STATE OF MARYLAND
REGISTER OF WILLS FOR MONTGOMERY COUNTY, MARYLAND

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This book is not a do-it-yourself manual. It is a compilation of the various policies and procedures that are in effect for probate proceedings in Montgomery County. These policies and procedures are based on Maryland Statute, Opinions of the Attorney General, letters of advice of the Attorney General and case law. This is intended primarily as a reference for the estate proceeding requirements. It is also intended to clarify what are considered allowable disbursements from estate assets and what the filing requirements are to make such disbursements. This book identifies the information, which the Court generally requests be submitted with a filing, before the Court will issue a ruling on the matter.

One of these books will be given to every member of the Register of Wills team, every Judge in Montgomery County who presides over the Orphans' Court and is available to all persons practicing probate law. The information contained herein will be used by every member of my staff as a reference for the policies and procedures, which they must adhere to in performing their duties. It is my sincere hope that this book will be utilized by our Judges and members of the Bar Association not as instructions on how to perform their duties but rather as a tool.

A member of the public who must go through the probate process is, in a sense, a client to us all. I believe we will each serve our client better if everyone involved is working from the same book.

These policies and procedures are subject to change and may not be applicable to every situation. In an attempt to keep this resource as current and useful as possible it will be updated annually.

My deepest appreciation and gratitude to Judge Patrick Woodward, Dena C. Feeney, Esq., Marcia Fidis, Esq., Richard Lyon, Esq., and the members of my staff including, Margie Beatty, Lynda Hawkins and Jane Gardner for their many hours of dedication in putting this book together.

With hope that this book will prove to be a useful tool to all who use it, I remain

Committed to quality service,

Joseph M. Griffin

Joseph M. Griffin

Table of Contents

General Information……. 1
Definitions…… 4

Chapter One Wills
Applicable Rules and Laws……... 8
Register's Policies and Procedures……. 9

Chapter Two Opening Estates

I Regular Estates
Applicable Rules and Laws……... 12
Register's Policies and Procedures……. 13

II Modified Administration
Applicable Rules and Laws……... 14
Register's Policies and Procedures……. 15

III Small Estates
Applicable Rules and Laws……... 18
Register's Policies and Procedures……. 19

IV Judicial Probate
Applicable Rules and Laws……... 22
Register's Policies and Procedures……. 23

V Foreign Personal Representative
Applicable Rules and Laws……... 24
Register's Policies and Procedures……. 25

Chapter Three Personal Representative

I Qualifications, Duties & Responsibilities
Applicable Rules and Laws……... 26
Register's Policies and Procedures……. 27

II Successor Personal Representative
Applicable Rules and Laws…….. 30
Register's Policies and Procedures……. 31

III Special Administrator
Applicable Rules and Laws……... 32
Register's Policies and Procedures……. 33

IV Resignation of Personal Representative
Applicable Rules and Laws…….. 34
Register's Policies and Procedures……. 35

V Removal of Personal Representative
Applicable Rules and Laws…….. 36
Register's Policies and Procedures……. 37

Chapter Four Guardianship of the Property of a Minor/ Distribution to a Minor
Applicable Rules and Laws (Property)…….. 38
Register's Policies and Procedures……. 40
Guardianship of the Person of a Minor
Applicable Rules and Laws (Person)…..…….. 43
Register's Policies and Procedures……. 44

Chapter Five Non-Probate/ Trusts/ Information Reports Application to Fix Inheritance Tax
Applicable Rules and Laws…….. 47
Register's Policies and Procedures……. 49

Chapter Six Inventories
Applicable Rules and Laws…….. 58
Register's Policies and Procedures……. 59

Chapter Seven Attorney's Fees and Personal Representative's Commissions
Applicable Rules and Laws…….. 63
Register's Policies and Procedures……. 64

Chapter Eight Funeral Expenses
Applicable Rules and Laws…….. 66
Register's Policies and Procedures……. 67

Chapter Nine Accountings/Final Reports/ Distribution/Closing Estates
Applicable Rules and Laws…….. 70
Register's Policies and Procedures……. 72
Sample Guide for Filing Accounts…… 86

Chapter Ten Probate Fees and Taxes
Applicable Rules and Laws…….. 88
Register's Policies and Fee Schedules……..... 89

Chapter Eleven Miscellaneous

I Caveats
Applicable Rules and Laws…….. 96
Register's Policies and Procedures……. 97

II Elective Share
Applicable Rules and Laws…….. 97
Register's Policies and Procedures……. 98

III Requirements of Signing Attorney/ Appearance of Attorneys
Applicable Rules and Laws…….. 99
Register's Policies and Procedures……. 100

IV Disclaimers
Applicable Rules and Laws…….. 101
Register's Policies and Procedures……. 102

V Acceptance of Papers
Applicable Rules and Laws…….. 106
Register's Policies and Procedures……. 107

VI Venue
Applicable Rules and Laws…….. 108
Register's Policies and Procedures……. 109

VII Claims/ Creditors
Applicable Rules and Laws…….. 110
Register's Policies and Procedures……. 111

VIII Show Causes and Extensions
Applicable Rules and Laws…….. 113
Register's Policies and Procedures……. 114

IX Appeals
Applicable Rules and Laws…….. 117
Register's Policies and Procedures……. 118

X Limited Orders
Applicable Rules and Laws…….. 119
Register's Policies and Procedures……. 120

XI Orphans' Court
Applicable Rules and Laws…….. 121
Register's Policies and Procedures……. 122

Appendix Forms
Alphabetical Form Index…….. 123
Numerical Code Form Index……. 126

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* Use Control + F to find a keyword or use the advance search option under the edit menu to find the keyword throughout the entire document.

General Information

Register of Wills Office

50 Maryland Avenue, North Tower 3220
Rockville, Maryland 20850

Hours……..... 8:30 a.m. – 4:30 p.m. Monday through Friday
Main phone number…….……...240-777-9600
Toll free within Maryland……...888-892-2180
Fax number……..240-777-9602
Website.……..…….……http://registers.maryland.gov

Appointments are recommended to open estates in order to promote faster service.

Register of Wills
Joseph M. Griffin

Chief Deputies
Lynda Hawkins
Amera Jones

Financial Analysis Division.……..…...……..……...…240-777-9640

Assistant Chief Deputy
Melissa Seeman

Auditors
Cassie Barton
Katie Denell
Marcos Flores
Nataliya Sanders
D'Mitra Lofton
Laura Nicholson
Jonathon Phelps
Andrew Swink
Reanna Beatty

Questions regarding the following should be directed to this department:

Accounts, Petitions for Fees and Commissions, Petitions for Funeral Expenses, Inheritance Tax on Probate Assets, Distributions, Final Reports, Audit Requests, Information Reports, Inheritance Tax on Non-Probate, Trusts, Joint Accounts, Payable on Death Accounts, IRAs, Any interests less than absolute, Inventories, Appraisals

Computer Systems Division……..…….…….240-777-9600

Systems Administrator Manager
Charlie Keyser

Systems Administrator
Robert Sullivan

Court Division…….……240-777-9690

Assistant Chief Deputy
Mandy Campbell

Courtroom Clerks
Paul Dollahite
Janine Nauman

Questions regarding the following should be directed to this department:

Hearings, Caveats, Miscellaneous Petitions, Show Cause Orders, Subpoenas

Data Processing Division……...……240-777-9670

Assistant Chief Deputy
Ann Rodgers

Data Entry Clerks
Brad Garfield
Alice Orji
Kenneth Payso
T.J. Rodgers
Stacy Taylor
Nancy Jones
Khris Johnson

Questions regarding the following should be directed to this department and appropriate personnel:

Whether an Estate has been Opened, Whether a Document has been Filed and/or Docketed

T.J. Rodgers - Delinquent Filings, Extensions of Time, Mandatory Filing Deadlines, Claims

Finance Division…….……240-777-9600

Iwona Piotrowska

New Proceedings Division……..……240-777-9620

Assistant Chief Deputy
Joe Kelley

Deputies
Olivia Petska
Kim Johnson
Nino Azcuy
Matthew Hewitt
Bridget Novak
Steven Wood
Peggy Ann Pugh
Dylan Rawls

Questions regarding the following should be directed to this department and appropriate personnel:

Wills, Administrative Probate, Judicial Probate, Bonds, Jurisdiction, Letters of Administration, Updated/Additional Letters for a Small Estate

Bridget Novak – Address Changes and Amended Lists of Interested Persons

Records Division…….240-777-9680

Assistant Chief Deputy
Cynthia Schommer

Deputies
Karen Moulton
Michael Para
Albert Stewart

Questions regarding the following should be directed to this department:

Copy Requests, Updated/Additional Letters of Administration in Regular Estates, Exemplified Copies, Certified Copies, General Information from Estate Files

Research Division……..…….....240-777-9600

Deputy
Felicia Park

It is the policy of this office that the guardianship of a minor person be filed in the Circuit Court. 77 Op. Att'y Gen. 41 (1992)

All forms are referenced in the appendix and can be downloaded from the Register of Wills website at www.registers.maryland.gov

The policies and procedures described in this book should not be construed as local rules.

Definitions

Administrative Probate –	*a proceeding instituted by the filing of a petition for probate by an interested person before the register for the probate of a will or a determination of the intestacy of the decedent, and for the appointment of a personal representative* *Estates & Trusts § 5-301*
Certified Mail -	*mail deposited with the United States Postal Service as postage prepaid, return receipt requested, addressed to the addressee at the address last known to the sender* *Md. Rule 6-105(a)*
Child -	*includes a legitimate child, an adopted child, and an illegitimate child to the extent provided by law and, effective October 1, 2012, a child conceived from the genetic material of a person to the extent provided by law* *Estates & Trusts §§ 1-205 through 208*
Code -	*the Annotated Code of Public General Laws of Maryland, Estates and Trusts Article as from time to time amended* *Md. Rule 6-105(c)*
Court -	*the Orphans' Court of a county* *Estates & Trusts § 2-101*
Estate -	*property that is subject to administration under the Estates and Trusts Article as the estate of the decedent* *Tax-General § 7-201(b)*
First-class Mail Return Service Requested -	*mail deposited with the United States Postal Service, postage prepaid, returned free of charge to the sender if the piece cannot be delivered as addressed, the new address or an explanation of the reason for non-delivery attached, regardless of whether the postal service has a change of address order on file for the recipient*
Heir -	*a person entitled to property of an intestate decedent* *Estates & Trusts § 1-101(h)*

Interested Person -	*(1) a person named as personal representative in a will;* *(2) a person serving as personal representative after judicial or administrative probate;* *(3) a legatee in being, not fully paid, whether his interest is vested or contingent;* *(4) an heir even if the decedent dies testate, except that an heir of a testate decedent ceases to be an "interested person" when the register has given notice;* *(5) includes a person as above defined who is (a) a minor or other person under a disability, or (b) the judicially appointed guardian, committee, conservator or trustee for such person, if any, and if none, then the parent or other person having assumed responsibility for such person; and* *(6) an heir or legatee whose interest is contingent solely on whether some other heir or legatee survives the decedent by a stated period is an interested person but only after the other heir or legatee has died within that period* *Estates & Trusts § 1-101(i)*
Issue -	*within the meaning of the intestacy statute and, unless a contrary intention is indicated in a will, issue means every living lineal descendant except a lineal descendant of a living lineal descendant.* *Estates & Trusts § 1-209*
Judicial Probate -	*a proceeding instituted by the filing of a petition for probate by an interested person, or creditor, with the court for the probate of a will or a determination of the intestacy of the decedent, and for the appointment of a personal representative* *Estates & Trusts § 5-401*
Legacy -	*any property disposed of by will, including property disposed of in a residuary clause and assets passing by the exercise by the decedent of a testamentary power of appointment* *Estates & Trusts § 1-101(l)*
Legatee -	*a person who under the terms of a will would receive a legacy; including a trustee but not a beneficiary of an interest under the trust* *Estates & Trusts § 1-101(m)*

