



## INSTRUCTIONS FOR AFFIDAVIT OF HEIRSHIP

When someone passes away (also known as the **Decedent**) without a will or if the will is not probated in the state where the property is located and the estate is rather small, an Affidavit of Heirship may be used to determine who to pay based on the laws of descent and distribution for that state. Texas is the only state that Blackbeard operates in that allows foreign probate to be filed of record in the county where the property is located without opening ancillary proceedings.

- The **form should be completed by someone other than an heir, who is familiar with the family history of the decedent, and who will obtain no benefit from the Estate.** This person may be a family friend, a distant relative, the family attorney or perhaps a religious acquaintance such as the decedent's pastor. Specifically, ineligible to fill out the Affidavit are the surviving spouse and the children of the decedent. The disinterested party filling out the form is also known as the **Affiant**.
  
- **All questions should be answered and current addresses, including the street address, city, state and zip code should be provided for each party listed on the Affidavit.** If the current address of one of the decedent's relatives is not known, put "Unknown" in that blank.
  
- **N/A or Unknown is not an answer to questions 1 – 9 of the Affidavit.** If the Affiant does not understand how to accurately answer any of the questions, do not leave it blank. **Contact Blackbeard** on our Owner Relations line at **(432) 242-0050 ext. 232**, or email us at **ownerrelations@blackbeardoperating.com**.
  
- Upon completion, the Affiant should sign the Affidavit, have their signature notarized, and then the instrument should be **filed for record** in the county and state in which the interest is located. See below for recording instructions.

**Affidavits that are incomplete, incorrect or filled out by an ineligible Affiant will be returned to the sender for correction and cannot be used to transfer the interest to the heirs at law.**

### RECORDING INSTRUCTIONS:

- Go to **www.courthousedirect.com** to obtain the County Clerk's address. You must request that the clerk return a certified copy of the Affidavit to you. Please contact the clerk concerning the filing fees or any additional information concerning filing.
  
- When you receive the certified copy of the Affidavit from the clerk, please forward a photocopy of the certified instrument along with a photocopy of the certified death certificate of the decedent to this office. Upon receipt, the interest will be transferred pursuant to the intestate laws of descent and distribution for the state where the property is located and Division Orders will be issued to each heir. Please note that intestate law may not necessarily follow the terms of the will.

## HELPFUL HINTS

- The legal description in the top left corner is the Section-Township-Range/Section-Block-Survey-Abstract (TX) where the property is located and is necessary if the Affidavit is being filed of record.
- The County and State in the top left corner of page one is the County and State where the property is located.
- The “Decedent” is the owner that Blackbeard is paying who has passed away.
- The “Affiant” is the person who is filling out the form and swearing to their knowledge of the facts stated.
- Question #7 regards Federal and State Estate taxes, not income taxes or property taxes. The Estate Tax is a tax on your right to transfer property at your death. It consists of an accounting of everything the decedent owned or had an interest in at the date of death. As of 2020, a filing for federal inheritance taxes is required for estates with combined gross assets and prior taxable gifts exceeding:

\$1,500,000 in 2004 – 2005

\$2,000,000 in 2006 – 2008

\$3,500,000 for decedents dying in 2009

\$5,000,000 for decedents dying in 2010-11

\$5,120,000 in 2012

\$5,250,000 in 2013

\$5,340,000 in 2014

\$5,430,000 in 2015

\$5,450,000 in 2016

\$5,490,000 in 2017

\$11,180,000 in 2018

\$11,400,000 in 2019

\$11,580,000 in 2020

If the decedent’s estate did not meet this criterion, no Federal Estate taxes are due.

- Regarding Question #8 on page one use the following definition to determine if the property that the decedent is being paid on by our company is their homestead:

A homestead is “a person's or family's residence, which comprises the land, house, and outbuildings, and in most states is exempt from forced sale for collection of debt.”

- Regarding Question #9 on page one use the following definition to determine if the property is the decedent’s separate property:

"In a marriage, separate property means that which is owned individually by the husband or by the wife, as opposed to their community property, which is owned by both. There are four main sources of separate property: (1). Acquisition prior to marriage, (2). Devise under a will, (3). Gift, (4). Inheritance.”

# AFFIDAVIT OF HEIRSHIP

LEGAL DESC: \_\_\_\_\_

For: \_\_\_\_\_

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

\_\_\_\_\_, whose address is \_\_\_\_\_

hereinafter referred to as "Affiant", being of lawful age and being duly sworn, upon oath deposes and says that (s)he was well acquainted with \_\_\_\_\_, hereinafter referred to as "the Decedent", and that the answers and statements given in the following questionnaire are based upon Affiant's personal knowledge and are true and correct:

1. How long did you know the Decedent? \_\_\_\_\_
2. What was your relationship to Decedent? \_\_\_\_\_
3. The decedent's residence was at \_\_\_\_\_

The decedent died at the age of \_\_\_\_\_ on \_\_\_\_\_ in \_\_\_\_\_  
(Date) (City, State)

4. Did Decedent leave a will? \_\_\_\_\_ If the Decedent did leave a will, please attach copy of same hereto.
5. Have any probate proceedings been commenced with respect to Decedent's estate \_\_\_\_\_? If so, complete the following sentence to the best of your knowledge: Proceedings were commenced in \_\_\_\_\_ County, State of \_\_\_\_\_, and the name and address of the executor or administrator is \_\_\_\_\_
6. Are there any debts still owing by Decedent's estate and if so, will the size of the estate be sufficient in your opinion to pay such debts? \_\_\_\_\_
7. Have all Federal and State inheritance taxes been paid? \_\_\_\_\_. (If none due, so state.)
8. Was the property of the decedent in the legal description above their homestead? \_\_\_\_\_
9. Was the interest in the above described property community or separate? \_\_\_\_\_
10. Give the names of all spouses of the decedent and their address or date of death/divorce:

Name of Spouse(s)	Date of Marriage	Current Address or Date of Death/Divorce
_____	_____	_____
_____	_____	_____

11. Complete the following with respect to all children of the Decedent, whether living or dead, natural or adopted.

Name of Decedent's Child	Birth Date	Name of Child's Other Parent	Address or Date of Death
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

12. Were any of Decedent's children adopted, and, if so, which one(s) and when? \_\_\_\_\_

\_\_\_\_\_

13. Provide information on the Decedent's grandchildren, born only to the deceased children in item 11 above. If there are none, please state that below.

Name of Decedent's Grandchild	Name of Deceased Parent (From #11)	Address of Grandchild or Date of Death
_____	_____	_____
_____	_____	_____
_____	_____	_____

14. If the Decedent was not survived by any children or grandchildren, provide the following information for the Decedent's parents (if living) and all brothers and sisters:

Name of Decedent's Parent, Brother or Sister	Relation to Decedent	Address or Date of Death
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

15. If any of decedent's brothers or sisters listed in #14 are deceased, give the name and address of their children.

Name of Decedent's Niece or Nephew	Name of Deceased Parent (From #14)	Address or Date of Death
_____	_____	_____
_____	_____	_____
_____	_____	_____

Further affiant saith not.

\_\_\_\_\_

Affiant's Signature

STATE OF \_\_\_\_\_}

COUNTY OF \_\_\_\_\_}

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

My Commission expires: \_\_\_\_\_

(Seal)

\_\_\_\_\_  
Notary Public