SCHOOL OF GOVERNMENT

Reporting to the Court: Inventories and Accounts

Introduction to Estate Administration

Lisa Smith, Former Research Analyst, UNCSOG

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Agenda…

1. Types of Inventories
2. Types of Accounts

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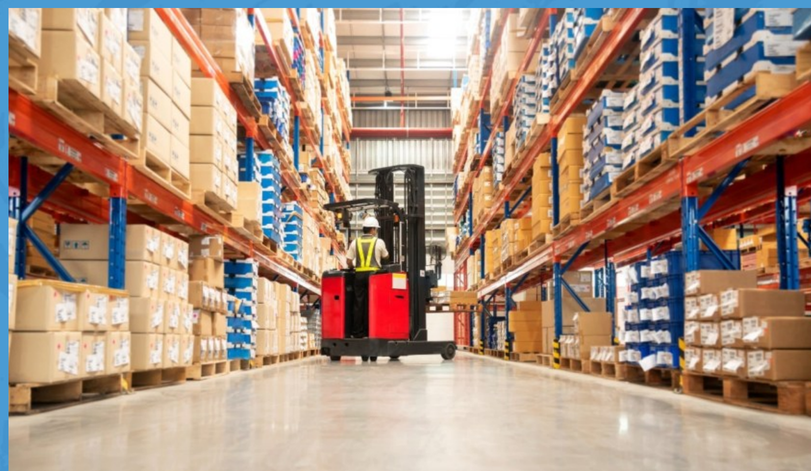
Inventories



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3 Types of Inventories

- Preliminary Inventory
- Inventory
- Supplemental Inventory

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Preliminary Inventory

***See* G.S. 28A-6.1(a)(5)**

§ 28A-6-1. Application for letters; grant of letters.

(a) The application for letters of administration or letters testamentary shall be in the form of an affidavit sworn to before an officer authorized to administer oaths, signed by the applicant or the applicant's attorney, which may be supported by other proof under oath in writing, all of which shall be recorded and filed by the clerk of superior court, and shall allege all the following facts:

(5) The nature and probable value of the decedent's property, both real and personal, and the location of such property, so far as all of these facts are known or can with reasonable diligence be ascertained.

Preliminary Inventory

***See* G.S. 28A-6.1(a)(5)**

§ 28A-6-1. Application for letters; grant of letters.

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Preliminary Inventory

***See* G.S. 28A-6-1(a)(5), AOC-E-201, AOC-E-202**

- *". . . nature and probable value of the decedent's property, both real and personal, and the location of such property . . ."*
- Both have Instructions forms (E-201 Instructions, E-202 Instructions).
- Very similar.
- Could be everything; could be all TBDs -- *". . .so far as all of these facts are known or can with reasonable diligence be ascertained."*

Preliminary Inventory – Clerk's Role

- Review the application
- Is the PR required to be bonded?
  - **Bond calculated on the total of Part I**
- Preliminary inventory is only one part of the qualification process.
- No fees based on the values listed on the preliminary inventory.

Example- Preliminary Inventory

- Applicant submits the application, oath and bond asking the clerk to issue Letters of Administration to the applicant. The applicant is the proper person in the order of priority to be appointed. On side two of the application, the applicant has no assets listed and only has TBD on every line. What steps does the clerk take?

APPLICATION
FOR LETTERS OF ADMINISTRATION

G.S. 28A-6-1. 28A-12-4

Inventory

G.S. 28A-20-1

§ 28A-20-1. Inventory within three months.

Unless the time for filing the inventory has been extended by the clerk of superior court, every personal representative and collector, within three months after the qualification of that personal representative or collector, shall return to the clerk, on oath, a just, true and perfect inventory of all the real and personal property of the deceased, which have come to the hands of the personal representative or collector, or to the hands of any person for the personal representative or collector, which inventory shall be signed by the personal representative or collector and be recorded by the clerk.

Inventory

AOC-E-505

- No Instructions.
- Every PR or collector.
- Within three months after qualification.
- PR signs on oath.
- *" . . . true and perfect inventory of all the real and personal property of the deceased, which have come to the hands of the personal representative or collector, or to the hands of any person for the personal representative or collector, . . ."*
- Total Part I (side one) value is beginning value for accounting.