Less than absolute interest -	*an interest less than an absolute interest in property, in trust or otherwise including a life estate; an interest for a term of years; a contingent or vested remainder, or executory or reversionary interest that a person other than the decedent creates* *Tax-General § 7-201(c)*
Letters -	*letters testamentary and letters of administration* *Estates & Trusts § 1-101(n)*
Letters of Administration -	*formal document issued by the register of wills appointing one a personal representative of an estate* *Black's Law Dictionary*
Maryland Rules -	*the rules promulgated by the Court of Appeals of Maryland under the authority of the Constitution and laws of Maryland* *Estates & Trusts § 1-101(o)*
Minor -	*a person who has not reached 18 years of age* *Estates & Trusts § 13-101(m)*
Property subject to administration	*includes both real and personal property, and any right or interest therein; refers to (1) all real and personal property of a decedent and (2) any right or interest therein which does not pass, at the time of the decedent's death, to another person by the terms of the instrument under which it is held, or by operation of law* *Estates & Trusts § 1-101(r)*
Property that passes from a decedent	*(1) property that passes, by will or under the intestate laws of the State, at or after the death of a decedent, in trust or otherwise, to or for the use of another person;* *(2) property in which, at death, a decedent had an interest as a joint tenant; or* *(3) except for a bona fide sale for an adequate and full consideration in money or money's worth; property that passes by an inter vivos transfer by a decedent, in trust or otherwise, if* *(a) the transfer is made in contemplation of death;* *(b) the transfer of a material part of the property of the decedent in the nature of a final disposition or distribution is made by the decedent within 2 years before death unless it can be shown not to have been in contemplation of death;* *(c) the transfer is intended to take effect in possession or enjoyment at or after the death of the decedent; or*

(d) under the transfer, the decedent retained any dominion over the transferred property during the life of the decedent, including the retention of:
(1) a beneficial interest;
(2) a power of revocation, absolute or conditional; or
(3) a power of appointment by will or otherwise.
Tax- General § 7-201(d)

Register/Registrar - *an officer who has the custody and charge of keeping records; the register of wills of a county*
Black's Law Dictionary; Estates & Trusts § 2-201(a)

Serious Crime - *generally relating to personal representatives, a crime that reflects adversely on an individual's honesty, trustworthiness, or fitness to perform the duties of a personal representative; includes fraud, extortion, embezzlement, forgery, perjury, and theft*
Estates & Trusts §5-105

Subsequent Interest - *a vested or contingent remainder, executory or reversionary interest, or other future interest that is created by a decedent and will or may vest in possession after the death of the decedent; includes a sole or concurrent subsequent interest*
Tax-General §7-201(e)

Testator - *the person who has made a will*

Will - *(1) a written instrument which is executed in the form prescribed by code and has not been revoked; (2) includes a codicil*
Estates & Trusts §1-101(w)

Chapter One

Wills

Reference	Description
ET § 4-101	Who may make a will
ET § 4-102	Writing; signature; attestation (Amendment effective 10/1/2019)
ET § 4-103	Holographic will
ET § 4-104	Will made outside Maryland
ET § 4-105	Revocation of will
ET § 4-106	Revival of will
ET § 4-107	Incorporation by reference
ET § 4-201	Deposit of will in lifetime of testator
ET § 4-202	Duty of custodian of will upon death of testator
ET § 4-203	Robbery or larceny of will
ET § 4-301	Who may be a legatee
ET § 5-303	Proof of execution of will
ET § 5-304	Finality of action in administrative probate
ET § 5-801	Petition for admission of copy of executed will
ET § 5-802	Filing of petition
ET § 5-803	Consent form
ET § 5-804	Order
ET § 11-112	Treatment of disqualified persons
Rule 6-122	Petitions
Rule 6-151	Filing a will
Rule 6-152	Proof of execution of will
Rule 6-153	Admission of copy of executed will
CR § 8-701	Embezzling, altering will or record
CR § 8-702	Destroying will

References:

ET **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

CR **Annotated Code of Maryland**
Criminal Law

Register's Policies and Procedures

Any person may make a will if they are 18 years of age or older, and legally competent to make a will.

Except for a holographic will or a will made outside Maryland, every will shall be:

- In writing,
- Signed by the testator, or by some other person for the testator, in the presence and by the express direction of the testator, and
- Attested and signed by two or more credible witnesses in the presence of the testator. (ET § 4-102)

Holographic will

A will entirely in the handwriting of a testator who is serving in the armed services of the United States is a valid holographic will if signed by the testator outside of a state of the United States, the District of Columbia, or a territory of the United States even if there are no attesting witnesses.

A holographic will is void one year after the discharge of the testator from the armed services. (ET § 4-103)

Will made outside Maryland

A will executed outside this state is properly executed if it is:

- In writing,
- Signed by the testator, and
- Executed in conformity with Maryland law (ET § 4-102), or the law of the domicile of the testator, or the place where the will is executed. (ET § 4-104)

Revocation of a will

A will, or any part of it, may be revoked, as provided below:

- Subsequent will;
- Destruction;
- Subsequent marriage and issue; or
- Divorce or annulment - specifically related to the interest of the former spouse. (ET § 4-105)

Deposit of will in lifetime of testator

A will may be deposited by the testator, or the testator's agent, for safekeeping with the register of the county where the testator resides. The register shall give a receipt for the will upon the payment of the **filing fee of $5.00.** During the lifetime of the testator a deposited will may be delivered only to the testator, or to a person authorized by the testator in writing to receive the will. (ET § 4-201)

A person wishing to take the will of another must have specific written authorization by the testator. Unless a power of attorney so delineates, the person with such power does not have the authority, under the statute, merely by being the agent under power of attorney to take the will from the register's office.[1]

Filing a will

Promptly after learning of the decedent's death, the custodian of a document appearing to be the last will of the decedent shall file it with the register even if it is not to be offered for probate.

A will to be offered for probate, unless previously filed, shall be filed in conjunction with the filing of a petition for administrative or judicial probate or administration of a small estate. (ET § 4-202)

Proof of execution

If a will does not contain a recital by attesting witnesses of facts constituting due execution, then upon the filing of a verified statement of a person with personal knowledge of the circumstances of execution, whether or not the person was in fact an attesting witness, the register shall assume due execution. (ET § 5-303)

Proof of Execution of Will **(Form 1102)**

Will of No Estate

When there are no probate assets, but the decedent died with a will, a Petition for Will of No Estate is filed with the original will. An Information Report or Application to Fix Tax on Non-probate Assets is also filed.

Petition for Will of No Estate **(Form 1135)**

[1] Letter of advice from the Office of the Attorney General dated July 9, 1986

Admission of copy of executed will

A petition for admission of a copy of a will may be filed with the Court at any time before administrative or judicial probate if:

- The original executed will is alleged to be lost or destroyed;
- A duplicate reproduction of the original executed will, evidencing a copy of the original signatures of the decedent and the witnesses, is offered for admission; and
- All of the heirs at law and legatees named in the offered will execute a consent as set forth in ET § 5-803.

Petition for Admission of Copy of Executed Last Will and Testament **(Form 1430)**

Consent to Probate of Copy of Executed Last Will and Testament **(Form 1429)**

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Regular Estates

Reference	Description
ET § 2-206	Enumeration of fees
ET § 5-301	Nature of proceeding (administrative probate)
ET § 5-302	Action on petition for probate
ET § 5-303	Proof of execution of will
ET § 5-304	Finality of action in administrative probate
ET § 5-801	Petition for admission of copy of executed will
ET § 6-102	Bond
ET § 7-103	Publication of notice of appointment; form
ET § 7-103.1	Notice to creditors
ET § 8-106	Funeral expenses
Rule 6-125	Service
Rule 6-125(c)	Affidavit of attempts to contact, locate and identify interested persons
Rule 6-153	Admission of copy of executed will
Rule 6-301	Petition for probate
Rule 6-311	Notice of appointment
Rule 6-312	Bonds
Rule 6-313	Consent to appointment of personal representative
Rule 6-314	Renunciation
Rule 6-315	Appointment of resident agent
Rule 6-316	List of interested persons
Rule 6-317	Notice to interested persons
Rule 6-321	Appointment of personal representative
Rule 6-322	Letters of administration
Rule 6-331	Publication
Rule 6-342	Personal representative's acceptance and consent
Rule 6-351	Conversion to small estate proceeding

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

If the property of the decedent subject to administration in Maryland is established to have a value in excess of $50,000 ($100,000 if the spouse is the sole legatee or heir), the estate shall be administered as a regular estate (effective for date of death on or after October 1, 2012).

To establish the value of an estate, only the assets held solely in the decedent's name and/or as a tenant in common are considered. The value is determined by the fair market value of the property as of the decedent's date of death.

To open a regular estate the following is required:

Original of the Last Will and Testament and Codicil(s), if any
Copy of the death certificate, or other proof of death
Regular Estate Petition for Probate **(Form 1112)**

Schedule A **(Form 1136)**
List of Interested Persons **(Form 1104)**
Must be filed within 20 days after appointment
Nominal Bond of Personal Representative **(Form 1116)**
May be utilized if bond is expressly excused by the will or by written waiver of all interested persons, OR
Bond of Personal Representative[1] **(Form 1115)**
Utilized if bond is not expressly excused by the will or by written waiver of all interested persons
Notice of Appointment Notice to Creditors Notice to Unknown Heirs **(Form 1114)**

Additional requirements, if applicable:

Appointment of Resident Agent **(Form 1106)**
Required if petitioner is a non-resident of Maryland
Consent to Appointment of Personal Representative **(Form 1118)**
If proper person is not petitioning, consent is required by all interested persons who have greater priority (Form also includes language indicating whether there is a consent to waive bond.)
Waiver of Bond **(Form 1117)**
Must be filed by all interested persons if the will does not excuse bond requirements and the personal representative wishes to serve with a nominal bond
Waiver of Notice **(Form 1101)**
May be filed by any interested person to avoid notice requirements to that interested person
Affidavit of Attempts to Contact, Locate, and Identify Interested Persons **(Form 1151)**
Rule 6-125(c)

Admission of copy of executed will – See Chapter One – Wills
Fees to the register – See Chapter Ten – Probate Fees and Taxes

All forms referenced are located in the appendix.
Please note: Established policies are subject to change and may not be applicable in every situation

[1] A bond is not required if a national banking association as defined in the Financial Institutions Article or a trust company is serving as personal representative.

Chapter Two, Section II

Modified Administration

Reference	Description
ET § 5-702	Election for modified administration
ET § 5-703	Extension of time periods
ET § 5-704	Proceedings after filing election; after-discovered property
ET § 5-705	Form of election
ET § 5-706	Notice of consent
ET § 5-707	Final report
ET § 5-708	Revocation of modified administration
ET § 5-709	Closing of estate
ET § 5-710	Applicability of other provisions of article
ET § 8-106	Funeral expenses
Rule 6-455	Modified administration
Rule 6-456	Modified administration – Extension of time to file final report and to make distribution

References: **ET** **Annotated Code of Maryland Estates and Trusts Article**

Rule **Annotated Code of Maryland Maryland Rules – Volume 1**

Register's Policies and Procedures

An election for modified administration and consent to election for modified administration may be filed by a personal representative of an estate and interested persons within three (3) months from the date of appointment. In a modified administration a formal inventory and accounting are not required. In lieu of an account a less formal verified final report is required. An information report is required within three (3) months from the date of appointment.

