

Ancillary Probate in Nevada

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A Practice Note summarizing the procedure for ancillary probate in Nevada for non-resident decedents who own real property in the state. This Practice Note outlines when a Nevada ancillary probate proceeding is required and discusses the key laws and procedural rules governing the process, including relevant local court rules. It provides guidance on initiating the proceeding, admitting a foreign will, and the requirements for appointing a personal representative to manage the estate. The resource also explores the different types of estate proceedings available, such as general administration, summary administration, and set-aside estates, based on the estate's value. Readers will gain insight into the general process for conducting and concluding an ancillary probate, from managing property to final distribution, and discover alternative methods for handling Nevada property for a nonresident decedent.

If a nonresident of Nevada dies leaving real property in Nevada, an ancillary probate proceeding in Nevada is necessary to dispose of the real property. The Nevada ancillary probate proceeding is subject to Nevada law and is generally (but not always) brought secondary to the domiciliary probate proceeding (the estate proceeding in the decedent's state of residence). However, if there is no estate proceeding in the decedent's domicile, a Nevada ancillary probate may be opened without opening a domiciliary estate proceeding. If so, and the decedent left an original will, the Nevada courts can admit the out-of-state will.

Nevada refers to the administration of a decedent's estate as a probate (and the administration of a nonresident decedent's estate as an ancillary probate), whether the administration is testate or intestate (NRS 132.275). The court admits wills to probate and, in intestacy, the court opens a probate, but does not admit a will. The use of the term ancillary probate in this Practice Note refers to the ancillary administration of a testate or intestate estate unless otherwise specifically noted.

Requirements for Ancillary Probate

An ancillary probate in Nevada is required only if the decedent both:

- Was not a resident of Nevada at the time of death (see [Residency](#)).
- Died owning real property in Nevada. Personal property located in Nevada is subject to the nonresident decedent's domiciliary estate proceeding (see [Nevada Property](#)).

An ancillary probate in Nevada is nearly identical to an original probate in Nevada. The primary difference pertains to the assets subject to Nevada jurisdiction (only Nevada real property for an ancillary administration). For more information on the Nevada probate process that applies to both domiciliary and ancillary proceedings, see [State Q&A, Probate: Nevada](#).

Residency

Ancillary probates in Nevada are available only for nonresidents of Nevada. For estate proceedings in

Nevada, a person is considered a resident of Nevada if the decedent resided in Nevada as of the date of the decedent's death. If that person leaves Nevada with the intention in good faith to return without delay and continue that person's residence in Nevada, Nevada does not consider that time of absence in the residency determination. (NRS 10:155.)

The court generally relies on the address listed on the decedent's death certificate to determine residency at the date of death despite which state issues the death certificate. The listed residency information generally creates a rebuttable presumption of the decedent's domicile that can be overcome with contrary evidence. An example of contrary evidence that may overcome this presumption is a declaration of domicile in a will or other document.

Nevada Property

Nevada requires an ancillary probate only if a nonresident decedent died owning real property located in Nevada (NRS 136.010(1)(a)). Generally, personal property located in Nevada is subject to that nonresident's domiciliary estate proceeding, even if a Nevada ancillary proceeding is otherwise required to administer the nonresident decedent's Nevada real property. There may be certain exceptions to this (for example, if the decedent's personal property is located in the decedent's Nevada real property), though Nevada law is unclear on this.

Jurisdiction

The district court of the county where the real property is located has jurisdiction over a Nevada ancillary probate. If the nonresident decedent owned real property in multiple counties, then the district court of any of the counties where the real property is located may have jurisdiction, and the first district court that receives a petition for probate has exclusive jurisdiction over all the real property in Nevada (NRS 136.010(1), (3)).

Types of Estate Proceedings

In Nevada, there are three types of estate proceedings for an ancillary probate, which are generally the same processes as an original Nevada probate:

- **General Administration.** General administration is a full probate where a personal representative is

appointed to manage the affairs of the estate. This type of proceeding applies when the net value of the Nevada real property (the value of the property less encumbrances) exceeds \$500,000 or the estate's value is unknown. (NRS 145.010 and 145.040 and see [State Q&A, Probate: Nevada](#).) The ancillary personal representative may seek to administer the estate under the Independent Administration of Estates Act, which enables a personal representative to take many actions as to estate assets without court order, approval, or ratification (see [State Q&A, Probate: Nevada: Independent Administration](#)).

- **Summary Administration.** Summary administration is similar to general administration, except that in summary administration, certain proceedings and notice requirements are reduced or waived. However, summary administration applies when the net value of the Nevada real property does not exceed \$500,000. (NRS 145.010 to 145.110 and see [State Q&A, Probate: Nevada: Summary Administration](#).) The personal representative may seek to administer the estate under the Independent Administration of Estates Act in a summary administration (see [State Q&A, Probate: Nevada: Independent Administration](#)).
- **Set Aside Estate.** If the net value of the Nevada real property does not exceed \$150,000, and there are no creditors of the estate (not including a mortgage secured against the Nevada real property), administration of the estate may be skipped and the court may distribute the Nevada real property by a one-petition court proceeding to the person or persons entitled to the real property (NRS 146.070 and see [State Q&A, Probate: Nevada: Set Aside Estate](#)).

