



# ADMINISTRATOR'S GUIDE

PROBATE

PUYALLUP TRIBAL COURTS

VERSION 2018

## ADMINISTRATOR'S GUIDE

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### WARNINGS



This guide is not legal advice or a substitute for legal advice or the assistance of a lawyer. It is for informational purposes only and is not legal authority. This guide should not be relied upon to provide legal advice to others.

There is no guarantee that the information provided in this handbook is accurate, up to date, complete or helpful to your situation. The Puyallup Tribe and the authors or editors of this guide are not responsible for the accuracy or sufficiency of the information herein. You are responsible for verifying all of the information in the guide and following the most current, correct, and proper court procedures, applicable rules and laws.

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### ABOUT THE PUYALLUP TRIBAL COURT

**Hours of Operation:** 8 a.m. to 5 p.m. Monday –Friday; closed for holidays.

**Address:** 1451 East 31<sup>st</sup> St. Tacoma, WA 98404

**Phone:** (253) 680-5585

**Fax:** (253) 680-5599

**Website:** <http://www.puyallup-tribe.com/court/>.



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### ABOUT THE LAW

When you are an administrator, you are expected to know which laws and rules apply to the probate matter and how the laws and rules relate to one another. Upon request, court staff can provide you with a copy of the laws and rules but they cannot help you understand them.

- The Tribal Code can be found at: <http://www.codepublishing.com/WA/PuyallupTribe/>.
- Appellate Court opinions can be found at: <http://www.codepublishing.com/WA/NICS/>.
- Court Rules can be found at: <http://www.puyallup-tribe.com/court/>.

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## WHERE TO FIND A LAWYER

- **Bar List:** If you want to hire an attorney or spokesperson, the Court Clerks can give you a courtesy list of attorneys and spokespersons who are allowed to practice law before the Puyallup Tribal Courts. Attorneys and spokespersons on the list are not employees of the courts and may charge you a fee for their services. *Court staff will not make recommendations on who you should hire.*
- **Puyallup/Urban Indian Legal Program of the Tacoma-Pierce County Bar Association Volunteer Legal Services:** This program assists Puyallup Tribal members and Urban Indian People (American Indians, Alaska Natives and First Nations People) in Pierce County with a wide variety of civil legal issues free of charge. For eligibility requirements and more information contact the Staff Attorney directly at 253-572-5134, ext. 107. Information about the program can also be found at <http://www.tacomaprobono.org/>.

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## ADMINISTRATOR QUALIFICATIONS

To be an administrator you must be:

- Over the age of 21.
- Willing to take on all responsibilities of an administrator.
- Capable of performing all responsibilities of an administrator in accordance with Puyallup Tribal law.



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## BEING AN ADMINISTRATOR



Being an administrator is a significant responsibility. Administrators manage the probate process and guide it through the legal system. *You must be able to keep full and accurate records.*

Once appointed, you will remain as administrator until discharged by the court.

Puyallup Tribal Code Section 8.04.230 provides that the duties and powers of administrator shall be as follows:

- (a) To preserve and protect the decedent's property within the estate for the benefit of the estate and the heirs, so far as is possible;
- (b) To promptly investigate all creditors' claims against the decedent's estate and determine whether such claims are just and proper;
- (c) To promptly determine the names, ages, and addresses of all the decedent's heirs, devisees and legatees;
- (d) To promptly cause a written inventory of all the decedent's property within the estate to be prepared, with each article or item being separately set forth, and cause such property to be exhibited to and appraised by an appraiser, and the inventory and appraisal thereof to be filed with the Tribal Court;
- (e) To promptly give all persons entitled thereto such notice as is required by this code;
- (f) To account for all property within the estate which may come into the possession or control of the administrator, and to maintain accurate records of all income received and disbursements made during the course of the administration.

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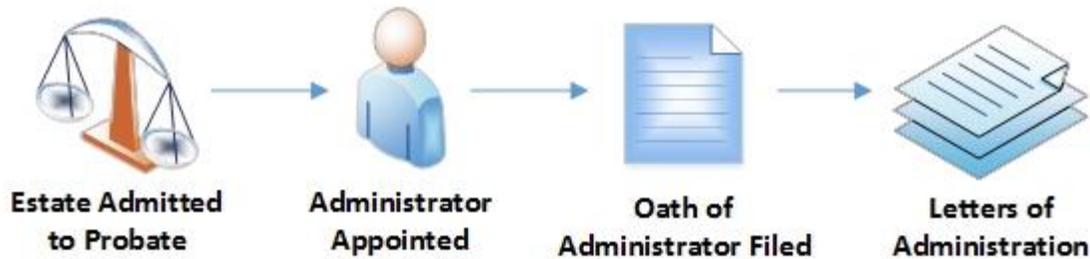
## APPOINTING AN ADMINISTRATOR



Administrators can only be appointed by the court and only if the court orders the estate to be probated. The court can only appoint qualified individuals that are:

- Named as administrator in a will;
- or
- A qualified individual.