Qualifications for Modified Administration ET § 5-702

1. All residuary legatees of a testate decedent and the heirs at law of an intestate decedent are limited to:

   a) The decedent's personal representative;
   b) Individuals or entities exempt from inheritance tax in the decedent's estate under § 7-203(b), (e), and (f) of the Tax-General Article; and
   c) Trusts under which each person who has a current interest in the trust is an individual or entity exempt from inheritance tax in the decedent's estate under § 7-203(b), (e), and (f) of the Tax-General Article *(effective for a date of death on or after October 1, 2013)*;

2. The estate is solvent and sufficient assets exist to satisfy all testamentary gifts;

3. A verified final report under modified administration is filed within 10 months from the date of appointment;

4. Final distribution of the estate can occur within 12 months from the date of appointment; and

5. All residuary legatees of a testate decedent and the heirs at law of an intestate decedent consent to a modified administration as required.

Required Forms

Election of Personal Representative for Modified Administration **(Form 1141)**

Consent to Election for Modified Administration **(Form 1142)**
Filed by all residuary legatees of a testate decedent and the heirs-at-law of an intestate decedent.

Extensions Md. Rule 6-456

The initial time periods for filing a Final Report and for making distribution to each legatee and heir are extended for 90 days on a consent for extension of the time periods signed by the personal representative and each interested person and filed within 10 months from the date of appointment. *(Effective for decedents dying on or after October 1, 2003)*

Effective for a date of death on or after October 1, 2015, the register may extend the time periods for filing the Final Report and making distribution for an additional period not to exceed 90 days on the filing of a request signed by the personal representative and consented to by each interested person and filed before the date of filing the Final Report as extended by the initial request.

Consent to Extend Time to File Final Report and to Make Distribution in a Modified Administration **(Form 1146)**

Request for and Consent to Further Extend Time to File a Final Report and to make Distribution in a Modified Administration **(Form 1152)**

Funeral Expenses ET § 8-106(c)(3)(ii)

For an estate opened on or after October 1, 2015, an allowance by the court is not required when the funeral expenses exceed the applicable statutory allowance of $15,000, and the personal representative includes the expenses on the Final Report.

Revocation ET § 5-708

A modified administration shall be revoked by the:

1. Filing of a timely request for judicial probate;

2. Filing of a written objection to modified administration by an interested person;

3. Filing of a withdrawal of the election for modified administration by a personal representative;

4. Orphans' Court, on its own initiative, or for good cause shown by an interested person or by the register of wills;

5. Failure by the personal representative to timely file the final report under modified administration and make timely distribution; or

6. Failure by the personal representative to comply with any provisions under the Estates and Trusts Article, Title 5, Subtitle 7.

If modified administration is revoked ET § 5-708

1. The register of wills shall mail notice of any revocation by first-class mail, postage prepaid, to each interested person.

2. The personal representative shall:

   a) Proceed under administrative probate; and

   b) File a formal inventory and account with the register of wills within the time periods provided under the Estates and Trusts Article, Title 7; **or,** if the deadline has passed for filing either an inventory or an accounting, file the late document(s) within 30 days from the register's notice of revocation.

Reminders

1. Upon written request to the personal representative by any legatee not paid in full or any heir-at-law of a decedent who died without a will, a formal inventory and account shall be provided by the personal representative to the legatees or heirs of the estate.

2. All claimants are interested persons until fully satisfied.

3. The filing of a disclaimer may disqualify the estate for modified administration, depending upon the final takers of the disclaimed interest.

After-Discovered Property ET § 5-704

If the personal representative discovers property of the decedent after the time for filing a verified final report, the personal representative shall:

1. File a verified final report under modified administration with respect to the after-discovered property within sixty (60) days of the discovery of the property; and

2. Make final distribution of the after-discovered property within ninety (90) days of the discovery of the property.

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Two, Section III

Small Estates

Reference	Description
ET § 5-601	Administration in accordance with subtitle
ET § 5-602	Petition for administration
ET § 5-603	Proceedings after petition
ET § 5-604	Bond, compensation, duties and liability of personal representative
ET § 5-605	After-discovered property
ET § 5-606	Fees
ET § 5-607	Applicability of other provisions of this article
ET § 5-608	No administration on certain estates
ET § 5-801	Petition for admission of copy of executed will
ET § 6-122	Petitions
ET § 8-106	Funeral expenses
Rule 6-125	Service
Rule 6-125(c)	Affidavit of attempts to contact, locate and identify interested persons
Rule 6-153	Admission of copy of executed will
Rule 6-201	Petition for administration of a small estate
Rule 6-202	List of interested persons
Rule 6-204	Renunciation of right to letters
Rule 6-206	Proceeding after petition
Rule 6-207	Letters of administration
Rule 6-208	Form of register's order
Rule 6-209	Notice of appointment
Rule 6-210	Notice of interested persons
Rule 6-211	Proceedings after publication
Rule 6-212	After-discovered property
Rule 6-221	Proceedings under judicial probate
Rule 6-222	Personal representative's bond
Rule 6-313	Consent to appointment of personal representative
Rule 6-315	Appointment of resident agent
Rule 6-351	Conversion to small estate proceeding

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

If the property of the decedent subject to administration in Maryland is established to have a value of $50,000 or less as of date of death of the decedent ($100,000 or less if the spouse is the sole legatee or heir), the estate may be administered as a small estate *(effective October 1, 2012).*

In establishing the value of an estate, only the assets held solely in the decedent's name and/or as a tenant in common are considered.

Effective for a date of death on or after January 1, 1998, the dollar threshold is determined by the fair market value of property less debts of record secured by the property as of date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt.

Small Estate Valuation (ET § 5-601)

10/01/12 – present	$ 50,000	($100,000.00 if spouse is the sole legatee or heir)
07/01/00 – 09/30/12	$ 30,000	($ 50,000.00 if spouse is the sole legatee or heir)
07/01/88 – 06/30/00	$ 20,000	
07/01/82 – 06/30/88	$ 10,000	
07/01/78 – 06/30/82	$ 7,500	
07/01/74 – 06/30/78	$ 5,000	
01/01/70 – 06/30/74	$ 2,000	
Prior to 1970	$ 1,000	

Family Allowance (ET § 3-201)

10/01/13 – present	$10,000 to spouse;	$5,000 for use of each unmarried minor child of the decedent to be distributed according to ET § 13-501
07/01/91 – 09/30/13	$ 5,000 to spouse;	$2,500 for use of each unmarried minor child of the decedent to be distributed according to ET § 13-501
07/01/81 – 06/30/91	$ 2,000 to spouse;	$1,000 for use of each unmarried minor child of the decedent; allowance of unmarried minor child who is not also a child of the surviving spouse to be distributed according to ET § 13-501
07/01/76 – 06/30/81	$ 1,000 to spouse;	$ 500 for use of each unmarried minor child of the decedent
01/01/70 – 06/30/76	$ 1,000 to spouse;	$ 500 for use of each unmarried child under 21 of the decedent and the surviving spouse
Prior to 1970	$ 500 to spouse;	$1,000 to spouse with minor child of decedent

Funeral Allowance (ET § 8-106)

Date Estate is Opened:

10/01/15	-	present	$ 15,000

Date of Death:

10/01/12	-	09/30/15	$ 10,000
01/01/98	-	09/30/12	$ 5,000
07/01/91	-	12/31/97	$ 3,500
07/01/88	-	06/30/91	$ 2,500
07/01/83	-	06/30/88	$ 1,800
07/01/71	-	06/30/83	$ 1,200
Prior to 07/01/71			$ 500

To open a small estate the following is required:

Original of the Last Will and Testament and Codicil(s), if any
Copy of the death certificate, or other proof of death
Small Estate Petition for Administration **(Form 1103)**
Schedule B **(Form 1137)**
List of Interested Persons **(Form 1104)**

Include decedent's heirs and, if decedent died with a will, the personal representative and all legatees (persons who inherit under the will). All heirs must be listed even if decedent dies with a will. Rule 6-202

Filing Fee

See ET § 5-606 for fee to register; and if applicable, cost for publication of Notice of Appointment, Notice to Creditors, Notice to Unknown Heirs in newspaper

Information Report **(Form 1124)**

Due within 3 months after appointment of the personal representative

Additional requirements, if applicable:

Proof of debts of record in conjunction with assets reported
Appointment of Resident Agent **(Form 1106)**

Required if petitioner is a non-resident of Maryland

Consent to Appointment of Personal Representative **(Form 1118)**

If proper person is not petitioning, consent is required by all interested persons who have greater priority. (Form also includes language indicating whether there is a consent to waive bond.)

Small Estate Notice of Appointment Notice to Creditors Notice to Unknown Heirs **(Form 1109)**

Required if there is property remaining after the payment of funeral expenses and allowances ET § 5-603(a)(4)

Bond of Personal Representative **(Form 1115)**

Unless bond is expressly excused by the will or by written waiver by all interested persons, a bond is required if the estate has a gross value of $10,000 or more after the payment of expenses and allowances. ET § 5-604(a)

Waiver of Bond **(Form 1117)**

If a bond of personal representative is required, may be filed by all interested persons to excuse bond.

Affidavit of Attempts to Contact, Locate, and Identify Interested Persons **(Form 1151)**

Rule 6-125(c)

Probate of will

The will is not an enforceable document unless it is admitted to probate, and cannot be admitted to probate unless the Notice of Appointment is published in a newspaper of general circulation.

Publication

The Notice of Appointment is required to be published by the register when it appears that there will be property remaining after payment of fees due the register, expenses of administration (e.g. publication costs and appraisals), allowable funeral expenses and statutory family allowances, or if the petitioner has requested probate of a will even though there may be no property remaining after the payments have been made. Rule 6-206

The register will send by first-class mail, return service requested to each interested person a copy of the Notice of Appointment, together with the Notice to Interested Persons. Rule 6-210

Bond

Unless bond is expressly excused by the probated will or by the written waiver of all interested persons, a person appointed as a personal representative is required to give bond if the estate is established to have a gross value of $10,000 or more after the payment of expenses and allowances under Rule 5-603(a)(2).

Admission of copy of executed will

See Chapter One - Wills

Conversion of estate:

When an estate is converted from a small estate to a regular estate due to increased value of the decedent's estate, the probate of the estate begins anew.[1]

Conversion to a small estate from a regular estate requires the filing of a petition for administration of a small estate prior to the filing of an initial account in the regular estate.

Filing Fees ET § 5-606

See Chapter Ten – Probate Fees and Taxes

.**All forms referenced are located in the appendix.**

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] Letter of advice from the Office of the Attorney General dated October 28, 1980

Judicial Probate

Reference	Description
ET § 5-401	Nature of proceeding
ET § 5-402	When mandatory
ET § 5-403	Notice of request
ET § 5-404	Hearing; witnesses
ET § 5-406	Finality of action in judicial probate
ET § 5-407	Subsequent proceeding
ET § 6-307	Request for judicial probate
Rule 6-221	Proceedings under judicial probate (small estate)
Rule 6-302	Proceedings for judicial probate

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Judicial Probate is a proceeding instituted by the filing of a petition for probate by an interested person, or creditor, with the court for the probate of a will or determination of the intestacy of the decedent, and for the appointment of a personal representative.

The forms required for judicial appointments are those that are applicable for administrative probate. See Chapter Two, Section I – Regular Estate or Chapter Two, Section III – Small Estate

The following will result in referral to the Orphans' Court by the register: ET § 5-402

1. Petitioner not having priority status;
2. The request of an interested person;
3. Petitioner is a creditor;
4. Petition for administrative probate is materially incomplete or incorrect in any respect;
5. The will has been torn, mutilated, burned in part, or marked in a way as to make a significant change in the meaning of the will;
6. It is alleged that an original will is lost or destroyed; [1]
7. At the discretion of the register.