Inventory

AOC-E-505

- The PR or collector reports the fair market value of the decedent's property on the inventory as of the date of the decedent's death.
- The PR or collector may, but is not required to, employ qualified and disinterested appraisers to assist in ascertaining the fair market value as of the date the decedent's death of any asset the value of which may be subject to reasonable doubt.
- Some PRs may give good faith estimate of the property's fair market value instead of using an appraisal, particularly with respect to tangible personal property that may have nominal value.

Inventory – Clerk's Role

- No statutory duty to audit, approve or disapprove the inventory.
- Review the inventory/compare to preliminary inventory.
- Confirm addition and that total is correct.
- **Review bond coverage!**
- Calculate/Assess fees on side one (G.S. 7A-307).
  - .004 X Total Part I = Estate Fees
- What items did the PR not list?
- Supporting documentation?
- What about side two?

Examples - Inventory

- PR submits and inventory and the clerk notices that there are no vehicles listed on the inventory but there were 2 vehicles listed on the preliminary inventory. Can the clerk return the inventory?

- PR submits an inventory and the clerk accepts the filing. An heir to the estate reviews the inventory and calls the clerk's office. The heir states that the PR is not listing the correct values and some items are not listed at all. What does the clerk do?

Supplemental Inventory – Optional filing

G.S. 28A-20-3(a)

§ 28A-20-3. Supplemental inventory.

(a) Whenever any property not included in the original inventory report becomes known to any personal representative or collector or whenever the personal representative or collector learns that the valuation or description of any property or interest therein indicated in the original inventory is erroneous or misleading, the personal representative or collector shall prepare and file with the clerk of superior court a supplementary inventory in the same manner as prescribed for the original inventory. The clerk shall record the supplemental report with the original inventory.

Supplemental Inventory

AOC-E-505 (MODIFIED)

- No Instructions.
- Sometimes filed as “Amended” rather than “Supplemental”.
- When PR discovers new property that should have been on the inventory.
- When PR discovers that valuation was incorrect or misleading.
- Some minor adjustments are made on the accounting rather than filing a supplemental inventory.
- File in the same manner as inventory.

Supplemental Inventory – Clerk's Role

- Review the inventory/compare to original inventory previously filed.
- Same steps for inventory.
  - Confirm addition and that total is correct.
  - **Review bond coverage!**
  - Calculate fees on side one (G.S. 7A-307).
    - .004 X Total Part I = Estate Fees
    - Caution: Don't charge fees on assets where fees were previously paid.
    - Supporting documentation?

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Preliminary Inventory

Inventory → *Account*

Supplemental Inventory → *Account*

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Accounts

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Types of Accounts

ARTICLE 21 OF NCGS CHAPTER 28A

Annual Account

G.S. 28A-21-1

Final Account

G.S. 28A-21-2

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Accounts

G.S. 28A-21-3,AOC-E-506

§ 28A-21-3. What accounts must contain.

Accounts filed with the clerk of superior court pursuant to G.S. 28A-21-1 and G.S. 28A-2-2, signed and under oath, shall contain all of the following:

(1) The period which the account covers and whether it is an annual accounting or a final accounting.

(2) The amount and value of the property of the estate according to the inventory and appraisal or according to the next previous accounting, the amount of income and additional property received during the period being accounted for, and all gains from the sale of any property or otherwise.

(3) All payments, charges, losses, and distributions.

(4) The property on hand constituting the balance of the account, if any.

(5) Such other facts and information determined by the clerk to be necessary to an understanding of the account.

Accounts

G.S. 28A-21-3

§ 28A-21-3. What accounts must contain.

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(3) All payments, charges, losses, and distributions.

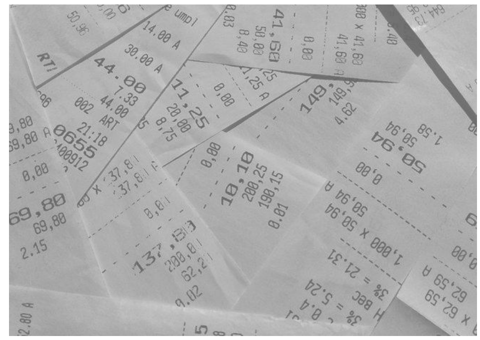
(4) The property on hand constituting the balance of the account, if any.