## Administrator Appointment Process



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### ADMINISTRATOR'S OATH

Before you begin your duties as administrator you must:

- (1) read and understand the Administrator's Oath;
- (2) get it notarized;
- (3) file it with the court.

Because the oath must be notarized, do not sign it until the notary public tells you to. Notary publics are available free of charge at the Puyallup Tribal Court and at the Tribal administration building.



To file your notarized oath, bring it to the court so the Court Clerk can verify that it is complete. The Court Clerk will then put a file stamp on it that shows what date and time you filed the oath and give you a copy. There is no fee for filing your oath. A copy of the oath can be found at the end of this packet. Do not leave without your copy.

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### LETTERS OF ADMINISTRATION

"Letters of Administration" is a court order that provides proof of your authority to act as administrator. Many entities will not allow you to act on behalf of the estate until you provide them with a certified copy of this document. Once you file your oath, the court will provide you with a certified copy of this order.

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### NOTICE OF PROBATE

Once you are appointed as the administrator, you must provide all heirs, devisees, and legatees with notice of the probate proceeding as soon as possible. *You have 30 days from the*

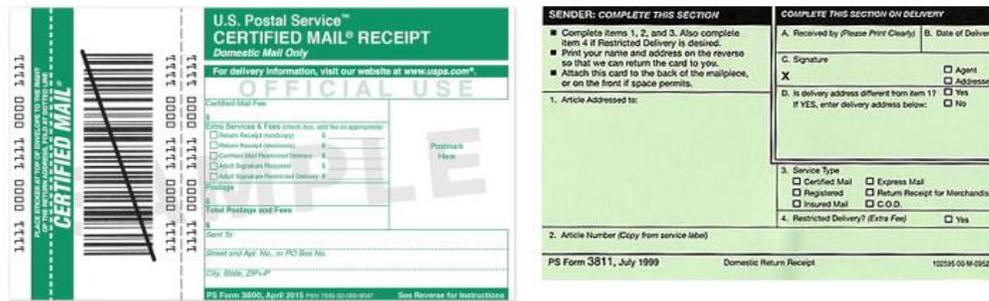
date you were appointed as administrator to complete the notice process. You may need to provide notice even before you get the letters of administration.

**Step 1:** Identify and locate the mailing address of heirs, devisees, and legatees.

- Heirs are the relatives of the person who passed, *i.e.* their spouse, children, parents, brothers and sisters, grandparents, etc.
- Devisees and legatees are people specifically named in the will to inherit property. If there is no will, there are no devisees or legatees.

**Step 2:** Provide the heirs, devisees, and legatees a copy of the order admitting the estate to probate and a copy of the will, if there is one.

You must provide copies by using certified mail, return receipt requested. Directions for sending certified mail are on the certified mail receipt and return receipts provided by the United States Postal Service. *Keep copies of all of your receipts!*



**Step 3:** File an affidavit with the court certifying that you have provided these individuals with notice. Your affidavit must be filed within 30 days of being appointed as administrator. (For your convenience, a template affidavit is attached at the end of this guide. You do not have to use the one provided, but your affidavit must be legally sufficient.)

## INVENTORY & APPRAISAL

The estate must be identified and appraised before it can be distributed. Identifying all property and debts is the inventory process. Once the inventory process is complete, the estate can be appraised.

Appraisal is the process of determining the true cash value of an item. The estate will be appraised by an appraiser, if the court appoints one. If the court does not appoint an appraiser, the administrator must appraise the estate. To appraise the estate you must:

- (1) identify all assets/property of the estate
- (2) identify all debts of the estate
- (3) appraise the true cash value of all property
- (4) identify the amounts of all debts
- (5) certify the appraisal by signing the inventory and appraisement.