Filing Fees:

1. Controversial fee of $10.00, and
2. Small estate fee, if applicable

Note: The cost of publication of the Notice of Judicial Probate is billed directly to the petitioner by the newspaper.

Notice of Judicial Probate **(Form 1113)**
form prepared by the register of wills

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] For a date of death on or after October 1, 2009, a petition for admission of copy of executed will may be filed at any time before administrative or judicial probate under circumstances set forth in Md. Rule 6-153. (See also ET § 5-801)

Foreign Personal Representative

Reference	Description
ET § 5-501	Letters in Maryland not required
ET § 5-502	Powers of foreign personal representative
ET § 5-503	Notice by foreign personal representative; claims against nonresident decedents
ET § 5-504	Procedure for fixing inheritance tax
ET § 5-505	Lien for payment of taxes
ET § 5-506	Order directing transfer of title to property
Rule 6-315	Appointment of resident agent
Rule 6-501	Application by foreign personal representative to set tax

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

A foreign personal representative administering an estate which has property located in Maryland shall file with the register of the county in which the foreign personal representative believes the largest part (in value) of the Maryland property is located, an Application by Foreign Personal Representative to Set Inheritance Tax, even if the property is exempt from inheritance tax.

Filing requirements of a Foreign Personal Representative:

Copy of appointment and will, if any, authenticated under Title 28 U.S.C. § 1738
This is referred to as an "exemplified copy" or "triple seal copy"
Application by Foreign Personal Representative to Set Inheritance Tax **(Form 1133)**
Appointment of Resident Agent **(Form 1106)**
Required only if foreign personal representative is not a Maryland resident
List of recipients of Maryland property **(Form 1104)**
Notice to Creditors of Appointment of Foreign Personal Representative **(Form 1134)**
Representative
Appraisal or other basis for valuation of real property, leasehold property, or tangible personal property that is taxable in Maryland. TG § 7-225(e)

The forms above that require the signature of the foreign personal representative are signed by the foreign personal representative as "applicant." Letters of Administration are not issued in Maryland to a foreign personal representative.

Authority to Tax TG § 7-202
An inheritance tax is imposed on the privilege of receiving property that passes from a decedent and has a taxable situs in the State. Property having a taxable situs for purposes of TG § 7-202 includes real property and tangible personal property located in the State of Maryland.

The inheritance tax assessed on a foreign estate is based upon the distribution actually made or to be made. For instance, the distributive value of real estate encumbered by a mortgage is the market value of the property less the amount of the mortgage debt.[1]

Nonresident Decedent Tangible Personal Property
The inheritance tax exemption in TG § 7-203(f)(1) for nonresident personal property does not include the receipt of tangible personal property that has a taxable situs in Maryland.
TG § 7-203(f)(2)

Appraisals, Appraisers and Qualifications of Appraiser – See Chapter 6 - Inventories

Court Costs ET § 2-206(p)
For all proceedings involving a foreign personal representative, a single fee of 1% of the gross value of the estate, not to exceed $100, will be assessed (in addition to any applicable inheritance tax).

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] Letter of advice from the Office of the Attorney General dated March 2, 1971

Personal Representative - Qualifications, Duties & Responsibilities

Reference	Description
ET § 5-104	Order of right to letters
ET § 5-105	Restriction of right to letters
ET § 5-106	Appointment
ET § 6-204	Powers of surviving co-personal representative
ET § 6-306	Removal
ET § 7-101	Duties of personal representative generally
ET § 7-102	Possession and control of estate
ET § 7-103.1	Notice to creditors
ET § 7-105	Filing revised and corrected documents
ET § 7-201	Duty to prepare and file inventory
ET § 7-301	Duty to account
ET § 7-401	General powers
ET § 11-112	Treatment of disqualified persons
HG § 5-509	Disposition of body other than by will (Amendments effective 10/1/2019)
Rule 6-315	Appointment of resident agent

References:

ET **Annotated Code of Maryland**
Estates and Trusts Article

HG **Annotated Code of Maryland**
Health-General

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

A personal representative is appointed to marshal the assets and to act as a fiduciary of the estate.

Required qualifications to be appointed as personal representative ET § 5-105

1. Eighteen years of age, or older;
2. A citizen of the United States, or a permanent resident of the United States and the spouse, an ancestor, a descendent of the decedent, or a sibling of the decedent;
3. Mentally competent;
4. Not convicted of a serious crime,[1] *unless the person shows good cause for the granting of letters (effective for date of death on or after October 1, 2014)*; and
5. A resident of Maryland, unless there is a resident agent form on file with the register that designates an appropriate person who resides in the State on whom service of process may be made in the same manner and with the effect as if it were served personally in the State on the nonresident.

   Appointment of Resident Agent **(Form 1106)**

Disqualified persons

A "disqualified person" as defined in ET § 11-112 means a person who feloniously and intentionally kills, conspires to kill, or procures the killing of the decedent. A disqualified person shall be disqualified from serving as a personal representative, guardian, or trustee of a trust created by the decedent. ET § 11-112(b)(3)(vii) *effective for date of death on or after October 1, 2013.*

The guardian of the decedent's minor child, who was not married to the decedent on the date of death or not otherwise related to the decedent, is not entitled to serve as personal representative by virtue of her guardianship without filing for judicial probate.[2]

The right to administer the estate of a deceased relative is a valuable right granted by legislature and cannot be delegated.[3]

Priority to Letters of Administration observed in following order:

1. Personal representative named in the will or codicil admitted to probate;
2. The personal representatives nominated in accordance with a power conferred in a will admitted to probate;
3. The surviving spouse and children of an intestate decedent, or the surviving spouse of a testate decedent;

[1] Serious crime means a crime that reflects adversely on an individual's honesty, trustworthiness, or fitness to perform the duties of a personal representative. It includes fraud, extortion, embezzlement, forgery, perjury, and theft. ET § 5-105

[2] *Courtney v. Lawson*, 97 Md. App. 471, 631 A.2d 102 (1993)

[3] *Langfelder v. Langfelder*, 189 Md. 88, 54 a.2d 312 (1947)

4. The residuary legatees;

5. The children of a testate decedent who are entitled to share in the estate;

6. The grandchildren of the decedent who are entitled to share in the estate;

7. The parents of the decedent who are entitled to share in the estate, subject to ET §§ 3-111 and 3-112

8. The brothers and sisters of the decedent who are entitled to share in the estate;

9. Other relations of the decedent who apply for administration;

10. The largest creditor of the decedent who applies for administration;

11. Any other person having a pecuniary interest in the proper administration of the estate of the decedent who applies for administration; or

12. Any other person.

Persons in categories 10 through 12 above who petition for appointment are referred to the orphans' court for advice on whether these appointments must be made through judicial probate.

Duties of a personal representative:

A personal representative is a fiduciary. The personal representative is under a general duty to settle and distribute the estate of the decedent in accordance with the terms of the will and the estates of decedents law as expeditiously and with as little sacrifice of value as is reasonable under the circumstances.

The personal representative shall use the authority conferred by the Estates and Trusts Article, by the terms of the will, by orders in proceedings to which the personal representative is party, and by the equitable principles generally applicable to fiduciaries, fairly considering the interests of all interested persons and creditors. ET § 7-101

Responsibilities and general powers of personal representative:

In the performance of the personal representative's duties pursuant to ET § 7-101, a personal representative may exercise all of the power or authority conferred by statute or in the will, without application to, the approval of, or ratification by the court.

Pursuant to ET § 7-401, in addition to the power or authority contained in the will and to other common-law or statutory powers, the personal representative's powers include the following:

1. Hold assets;

2. Hold securities in the name of a nominee, in which case the personal representative is liable for a wrongful act of the nominee in connection with the asset;

3. Receive assets and deposit funds;

4. May deposit assets in restricted accounts, so that assets cannot be withdrawn or transferred without the written consent of the surety on the bond, or an order of court;

5. Satisfy charitable pledges;
6. Pay or compromise claims; pay funeral expenses; pay taxes;
7. Insure property;
8. Vote stocks; sell or exercise stock rights; exercise options in a life insurance policy
9. Sell, purchase or otherwise deal with property; pay encumbrances;
10. Perform contracts;
11. Continue business;
12. Employ specialists;
13. Prosecute or defend litigation;[1]
14. Continue business, perform contracts; and
15. Make distribution

When a person within a class of persons eligible to be personal representative is petitioning to be appointed, the register may require consents from other persons in that class. Generally, this will occur when the register has reason to believe the appointment will generate controversy and there is a need for court intervention.[2]

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] Effective October 1, 2014 a personal representative may request criminal injuries compensation, restitution, or any other financial property interest for a decedent who was a victim of a crime. ET § 7-401(y)(2)
[2] Letter of advice from the Office of the Attorney General dated July 22, 1993

Chapter Three, Section II

Successor Personal Representative

Reference	Description
ET § 6-202	Powers and duties of successor personal representative
ET § 7-205	Inventory of successor personal representative
Rule 6-451	Resignation of personal representative
Rule 6-451(c)	Account of resigning personal representative
Rule 6-451(d)	Inventory of successor personal representative

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

The appointment of a successor personal representative is required when the personal representative is deceased, wishes to resign, or is removed.

A successor personal representative has the same powers and duties to complete the administration of the estate as the original personal representative, including the powers granted in the will, but excluding any power expressly made personal to the personal representative named in the will.

A personal representative who wishes to resign before the approval of the final account must file with the register a statement of resignation and a certificate that a notice of intention to resign was served on all interested persons at least 20 days prior to the filing of the statement.

If no one applies for appointment as successor personal representative or special administrator before the filing of the statement of resignation by the personal representative and an appointment is not made within the 20-day period, the resigning personal representative may petition the court for the appointment of a successor personal representative.

Within three months after appointment, the successor personal representative must file either a new inventory to replace the one filed by the former personal representative or file a written consent to be answerable for the assets as listed and valued in the inventory of the former personal representative or retained in the most recent account filed by the former personal representative.

Please note: Established policies are subject to change and may not be applicable in every situation.

Special Administrator

Reference	Description
ET § 6-401	Appointment; qualifications
ET § 6-402	Bond
ET § 6-403	Powers and duties
ET § 6-404	Termination of appointment
Rule 6-454	Special administration

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

The court may appoint a special administrator

1. Whenever it is necessary to protect the estate property prior to the appointment and qualification of a personal representative, or

2. Upon the termination of appointment of a personal representative and prior to the appointment of a successor personal representative following a vacancy in the position of the personal representative.

The appointment of a special administrator may be initiated by the court, the register, or upon the filing of a petition of an interested person, creditor, the personal representative of a deceased personal representative, or the person appointed to protect the estate of a personal representative under a legal disability.

A "suitable" person may be appointed as a special administrator at the court's discretion. However special consideration shall be given to persons who will or may ultimately be entitled to appointment as personal representative and are immediately available for appointment. Notice of the appointment of a special administrator is not required unless directed by the court.

The bond requirements for a special administrator and any other provisions regarding a personal representative's bond shall apply equally to a special administrator.

The special administrator shall assume any unperformed duties required of a personal representative concerning the preparation and filing of inventories, accounts and notice of filing accounts, and proposed payments of fees and commissions. The special administrator shall collect, manage, and preserve property of the estate and shall account to the personal representative subsequently appointed. The special administrator shall have such further duties and powers as ordered by the court.

The appointment of a special administrator terminates upon the appointment of a personal representative.

