less the total amount of any charges or encumbrances registered against the motor vehicle as at the date of death.

If the money was borrowed to purchase the vehicle but no security document is registered against the vehicle, show the full market value of the motor vehicle.

**Boat:** (obtain all information from Ships Registry).

Show the following information:

- **Name and type.**
- **Make and year.**
- **Length** in feet or meters and description (e.g. sail boat, outboard, motor boat (and trailer), inboard motor boat, etc.).
- **License or registration** particulars.
- **Balance** owing under any encumbrances (e.g. Personal Property Security Agreement, Ships Mortgage, bank loan) **registered** against the boat. Do not deduct the balance owing under the loan from the value of the boat if the loan is not registered;
- **Value at death:** market value of the boat and any trailer which goes with it less the total amount of any encumbrances registered against the boat as at the date of death.

## Personal Belongings/Household Furnishings

The probate registry has no particular policy regarding the disclosure of the value of personal and household effects (“household furnishings”).

If the assets are passing from spouse to spouse, it is often assumed that the personal and household furnishings were owned jointly and passed by survivorship and may or may not be listed as an asset. Household furnishings means personal property usually associated with the enjoyment by the spouses of the spousal home (s. 21(1) of WESA). (For example, the home theatre may qualify but the Deceased’s expensive ski equipment or coin collection may not). However, if the Deceased was not survived by a spouse, the registry will look for the disclosure of those items.

Personal belongings of the Deceased of a general nature such as furniture, clothing, sporting goods, jewellery, antiques, paintings, etc. may be described as shown in the examples below, and the value at death will be the value of the group of assets so described which would be realized on a second hand sale. Where the market value may be within a range of values (“these assets are worth between \$\_\_\_\_\_ and \$\_\_\_\_\_”), the low range will be accepted. If the value of the assets is not known, obtain the advice of an appraiser, auctioneer, or dealer, etc.

### Examples of descriptions:

- “Household furniture, furnishings, and personal effects, including clothing, jewellery, and articles of personal adornment or decoration”; or
- “Personal effects, including clothing, cameras, sporting equipment, tools, jewellery and articles of personal adornment or decoration”; or
- “Personal clothing and effects of no commercial value”. (If this wording is used, show “NIL” in the **value at death** column).

Show only a total value or the aggregate of these items. Itemize only assets of extraordinary value. For assets of “extraordinary” value (for example an important piece of jewellery, a valuable painting or antique) obtain an appraisal and list such asset separately: For example:

<i>20 carat diamond ring</i>	<i>\$350,000</i>
<i>Chippendale antique chair</i>	<i>\$150,000</i>

### Cash

- **Amount.**
- **Value** in Canadian dollars.

*Continued...*

**STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION**

**PART III: Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)**

**Intangible Personal Property**

**Include all personal property except: personal property that is owned by the Deceased and one or more persons jointly<sup>(1)</sup>, or if it is an insurance policy or pension that is payable to a designated beneficiary (i.e. named in the policy or pension contract).**

Show the following information for each item and category of personal property. Remember: security interests (see page 17) are deducted from the value of the asset they encumber.

**Uncashed Cheques**

- **Name of payor** (name of person or entity by whom the cheque was issued).
- **Amount of cheque** (in Canadian currency).

**Money on Deposit** (in a bank, credit union, or similar financial institution – see the table on page 29 for examples):

- **Name of Bank.**
- **Address of Bank** (name of branch and postal address).
- **Type of Account and Account No.** (e.g.: Savings Account No. 1236-5668Y-00).
- **Name** in which the account is held. If the account is in the name of more than one person, show all names (except if it is in the joint names of the Deceased and another person – preferably with right of survivorship).
- **Balance** as at the date of death.
- **Interest** accrued to the date of death (if not included in the balance), and if available, interest rate.
- **Value as at the date of death:** the total of the balance plus any interest accrued to the date of death.

*Continued...*

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<sup>(1)</sup> See explanation regarding joint bank accounts on the next page

### *Part III – Intangible Personal Property (Continued)*

#### **Joint bank accounts**

When a bank account is held in joint names, even with right of survivorship, it cannot be assumed that, on the death of one of the owners, the balance in the account is automatically transferred to the survivor.