(5) Such other facts and information determined by the clerk to be necessary to an understanding of the account.

Accounts

G.S. 28A-21-1, G.S. 28A-21-2(a2)

- The personal representative or collector shall produce vouchers for all payments or verified proof for payments in lieu of vouchers.



Accounts – The Clerk's Role

G.S. 28A-21-1, *See* G.S. 28A-21-2(a2)

- The clerk of superior court must carefully review and audit such account and, if the clerk approves the account, the clerk must endorse the approval of the clerk thereon, which shall be prima facie evidence of correctness, and cause the same to be recorded.
- The clerk of superior court may examine, under oath, such accounting party, or any other person, concerning the receipts, disbursements or any other matter relating to the estate.

- **Review bond coverage on annual accounts!**

Annual Account

G.S. 28A-21-1

§ 28A-21-1. Annual accounts.

Until the final account has been filed pursuant to G.S. 28A-21-2, the personal representative or collector shall, for so long as any of the property of the estate remains in the control, custody or possession of the personal representative or collector, file annually in the office of the clerk of superior court an inventory and account, under oath, of the amount of property received by the personal representative or collector, or invested by the personal representative or collector, and the manner and nature of such investment, and the receipts and disbursements of the personal representative or collector for the past year.

Annual Account

G.S. 28A-21-1

- Until the final account has been filed
- For so long as any of the property of the estate remains in the control, custody or possession of the PR or collector
- The PR or collector shall, file annually in the office of the clerk of superior court an inventory and account, under oath
  - the amount of property received by the PR or collector, or invested by the PR or collector,
  - the manner and nature of such investment,
  - the receipts and disbursements of the personal representative or collector for the past year.

Annual Account

G.S. 28A-21-1

When is an annual account due?

- 30 days after the expiration of one year from the date of qualification of the personal representative or collector,
  - (One year plus 30 days after qualification date is due date)
- OR
- if a fiscal year is selected by the fifteenth day of the fourth month after the close of the fiscal year selected by the personal representative or collector, and annually on the same date thereafter.
  - (3 ½ months after the end of fiscal year is due date)

Example – Annual Account

G.S. 28A-21-1

- PR files an annual account timely with no supporting documentation for the disbursements. There is no documentation for the assets being held at the end of the accounting period. What steps does the clerk take?

- What should a PR always file with an annual account?

Election of a Fiscal Year

G.S. 28A-21-1, AOC-E-514

- The election of a fiscal year shall be made by the personal representative or collector upon filing of the first annual account.
- In no event may a personal representative or collector select a fiscal year-end which is more than twelve months from the date of death of the decedent or, in the case of trust administration, the date of the opening of the trust.
- Any fiscal year selected may not be changed without the permission of the clerk of superior court.

Example - Fiscal Year Election

G.S. 28A-21-1

- Robert Brady dies on March 2, 2025. Carol Brady qualifies has his administrator May 1, 2025 and decides to use a fiscal year end date of September 30, 2025 for the estate accounting. When is her annual account due?
  - Due date for the annual account is January 15, 2026 – 3 ½ months after September 30, 2025.
- If Carol did not elect a fiscal year – when is the annual account due?
  - May 31, 2026 – 30 days past one year from qualification.

Final Account

G.S. 28A-21-2(a)

§ 28A-21-2. Final accounts.

(a) Unless the time for filing the final account has been extended by the clerk of superior court, the personal representative or collector must file the final account for settlement within one year after qualifying or within six months after receiving a State estate or inheritance tax release, or in the time period for filing an annual account pursuant to G.S. 28A-21-1, whichever is later.

Final Account

G.S. 28A-21-2(a)

When is a final account due?

- The PR or collector must file the final account for settlement
  - within one year after qualifying or
  - within six months after receiving a State estate or inheritance tax release, or
  - in the time period for filing an annual account pursuant to G.S. 28A-21-1,
  - **whichever is later.**

- When the clerk revokes the letters of authority – a final account is required.
- When the clerk approves the resignation of a PR – a final account is required.

