

Use of Probate Referees for Valuation

Using Probate Referees in Probates, Conservatorships, Guardianships, Trust, Small Estates, **Non-Probate Matters**, Receiverships, Partition Actions, Mediations and Arbitrations

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Purpose of this Program

- ▣ Probate Referees – Brief Intro, Look up
- ▣ To remind the probate section members about the resources available for use online in planning for valuation of assets in judicial and non-judicial matters
- ▣ Who values - by type of Asset
- ▣ Type of Asset – Valuation Approach & Info Needed
- ▣ When is PR valuation required/Not required
- ▣ Highlights of Recent changes – Thresholds
- ▣ Reappraisal Requirements
- ▣ Valuation Dates
- ▣ Treatment of Assets

Resources available online

- ▣ California Probate Referee Association Website - www.probatereferrees.net
- ▣ Probate Referee Guide

Resources available online

Home Guide to Using Probate Referees Forms Directory Members Only ▶

Home



CALIFORNIA PROBATE REFEREES ASSOCIATION

Probate and Non-Judicial Appraisals - Trusts and Estate Valuations

Message from the California Probate Referees' Association:

The California Probate Referees' Association established this website as an additional resource for help in answering some of the many questions which arise in the probate process. Hopefully, the links on the directory to the right will be useful in providing the answer to some of the more common questions. The "Guide to Using Probate Referees" is a link to our procedures guide which has step-by-step instructions for preparing an Inventory and Appraisal including completed examples. In the event you cannot find the answer to a specific

Helpful Links

[California Probate Code](#)
[California State Controller's Website](#)
[Stock finder](#)
[Cusip finder](#)
[Legal Forms](#)

www.probatereferes.net

Probate Referees – SB County

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PROBATE REFEREES ASSOCIATION**

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Name	Counties
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California Probate Referees' Association

The Probate Referee Guide

THE PROBATE REFEREE GUIDE

Using Probate
Referees in Probates,
Conservatorships,
Guardianships,
Trusts, Small Estates,
Receiverships,
Partition Actions,
Mediations and
Arbitrations

FR|ES
Fiduciary Real Estate Services

\$10

The Probate Referee Guide

As in the past, the focus of this publication is the preparation of the Inventory and Appraisal. Practical suggestions are offered for preparing attachments, describing assets, presenting necessary supporting data and obtaining appraisals.

In California, independent Probate Referees have been proudly assisting the courts, attorneys and the public for over 125 years. As trusts have become a more and more popular estate transfer device, the Referee's role has expanded to include trust and other non-probate valuations as well.

In the early 1960's, the State Inheritance Tax Appraisers'

legal, accounting, paralegal and secretarial associations for distribution to their participating members.

My thanks to the current guide committee and to the editors listed below. Finally, it would not have been possible to publish and distribute this guide statewide without the generous assistance of Ruben Martinez, Broker F.R.E.S.

We look forward to serving you.

Chris Daniel

President, California Probate Referees Association

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The Probate Referee Guide

TABLE OF CONTENTS

HOW A PROBATE REFEREE CAN ASSIST IN ESTATE PROCEEDINGS.....	1
FREQUENTLY ASKED QUESTIONS.....	3
OTHER USES OF A PROBATE REFEREE	4
DETERMINING ATTACHMENT 1 VS. ATTACHMENT 2 ASSETS	5
TRANSFER OF SMALL ESTATES AND SPOUSAL PROPERTY PETITIONS.....	7
REQUIREMENT OF VALUATIONS WHENEVER ACCOUNTS ARE REQUIRED TO BE FILED.....	7
PREPARING THE INVENTORY AND APPRAISAL	8
-What is the Inventory and Appraisal	
-Checklist for preparing the Inventory and Appraisal	
-What does <u>not</u> go on the Inventory and Appraisal	
-Differences between Inventory and Appraisals in Conservatorships and Probate Estates	
-What goes on Attachment 1	
-What goes on Attachment 2	
LISTING PARTICULAR ASSETS	13
-The importance of complete information	
REAL PROPERTY	13
-Vacant, agricultural, condominium and single family residential	
-Residential income/commercial/industrial property	
-Stock cooperatives	
-Oil, Gas and Mineral Rights	
-Life estates	
-Remainder and reversionary interests	

The Probate Referee Guide

BUSINESS INTERESTS16

- Basic Financial Information
- Closely held corporations
- Limited partnerships
- General partnerships
- Sole proprietorships
- LLP'S
- LLC'S