There are several scenarios with respect to joint bank accounts (or for that matter, other assets held jointly) with right of survivorship. The two most common ones are:

- the first is that the account is a true joint account, for example between two spouses; and
- the second is a convenience account, for example a joint account held by a parent and a child. This account is opened so that the child can help the parent pay bills and manage the parent's finances.

In the first scenario, the bank will usually agree to transfer the account to the survivor. This account does not form part of the residue of the estate and is usually transferred by providing to the bank a Death Certificate and perhaps signing some bank documents. If it is the only asset, no probate is required.

The second scenario is now very common for estates and constitutes more of a problem: Although the account is registered as a joint account, it does not belong to the survivor but constitutes an asset of the estate. In this case, the surviving holder may have to demonstrate the Deceased's intention that the account was a gift to the surviving holder.

As the situation may be getting into bare trust territory and the presumption of resulting trusts, it is important that, in every case, the supervising lawyer always inquire about "joint" bank accounts to determine who the beneficial owner of the joint account is and if such accounts are in fact beneficially owned by the estate or not.

If such accounts constitute an asset of the estate, they should be included in Form P10 and described with the names of the joint account holders, with an additional description "held for the benefit of the estate of the Deceased".

Note: This may apply to other assets of the estate, for example, real estate, and the beneficial ownership of any assets held in joint names should be investigated.



## STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION

**PART III:** Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)  
*Continued*

Show the following information for each item and category of personal property:

### **Bonds, Debentures, Bank Certificates, Securities, or Shares in a company (“security”):**

- **Name and type** of security (e.g. “Canada Savings Bonds” or “XYZ Company”).
- **Number of certificate** to the security – including issue and series number, if applicable.
- **Face value** of the security or the number of shares in a company represented by the share certificate.
- **Name(s)** of the holder of the security (if registered and if not held jointly). If not registered, state “payable to bearer”.
- **Market value** of the security.
- Any **interest, dividends, or coupons** accrued due and payable at the date of death.
- **Value at death:** total of the market value plus any interest accrued to the date of death, together with all declared and unpaid dividends or uncashed coupons.
- **Location** at the date of death, especially if outside British Columbia.

### **Insurance Policy on the life of the Deceased:**

- **Name of insurance company.**
- **Policy number.**
- **Amount payable** under the policy.
- **Name of insured.**
- **Name(s) of the designated beneficiary.** Include only if the designated beneficiary is the estate, by inserting: “*payable to the Estate of the Deceased*”. If there is no designated beneficiary, insert “*no designated beneficiary*”.
- **Value at death:** the amount payable under the policy or proceeds of the policy.

*Continued...*

**STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION**

**PART III:** Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, that is not dealt with by a foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)  
– *Continued*

Show the following information for each item and category of personal property:

**Pension (including annuity and death benefits):**

- **Identity of the pension:** name of the organization, company, or entity paying the pension or benefit.
- **Name of owner** of pension (usually the Deceased).
- **Name(s) of the designated beneficiary.** Only include if the designated beneficiary is the estate or if there is no designated beneficiary. If there is no designated beneficiary, after the description of the pension, type the following: “*no designated beneficiary*”.
- **Commuted value** of the pension at the date of death if the pension is payable to **the estate** or **personal representative**. This value may be obtained from the party who was paying the pension to the Deceased. Where the pension is payable to a **named** or **designated beneficiary**, it is not necessary to include the commuted value in the Disclosure Statement. If the pension terminated with the death of the Deceased, the pension is not an asset to the estate.

*Continued...*

## SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION

If after the issue of any grant or resealing of a foreign grant, the personal representative learns of or discovers an assets that were not disclosed or inaccurately disclosed, for example:

- An additional asset; or
- another liability (i.e. debt secured against an asset);
- the change in value of an asset as at the date of death because it was over or underestimated or an asset was reported twice;
- that the value of an asset was reported in error (for example, it was in the joint names of the Deceased and another person or an account had a designated beneficiary);
- an error in the description of an asset; or
- any other information that renders the contents of the original *Affidavit of Assets* incorrect or incomplete;

pursuant to Section 2(4) of the *Probate Fee Act*, you will have to prepare and file with the probate registry a *Supplemental Affidavit of Assets (Forms P14 or Form P15, or Form P26* in the case resealing a foreign grant) disclosing the new information.

