

§ 72.20

§ 72.20 Responsibility if “partner in trade” is present.

Although the law (22 U.S.C. 1175) also relieves the consular officer of responsibility if a “partner in trade” is present, the death of one member of a partnership automatically dissolves this relationship. Consequently, the surviving partner or partners have no beneficial interest as “partners in trade” in the personal estate of the deceased. The duties and responsibilities of provisional conservator of the personal estate of the deceased cannot therefore be assumed by a surviving partner, unless he is duly authorized to act as a legal representative of the deceased. Accordingly, the presence of a former “partner in trade” will not necessarily relieve the consular officer of his responsibility.

§ 72.21 Responsibility if will intended to operate locally exists.

If a will is discovered which is intended to operate locally, and a local or domiciliary representative named by the decedent qualifies promptly and takes charge of the personal estate, the consular officer should assume no responsibility for the estate (§§ 72.18 and 72.19), and should not take possession, inventory and dispose of the personal property and effects or in any way serve as agent for the local or domiciliary representative. However, if the laws of the country permit and if the local or domiciliary representative does not qualify promptly, the consular officer may have take protective action in the interest of the estate to the extent of placing his seal on the personal property and effects of the decedent, such seal to be broken or removed only at the request of the local or domiciliary representative. Furthermore, he should see that the foreign authorities accord due recognition to the American interests involved and provide proper protection for the property under local procedures. If prolonged delays are encountered by the local or domiciliary representative in making arrangements to take charge of the personal estate, the consular officer may request that the will be offered for probate, if in his judgement such action is advisable in the interest of the estate.

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§ 72.22 Responsibility if will intended to operate in the United States exists.

If a will that is intended to operate in the United States is found among the effects taken into possession by the consular officer, it should be forwarded immediately to the person or persons designated, in the event that their whereabouts are known. When this is impossible, the will should be sent to the appropriate court in the State of the decedent’s domicile. Special directions contained in the will for the conservation by the consular officer of the personal estate should be observed by him so far as the laws of the foreign country and these regulations permit him to act.

§ 72.23 Responsibility in case of Department of Defense personnel.

The Department of Defense is required, in the absence of a legal representative or other authorized person (see §§ 72.18 and 72.19), to assume responsibility for the disposition of the personal estates of its military and civilian personnel who have died abroad. However, when no representative of the Department of Defense, or other authorized person, is present at the time of death, the consular officer should take possession of the personal estate and hold it for disposition in accordance with instructions from the Department of Defense. No fee should be charged for services so rendered (§ 72.54). Instructions in this section do not apply to the personal estates of dependents of Department of Defense personnel; nor to contractor personnel, i.e., United States civilians employed in foreign countries by commercial concerns operating under contract with the Department of Defense, and their dependents. The estates of such persons should be disposed of in the manner prescribed by §§ 72.28 to 72.51, if no legal representative is present.

§ 72.24 Responsibility in case of Coast Guard personnel.

The United States Coast Guard is required, in the absence of a legal representative or other authorized person (see §§ 72.18 and 72.19), to assume responsibility for the disposition of the