TANGIBLE PERSONAL PROPERTY.....19

- Jewelry/art/coins/antiques
- Mobile homes
- Motor vehicles
- Boats
- Livestock and breeding animals

PROMISSORY NOTES.....21

SECURITIES.....21

- Portfolio accounts at brokerage firms
- Common and preferred stocks
- Mutual funds
- Stock options
- Corporate, municipal and state bonds
- United States treasury bonds , notes and bills
- United States savings bonds
- GNMA, FNMA, and FHLMC securities

OTHER INTERESTS24

- Distributions from estates and trusts
- Insurance/annuity policies and proceeds
- Patents, trademarks, copyrights and royalty interests
- Judgments and ongoing litigation
- Assets which have escheated to the State of California
- Property damaged in the event causing the decedent's death

The Probate Referee Guide

ADMINISTRATIVE QUESTIONS COMMONLY ASKED27

- How long does the appraisal take?
- How do I correct a mistake in the inventory?
- When do I need a reappraisal for sale?
- Can I request minority discounts?
- Appraisal by Independent Expert

APPENDIX A – F: EXAMPLES OF THE FORMS

- Sample completed **Inventory and Appraisal Form**
- Sample Attachment 1
- Sample Attachment 2, with completed attachments
- Sample Blank **Appraisal Report of California Probate Referee Form**
- Sample **Inventory and Appraisal Forms** with corrections
- Sample Blank **Application and Order Appointing Probate Referee Form**

Who Values – By type of Asset

CPRA BULLETIN: ATTACHMENT 1 VS. ATTACHMENT 2 (Rev. 4/2020)

Probate Code Sec. 8901. Appraisal by Personal Representative.

The personal representative shall appraise the following property, excluding items whose fair market value is, in the opinion of the personal representative, an amount different from the face value of the property.

(a) Money and other cash items. As used in this subdivision, a "cash item" is a check, draft, money order, or similar instrument issued on or before the date of the decedent's death that can be immediately converted to cash.

(b) The following checks issued after the date of the decedent's death:

(1) Checks for wages earned before death.

(2) Refund checks, including tax and utility refunds, and Medicare, medical insurance, and other health care reimbursements and payments.

(c) Accounts (as defined in Section 21) in financial institutions.

(d) Cash deposits and money market mutual funds, as defined in subdivision (b) of Section 9730, whether in a financial institution or otherwise, include a brokerage cash account. All other mutual funds, stocks, bonds, and other securities shall be appraised pursuant to Sections 8902 to 8909, inclusive.

(e) Proceeds of life and accident insurance policies and retirement plans and annuities payable on death in lump sum amounts Leg.H.1990 ch.79 §14, operative July 1, 1991, 1994 ch. 806.

Probate Code Sec. 8902. Appraisal by Probate Referee.

Except as otherwise provided by statute:

(a) The personal representative shall deliver the inventory to the probate referee designated by the court, together with necessary supporting data to enable the probate referee to make an appraisal of the property in the inventory to be appraised by the probate referee.

(b) The probate referee shall appraise all property other than that appraised by the personal representative. Leg.H. 1990 ch. 79 §14, operative July 1, 1991.

Who Values – By type of Asset

A. CASH ITEMS:	
<u>To be appraised by Representative:</u>	<u>To be appraised by Probate Referee:</u>
1. U.S. coin and currency in circulation and worth no more than face value.	1. Coins and currency with a value other than face, including gold coin, foreign coin and currency, crypto currency (bitcoin), commemorative coins or medals, coin collections, and unusual or collector's items, such as old currency and bank notes.
2. Checks dated <i>before</i> decedent's death, including, but not limited to certified, cashier's, travelers checks, etc.	2. Checks and drafts dated <i>after</i> decedent's death.
3. Cash dividends declared and payable to shareholder as of a date on or <i>before</i> decedent's death.	3. Cash dividends declared but payable to shareholder <i>after</i> decedent's death.
4. Bond coupons matured and redeemable in cash at face value <i>before</i> decedent's death.	4. Bond coupons which mature <i>after</i> decedent's death.
5. Money orders dated <i>before</i> decedent's death.	5. Promissory notes and loans, secure and unsecured.
6. Government warrants (checks) or similar instruments dated <i>before</i> decedent's death.	6. Accounts receivable of all types.
7. Drafts dated <i>before</i> decedent's death.	7. Contractual rights to receive money.
8. Wage checks for salary earned <i>before</i> death.	8. Bankers acceptance notes and bank capital notes.
9. Refund checks of all types including tax, Medicare, hospital and medical reimbursement, utilities.	9. Bonds, stocks, and securities of all types, listed or unlisted, including Treasury notes, bills and bonds, whether or not they qualify for payment of federal estate taxes.