No special formatting is required for the inventory and appraisal, but it should be clear. Inventory and appraisal can be as simple as the following example:

<b>INVENTORY &amp; APPRAISAL</b>		
<b>#</b>	<b>Assets/Property</b>	<b>Value</b>
1.	Truck (No other owners)	\$30,000
2.	Bank account at XXX bank (Joint checking with spouse)	\$15,000
3.	Fee land on the reservation – xxx Portland Ave. Tacoma, WA 98404	\$100,000
<b>#</b>	<b>Debts</b>	<b>Amount Owed</b>
1.	XXX Credit Card	\$5,000
2.	Truck loan at XXX bank	\$15,000
3.	Mortgage– XXX bank	\$5,000

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## **EXEMPT ESTATE**

After inventory and appraisal, it may be clear that the estate’s value “does not exceed \$2,500, after payment of the expenses of last illness and funeral...” PTC 8.04.300. If the estate will be inherited by a spouse or minor children it may be exempt from creditor claims. If the estate is exempt, the administrator can petition the court for an order declaring the estate exempt. If granted, the probate process will end, unless an interested person objects.

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## **NOTICE TO CREDITORS**

If the estate is not exempt, notice of the probate proceeding must be given to creditors. Notice requirements can be found in Puyallup Tribal Code Section 8.04.340.

Notice must be posted in the Puyallup Tribe’s administration building for at least 30 days. Notice must also be published in the Tribal newspaper/newsletter or any newspaper published in Pierce



County. Notice must run for three consecutive issues. (If it is published daily, that means for three days in a row. If it is published weekly that means once a week for three weeks.)

You have 90 days after the final notice runs to file an affidavit with the court certifying and showing that you gave the required notice. (For your convenience, a template notice to creditors and notice to creditors affidavit are attached at the end of this packet. You do not have to use the templates provided.)

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## CREDITOR CLAIMS

As administrator, you must evaluate each creditor's claim. For each claim submitted to you, you must examine it and determine whether the claim will be allowed, or rejected.



- If you allow a claim, because it is a legitimate claim, you must write “Examined and Allowed” on the claim and write the date you made the determination. These claims will then be paid through the estate in a certain order. For more information on the order of priority for payment of claims see Puyallup Tribal Code Section 8.04.370.
- If you do not think a claim is legitimate, you must write “Examined and Rejected” on the claim and write the date you made this determination. Then, you must file the rejection with the court and serve the creditor with the same notice by certified mail. Creditors whose claims are rejected can file an objection with the court.

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## SELLING ESTATE PROPERTY

You cannot sell property in the estate without court approval. You may petition the court for authorization to sell personal or real property if necessary to cover expenses or for distribution. See Puyallup Tribal Code Sections 8.04.390 and 8.04.400 for more information.



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## PERIODIC ACCOUNTING

Once appointed, you must file an accounting with the court at least every 6 months. Your accounting must be notarized, you must provide receipts for all of the following, and you must be able to show:

- (1) How much money was received;
- (2) Who the money came from;
- (3) How much money was spent;
- (4) Who money was paid to;
- (5) Each claim, and who made the claim, against the estate;
- (6) Whether each claim was allowed or rejected;
- (7) Which property was sold, if any;
- (8) Anything else about the estate.

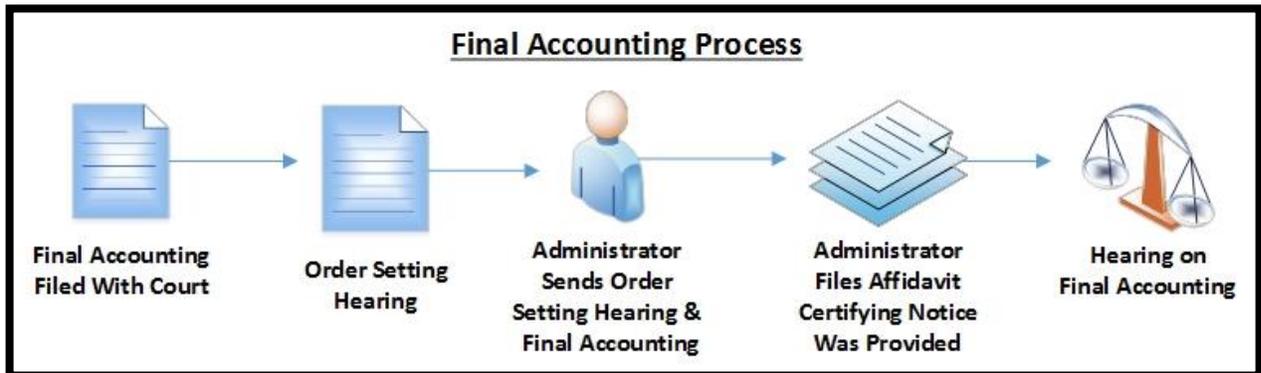


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## FINAL ACCOUNT

You must file a notarized final account with the court once all claims against the estate have been paid, and the estate is ready to be distributed to any heirs, devisees, and legatees. The requirements for this accounting can be found in Puyallup Tribal Code Section 8.04.410. Your final account must also ask the court to (1) set a hearing to approve the final account, (2) to determine the heirs, devisees and legatees of the decedent (3) and the share each one should receive.

