Overview of the Probate Process

Phase 1: Opening the Estate
Initial Documents are filed for Opening an Estate, including the Petition for Administration and the original Will.

The Personal Representative is appointed as designated under the Will, provided the court finds the individual a fit and proper person. After the Personal Representative is appointed, the Personal Representative may transact on behalf of the estate. Usually, Personal Representatives begin the process by opening up an Estate Account with a bank. When the estate account is opened, the Personal Representative should make sure to ask the bank to copy the Estate Attorney on all bank statements.

Deadline for Creditors to file claims: 3 months after notice is given in local publication.

Phase 2: Inventory Filing
Personal Representative compiles a list of all the assets of the Estate

By 6 months after the opening of the estate, the Personal Representative files a complete list of assets with the court, showing all of the property (and their values) held by the Decedent on his/her date of death. This is called the "Inventory."

During this phase, the Personal Representative must complete or direct someone to complete a final Form 1040 and State Form 1, to be filed by April 15th of the year following the Decedent's passing.

Phase 3: Final Accounting
Personal Representative assembles a full and complete accounting of all the assets, expenses, and disbursements of the Estate for the court and other beneficiaries. This is called the "Final Account." The Final Account is due 18 months after the Personal Representative has been appointed.

Personal Representative works with the Estate Attorney to complete required tax returns (IRS Form 1041 and Wisconsin Form 2).

Phase 4: Closing the Estate
Wisconsin statutes allow 18 months to keep an estate open, however, many estates close well before the expiration of that time period. During the closing phase, we wait to get tax clearance in the form of a "closing certificate" from the State of Wisconsin after filing our required tax returns. Depending on the volume at the Department of Revenue, receipt of a closing certificate can take anywhere between 4-8 weeks.

The Personal Representative will also file a series of documents with the Register in Probate's office at the courthouse, including the "Personal Representative's Statement to Close the Estate," which is a sworn statement indicating that the Personal Representative has completed all the tasks under the law which he/she is required to complete prior to closing the estate.

Krislyn M. Holaday
Krislyn M. Holaday Law Office LLC
125 N. Executive Drive
Brookfield, WI 53005
(262) 786.2555
(262) 786.1119 (facsimile)