

# Helpful Hints

by **Rebecca A. Schnelz**  
**Probate Court Administrator**



## Service

If you don't normally practice in probate court, a quick review of the court rules covering service might be in order before moving forward on a probate case.

For example, under MCR 5.105(A)(1), service on an interested person may be by personal service within or without the State of Michigan. Subsection (A)(2) provides, "unless another method of service is required by statute, court rule, or special order of a probate court, service may be made to the current address of an interested person by registered, certified, or ordinary first-class mail." This subsection also allows the foreign consul and the attorney general to be served by mail. Service of initiating petitions is included under this court rule.

MCR 5.105(A)(3) provides that an interested person whose address or whereabouts is not known may be served by publication, if an affidavit or declaration is filed with the court. This requirement may be fulfilled through the filing of a *Declaration of Intent to Give Notice by Publication (PC617)* form, which requires a showing that the address or whereabouts of the interested person could not be ascertained on diligent inquiry. The declaration or affidavit must be signed pursuant to MCR 5.114(B), which requires that the document include what is referred to as the "penalties of perjury" statement.<sup>1</sup>

## COLA

Under EPIC, exemptions, allowances, small estates, small estate affidavit and intestate succession amounts are adjusted yearly for inflation, rounded to the nearest \$1,000.<sup>2</sup> The correct amount is based on the decedent's date of death. If you are working on an estate where the date of death is pre-EPIC, contact the county where you are filing to determine the correct amount, as there are differences in how counties are handling this issue. Reprinted below is a portion of the most recently released table showing the appropriate amounts to be used for decedents who died in the year indicated. These figures reflect the cost-of-living adjustments pursuant to MCL 700.1210.<sup>3</sup>

## Footnotes

- 1 MCR 5.114(B)(1) states that "[a]n application, petition, inventory, accounting, proof of claim, or proof of service must be either authenticated by verification under oath by the person making it, or, in the alternative, contain a statement immediately above the date and signature of the maker: 'I declare under the penalties of perjury that this \_\_\_\_\_ has been examined by me and that its contents are true to the best of my information, knowledge, and belief.' Any requirement of law that a document filed with the court must be sworn may be met by this declaration."
- 2 MCL 700.1210.
- 3 For the full chart, please go to [www.michigan.gov/treasury](http://www.michigan.gov/treasury). Select the "Revenue, Economic & Budget Data" link. Under "Economic Reports," click on "Estates and Protected Individuals Code Cost-of-Living Adjustments." (You'll need to scroll down in the document that is retrieved.)

	2004	2005	2006	2007	2008
Intestate (Surviving Spouse's share)	\$172,000	\$177,000	\$183,000	\$188,000	\$194,000
Intestate (Surviving Spouse's share – no children w/ decedent)	115,000	118,000	122,000	126,000	129,000
Small Estate	17,000	18,000	18,000	19,000	19,000
Small Estate Affidavit	17,000	18,000	18,000	19,000	19,000
Homestead Allowance	17,000	18,000	18,000	19,000	19,000
Exempt Property Allowance	11,000	12,000	12,000	13,000	13,000
Family Allowance *	21,000	21,000	22,000	23,000	23,000

\*Amount that a personal representative can determine automatically without prior approval.