

## FOREIGN PERSONAL REPRESENTATIVE

When the decedent died domiciled other than in Maryland owning real property in Maryland at the time of death, the person appointed Personal Representative in that jurisdiction shall file an **Application by Foreign Personal Representative to Set Inheritance Tax** with the Register of Wills for the county where the largest part in value of the Maryland property is located. This form, which lists the necessary requirements for filing, may be obtained from any Register of Wills Office in Maryland. Probate fees, costs and inheritance taxes will be assessed by the Register.

Commencing on appointment until the time for filing claims has expired, the Personal Representative shall make a reasonably diligent effort to ascertain the names and addresses of the decedent's creditors and mail or otherwise deliver to them a copy of the Notice of Appointment—Notice to Creditors.

## INHERITANCE TAXES

(Effective for persons dying on or after July 1, 2000.  
Different laws apply for persons dying prior to that date.)

### PROPERTY SUBJECT TO INHERITANCE TAX:

1. Property passing by Will or under the laws of intestacy
2. An interest as a joint owner in any real or personal property, including credit union, bank, or other financial institution accounts
3. A material part of the decedent's property transferred by the decedent within two years of death (other than a bona fide sale) in the nature of a final disposition or distribution, including any transfer that resulted in joint ownership of property, if the transfer is made in contemplation of death
4. Property over which the decedent retained any dominion at the time of death, including a beneficial interest, a power of revocation, or a power of appointment by Will or otherwise. *This includes trusts, P.O.D. accounts, annuities or other public or private employee pension or benefit plans that are taxable for federal estate tax purposes, life estates and other interests less than absolute, in trust or otherwise*

### EXEMPTIONS FROM INHERITANCE TAX:

1. **Property** that passes from a decedent to or for the use of a grandparent, parent, spouse, child or other lineal descendant, spouse of a child or other lineal descendant, stepparent, stepchild, brother or sister of the decedent, or a corporation *if all of its stockholders consist of the surviving spouse, parents, stepparents, stepchildren, brothers, sisters, and lineal descendants of the decedent and spouses of the lineal descendants*
2. **Life insurance** benefits not payable to the estate of the insured
3. Grave maintenance up to \$500 passing under a Will for the perpetual upkeep of graves
4. Property passing to a **non-profit organization** which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code if incorporated in Maryland or if there is a reciprocal agreement with the jurisdiction where the organization has its principal office
5. **State, county or municipal corporations**
6. Property administered under a **Small Estate** proceeding
7. Property passing to **any one person** not exceeding a total of \$1,000
8. Personal property of a **non-resident** with the exception of tangible property located in Maryland

9. Income, including gains and losses, accrued on probate assets after the date of death of decedent (*However, it is reportable to the State of Maryland as estate income.*) (#9 became effective January 1, 1998.)
10. Effective 7/1/09 – TG 7-203-1 – Specified property that passes from a decedent to or for the use of a domestic partner of a decedent; etc.

**LINEAL TAX RATE** applies to distributions to lineal heirs or legatees from a decedent dying prior to July 1, 2000, and may be obtained by contacting the Register of Wills Office.

**COLLATERAL TAX RATE** OF 10% applies to property passing to persons or organizations not identified as exempt. If the decedent died prior to July 1, 2000, brothers and sisters are included in collateral, however, their rate varies and is determined by the date of death.

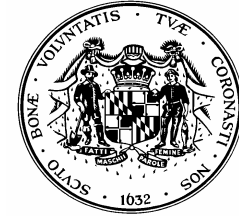
*"How will my estate be distributed if I die without a Will?"*

### IF THE DECEDENT IS SURVIVED BY:

1. **Spouse and minor children** of the decedent—spouse receives one-half, children share remaining one-half
2. **Spouse and children (all adult)** of the decedent—spouse receives \$15,000 plus one-half of remaining estate—children divide balance (the interest of a predeceased child passes to issue of that child)
3. **Children only of the decedent**—children (does not include step-children) divide entire estate (the interest of a predeceased child passes to issue of that child)
4. **Spouse and parents of the decedent**—spouse receives \$15,000 plus one-half of remaining estate—both parents divide balance or surviving parent takes balance
5. **Spouse of the decedent without other heirs listed above**—spouse receives entire estate
6. **Parents of the decedent without other heirs listed above**—both parents divide entire estate or surviving parent takes all
7. **Brothers/sisters of the decedent without heirs listed above**—brothers and sisters divide estate equally (share of deceased sibling goes to their issue—nieces and nephews of the decedent)
8. **Grandparents without other heirs listed above**—grandparents divide entire estate or, if deceased, to their issue (*see applicable law for details*)
9. **Great-grandparent without other heirs listed above**—great-grandparents divide entire estate or, if deceased, to their issue (*see applicable law for details*)
10. **Step-children**—if there are no heirs listed above
11. **No living heirs or step-children**—If decedent was a recipient of long-term care benefits under the Maryland Medical Assistance Program at time of death, net estate is paid to Department of Health and Mental Hygiene. Otherwise, the net estate is paid to the Board of Education.