The powers of a special administrator may be suspended or terminated in the same manner as those of a personal representative.

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Three, Section IV

Resignation of Personal Representative

Reference	Description
ET § 6-305	Resignation
ET § 10-101	Effect of final approval of final account
Rule 6-421	Termination of appointment of personal representation
Rule 6-451	Resignation of personal representative

References: **ET** **Annotated Code of Maryland Estates and Trusts Article**

Rule **Annotated Code of Maryland Maryland Rules – Volume 1**

Register's Policies and Procedures

A personal representative who wishes to resign before the filing and approval of the final account must file with the register a statement of resignation and a certificate of notice of intention. The certificate must indicate that the notice of intention to resign was served on all interested persons at least 20 days prior to the filing of the statement.

The resignation of a personal representative is effective upon the appointment of a successor personal representative. The resigning personal representative shall immediately account for and deliver estate property (within 30 days) to the successor personal representative or special administrator.

The resignation of a co-personal representative is effective upon the giving of notice and the filing of the statement with the register as provided in ET § 6-305(d).

The final approval of the final account automatically closes the estate. If the final account so requests, it also automatically terminates the appointment of the personal representative.
ET § 10-101

Please note: Established policies are subject to change and may not be applicable in every situation.

Removal of Personal Representative

Reference	Description
ET § 6-301	Suspension
ET § 6-302	Termination
ET § 6-303	Effect of termination
ET § 6-306	Removal
Rule 6-452	Removal of a personal representative
Rule 6-453	Suspension of powers and duties of a personal representative

References: **ET** **Annotated Code of Maryland Estates and Trusts Article**

Rule **Annotated Code of Maryland Maryland Rules – Volume 1**

Register's Policies and Procedures

The removal of a personal representative may be initiated by the court or the register, or on petition of an interested person.

The court shall issue a show cause order and conduct a hearing for the purpose of determining whether the personal representative should be removed.

Upon appointment of a successor personal representative or special administrator, the court shall order the personal representative who is being removed to 1) file an account with the court and deliver the property of the estate to the successor personal representative or special administrator or, 2) file an affidavit in lieu of account if the estate has had no assets during the accounting period.

A personal representative shall be removed from office by the court for the following:

1. Misrepresentation of material facts in the proceedings leading to the appointment;
2. Willful disregard of an order of the court;
3. Inability, with or without fault, to discharge the duties and powers effectively;
4. Mismanagement of property;
5. Failure to maintain on file with the register a currently effective designation of an appropriate local agent for service of process; or
6. Failure, without reasonable excuse, to perform a material duty pertaining to the office.

Note: After notice of the hearing has been given to the personal representative, he may exercise only the powers of a special administrator as permitted by ET § 6-403. ET § 6-306(c)

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Four

Guardianship of the Property of a Minor/Distribution to a Minor

Reference	Description
ET § 9-109	Distribution to a minor
ET § 11-112	Treatment of disqualified persons
ET § 11-114(b)	Prohibited appointments as guardian of minor or disabled person
ET § 13-201	Appointment of guardian
ET § 13-202	Venue
ET § 13-203	Preservation and application of property
ET § 13-204	Authorization of specific transaction without appointment of guardian
ET § 13-206	Guardian generally
ET § 13-207	Persons entitled to appointment as guardian
ET § 13-208	Bond of guardian
ET § 13-209	Inventory and accounting
ET § 13-209.1	Form and limits of guardianship accounts
ET § 13-210	Petition for orders granting relief
ET § 13-211	Procedure in protective proceedings
ET § 13-212	Degree of care and skill of guardian
ET § 13-213	Powers
ET § 13-214	Powers and duties of guardian in distribution
ET § 13-215	Limitation of powers of guardian imposed by will or court
ET § 13-216	Liability for breach of fiduciary duties; rights of purchasers
ET § 13-217	Recording
ET § 13-218	Compensation and expenses of guardian
ET § 13-219	Protection of person dealing with guardian
ET § 13-220	Termination of appointment of guardian
ET § 13-221	Judicial proceedings for termination
ET § 13-222	Powers of foreign fiduciaries
ET § 13-301	Estates and Trusts –Maryland Uniform Transfers to Minors Act
ET § 13-305	Irrevocable transfer by personal representative or trustee
ET § 13-306	Irrevocable transfer in absence of express authority
ET § 13-318(d)	Designation of successor upon death or other lapse of custodian
ET § 13-501	Payment or delivery of money or chattels
ET § 13-502	Deposit of money distributable from trust, estate, or other source
ET § 13-503	Powers exercisable directly by minors
ET § 13-504	Release of financial institution
ET § 15-102	Powers of a fiduciary
Rule 10-104	Show cause orders
Rule 10-106	Appointment of attorney or investigator
Rule 10-108	Orders
Rule 10-111	Petition for guardianship of minor
Rule 10-113	Disqualifying offenses; waiver
Rule 10-301	Petition for appointment of a guardian of property
Rule 10-302	Service; notice
Rule 10-304	Hearing
Rule 10-304.1	Appointment of guardian – criteria; order
Rule 10-305	Administration of guardianship of the property
Rule 10-701	Scope

Rule 10-702	Bond – fiduciary estate
Rule 10-703	Compromise of claim or dispute
Rule 10-704	Titling of assets
Rule 10-705	Restricted accounts
Rule 10-706	Accounting
Rule 10-707	Inventory and information report
Rule 10-708	Fiduciary's account
Rule 10-709	Transfer of fiduciary estate to a foreign fiduciary
Rule 10-710	Termination of a fiduciary estate - Final distribution
Rule 10-711	Resignation of fiduciary and appointment of substituted or successor fiduciary
Rule 10-712	Removal for cause or other sanctions
Rule 16-907	Case Records – required denial of inspection – certain categories

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 2

Register's Policies and Procedures

Any interested person may file a petition requesting a court to appoint a guardian of the property of a minor. The guardianship should be filed in the county where the minor resides. If the minor does not reside in Maryland, the petition for the guardianship is filed in the county where any part of the property is located.

To establish a guardianship of the property the following is required:

Petition for Guardianship **(Form 1313)**
Rule 10-301; Rule 10-111
Copy of birth certificate, or other proof of age
Show Cause Order **(Form 1322)**
If the minor is under the age of 10 years, service upon the minor may be waived. Rule 10-302
Notice to Interested Persons **(Form 1325)**
Order Appointing Guardian of the Property **(Form 1323)**
Rule 10-108; guardian to complete orientation program:
https://www.courts.state.md.us/family/guardianship/guardianorientationprogram
Filing Fee - $20.00

Additional requirements, if applicable:

Guardianship Bond **(Form 1317)**
The court may order a bond for any guardianship; generally it is not required if the assets: (a) do not exceed $10,000.00 in value; (b) cannot be transferred by the guardian without court approval; and (c) consist only of cash deposited in a restricted account, securities or real property.

Restricted Account Form **(Form 1319)**
If ordered by the court, the guardian shall file proof of the opening of a restricted account

Required Filings:

Inventory/Information Report **(Form 1318)**
Within 60 days after jurisdiction has been assumed or a guardian has been appointed, the guardian shall file an inventory and information report

Guardian's Account **(Form 1320)**
The guardian shall file an account each year. The end of the accounting year is the anniversary of the date upon which the court assumed jurisdiction over the estate or appointed the guardian.

The account shall be filed not later than 60 days after the end of the accounting year, unless the court extends the time for good cause shown.

Copies of supporting documentation regarding all financial activity incurred during the accounting period should be provided with the account.

Prohibited appointments as guardian of the property of a minor

Unless good cause is shown for the appointment, a court may not appoint, as a guardian of the property of a minor person, a person who has been convicted of a crime that reflects adversely on an individual's honesty, trustworthiness, or fitness to perform the duties of a guardian of the property of a minor, including fraud, extortion, embezzlement, forgery, perjury, and theft.
ET § 11-114(b)

Designation of a guardian by minor

After the 16th birthday of a minor, a minor may designate a guardian of the property of the minor.
Rule 10-301(e)

Designation of a Guardian of the Property by a Minor **(Form 1314)**

Guardian fees

When a minor dies, the guardian shall pay from the estate all commissions, fees and expenses shown on the court-approved guardianship account (before delivering the balance to the personal representative).[1]
ET § 13-214(c)(3)

Disclaimer on behalf of minor

ET § 13-203(c)(2)(ii)
ET § 13-204(a)

Grounds for the termination of a guardianship shall include:

1. The occurrence of the event specified in the instrument creating the estate;
2. The distribution by the guardian of all remaining assets of the estate in a manner authorized by the instrument creating the estate;
3. The attainment by a minor of the age of majority;
4. The emancipation of a minor who has not attained the age of majority;
5. The death of a minor; or
6. Any other good cause for termination.

Within **45 days** after the guardian discovers that the grounds for termination exist, the guardian shall file a petition requesting the court to terminate the estate. If the guardian has not timely filed the petition, an interested person may file a petition requesting the court to terminate the estate.

[1] Letter of advice from the Office of the Attorney General dated July 23, 2013

<u>The petition shall be signed and verified and contain the following</u>:

1. Petitioner's interest in the estate;
2. Name and address of each interested person entitled to notice of the petition;
3. Statement of facts establishing the grounds for termination; and
4. Documentation as set forth in Rule 10-710(e).

If the petitioner is the guardian, the petitioner shall file with the petition a final account with the proposed final distribution of any remaining assets of the estate. The accounting shall cover any period which has not been previously covered by an annual account.

The petitioner shall give notice of the filing to persons named as distributees in the proposed final distribution, to other persons entitled to notice of the account, and to all other persons designated by the court. The notice shall consist of mailing by ordinary mail a copy of the petition and a show cause order issued pursuant to Md. Rule 10-104.

All forms referenced are located in the appendix

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Four

Guardianship of the Person of a Minor

Reference	Description
ET § 11-114(a)	Prohibited appointments as guardian of minor
ET § 13-101	Definitions
ET § 13-102	Purposes and construction
ET § 13-103	Verification
ET § 13-104	Notice
ET § 13-105	Jurisdiction
ET § 13-106	Orphans' court
ET § 13-107	Register of wills
ET § 13-701	Testamentary appointment of guardian of a minor
ET § 13-702	Court appointment of guardian of a minor or representative of minor crime victim
ET § 13-703	Bond; accounting; compensation
Rule 10-101	Applicability of title; jurisdiction
Rule 10-103	Definitions
Rule 10-104	Show cause orders
Rule 10-105	Waiver of notice
Rule 10-106	Appointment of attorney or investigator
Rule 10-107	Assessment and waiver of fees and costs – Guardianships
Rule 10-108	Orders
Rule 10-109	Transfer of action
Rule 10-110	Combination of guardianship petitions
Rule 10-111	Petition for Guardianship of Minor
Rule 10-113	Disqualifying offenses; waiver
Rule 10-201	Petition for appointment of a guardian of person
Rule 10-202	Certificates and Consents
Rule 10-203	Service; notice
Rule 10-203(c)	Affidavit of attempts to contact, locate, and identify interested persons
Rule 10-205	Hearing
Rule 10-206(f)	Annual Report – Guardianship of a minor
Rule 10-207	Resignation of guardian of the person and appointment of substituted or successor guardian
Rule 10-209	Termination of a guardianship of the person

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 2

Register's Policies and Procedures

By testamentary appointment

When appointed by surviving parent in a will, the guardian need not be approved by any court. ET § 13-701

By court appointment

If neither parent is serving as guardian of the person and no testamentary appointment has been made, on petition by any person interested in the welfare of the minor, and after notice and hearing, the court may appoint a guardian of the person of an unmarried minor.