A non-resident decedent's personal property located in Nevada is generally subject to domiciliary proceedings in the decedent's state of residence, and not the ancillary proceeding in Nevada. Therefore, the small estate affidavit for transfer of personal property is not used to transfer Nevada personal property. (See [State Q&A, Probate: Nevada: Small Estate Affidavit](#).)

Rules Applicable to Ancillary Estate Proceedings

The Nevada laws governing estate proceedings, including ancillary proceedings, are contained in Title 12 of the Nevada Revised Statutes (NRS 132.010 to 156.260). Local court rules also govern estate proceedings, including ancillary proceedings.

Counsel should also check the local rules for the court in which they are practicing, since each court is different and the rules vary. For example:

- Part IV of the Rules of Practice for the [Eighth Judicial District Court](#) governs the practice and procedure of all probate proceedings in Clark County (NV EDCR 4.01 to NV EDCR 4.50).
- Rule 57 of the Rules of Practice for the [Second Judicial District Court](#) governs the practice and procedure of all probate proceedings in Washoe County (NV WDFCR 57.1 to NV WDFCR 57.8).

Retaining a Nevada Lawyer

When a non-resident of Nevada dies while owning real property in Nevada that is subject to an ancillary estate proceeding, the family of the decedent or the fiduciary appointed in the decedent's domiciliary estate may hire a Nevada lawyer to help administer the Nevada property. The Nevada lawyer may:

- File the applicable petition for ancillary probate in the appropriate Nevada county.
- Make all necessary court appearances.
- Send all required notices and make all required court filings.
- Assist the ancillary fiduciary with the administration of the ancillary estate until ultimate distribution of the ancillary estate.

Delivery and Admittance of Foreign Will

Delivery of Will

In Nevada, within 30 days of learning of the testator's death, a person in possession of the testator's original will must deliver the will to either:

- The clerk of the district court that has jurisdiction.
- The nominated personal representative.

(NRS 136.050(1).) If the personal representative has possession of the original will, the representative must file the will with the clerk within 30 days of either:

- The testator's death.
- The personal representative's knowledge of being named as representative in the will.

(NRS 136.050(2).)

Persons neglecting to timely file the will without reasonable cause are liable to every person interested in the will for damages from the neglect (NRS 136.050(3)).

If the original will cannot be filed with the clerk for probate in Nevada because another state admitted it for a domiciliary proceeding, a certified or exemplified copy from the court where the original will was filed may be filed in Nevada instead. The copy has the same effect as the original in probate proceedings. (NRS 136.180(1).)

Admittance of Will

A Nevada court may admit a will that a court outside of Nevada proved, allowed, and admitted that will if:

- A petitioner submits a certified or exemplified copy of the will (and should also provide a certified or exemplified copy of the order admitting the will to probate), with a petition for probate of the nonresident decedent's Nevada estate.
- The clerk sets a time for a hearing and, after notice, the court holds a hearing and generally finds that the will was duly proved and admitted to probate outside of Nevada and was executed in conformity with the laws of:
 - the place where the testator made the will;
 - the place where the testator was domiciled when the testator made the will; or
 - Nevada.

(NRS 136.260.)

Petition to Open Ancillary Probate

The petition for an ancillary estate administration generally includes the same information as a petition for an original Nevada estate administration (see [State Q&A, Probate: Nevada: Question 5](#)).

For a decedent who was not a Nevada resident at the decedent's death:

- If the original will was already admitted to probate in another jurisdiction, the petitioner should include certified or exemplified copies of the will and the order opening the domiciliary estate as exhibits to the petition to open the ancillary estate (NRS 136.180(1) and see [Delivery and Admittance of Foreign Will](#)).

- If there is an intestate domiciliary estate administration in another jurisdiction (the decedent died without a valid will), the petitioner should include certified or exemplified copies of the order opening the domiciliary estate as an exhibit to the petition to open the ancillary estate.
- If there is no domiciliary estate administration opened in another jurisdiction, the petitioner of:
 - a testate ancillary probate files the original will with the clerk of the district court that has jurisdiction, files a petition for probate and letters testamentary, and proceeds similar to a domiciliary testate estate administration; and
 - an intestate ancillary probate files a petition for appointment of a personal representative and letters of administration and proceeds similar to a domiciliary intestate estate administration.

Nevada does not require a petitioner to open a domiciliary estate administration to proceed with ancillary administration of the nonresident decedent's Nevada estate.

Notice Required to Open Estate

The notice required to open an ancillary estate administration in Nevada is generally the same as the notice required for an original Nevada estate administration (see [State Q&A, Probate: Nevada: Question 6](#)).