Who Values – By type of Asset

<u>To be appraised by the Representative:</u>	<u>To be appraised by the Probate Referee:</u>
10. Social Security and Veterans lump sum death benefits.	10. Any item not in U.S. dollars.
	11. Tax anticipation or registered warrants and notes.
	12. Payments from escrow not closed before decedent's death.
	13. Revolving funds on deposit with a cooperative or marketing organization.
	14. Stamps and stamp collections.
	15. Cash, cash items and any other assets which would be appraised by the Representative except for the fact that the item is an asset of a partnership, joint venture, trust or other entity, or is an asset of another decedent's estate.
	16. A cash distribution from another decedent's estate <i>after</i> decedent's death.
	17. Any item with a fair market value different from the ostensible value or specified amount.

Who Values – By type of Asset

B. BANK ACCOUNTS AND AMOUNTS ON DEPOSIT WITH FINANCIAL INSTITUTIONS

As defined by the code, "financial institutions" means a state or national bank, state or federal savings and loan association or credit union, or like organization. P.C.§40. As defined by the code, "account", when used to mean a contract of deposit between a depositor and a financial institution, includes a checking account, savings account, certificate of deposit, share account, mutual capital certificate, and other like arrangements. P.C.§21.

To be appraised by the Representative:

1. Bank accounts, and amounts on deposit in the name of the decedent, or in a fictitious name of the decedent, including checking accounts, savings accounts, certificates of deposit, share accounts, mutual capital certificates, Christmas Club accounts, etc.
2. Totten Trusts and Payable on Death (POD) accounts.

To be appraised by the Probate Referee:

1. Any amount not in U.S. dollars or in foreign financial institutions.
2. Amounts on deposit other than with a "financial institution," as defined, such as U.S. Treasury certificates of indebtedness, municipal and state certificates of deposit, certificates of deposit issued for stock and certificates of beneficial interest. Also, CD's valued at more or less than face value which have a CUSIP number.

C. PROCEEDS OF LIFE AND ACCIDENT INSURANCE POLICIES AND RETIREMENT PLANS PAYABLE UPON DEATH IN LUMP SUM AMOUNTS

To be appraised by the Representative:

1. Proceeds of life and accident insurance, retirement plans and annuities payable to the estate in lump sum amounts.
2. Proceeds payable in lump sum on the life of someone other than the decedent whose death preceded the current decedent.

To be appraised by the Probate Referee:

1. Proceeds not payable in lump sum.
2. Proceeds payable on the life of someone other than the decedent.

Type of Asset – Valuation Approach & Information Needed

Type of Asset	Valuation Approach	Information Needed
Real Property		
Vacant Land	Sales mostly, Income sometimes	APN, Address, Any improvement, Lease details for Ground lease situation
Single Family Home	Sales	APN, Address, Condition
Condominium	Sales	APN, Address, Condition
Ag Land	Sales mostly, Income sometimes	APN, Address, Crop details, Historical production , Income & Exp – 3 years prior, Water Rights
Resi Income	Sales, Income	APN, Address, Condition, Lease details, Income & Exp – 3 years
Comml – Retail/Office/Industrial	Sales, Income	APN, Address, Condition, Type of property, Tenant Lease details, Income & Exp – 3 years, Rent Roll

Type of Asset – Valuation Approach & Information Needed

Type of Asset	Valuation Approach	Information Needed
Real Property		
Stock Coops	Sales	Address with Unit#, No of shares in Stock Cooperative Corpn
Oil, Gas, Mineral Rights	Sales, Income	APN, Legal Desc., Historical Income – 3 to 5 years, Lease details
Life Estates	Sales, Income	Details of the measuring Life – DOB, APN# & Legal Desc, Copy of doc creating Life Estate

(Only an Asset in Probate cases when measuring life is of another person still alive, but for conservatorship/guardianships – can be conservatee or minor)

(General Rule – Always provide condition details, lease details, historical income & expense if applicable AND percentage of ownership interest)

Type of Asset – Valuation Approach & Information Needed

Type of Asset	Valuation Approach	Information Needed
Real Property		
Remainder & Reversionary Interests	Sales, Income	APN, Legal Desc & statement about remainder/reversion; Copy of document creating the right, DOB of measuring life or details of condition leading to reversion

Type of Asset – Valuation Approach & Information Needed

Business Property:

Valuation of Business Interests require a lot of details to be provided. The Probate Referee Guide pages 16-19 is a very good source for compilation.