All references to "Estate or Administration", only control assets that are in the decedent's name alone or as tenants in common.

# Administration of Estates in Maryland



Prepared by the

Register of Wills Association

**The purpose of this publication is to better inform the general public of procedural matters involved in the administration of estates. Nothing contained herein is intended to advise anyone as to the legal remedies for a particular circumstance. The Register of Wills and employees may assist with the necessary forms but cannot render legal advice. It is hoped that this brochure will be useful to you in answering general questions on how to proceed with the administration of an estate.**

REVISED AS OF SEPTEMBER 1, 2009, AND EFFECTIVE FOR PERSONS DYING ON OR AFTER THAT DATE UNLESS OTHERWISE NOTED. VARYING LAWS MAY APPLY FOR PERSONS DYING PRIOR THERETO. ESTATES AND TRUSTS LAWS ARE SUBJECT TO CHANGE BY THE LEGISLATURE AT ANY TIME.

Maryland law requires that the custodian of a document appearing to be the last Will (including Codicils, if any) of the decedent *shall file* it promptly with the Register of Wills in the county where the decedent was domiciled at the time of death, *even if it is not to be offered for probate*. When there are any assets in the decedent's name alone (including interests held as a tenant-in-common), they *must* be reported to the Register of Wills. *A Personal Representative must be appointed by the Register of Wills or the Orphans' Court before disposing of any assets*. When appointed, Letters of Administration will be issued to the Personal Representative.

Forms and procedures herein are mandated by Maryland Code and Maryland Rules. (Forms are available from the Register of Wills Office.)

## SMALL ESTATES

Assets subject to administration valued at \$30,000 or less  
(\$50,000 if the spouse is the sole legatee or heir)

(FOR PERSONS DYING ON OR AFTER JANUARY 1, 1998 ONLY, Small Estate value is determined by the fair market value of property less debts of record secured by the property, as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for secured debt.)

- Petition for Probate with Schedule B attached**  
(Required appraisals must be submitted. The value of each item shall be fairly appraised as of the date of death. The Personal Representative may appraise corporate stocks listed on a national or regional exchange or over-the-counter securities, debts owed to the decedent, bank accounts, building or savings and loan association shares, and money. All other assets must be appraised by qualified disinterested appraisers. For persons dying on or after January 1, 1998, an alternate procedure is available for valuing real estate.)
- List of Interested Persons** listing the names and addresses of those named in the Will, if any, and those who would inherit if there were no Will. (See "How Will My Property Be Distributed If I Die Without A Will?")
- Consent to Appointment of Personal Representative** (Only applicable if the person named in the Will, if any, or the person entitled to appointment, is not applying.)
- Appointment of Resident Agent** if petitioner is not a Maryland resident
- Proof of Execution of Will** if Will lacks an attestation clause
- Information Report** listing trusts, jointly held property, retirement and P.O.D. accounts, gifts made within two years of death, other non-probate property, and real property not located in Maryland
- Notice of Appointment ~ Notice to Creditors** designating an approved newspaper for publication may be required for certain small estates. (Leave dates blank except date of death.)
- Bond** (Required in certain small estates.)
- Paid funeral bill
- Copy of death certificate (available from Division of Vital Records)
- Commissions are not available under a Small Estate administration.
- Petition for Probate with Schedule C attached

A request for a Limited Order to locate the Assets or locate the Will requires the name, address and a statement as to why the limited order is necessary. The limited order will either allow the search for assets titled in the name of the decedent or the entrance of the safe deposit box in the presence of the Register of Wills or authorized deputy to locate the Will for delivery to the office.

