

§ 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.

22 CFR Ch. I (4–1–01 Edition)

§ 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

Department of State

§ 72.28

personal estates of its military and civilian personnel who have died abroad. However, when no representative of the Coast Guard, 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 Commandant, United States Coast Guard. No fees should be charged for services so rendered (§ 72.54). Instructions in this section do not apply to the personal estates of dependents of Coast Guard personnel. 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.

§ 72.25 Responsibility in case of citizens dying on the high seas.

(a) *Consular responsibility not provided by statute.* There is no express provision of law authorizing the consular officer to take possession and dispose of the personal estate of a citizen of the United States (not a seaman) who has died on the high seas.

(b) *When death occurs on board vessel of United States registry.* If the death occurred on board a vessel of the United States, the master of the vessel, in the absence of a legal representative or other authorized person (see §§ 72.18 and 72.19), should be requested to take custody and return the personal estate to the shipping company in the United States for forwarding to the legal representative or other authorized person.

(c) *When death occurs on board vessel of foreign registry.* Death on board a vessel of foreign registry is considered to have occurred in the territory of the country of the ship's registry, and the estate laws of that country are applicable in such cases. In the absence of a legal representative or other authorized person (see §§ 72.18 and 72.19), the consular officer should take possession and dispose of the personal estate, provided that the laws of the country of assignment as well as the laws of the country of the ship's registry permit. The procedure in such cases is identical with that followed in the disposition of the estate of any United States citizen who may have died within the consular district, except that no fees should be charged for services rendered (§ 72.55).

§ 72.26 Responsibility in case of seamen.

See §§ 85.4 to 85.9 of this chapter for regulations regarding the disposition of the personal estates of seamen who have died while serving as members of the crew of a vessel of the United States. The consular officer should take possession and dispose of the personal estates of United States citizens who have died while serving as seamen on board foreign vessels, in the manner prescribed by § 72.25(c).

§ 72.27 Responsibility in case of Foreign Service personnel.

In the absence of a legal representative or other authorized person, the consular officer should take possession and dispose of the personal estates of deceased Foreign Service personnel in the manner prescribed by these regulations for other deceased citizens of the United States, except that no fee should be charged (§ 72.54). Travel orders issued by the Department for shipment of the personal effects of deceased officers and employees of the Foreign Service constitute only administrative authorization to transport the effects to a given destination, and in no way relieve the consular officer of the responsibility for satisfying himself of a claimant's right to the personal estate prior to shipment (§ 72.43).

§ 72.28 Effects to be taken into possession.

Although no limitations are placed by law (22 U.S.C. 1175) on the nature and extent of the personal property that should be taken into possession by the consular officer in the absence of a legal representative, experience has shown that the need exists to delimit by regulation the consular officer's obligations, but not his authority, in this regard. For example, the consular officer would not normally be expected to take physical possession of the articles covered in § 72.29 unless the items are of such nature and quantity as to be readily included with the personal effects of the nature described in this section, or unless such action, when physically possible, is necessary for the preservation or protection of the property. The consular officer does, however, have responsibility for taking