Depending on the type of business, besides the usual documentation such as Historic financials, legal documents/agreements, Tax returns, current Balance Sheet etc.. information about continued operational viability, key man factor, buy/sell agreements or liquidation arrangements/offers must also be provided for accurate valuation.

Type of Asset – Valuation Approach & Information Needed

Personal Property:

Only personal property of significance or high value such as collector items, Antiques need to be listed individually – others can be grouped as Furnishing/fixtures, Misc personal property etc..

For items of significance please provide detailed description of item, Serial #s, Any insurance appraisal/document, prior written appraisals/verbal estimates by experts or knowledgeable family members, photos

When the personal representative has elected to have an independent expert appraise an item on the Inventory, under Probate Code section 8904, **a separate and distinct Attachment 2** should be prepared which lists all items appraised by the independent expert. At the end of this attachment there should be a declaration by the independent expert in the following form:

Type of Asset – Valuation Approach & Information Needed

Personal Property:

Declaration of Independent Expert

I have truly, honestly and impartially appraised, to the best of my ability, each item set forth on this Attachment 2.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

Type or Print Name

Signature of Independent Expert

Type of Asset – Valuation Approach & Information Needed

Personal Property:

Type of Asset	Valuation Approach	Info Needed
Mobile Homes (Depending on details provided can be Real property)	Sales	Details on location – park or on land, Perm fdn or not, Regn with HCD
Motor Vehicles	Sales	Year, Make, Model, VIN#, Mileage, Condition
Boats	Sales	Year, Make, Model, Hull#, Length, Engine Make and hours, condition
Livestock	Sales	Name, Age, Breed, Sex, Pedigree, Any outside expert opinions For racehorses – breeding and race records

Type of Asset – Valuation Approach & Information Needed

Financial Property:

Type of Asset	Valuation Approach	Info Needed
Promissory Note	Income	Copy of Agmt, Payment history with last payment date, value of security/collateral, Uncollected payments/issues
Stocks, Mutual funds, Stock options, Bonds, T Notes & Bonds, Savings Bonds	Recognized data sources for median trading prices	# of shares/bonds, CUSIP # and/or Ticker symbol, Details such as issue date, option price, strike price or exercise price, vesting schedule; Coupon rate, Maturity date, Issue date

(The Probate Referee guide pages 21-23 is a good reference source)

Type of Asset – Valuation Approach & Information Needed

Other Assets:

Type of Asset	Valuation Approach	Info Needed
Distributions from Estates & Trusts	Face Value, Discounted Value	Pages 24-26 of the Probate Referee Guide for Reference
Insurance/ Annuity Policies & Proceeds		As a General Rule, the exact sequence of events is very important. Also, the probability of recovery of the stream of revenue and the duration Sometimes the best possible scenario is “undeterminable”
Patents, Trademarks, Copyrights and Royalty Interests		
Judgments and Ongoing Litigation		
Assets which have been escheated to the State of California		
Property damaged in the event causing the decedent death		

PR Valuation Required/Not Required

Transfer of Small Estates & Spousal Property Petitions

California statutes provide several options for transferring property of small value without a formal probate proceeding up to a certain dollar amount.

Many assets are exempt in arriving at the dollar limit, and these are found in PC §13050.

OPTION 1:

If the estate holds only **personal property** worth not more than \$166,250.00 (PC §13100).

UNDER OPTION 1, if there is no real property, the heirs simply sign an affidavit, under penalty of perjury, alleging, among other things, that the estate is worth not more than \$166,250.00. No court documents need to be filed. No Inventory and Appraisal is necessary. There is a 40 day waiting period.

PR Valuation Required/Not Required

Transfer of Small Estates & Spousal Property Petitions

OPTION 2: If the estate holds real and/or personal property worth not more than \$166,250.00 (PC §13150). There is a 40 day waiting period from date of death.

OPTION 3) If the estate holds only real property worth not more than \$55,425.00 (PC §13200). There is a six month waiting period from date of death.

BOTH OPTIONS 2 and 3 require a Probate Referee.

In both cases, an Inventory and Appraisal is required to be attached to the petition or affidavit which is filed with the court.

The statutory fees for the Probate Referee are the same as in probate proceedings.