After filing the final account, the court will issue an order setting a hearing on the matters you requested and will allow for any objections to the final account. You are required to send the order and a copy of the final account by certified mail to the Tribe and each heir, devisee, and legatee. You will then be required to file an affidavit showing you sent the order and final accounting. (For your convenience, a template affidavit is attached at the end of this packet. You do not have to use the templates provided.)



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## DISTRIBUTION

After the hearing on the final account, the judge will issue an order. What you are directed to do will be written in that order so it is important that you read and understand the order.

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## **PETITION TO CLOSE ESTATE**

You must petition the court for an order that closes the estate and discharges you as administrator, once the estate is ready to be closed (after all distributions have been made). Your petition must include:

1. Receipts for any amounts paid since the last court order.
2. Receipts signed by the person receiving a distribution of the estate pursuant to the order of distribution.

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## **REPORT OF ADMINISTRATOR**

If it has been 12 months since you were appointed as administrator and the estate has not been closed, you must file a written report with the court that explains why the estate has not been closed.



**IN THE COURT OF THE PUYALLUP TRIBE OF INDIANS  
FOR THE PUYALLUP INDIAN RESERVATION  
TACOMA, WASHINGTON**

In re the estate of:

\_\_\_\_\_

Case No. PUY-CV-PR-\_\_\_\_\_

Decedent.

**OATH OF ADMINISTRATOR**

I, \_\_\_\_\_, having been appointed  
*(Name)*

administrator of the estate in this matter by Court order dated \_\_\_\_\_ swear and  
depose:

My contact information is:

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: (\_\_\_\_\_) \_\_\_\_\_

Message Phone: (\_\_\_\_\_) \_\_\_\_\_

- 1) I am over the age of 21 years and I am competent to perform the duties required of administrator pursuant to the Puyallup Tribal Probate Code.
- 2) I am qualified and willing to serve as administrator of the above-named estate.
- 3) I hereby verify that I shall perform the duties of administrator honestly and according to Puyallup Tribal law, which include, but are not limited to:

- a. preserve and protect the decedent's property within the estate for the benefit of the estate and the heirs, so far as is possible;
- b. promptly investigate all creditors' claims against the decedent's estate and determine whether such claims are just and proper;
- c. promptly determine the names, ages, and addresses of all the decedent's heirs, devisees and legatees;
- d. promptly cause a written inventory of all the decedent's property within the estate to be prepared, with each article or item being separately set forth, and cause such property to be exhibited to and appraised by an appraiser, and the inventory and appraisal thereof to be filed with the Tribal Court;
- e. promptly give all persons entitled thereto such notice as is required by this code;
- f. account for all property within the estate which may come into the possession or control of the administrator, and to maintain accurate records of all income received and disbursements made during the course of the administration.

**DO NOT SIGN UNTIL DIRECTED TO DO SO BY THE NOTARY PUBLIC OR JUDGE**

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_.

(Date)

(Name)

Judge \_\_\_\_\_

*Signature*

Notary \_\_\_\_\_

*Signature*

Notary Public in and for the

State of : \_\_\_\_\_

My commission expires:

\_\_\_\_\_

*Affix stamp or seal*

**IN THE COURT OF THE PUYALLUP TRIBE OF INDIANS  
FOR THE PUYALLUP INDIAN RESERVATION  
TACOMA, WASHINGTON**

In re the estate of:

Case No. PUY-CV-PR-\_\_\_\_\_

\_\_\_\_\_

Decedent.

**AFFIDAVIT OF NOTICE AND  
SERVICE OF PROBATE**

I, \_\_\_\_\_, administrator of the estate, swear and depose;  
*(Name)*

I did send, by certified mail, true copies of the following to the heirs, devisees and legatees listed below at their last known mailing address (check the box for each item you sent):

- Order of Probate dated \_\_\_\_\_
- Will that was admitted to probate, and is dated \_\_\_\_\_

*Attach copies of the certified mail return receipts*

Name & Address	Relationship to Decedent


**\*\*\*DO NOT SIGN UNTIL DIRECTED TO DO SO BY THE NOTARY PUBLIC\*\*\***

*I certify, under penalty of perjury under the laws of the Puyallup Tribe of Indians, that the foregoing statement and all attachments are true and correct to the best of my knowledge and belief.*

Date: \_\_\_\_\_ Affiant's Signature: \_\_\_\_\_

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_.

