

RULE 13. DISTRIBUTION; SPECIAL SITUATIONS

- Rule
13.1. Representation by counsel.
13.2. Existence and identity.
13.3. Report by fiduciary.

Rule 13.1. Representation by counsel.

A foreign distributee or claimant may be represented by counsel who possesses a valid duly authenticated power of attorney executed by the distributee or claimant.

Rule 13.2. Existence and identity.

If it appears that the decedent may have heirs in a foreign country but their location, existence or identity is unknown, the fiduciary shall notify the consulate of the country prior to audit of such facts as the fiduciary has which led him to the belief that the decedent may have had heirs in the country in question.

Rule 13.3. Report by fiduciary.

Whenever the existence, identity or whereabouts of a distributee is unknown or it appears that a distributee may not have the actual benefit, use, enjoyment or control of the money or other property if awarded to him or the court is requested to withhold distribution or to make an award other than to the distributee or his nominee, the fiduciary or his counsel shall submit to the court or auditor, as the case may be, a written report outlining the investigation made by him and the facts relevant thereto. The report shall be in such form and may be filed at such place and time as shall be prescribed by general rule or special order of the local Orphans' Court.

Official Note: Repeal of the Act of July 28, 1953, P. L. 674, and Section 1314 of the Fiscal Code, enactment of legislation regarding abandoned and unclaimed property and developments in Federal law regarding distribution to residents of foreign countries have prompted deletion of some of the wording in the former Section 13 of the rules. The reference to the beneficiary's "actual benefit, use, enjoyment or control" is not limited to distribution to foreign residents and it is believed that a consideration of these factors will not be in violation of Federal or State constitutional limitations when properly applied.

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