If the total value of the assets is more than their value when the original *Affidavit of Assets* was filed, the estate will have to pay additional probate fees which are calculated at the rate in effect at the time of the **original** filing.

On the other hand, if the total value of the assets is less than their value when the original Affidavit of Assets was filed, a refund of the overpayment may be requested when the supplemental affidavit is filed. The procedure to request a refund is set out in the **Forms** chapter opposite *Forms P14* and *P15* respectively.

This only applies to the situation in which the personal representative learns that the original valuation, **as at the time of death**, was wrong and the personal representative must correct the error. Section 2(4) does not relate to a **change in value** of an asset after the death, in which case, there is no change to the values or change in probate fees.<sup>(1)</sup>

Below is an example of a completed Exhibit to *Forms P14, P15* and *P26 – Supplemental Affidavits of Assets and Liabilities*.

There is no rule as to how the exhibit should be completed and each probate registry may have different requirements. However, the precedent opposite was accepted by the Vancouver probate registry. The registry's requirements are only that:

- the explanation is clear;
- only the new total is shown. The registry will calculate the additional probate fee or the refund based on the difference between the original figures in the forms previously filed and the supplement;

<sup>(1)</sup> See Memorandum to Probate Registry from Master Baker dated May 4, 2012 re: Kioka Estate. Copy available on Evin Ross Publications Ltd. website "<http://www.evinross.ca/GWE/SUPPLEMENT324.htm>"

**SUPPLEMENTAL STATEMENT OF ASSETS, LIABILITIES, AND DISTRIBUTION**

Part I	Real Property within British Columbia not disclosed or inaccurately disclosed (including mortgages and vendors' and purchasers' interests in agreements for sale)	Value at death
TOTAL OF PART I AS DISCLOSED IN FORM P10/P11/P25		
FILED WITH THE APPLICATION		\$ _____
<b>Plus/Less:</b> <i>describe each asset that is different, or not disclosed or inaccurately disclosed. Follow the instructions starting on page 12 with respect to the original Disclosure Statements</i>		\$ _____
AMENDED TOTAL REAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____

Part II	Tangible Personal Property within British Columbia not disclosed or inaccurately disclosed (including vehicles, furniture and other physical items)	Value at death
TOTAL OF PART II AS DISCLOSED IN FORM P10/P11/P25		
FILED WITH THE APPLICATION		\$ _____
<b>Plus/Less:</b> <i>describe each asset that is different, or not disclosed or inaccurately disclosed. Follow the instructions starting on page 12 with respect to the original Disclosure Statements</i>		\$ _____
AMENDED TOTAL TANGIBLE PERSONAL PROPERTY WITHIN BRITISH COLUMBIA		\$ _____

Part II	Intangible Personal Property within British Columbia, and Intangible Personal Property outside British Columbia, not disclosed or inaccurately disclosed that is not dealt with by the foreign grant (including bank accounts, intellectual property and other valuable items that cannot be touched by hand)	Value at death
TOTAL OF PART II AS DISCLOSED IN FORM P10/P11/P25		
FILED WITH THE APPLICATION		\$ _____
<b>Plus:</b> North West Bank of Canada {Address} Account No. 12345 – balance as at the date of death, including interest to the date of death		\$ _____
<b>Less:</b> Registered Retirement Income Fund account No. 456789 – which has a designated beneficiary and does not form part of the estate		(\$ _____)
Savings Account No. ABC123 which is in the joint names of the Deceased and {name} and does not form part of the estate		(\$ _____)
AMENDED TOTAL OR INTANGIBLE PERSONAL PROPERTY		(\$ _____)
AMENDED GROSS VALUE OF ESTATE LESS SECURED DEBTS		\$ _____