Appointment of Personal Representative

Nevada law uses the term personal representative to refer to the person appointed by the court to administer an estate. The procedures for appointing a personal representative are typically the same regardless of whether the decedent died with a valid will (testate, in which case the personal representative may be specifically referred to as an executor) or without a valid will (intestate, in which case the personal representative may be specifically referred to as an administrator). The term personal representative refers to both an executor and an administrator (NRS 132.265).

Priority to Serve as Personal Representative

The personal representative appointed in the nonresident decedent's domiciliary estate administration, if any, generally has priority to

serve as personal representative in the Nevada ancillary probate. Otherwise, priority to serve as personal representative and procedures for appointment are generally the same for an ancillary estate as it is for a Nevada domiciliary estate proceeding (see [State Q&A, Probate: Nevada: Question 7](#)). To serve as personal representative in Nevada:

- The person with priority must be qualified (see [State Q&A, Probate: Nevada: Qualification as Fiduciary](#)).
- The personal representative must post bond, if ordered by the court (see [State Q&A, Probate: Nevada, Question 8](#)).

Compensation of Personal Representative

The personal representative in a Nevada ancillary probate is compensated in the same manner as a personal representative in a Nevada domiciliary probate based on:

- The terms of the will, if any. The personal representative may timely renounce the compensation as specified in the will in favor of the statutory compensation (NRS 150.010).
- If the will does not provide specific compensation, the personal representative waives the compensation in the will, or there is no will, the personal representative is paid based on a statutory fee schedule (NRS 150.020).

For more information on personal representative compensation, see [State Q&A: Probate: Nevada: Question 9](#).

Administering and Settling the Estate

Duties of the Personal Representative

In a Nevada ancillary estate, the personal representative typically must:

- Open the ancillary estate (see [Petition to Open Ancillary Probate](#)).
- Identify and take control of the real property located in Nevada (NRS 143.030(1)).
- Maintain or sell the real property. If the personal representative wants to sell the real property,

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the personal representative generally needs to petition the court to do so unless the court granted authority to administer the estate under the Independent Administration of Estates Acts (NRS 148.060 and 148.080, and see [State Q&A, Probate: Nevada: Petition for Sale of Property](#)).

- Keep appropriate records regarding the Nevada real property and all related transactions, including required inventories and accountings (NRS 144.010 and 150.080 to 150.115).
- Pay taxes, debts, and other expenses of the estate (NRS 147.195).
- Keep the court informed about the status of the administration of the estate (NRS 143.035).
- On the court's approval, distribute the real property (or the proceeds from the sale of the property) to the appropriate beneficiaries (NRS 151.110).

Administration and Procedures

The procedures, administration processes (including those for inventories, creditor claims, and accountings), and due dates for ancillary probates in Nevada are also generally the same as those for Nevada domiciliary probates (see [State Q&A, Probate: Nevada](#)).

Closing the Estate

Similar to closing a Nevada domiciliary probate, a personal representative can close a Nevada ancillary probate when the Nevada real property is (or the sale proceeds are) ready to be distributed and personal representative paid all creditor claims (or is to pay them as part of the final distribution) or those claims are barred by law (see [State Q&A, Probate: Nevada: Question 14](#)). The personal representative cannot close the ancillary probate if:

- There is pending litigation involving the estate.
- Assets need to be sold before distribution.

- Money or other property that is due to the estate is still uncollected.
- Creditor claims remain unsettled.
- There is a dispute among beneficiaries regarding the accounting or distribution.
- Tax liabilities or other legal obligations of the decedent or the estate are not satisfied.

To close the ancillary estate, the personal representative files a final accounting of the ancillary estate transactions for court confirmation (usually with a petition for final settlement and distribution). On settlement of the final accounting, the court generally orders final distribution. (NRS 151.080.) The personal representative must provide notice of the hearing on the petition for settlement and distribution to all interested parties (NRS 151.090).

After the court enters an order, the personal representative distributes the assets of the ancillary estate under the order (NRS 151.110). If the personal representative sold the real property and the estate holds liquid funds, the Nevada court generally orders the funds to be distributed either:

- Directly to the heirs or beneficiaries of the estate.
- To the personal representative of the domiciliary estate to be further administered under the domiciliary estate proceedings.

However, if the personal representative did not sell the Nevada real property and is to distribute the property in kind, the personal representative should distribute the property directly to the heirs or beneficiaries by a Personal Representative Deed. The personal representative must first, within ten days of the order for distribution's entry conveying any Nevada real property, record a certified copy of the order with the county recorder in the county or counties where:

- The court entered the order.
- The real property, or any portion of it, is located.

(NRS 151.110.)

For more information on closing a Nevada ancillary probate, which is generally the same as closing a Nevada domiciliary probate, see [State Q&A, Probate: Nevada: Question 15](#).

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