Permissive Notice of Final Account

G.S. 28A-21-6

§ 28A-21-6. Permissive notice of final accounts.

The personal representative or collector may, but is not required to, give written notice of a proposed final account pursuant to G.S. 1A-1, Rule 4, to all devisees of the estate in the case of testacy, and to all heirs of the estate in the case of intestacy, of the date and place of filing of such account. In giving written notice, the personal representative shall attach a copy of the proposed final accounting with exhibits made a part thereof, but is not required to include copies of vouchers, account statements, or other supporting evidence submitted to the clerk. If the personal representative or collector elects to provide this notice, the personal representative or collector shall file with the clerk of superior court a certificate indicating that this notice has been given to all devisees and heirs. Notwithstanding any right to appeal an order or judgment under G.S. 1-301.3, any payment, distribution, action, or other matter disclosed on such account or any annual account for the estate attached to the written notice must be objected to by a devisee or heir within 30 days after the receipt of the written notice or will be deemed to be accepted by the devisee or heir. (2011-344, s. 4; 2012-18, s. 3.8.)

Permissive Notice of Final Account

G.S. 28A-21-6

Key Points

- Effective 1/1/2012.
- PRs may or may not send notice.
- Notice is to be served on all devisees and heirs by Rule 4 of N.C. Rules of Civil Procedure.
- Copy of proposed final account is attached to the notice.
- The PR is required to file a “certificate” that notice was given to all devisees and heirs.
- Devisee or heir has 30 days after receipt to object to any action disclosed on the proposed final account.

Permissive Notice of Final Account

G.S. 28A-21-6

What the permissive notice does not do --

- It does NOT allow the PR or collector to deviate from the lawful distributions when the devisees or heirs do not object.
- It is NOT a substitution nor an alternative for the PR or collector providing proof or supporting evidence to the clerk that distributions were made correctly to any devisees or heirs and that distributions were in fact received by the correct devisees or heirs.

Final Account – DOD prior to 1/1/2013

G.S. 28A-21-2(a1)

(a1) If no estate or inheritance tax return was required to be filed for the estate, the personal representative or collector shall so certify in the final account filed with the clerk of superior court. Such certification shall list the amount and value of all of the decedent's property and, with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest, or any property transferred within three years prior to the date of the decedent's death, and, after being filed and accepted by the clerk of superior court, shall be prima facie evidence that such property is free from any State inheritance or State estate tax liability. This subsection only applies to estates of decedents who died before January 1, 2013.

Final Account – DOD prior to 1/1/2013

AOC-E-207, AOC-E-212, IRS CLOSING LETTER, NCDOR RELEASE

- Estate Tax Certification

The PR or collector shall certify in the final account if no estate or inheritance tax return was required for the estate.

Such certification shall list

1) the amount and value of all of the decedent's property and,
2) with respect to real estate, its particular location within or outside the State, including any property transferred by the decedent over which the decedent had retained any interest,
3) or any property transferred within three years prior to the date of the decedent's death, and,

after being filed and accepted by the clerk of superior court, shall be prima facie evidence that such property is free from any State inheritance or State estate tax liability.

Clerk's Manual

Manual: Decedents' Estates, Trusts, and Powers of Attorney

Chapter 9: Inventories and Accounts

Updated through______________

Author: ____________________

IN PROCESS

Chapter Sections

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What if the PR doesn't file a required filing?

Order to File – E-502

- G.S. 28A-20-2 (Decedents' estate inventory) – CSC *must* issue an order
- G.S. 28A-21-4 (Decedents' estate accounts) – CSC *shall* promptly order
- G.S. 35A-1244 (Guardianship status reports) – CSC *shall* promptly order
- G.S. 35A-1262 (Guardianship inventory) – CSC *must* issue an order
- G.S. 35A-1265 (Guardianship accounts) – CSC *shall* forthwith order
- G.S. 36C-2-209 (Testamentary Trust inventory and accounts) – CSC powers to enforce filings *same as decedent's estate*

- **More to come in the next session -- ☺**

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