If the minor has attained the age of 14, the court shall appoint a person designated by the minor unless the decision is not in the best interest of the minor. ET § 13-702

**Note - A statement of parental consent to the appointment of a guardian may be required by the court.*

Venue

If the minor is a resident of Maryland, the petition shall be filed in the county where the minor resides. If the minor is not a resident of Maryland, a petition may be filed in any county in which the person is physically present. Rule 10-201(b)

Jurisdiction ET § 13-105; Rule 10-109

1) Orphans' court and circuit court have concurrent jurisdiction over guardianship of the person of a minor.

2) Orphans' court may have jurisdiction over guardianship of the person of a minor if the presiding judge is a member of the bar.

3) Orphans' court may transfer the matter to the circuit court on finding that the best interests of the child require utilization of the equitable powers of the circuit court.

4) Costs of transfer may be waived.

Prohibited appointments as guardian of minor

Unless good cause is shown for the appointment, a court may not appoint, as a guardian of the person of a minor or disabled person, a person who has been convicted of:

1) A felony;

2) A crime of violence, as defined in ET § 14-101 of the Criminal Law Article;

3) An assault in the second degree; or

4) A sexual offense in the third or fourth degree or attempted rape or sexual offense in the third or fourth degree. ET § 11-114(a)

To establish a guardianship of the person the following is required:

Petition for Guardianship
In compliance with Rule 10-201(b) and 10-111

Guardianship Show Cause Order (directing a person to show cause in writing on or before a specified date why the court should not take the action described in the order)
Rule 10-104 and 10-203

If minor is under the age of 10 years, service of the show cause order may be waived.
Rule 10-203(a)

Notice to Interested Persons
Rule 10-203(b), (c) and (d)

Hearing
If no response to the show cause order is filed, the court may rule on the petition.

If an objection to the relief requested in the show cause order is filed, the court shall set the matter for a hearing. Rule 10-205

Order Appointing Guardian of the Person
In compliance with Rule 10-108, guardian to complete orientation program:
https://www.courts.state.md.us/family/guardianship/guardianorientationprogram

Filing Fee - $20.00

Designation of a guardian by minor

After a minor's 14th birthday, a minor may designate a guardian of the minor's person.
Rule 10-201(e)

Designation of a Guardian of the Person by a Minor **(Form 1314)**

Parent's consent to guardianship of a minor

If guardianship of a minor child is sought, consent of each parent shall be obtained if possible. If a parent's consent cannot be obtained because the parent cannot be contacted, located, or identified, an affidavit of attempts to contact, locate or identify must be filed.
Rule 10-202(b)(1) and (2)

Parent's Consent to Guardianship of a Minor **(Form 1343)**

Affidavit of Attempts to Contact, Locate, and Identify Interested Persons **(Form 1151)**

Combination of guardianship petitions

A petition for the appointment of a guardian of the person of a minor may also include a request for the appointment of a guardian of the property of the minor. Rule 10-110

The petition must include the additional information as required under Rule 10-301.

Bond; accounting; compensation

The guardian of the person of a minor is not required to post bond or to file any accounts.

Unless otherwise provided by the will appointing a guardian of the person, the guardian shall not be entitled to any compensation. ET § 13-703

Annual report

A guardian of the person of a minor shall file an annual report. Rule 10-206(f)

Annual Report of Guardian of the Person, who is a Minor **(Form 1342)**

Resignation of guardian and appointment of substitute or successor guardian

A petition to resign may be filed by a guardian of the person who has exercised no control over any property of the minor. Petition shall state the reasons for the resignation and may request the appointment of a substitute or successor guardian. Rule 10-207

Termination of guardianship of the person Rule 10-209

Termination not requiring prior notice-

1) Petition filed in conformity with Rule 10-209 – the court shall terminate a guardianship of the person without prior notice upon finding that either the
   a. minor has attained the age of majority, or
   b. minor has died

2) Petition may be filed by a minor or by the guardian of a minor. It shall contain, or be accompanied by either a copy of the minor person's birth certificate or other proof of age or a certified copy of the minor's death certificate.

3) Minor may file a petition at any time after age of majority (18); a guardian shall file within 45 days after discovery that grounds for termination exist.

Termination requiring notice-

1) A guardianship of the person may be terminated upon the filing of a petition if the court, after notice and hearing, finds that either of the following grounds exists:
   a. the emancipation of a minor who has not attained the age of majority; or
   b. any other good cause for termination.

   If the termination is because of a marriage of the minor, the petitioner shall file with the petition a copy of the marriage certificate.

2) Within 45 days after the guardian discovers that grounds for termination may exist, the guardian shall file a petition requesting the court to terminate the guardianship. At any time after discovery of the grounds for termination, the minor or any other interested person may file a petition requesting the court terminate the guardianship.

3) Petition must be in compliance with Rule 10-209(c).

All forms referenced are located in the appendix.
Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Five

Non-Probate/Trusts/Information Reports

Reference	Description
ET § 1-301	All property of decedent; devolution at death
ET § 7-202	Appraisals
ET § 7-224	Information Report
ET § 9-203	Effect of disclaimer
ET § 9-209(c),(d)	Delivery and effectiveness
ET § 11-112	Treatment of disqualified persons
ET § 14-301	General enforcement
ET § 14-302	Uniform charitable trusts administration act
ET § 14-303	Prohibited acts
ET § 14-304	Amendment of instrument to conform to Internal Revenue Code
ET § 14-305	Distributions
ET § 14-306	Judicial determination concerning application of §§ 14-303 and 14-305
ET § 14-307	Rights and powers of courts and Attorney General
ET §§ 14.5-101 thru 14.5-1006	Maryland Trust Act (Amendment to § 14.5-103 & 14.5-415 effective 10/1/2019)
ET § 14.5-111	Nonjudicial settlement agreements
ET § 14.5-508	Trust property subject to claims of creditors or assigns
ET § 14.5-604	Partial revocation by divorce or annulment
ET § 15-503	Determination and distribution of net income
ET §§ 15-601 thru 15-620	Maryland Fiduciary Access to Digital Assets Act
TG § 7-202	Imposition of tax
TG § 7-203	Exemptions
TG § 7-204	Tax rate
TG § 7-207	In general (valuation of property that passes from decedent)
TG § 7-208	Concurrent absolute and less than absolute interests
TG § 7-209	Method to value concurrent absolute and less than absolute interests
TG § 7-210	Subsequent interests
TG § 7-211	Election for special valuation
TG § 7-214	Determinations by register
TG § 7-215	Tax payment in general
TG § 7-216	Person required to pay tax; source
TG § 7-217	Time of payment
TG § 7-218	Alternative payment schedule
TG § 7-219	Prepayment of tax
TG § 7-220	Effects of prepayment on subsequent invasion of corpus

TG § 7-221	Payment of disqualification of specially valued property; certificate of nondisqualification
TG § 7-224	Information report
TG § 7-225	Inventory
Rule 6-107	Extension of time
Rule 6-404	Information report
Rule 6-405	Application to fix inheritance tax on non-probate assets

References:

ET **Annotated Code of Maryland**
Estates and Trusts Article

TG **Annotated Code of Maryland**
Tax-General Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Non-probate assets are assets in which the decedent held a less than absolute (or whole) interest at date of death or assets that had a designated beneficiary at death. These assets are not distributed according to the decedent's will or the laws of intestacy, but according to the terms of the instrument, such as a contract or title that governs the disposition of the property.

Non-probate assets include property (real or personal) held in joint tenancy, accounts with a pay-on-death (POD) beneficiary or transfer-on-death (TOD) beneficiary, assets held in a living trust, and retirement plans.

When an interest in a non-probate asset passes from a decedent to a person not exempted from inheritance tax pursuant to TG § 7-203, the interest is reported to the register on the Information Report or the Application to Fix Tax on Non-Probate Assets.

The inheritance tax is imposed on the privilege of receiving property that passes from a decedent. TG § 7-201(d) (1) (iii) (3) and (4) defines "property that passes from a decedent" to include property in which the transfer is intended to take effect and possession or enjoyment at or after the death of the decedent.

The tax laws in effect as of the date of death of the decedent control the taxable event and will determine all present and future tax liabilities.[1] Refer to TG § 7-203 applicable for the date of death or contact the register for information.

Information Report **(Form 1124)**

If a personal representative is appointed, this form must be filed within three months after appointment. Rule 6-404; TG § 7-224
Form must be signed by the personal representative(s).

OR

Application to Fix Tax on Non-probate Assets **(Form 1125)**

If no personal representative has been appointed, this form must be filed within 90 days of the decedent's death. Rule 6-405
The form can be signed by any distributor or recipient.

Determination of Inheritance Tax

Authority to tax TG § 7-202
Exemptions from tax TG § 7-203
Tax rate TG § 7-204
Concurrent absolute and less than absolute interests TG § 7-209

[1] *State v. Safe Deposit & Trust Co*., 132 Md. 251 (1918); *Lilly v. State*, 156 Md. 94 (1928); *Safe Deposit & Trust Co. v. Bouse*, 181 Md. 351, 29 A.2d 906 (1943); 42 Op. Att'y General 384, 385 (1957)

Valuation of Assets

The date of death values of non-probate assets are determined by using the same guidelines for filing the Inventory as set forth in ET § 7-202. See Chapter 6 – Inventories.

The alternate value allowed by the Internal Revenue Service for purposes of the Federal estate tax return (Form 706) is not allowed for Maryland inheritance tax purposes.[1]

Disclaimer of Interest in a Non-Probate Asset

See Chapter Eleven, Section IV - Disclaimers

Subsequent Reports

If after filing the report required by TG § 7-224(a) the personal representative discovers an omission from the report, the personal representative immediately shall report the omitted property to the register. TG § 7-224(b)

Filing Revised and Corrected Documents

Whenever a personal representative discovers that a document previously filed by him or a predecessor personal representative is incomplete or erroneous, he shall promptly file a revised and corrected document with the register, reciting the correct information if known by him. ET § 7-105

Any asset deleted from an Inventory or Final Report because it was later determined to be a non-probate asset must be reported on an amended or supplemental information report if the decedent's interest passes to a person not exempted from inheritance tax.

All forms referenced are located in the appendix.

Please note policies established are subject to change and may not be applicable in every situation.

[1] Letter of advice from the Office of the Attorney General dated January 26, 1994

INFORMATION REPORT

Duty to Prepare and File Information Report

Within 3 months after the grant of letters of administration, a personal representative shall prepare and file with the register who issued the letters of administration a written report that:

(a) Is made under oath;

(b) Lists the property as defined in TG § 7-201(d)(1)(ii) and (iii) that passes from a decedent; and

(c) If appropriate, states that the personal representative does not have knowledge of any property or transfer of property required to be reported under (b) above.

All personal representatives must file an Information Report even if inheritance taxes are not applicable.

The tax laws in effect as of the date of death of the decedent control the taxable event and will determine all present and future tax liabilities.[1] Refer to TG § 7-203 applicable for the date of death or contact the register for information.

Absent a clear directive in the decedent's will that the inheritance tax on non-probate property is to be paid from the residue of the probate estate, the recipient of the non-probate property is responsible for the payment of the inheritance tax. For billing purposes, the address of the recipient must be provided on the Information Report.

The trustee of the decedent's *inter vivos* trust is responsible for the payment of inheritance tax, the individual beneficiaries are not billed separately.

For failure to pay the tax when due, the register shall assess interest on the unpaid tax from the due date to the date on which the tax is paid (TG § 13-601(c)). A penalty may be assessed by the register for unpaid inheritance tax (TG § 13-701(c)).