PR Valuation Required/Not Required

Transfer of Small Estates & Spousal Property Petitions

OPTION 4: If the estate holds property passing to a surviving spouse (no dollar limit) (PC §13650). There is no waiting period.

UNDER OPTION 4, An Inventory and Appraisal is not required, it is often filed with the court, in order to establish a new tax basis for any real property. There is no waiting period.

The Petitioner selects the Probate Referee and the Inventory and Appraisal form is used.

Highlights of Recent Changes

Effective Dates for Change in Dollar Amounts for Petitions

The current limits will increase for dates of death after April 1, 2022 and every three years thereafter on April 1st. If the decedent dies prior to April 1, 2022, the dollar amount limits are as outlined below. If the decedent dies on or after April 1, 2022, the dollar amount limits are the adjusted dollar amounts in effect on the date of the decedent's death.

EXAMPLE

Petition amounts up to April 1, 2022
(**Any** date of death, even if 15 years ago)

Option 1 - PC 13100

\$166,250

Option 2 - PC 13150

\$166,250

Option 3 - PC 13200

\$55,425

Highlights of Recent Changes

Effective Dates for Change in Dollar Amounts for Petitions

Petition with date of death after April 1, 2022

Option 1 - PC 13100

Current amount in
effect at date of death

Option 2 - PC 13150

Current amount in
effect at date of death

Option 3 - PC 13200

Current amount in
effect at date of death

Reappraisal Requirement

Probate Estates:

If real property is being sold more than one year after the **original valuation date** (the date of death), and court confirmation of the sale is sought, a reappraisal for sale is necessary. The "Reappraisal for Sale" box is marked on the Inventory and Appraisal form. (PC §10309)

Reappraisal Requirement

Conservatorships:

If real property is being sold more than one year after the **original valuation date** (the date Letters were first issued), a reappraisal for sale is necessary. The "Reappraisal for Sale" box is marked on the Inventory and Appraisal form. (PC §10309)

Notwithstanding Section 10309, if the last appraisal of the conservatee's personal residence was conducted more than six months prior to the proposed sale of the property, a new appraisal is required prior to the sale of the property, unless the court finds that it is in the best interests of the conservatee to rely on an appraisal of the personal residence that was conducted not more than one year prior to the proposed sale of the property.

The date of sale is the date of the contract for sale of the property. (PC §2591.5(b))

Valuation Dates

Conservatorships:

Assets are valued at the **date letters are first issued** to a conservator, **either temporary or general**. PC §2610(a).

Assets do not need to be reappraised when the temporary conservator becomes the general conservator. See PC §2255(b). See also §§6.37, 6.42.

Property that is discovered or acquired after the inventory has been filed should be valued at the **date the property is discovered** or acquired. PC §2613.

PROBATE ESTATE:

Property is valued at the **date of death**. PC §8802.

Property that is discovered or acquired after the inventory has been filed must also be valued at the date of death. PC §8801.

Treatment of Assets

Treatment of Out-of-State Real Property

Conservatorship: Conservator **should include** out-of-state real property on an information schedule on the inventory and estimate the value of the property.

See §10.8A.

Probate estate: Out-of-state real property **should not appear** on the inventory. It should be dealt with in an ancillary proceeding in the state where the property is located. See PC §§12500–12591.

Treatment of Community Property Assets

Conservatorship:

Community property remains under the control of the spouse with capacity and is **not part of the conservatorship estate** unless the spouse consents or the court orders its inclusion. PC §§3051, 3054–3055, 3080.

Treatment of Assets

Treatment of Community Property Assets

Probate Estate:

Decedent's **one-half community property interest must be included on the inventory** unless the surviving spouse or registered domestic partner chooses to proceed using a spousal property petition (PC §13650) rather than a probate proceeding. PC §§8850(c), 13659.

Treatment of Joint Tenancy Property

Conservatorship:

All joint tenancy property should be inventoried and appraised. The conservatee's one-half undivided interest should be reported on the Inventory.

Probate Estate:

In general, joint tenancy property passes by operation of law, is **not subject to probate administration** and is not included in the inventory. See, *e.g.*, CC §683(a); PC §§5100–5407; Veh C §§4150.5(a), 5600.5(a).

Treatment of Assets

Treatment of Community Property Assets

Probate Estate:

Decedent's **one-half community property interest must be included on the inventory** unless the surviving spouse or registered domestic partner chooses to proceed using a spousal property petition (PC §13650) rather than a probate proceeding. PC §§8850(c), 13659.

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In Closing

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Thank you for the Opportunity to speak with you...