Fees will be assessed according to the following schedule. If more than four Letters of Administration are required, an additional fee of \$1.00 each will be charged. The estate shall pay the expense of mailing the Notice of Appointment. Fees shall be assessed on the value of the small estate at the following rates:

Greater than:	But no more than:	The Fee is:
\$ ---	\$ 200	\$ 2
200	5,000	1% of the value of the small estate
5,000	10,000	50
10,000	20,000	100
20,000	50,000	150

## REGULAR ESTATES

Assets subject to administration in excess of \$30,000  
(\$50,000 if the spouse is the sole legatee or heir)

- Petition for Probate with Schedule A attached**
- Notice of Appointment ~ Notice to Creditors** designating an approved newspaper for publication (Leave dates blank except date of death.)
- Bond** (Required by law.)\*
- Consent to Appointment of Personal Representative** (Only applicable if the person named in the Will, if any, or the person entitled to appointment, is not applying.)
- Appointment of Resident Agent** if petitioner is not a Maryland resident
- Proof of Execution of Will** if Will lacks attestation clause
- List of Interested Persons\*\*** (names and addresses of those named in the Will, if any, and those who would inherit if there were no Will as set forth in "How Will My Property Be Distributed If I Die Without A Will?")
- Copy of death certificate (available from Division of Vital Records)

\*In Judicial Probate, this form must be filed immediately after the Court appoints a Personal Representative or a Special Administrator.

\*\*Must be filed (a) within 20 days after appointment of a Personal Representative under Administrative Probate, or (b) at the time of filing a Petition for Judicial Probate.

**It is the duty of every Personal Representative or Special Administrator of a regular estate to timely file the following documents in the Register of Wills Office:**

**Inventory and Information Report**—WITHIN THREE MONTHS from date of appointment, a complete Inventory with Schedules and an Information Report (see #6 under Small Estates) along with the required appraisals, must be submitted. The value of each item shall be fairly appraised as of the date of death and stated in the Inventory. The Personal Representative may appraise corporate stocks listed on a national or regional exchange or over-the-counter securities, debts owed to the decedent, bank accounts, building or savings and loan association shares, and money. All other assets must be appraised by qualified disinterested appraisers. (For persons dying on or after January 1, 1998, an alternate procedure is available for valuing real estate.)

**First Account**—WITHIN NINE MONTHS from the date of appointment, the First Account must be filed. The Account must include the inventoried assets and all activity of the administration. All receipts, including income, sales and redemptions, disbursements, distributions, and value of assets remaining in the hands of the Personal

Representative must be reported. Documentation of transactions is required.

**Subsequent Accounts**—MUST BE FILED as required by law until the estate is closed.

**Petitions for Personal Representative Commissions and Attorneys Fees**—Fees and commissions are subject to Court approval **UNLESS** the person died on or after January 1, 1998 **AND** (1) each creditor, who has filed a claim that is still open, and all interested persons consent in writing to the payment; (2) the combined sum of commissions and attorneys fees does not exceed the amounts provided below; and (3) the signed written consent form states the amounts of the payments and is filed with the Register of Wills. Commissions are computed as follows:

If the property subject to administration is:	The commission may not exceed:
Not over \$20,000	9.0%
Over \$20,000	\$1,800 plus 3.6% of the excess over \$20,000

**Fees**—The following fees will be assessed at the time of filing the First Account. Additional fees will be assessed when filing each subsequent Account if the probate estate increases. The value of the probate estate is the sum of all Inventories, principal and income receipts, and increases realized on a disposition, less decreases realized (other than a distribution to beneficiaries). While the probate fee covers the cost of filing and recording documents in non-controversial estates, additional fees will be charged in controversial estates and for more than twelve Letters of Administration or two certified copies of the Will. The estate shall pay the expense of mailing the Notice of Appointment. If the value of the probate estate is

At least:	But less than:	The Fee is:
\$ 0	\$ 10,000	\$ 50
10,000	20,000	100
20,000	50,000	150
50,000	75,000	200
75,000	100,000	300
100,000	250,000	400
250,000	500,000	500
500,000	750,000	750
750,000	1,000,000	1,000
1,000,000	2,000,000	1,500
2,000,000	5,000,000	2,500
5,000,000	-----	2,500 plus .02% of excess over \$5,000,000

## MODIFIED ADMINISTRATION

For persons dying on or after October 1, 1997, Modified Administration is an option available to a Personal Representative **within three months from the date of appointment**. The process, which is to be completed within twelve months, **is available only if all residuary legatees or heirs are exempt from inheritance tax or the decedent's personal representative and all trustees of any trusts are limited to the decedent's Personal Representative, spouse and children, and if the estate is solvent and sufficient assets exist to satisfy all testamentary gifts. All of the stated persons must file a written consent.** The Personal representative must file an Election and written consent. (Forms may be obtained from the Register of Wills.)