Information Report (Form 1124)

Contents of Information Report TG § 7-201

Question 1(a): TG § 7-201(d)(ii)
Unless the property was held jointly with a person or persons exempted from inheritance tax under TG § 7-203, the personal representative must report the date of death value of the property in which a decedent had an interest as a joint owner. If any interest passes to a person not exempted from inheritance tax, provide the name, address and relationship of each joint owner to the decedent. If a lien or encumbrance is secured by the property, provide evidence of the balance due as of the decedent's date of death. Expenses may not be deducted from joint accounts prior to assessing inheritance tax.

[1] *State v. Safe Deposit & Trust*, 132 Md. 251, 103 A. 435 (1918); *Lilly v. State*, 156 Md. 94, 143 A. 661 (1928); *Safe Deposit & Trust v. Bouse*, 181 Md. 351, 29 A.2d 906 (1943); 42 Op. Att'y Gen. 384 (1957)

Joint tenants may state under oath that an asset was held jointly for "convenience only." When this occurs the personal representative must then report the asset on the decedent's Inventory or Final Report as an asset of the probate estate. The personal representative may not make a "convenience only" statement on behalf of a joint owner other than himself.

The decedent's interest in an asset held as a tenancy in common is considered an asset of the decedent's estate. The decedent's interest must be reported on the Inventory or Final Report.

Question 1(b): The personal representative must report the decedent's interest in all real and leasehold property located outside the state of Maryland, for informational purposes only. The register does not require that out-of-state real property be assigned a value.

Question 2: TG § 7-201(d)(iii)
Unless the property was transferred to a person exempted from inheritance tax under TG § 7-203, the personal representative must report any transfer made by a decedent within 2 years before death except for those made by a bona fide sale for an adequate and full consideration in money or money's worth.

A transfer made within 2 years prior to death that resulted in joint ownership is also reportable under Question 2 if the transfer resulted in an interest passing to a person not exempted from inheritance tax. The value of the interest at the time of transfer is subject to inheritance tax. In addition, the remaining survivorship interest that passes at the decedent's death is subject to inheritance tax.

Register's policy with regard to transfers:
If the personal representative contends that the transfer was not made in contemplation of death or did not constitute a material part of the decedent's estate, an affidavit to that effect must be filed.
If the personal representative contends that the decedent established a pattern of annual gift giving in amounts of $10,000.00 or less, he must provide evidence of that pattern of gift giving. The pattern must be for at least three years prior to death. Any acceleration in the pattern of gift giving or significant increase in the amounts gifted is generally taxable.

Question 3: Interests less than absolute include the retention by the decedent of any interest in any asset either real or personal which passes to another as a result of the decedent's death. Any such interest that passes to a person not exempted from inheritance tax under TG § 7-203 is reportable as a non-probate asset. Examples of less than absolute interest include: accounts payable on death (POD) or transfer on death (TOD) to another person; retirement accounts; annuities or other public or private employee pension or benefit plans; any interest in real or personal property for life or for a term of years, and any other interest in real or personal property held in trust, or otherwise.

An account with a payable on death (POD) or transfer on death (TOD) beneficiary is valued as of the decedent's date of death. Indicate the relationship of the beneficiary to the decedent in addition to the account balance.

Note: When a vehicle owner designates a beneficiary to receive ownership of their Maryland titled vehicle and a Beneficiary Designation for Vehicle Title (Maryland Motor Vehicle

Administration Form VR-471) is signed prior to the owner's death, the transfer of the vehicle upon the death of the owner is reportable when the beneficiary is not exempted from inheritance tax.

When an annuity passes at death to a person not exempted from inheritance tax, provide the following: relationship of the beneficiary to the decedent; frequency of payments (monthly, quarterly, etc.); amount of each payment and the period of time (term certain) it is payable. If the term is for life, the date of birth of the beneficiary is required.

The receipt of an annuity or other payment under a public or private employees' pension or benefit plan is not reportable if it would not be taxable for federal estate tax purposes.[1]
TG § 7-203(a)

Retirement plans are reported at the gross date of death value. The income tax owed by the beneficiary on receipt of a retirement plan cannot be deducted to determine the value of the property subject to inheritance tax.[2]

When the designated beneficiary is the decedent's estate, it is considered an asset of the probate estate and is reported on the Inventory or the Final Report.

When an interest in the decedent's *inter vivos* trust passes to a person not exempted from inheritance tax, a copy of the trust instrument and all amendments must be submitted for review. (The trust documents will not be made public record and will be shredded, or returned upon request.)

The method of valuing assets is outlined in ET § 7-202. Stocks, bonds, bank accounts, etc. must include income and dividends accrued up to the date of death. See also Chapter Six – Inventories.

Expenses ordinarily deductible from probate assets to determine clear value for imposition of inheritance tax are likewise deductible when the trust instrument expressly provides for the payment of such expenses.[3]

When expenses are allowable deductions from the trust, the following information must be provided if an extension of filing deadline is requested:

1. The existence of the trust must be reported on an Information Report or Application to Fix Tax and a copy of the trust documents provided.

2. If the assets warrant the filing of a Federal estate tax return (IRS Form 706) or Maryland estate tax return, the taxpayer may
   a) state in writing that the estate is subject to the filing of a Form 706, and that the trust allows for taxes and expenses;
   b) state in writing that the net value of the trust cannot be determined because there will be Federal estate tax and/or Maryland estate tax payable; and
   c) request in writing an extension of time to file an amended information report within 10 months from the date of decedent's death showing the assets valued

[1] See also 76 Op. Att'y Gen. 385 (1991)
[2] Letter of advice from the Office of the Attorney General dated March 12, 1998
[3] 81 Op. Att'y Gen. 253 (1996)

as of the date of death and listing the expenses.

3. Only the expenses incurred within 9 months of the date of death may be taken from the trust assets for Maryland inheritance tax purposes.

4. The 10 month extension will not be allowed if there is no requirement to file a Federal estate tax return or Maryland estate tax return, or where a surviving spouse takes unlimited marital deduction resulting in no Federal estate tax.

5. The 10 month period may not be extended even if extensions of time are requested for filing Federal and Maryland estate tax returns.

6. The time period for billing a trust cannot be extended until a closing letter is received from the Internal Revenue Service – absent extenuating circumstances.

Note:

A transfer made to a trust within two years prior to death need not be reported under Question 2 of the Information Report.

If the trust terminates upon the death of the decedent and pours into the probate estate, the gross date of death value of the assets must be reported on the Inventory or Final Report.

If the trust instrument does not name a successor trustee, or the successor trustee is deceased or unwilling or unable to serve, the appointment of a successor trustee is a matter for the circuit court.

The orphans' court lacks jurisdiction over the administration of trusts. ET § 14.5-201

If the decedent was a life tenant of a trust established by a prior decedent, which interest terminated upon the death of the present decedent, the personal representative should also report the life tenancy under Question 3. If the grantor of the trust was a Maryland resident, provide the name of the prior decedent/grantor, the county in which the estate was administered and if known, the administration number.

<u>Method for calculating a life estate in trust assets</u>

The following factors are used to determine a life estate:

1) Age of life tenant[1] nearest to the decedent's date of death;

2) Internal Revenue Section 7520 interest rate for the month in which the decedent died; and

3) Life estate and remainder factors based on Internal Revenue Publication 1457.

[1] Life tenants are those persons, other than the decedent, who receive income and/or principal from the trust assets during their lifetime.

Calculation of remainder interest in trust assets

The remainder may be calculated by either: (1) multiplying the net assets by the remainder factor indicated in the IRS tables using the above formula; or (2) by deducting the gross value of the life estate from the net trust assets.

For a specific bequest that passes from the trust to a beneficiary not exempted from inheritance tax, the value of the bequest at the decedent's date of death and the relationship of the beneficiary to the decedent is required.

Prepayment of tax on remainder and/or subsequent interests

Pursuant to TG § 7-219(a), within a reasonable time after the valuation of a less than absolute interest in property that passes form a decedent, an application to prepay the inheritance tax for subsequent interest in the same property may be filed with the register of the county where the Information Report was filed under TG §7-224. Also refer to TG § 7-210 for subsequent interests.

Register's policy:
The register has determined that the "reasonable time after the valuation of a less than absolute interest" pursuant to TG § 7-219(a) stated above is one year from the date the invoice was issued.

Effects of prepayment on subsequent invasion of principal

See TG § 7-220

Effect of deferring payment of tax on remainder and/or subsequent interest

If application is not filed to prepay the inheritance tax on the remainder interest within the time allowed pursuant to TG § 7-219, then upon the death of the life tenant, the trustee must report the assets remaining in the trust. The property must be valued as of the date of death of the life tenant and the inheritance tax will be assessed on the whole value, without deduction of the taxes previously paid. *Mercantile-Safe Deposit & Trust Company v. State of Maryland*, 264 Md. 455; 287 A.2d 502 (1972).[1]

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] Letter of advice from the Office of the Attorney General dated August 27, 1997.

APPLICATION TO FIX TAX ON NON-PROBATE ASSETS

An application to fix inheritance taxes on non-probate assets shall be filed with the register within 90 days after the decedent's death, together with any required appraisal in conformity with Maryland Rule 6-403. The application shall be in the form set forth in Rule 6-405.

Application to Fix Inheritance Tax on Non-Probate Assets **(Form 1125)**

Applicable where there is no formal administration of the estate and the decedent's interest in a non-probate asset passes to a person not exempted from inheritance pursuant to TG § 7-203. (Where there is a formal administration of the estate, the interest is reported by a personal representative on an Information Report.)

The tax laws in effect as of the date of death of the decedent control the taxable event and will determine all present and future tax liabilities.[1] Refer to TG § 7-203 applicable for the date of death or contact the register for information.

The non-probate probate assets include property in which the decedent had

(a) An interest less than absolute in real or personal property over which the decedent retained dominion while alive, including a payable on death/transfer on death account;

(b) Any interest in an annuity;

(c) An individual retirement account or other public or private employee pension or benefit plan;

(d) Any interest in real or personal property for life or a term of years; or

(e) Any other interest in real or personal property less than absolute, in trust or otherwise.

Information to be provided in the Application includes:

(a) The fair market value of the property as of the decedent's date of death;

(b) A statement of the basis for valuation or, if required, an appraisal;

(c) Any liens or encumbrances on the property, with supporting documentation; and

(b) The name and address of the recipient of the property and the relationship to the decedent.

[1] *State v. Safe Deposit & Trust*, 132 Md. 251, 103 A. 435 (1918); *Lilly v. State*, 156 Md. 94, 143 A. 661 (1928); Safe *Deposit & Trust v. Bouse*, 181 Md. 351, 29 A.2d 906 (1943); 42 Op. Att'y Gen. 384 (1957)

Appraisals, Appraisers and Qualifications of Appraiser

See Chapter 6 - Inventories

The property must be reported to the register by:

The Distributor TG § 7-225(c)
If there is no formal administration of an estate, each person other than a personal representative, who distributes property that passes from the decedent to a person shall file the inventory required by ET § 7-201 within 3 months after the death of the decedent and before distributing the property:

(1) for personal property, it shall be reported with the register in the county where the decedent resided at the time of death; and
(2) for real property, it shall be reported in the county where the real property is located.

and/or

The Recipient TG § 7-225(d)
If there is no formal administration of an estate, each person who receives property that passes from a decedent without distribution (i.e., non-probate property that otherwise would have been reported by the personal representative on an Information Report) shall file the inventory required by ET § 7-201 within 3 months after the death of the decedent:

(1) for personal property, it shall be reported with the register in the county where the decedent resided at the time of death; and
(2) for real property, it shall be reported in the county where the real property is located.

