

Department of State

§ 72.24

§ 72.20 Prohibition against performing legal services or employing counsel.

A consular officer may not act as an attorney or agent for the estate of a deceased United States citizen or non-citizen national overseas or employ counsel at the expense of the United States Government in taking possession and disposing of the personal estate of a United States citizen or non-citizen national who dies abroad, unless specifically authorized in writing by the Department. If the legal representative or other interested person wishes to obtain legal counsel, the consular officer may furnish a list of attorneys.

§ 72.21 Consular officer may not assume financial responsibility for the estate.

A consular officer is not authorized to assume any financial responsibility or to incur any expense on behalf of the United States Government in collecting and disposing of the personal estate of a United States citizen or national who dies abroad. A consular officer may incur expenses on behalf of the estate only to the extent that there are funds available in the estate or from other sources (such as the next of kin).

§ 72.22 Release of personal estate to legal representative.

(a) If a person or entity claiming to be a legal representative comes forward at any time prior to transmission of the decedent's personal estate to the Secretary of State under 22 CFR 72.25, the consular officer may release the personal estate in his or her custody to the legal representative provided that:

(1) The legal representative presents satisfactory evidence of the legal representative's right to receive the estate;

(2) The legal representative pays any fees prescribed for consular services provided in connection with the disposition of remains or protection of the estate (see 22 CFR 22.1);

(3) The legal representative executes a release in the form prescribed by the Department; and

(4) The Department approves the release of the personal estate.

(b) Satisfactory evidence of the right to receive the estate may include:

(1) In the case of an executor, a certified copy of letters testamentary or other evidence of legal capacity to act as executor;

(2) In the case of an administrator, a certified copy of letters of administration or other evidence of legal capacity to act as administrator;

(3) In the case of the agent of an executor or administrator, a power of attorney or other document evidencing agency (in addition to evidence of the executor's or administrator's legal capacity to act).

§ 72.23 Affidavit of next of kin.

If the United States citizen or non-citizen national who has died abroad did not leave a will that applies locally, and the personal estate in the consular district consists only of clothing and other personal effects that the consular officer concludes in his or her discretion is worth less than \$2000 and/or cash of a value equal to or less than \$2000, the consular officer may decide in his or her discretion to accept an affidavit from the decedent's next of kin as satisfactory evidence of the next of kin's right to take possession of the personal estate. The Department must approve any release based on an affidavit of next of kin where the consular officer concludes that the personal estate effects are worth more than \$2000 and/or the cash involved is of a value more than \$2000 and generally will consider approving such releases only in cases where state law prohibits the appointment of executors or administrators for estates that are valued at less than a specified amount and the law of the foreign country where the personal property is located would not prohibit such a release.

§ 72.24 Conflicting claims.

Neither the consular officer nor the Department of State has the authority or responsibility to mediate or determine the validity or order of contending claims to the personal estate of a deceased United States citizen or non-citizen national. If rival claimants, executors or administrators demand the personal estate in the consular officer's possession, the officer should not release the estate to any