(Date) (Name)

Notary \_\_\_\_\_

Signature

Notary Public in and for the  
State of : \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

*Affix stamp or seal*

# NOTICE TO CREDITORS

Estate of: \_\_\_\_\_

Date of death: \_\_\_\_\_

Resident address at the time of death:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notice is hereby given that all persons having claims against the estate of \_\_\_\_\_ must make their claims within 90 days after notice is given. Notice was first posted on \_\_\_\_\_.

All persons having claims against this estate are required to make their claims in writing, with proper vouchers, and submit them to the Administrator of the Estate at:

\_\_\_\_\_  
*(Name)*

\_\_\_\_\_  
*(Address)*

\_\_\_\_\_

**IN THE COURT OF THE PUYALLUP TRIBE OF INDIANS  
FOR THE PUYALLUP INDIAN RESERVATION  
TACOMA, WASHINGTON**

In re the estate of:

Case No. PUY-CV-PR-\_\_\_\_\_

\_\_\_\_\_

Decedent.

**AFFIDAVIT OF NOTICE TO  
CREDITORS**

I, \_\_\_\_\_, administrator of the estate, swear and depose  
*(Name)*

I did provide notice to creditors and the Puyallup Tribe for presentation of their claims against the estate in this matter.

1. I did cause notice of this probate proceeding to be published in the  
\_\_\_\_\_ for three consecutive issues.  
*(Newspaper)*

Notice was published on the following dates: (***Attach actual copies of the publication that appeared in the newspaper.***)

(1) \_\_\_\_\_

(2) \_\_\_\_\_

(3) \_\_\_\_\_

2. I did cause notice of this probate proceeding to be posted in the Puyallup Tribe's Administration building on \_\_\_\_\_ where it remained for  
*(Date)*  
\_\_\_\_\_ days. (***Attach a copy of the actual publication you posted.***)

**\*\*\*DO NOT SIGN UNTIL DIRECTED TO DO SO BY THE NOTARY PUBLIC\*\*\***

*I certify, under penalty of perjury under the laws of the Puyallup Tribe of Indians, that the foregoing statement and all attachments are true and correct to the best of my knowledge and belief.*

Date: \_\_\_\_\_ Affiant's Signature: \_\_\_\_\_

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_.

(Date) (Name)

Notary \_\_\_\_\_

Signature

Notary Public in and for the

State of : \_\_\_\_\_

My commission expires:

\_\_\_\_\_

*Affix stamp or seal*

**IN THE COURT OF THE PUYALLUP TRIBE OF INDIANS  
FOR THE PUYALLUP INDIAN RESERVATION  
TACOMA, WASHINGTON**

In re the estate of:

Case No. PUY-CV-PR-\_\_\_\_\_

\_\_\_\_\_  
Decedent.

**AFFIDAVIT OF NOTICE AND  
SERVICE OF FINAL ACCOUNT**

I, \_\_\_\_\_, administrator of the estate, swear and depose;  
*(Name)*

I did send, by certified mail, true copies of the following to the heirs, devisees and legatees listed below at their last known mailing address (check the box for each item you sent):

- Order setting hearing dated \_\_\_\_\_
- Final Account dated \_\_\_\_\_

*Attach copies of the certified mail return receipts*

Name & Address	Relationship to Decedent
Puyallup Tribe 3009 Portland Ave. E Tacoma, WA 98404	


**\*\*\*DO NOT SIGN UNTIL DIRECTED TO DO SO BY THE NOTARY PUBLIC\*\*\***

*I certify, under penalty of perjury under the laws of the Puyallup Tribe of Indians, that the foregoing statement and all attachments are true and correct to the best of my knowledge and belief.*

Date: \_\_\_\_\_ Affiant's Signature: \_\_\_\_\_

Signed and sworn to before me on \_\_\_\_\_, by \_\_\_\_\_.

(Date) (Name)

Notary \_\_\_\_\_

*Signature*

Notary Public in and for the  
State of : \_\_\_\_\_

My commission expires:  
\_\_\_\_\_

*Affix stamp or seal*