Foreign Decedent

If the decedent was a resident of another state or country (foreign decedent) and

(1) owned real or personal property jointly with others and that property had a taxable situs in Maryland, or
(2) had an interest in real and personal property titled in the name of an inter vivos trust, and that property had a taxable situs in Maryland the recipient or distributor must report that property to the register.

Register's Policy:
In an estate where a personal representative has been appointed, the register does not require that both an Information Report and Application to Fix Tax on Non-Probate Assets be filed. However, if a recipient, distributor or joint owner has knowledge of assets not known to the personal representative, it is the recipient's, distributor's or joint owner's responsibility to report those assets to the register pursuant to TG § 7-225(d) using an Application to Fix Tax on Non-Probate Assets.

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Six

Inventories

Reference	Description
ET § 7-201	Duty to prepare and file inventory
ET § 7-202	Appraisals
ET § 7-203	Supplemental inventory; reappraisal
ET § 7-204	Revision of inventory
ET § 7-205	Inventory of successor personal representative
TG § 7-225	Inventory
Rule 6-107	Extension of time
Rule 6-402	Form of inventory
Rule 6-403	Appraisal

References:

ET **Annotated Code of Maryland**
Estates and Trusts Article

TG **Annotated Code of Maryland**
Tax General Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Duty to prepare and file Inventory

ET § 7-201
TG § 7-225(b)
Rule 6-402

Within 3 months after the appointment of personal representative the personal representative shall prepare and file an inventory of property owned solely by the decedent, and the decedent's interest in tenants in common property. Each item is to be listed in reasonably descriptive detail, indicating its gross fair market value as of the date of death of the decedent, and the type and amount of any mortgage and encumbrance that may exist with reference to the item. For real and leasehold property, a description sufficient to identify the property must be given.

Inventory Summary **(Form 1122)**

Inventory Schedule **(Form 1123)**

Duty of successor personal representative to file an Inventory ET § 7-205

Within three months after appointment, a successor personal representative must file either a new inventory to replace the one filed by the former personal representative or file a written consent to be answerable for the assets as listed and valued in the inventory of the former personal representative or retained in the most recent account filed by the former personal representative.

Supplemental Inventory; reappraisal ET § 7-203

Whenever property not included in the original inventory comes to the knowledge of a personal representative, or whenever the personal representative learns that the value indicated in the original inventory for an item is erroneous or misleading, he shall make a supplemental inventory or appraisal of the item showing the market value as of the date of death of the decedent, or the revised market value, and the appraisals or other data relied upon and shall file it with the court.

It is sufficient to file a revised inventory with respect to any reappraised item or items, and a revised inventory or appraisal of the entire estate is not required. 59 Op. Att'y Gen. 610 (1974)

Filing of revised and corrected documents by personal representative ET § 7-105

Whenever a personal representative discovers that a document previously filed by him or a predecessor personal representative is incomplete or erroneous, he shall promptly file a revised and corrected document with the register, reciting the correct information if known by him. Assets determined to be joint assets, or assets payable upon death deleted from an Inventory must be reported to the register on an amended or supplemental Information Report when a surviving joint owner or beneficiary is not exempted from inheritance tax.

Register's policy

Minor revisions to date of death values previously reported on the inventory may be made in the first account when it is filed. Supporting documentation may be required.

Revision of Inventory at request of the State or an interested person ET § 7-204
At any time before the estate is closed, the state or an interested person may petition the court for revision of the value assigned to an item of inventory and the court may require revision as it considers appropriate. Unless the personal representative has filed the petition, the court shall hold a hearing upon it.

Contents of Inventory

ET § 7-201
Rule 6-402

Form of Inventory:

The inventory must consist of a summary page and supporting schedules in the forms set forth in Rule 6-402

The inventory shall include:

(1) Real and leasehold property;
(2) Tangible personal property, including furs and jewelry but excluding (a) wearing apparel and (b) provisions for consumption by the family;
(3) Corporate stocks;
(4) Debts owed to the decedent, including bonds and notes;
(5) Bank accounts, building, savings and loan association shares, and money
(6) Debts owed to the decedent by the personal representative; and
(7) Any other interest in tangible or intangible property owned by the decedent that will pass to a beneficiary pursuant to the decedent's will or by intestate succession.

Appraisals

ET § 7-202
TG § 7-225
Rule 6-402

Appraisals must reflect the actual date of death value. Appraisals containing the word "approximate" or similar qualifying words are not acceptable.

A personal representative may appraise the following:

1) Real (Schedule A) – Instead of a formal appraisal of the fair market value, real and leasehold property may be valued
   a) at the full cash value as determined by the Maryland Department of Assessments and Taxation (except for property assessed for property tax purposes on the basis of its use value, such as farmland or woodland (http://sdat.dat.maryland.gov/RealProperty); or
   b) the contract sales price for the property if (1) the contract sales price is set forth on the closing disclosure statement for an arm's length contract of sale of the property; and (2) the settlement on the contract occurs within one year after the decedent's death. ET § 7-202(c)

2) Motor Vehicles (Schedule C) - Instead of an appraisal of the fair market value, a motor vehicle may be valued by a personal representative on the basis of the average value of the motor vehicle (average of the retail and trade-in values) or private party value as set forth in (a) The National Automobile Dealers' Association (NADA) official used car guide; or (b) any substantially similar price guide designated by the register.

Note: The Register will, upon request by the personal representative, value a motor vehicle if the personal representative provides the year, make, model, mileage, and condition of the vehicle and the vehicle is found in an official used car guide. ET § 7-202(d)

3) Corporate stocks listed on a national or regional exchange or over the counter securities (Schedule D) - For *publicly traded* corporate stocks, the personal representative must provide a list of the securities showing the number of shares held, the per-share value of each and a total value of each block of shares. The value is determined by averaging the "high" and "low" prices on the date of death. For a death occurring on a weekend or holiday, the value is determined by averaging the "high" and "low" on the day before and the day after the weekend or holiday.

4) Debts owed to the decedent, bonds and notes (Schedule E)
Debts - the personal representative must provide an amortization schedule evidencing the outstanding balance due to the decedent at the date of death.

Series E and EE Savings Bonds - the personal representative must provide a list of bonds including the issue date, the face value and date of death value of each bond.

Series HH or H Bonds - the personal representative must provide a list of the bonds which are to be reported at face value.

Treasury bills and notes – the personal representative must provide the issue/maturity dates, the face value, and the date of death value and, if appropriate, the rate of interest.

5) Bank accounts and money (Schedule F) - The personal representative must provide a list of all bank accounts and include the name of the bank, type of account, such as, checking, savings, or certificate of deposit, the last four digits of the account number and balance as of the decedent's date of death. The personal representative must report the total of any cash in the possession of the decedent.

6) Certain items reported under Schedule G - A personal representative may value retirement accounts, annuities and life insurance proceeds payable to the estate or which have no named beneficiary. Retirement accounts and annuities must be reported at the gross date of death value. Income tax owed by the beneficiary may not be deducted to determine the clear value for inheritance tax purposes.

NOTE: **Accrued interest and dividends**. Interest accrued and dividends declared to holders of record up to the date of death of the decedent must be reported in addition to the assets generating the interest or dividend.

A personal representative must obtain an appraisal by a qualified appraiser for all other categories. ET § 7-202(a)(3)

Appraisers ET § 7-202(e)

The personal representative may employ *a qualified and disinterested appraiser* to assist in ascertaining the fair market value, as of the date of death of the decedent, of an asset the value of which may be fairly debatable. Different persons may be employed to appraise different kinds of assets included in the estate. The name and address of each appraiser shall be indicated on the inventory with the item or items the appraiser appraised.

Qualifications of Appraiser Rule 6-403(a)

When an appraisal is required, the appraisal shall be prepared and executed by each appraiser named in the inventory, other than the personal representative. The appraisal shall (1) describe briefly the appraiser's qualifications, (2) list in columnar form each item appraised and its market value as of the date of death of the decedent, and (3) be verified substantially in the following form: "I solemnly affirm under the penalties of perjury that I appraised the property listed in this appraisal on the _____ day of _____, 20__, and that the appraisal was done impartially and to the best of my skill and judgment."

Register's policies:

partnership interests

An IRS Form 1065 K-1 is not acceptable as a formal appraisal of partnership interests.

tangible personal property

If the personal representative has sold the tangible personal property to a disinterested person prior to an appraisal, the personal representative may petition the court to accept the gross sales price of the property in lieu of a formal appraisal.

All forms referenced are located in the appendix

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Seven

Attorney's Fees and Personal Representative's Commissions

Reference	Description
ET § 7-502	Proposed payment to personal representative or attorney
ET § 7-601	Compensation of personal representative and special administrator
ET § 7-602	Compensation for services of an attorney
ET § 7-603	Expenses of estate litigation
ET § 7-604	Payment of commissions
Rule 6-414	Notice of proposed payment to personal representative or attorney
Rule 6-416	Attorney's fees or personal representative's commissions

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

A Personal Representative is not permitted to be compensated for services in a small estate pursuant to ET § 5-604(a)(3).

In a regular estate and under modified administration, the attorney for the estate and/or the personal representative are entitled to *reasonable compensation* for services rendered in the administration of the estate pursuant to ET §§ 7-601 and 602.

The computation of the commissions is as follows:

If the property subject to administration is:	Commission may not exceed:
Not over $20,000	9%
Over $20,000	$1,800 plus 3.6% of excess over $20,000

Petition for Attorney's Fees or Personal Representative's Commission

The petition must by verified and state the following:

1. The amount of all fees or commissions previously allowed;
2. The amount of fees and/or commissions that the petitioner reasonably estimates will be requested in the future;
3. The amount of fees and/or commissions currently requested;
4. The basis for the current request in reasonable detail; and
5. That the notice required under Rule 6-416(a)(3) has been given.

The petition must be served on all interested persons including claimants (if claim is still open), and certificate of service filed accordingly.

An order of court approving the fees must be signed *before* payment is permitted.

Note: The court will not consider petitions in excess of the maximum allowable (as set forth in ET § 7-601) without time sheets attached detailing the work performed. Consents of all interested persons for fees in excess of the maximum allowable are encouraged.

Payment of attorney's fees and personal representative's commissions authorized without court approval when:

1. The combined sum of the payments of commissions and attorney's fees does not exceed the amounts provided in ET § 7-601; and
2. A written consent stating the amounts of the payments signed by each creditor who has filed a claim that is still open and all interested persons is filed with the register in the form set forth in Rule 6-416(b)(2)(B).

Consent to Compensation for Personal Representative and/or Attorney **(Form 1138)**
(Note: Language in form was changed in compliance with amended Rule 6-416(b)(2)(B), effective April 1, 2017)

Payment of contingency fee to attorney for services other than estate administration authorized without court approval if:

1. The fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or by a previous personal representative;
2. The fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the current personal representative of the decedent's estate provided that the personal representative is not acting as the retained attorney and is not a member of the attorney's firm;
3. The fee does not exceed the terms of the contingency fee agreement;
4. A copy of the contingency fee agreement is on file with the register of wills; and
5. The attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate. Rule 6-416(b)(1)

Payment to personal representative or attorney for payment of claimed debt existing prior to the death of the decedent

Before making a proposed payment to the personal representative or the attorney for the estate for a claimed debt existing prior to the death of the decedent, the personal representative must serve a notice on each unpaid creditor who has filed a claim (in which the claim is still open), and on each interested person and file a copy with the register. See Rule 6-414

NOTE:

Expenses such as travel, food, and lodging are considered expenses for which a personal representative receives a commission and therefore should be reflected as direct expenses of the estate.

If the personal representative or attorney performs other duties for the estate such as accounting, home repair, brokerage services, etc., the payment for such services in addition to the attorney's fees and commissions claimed may only be made upon approval by the Court. (*The purpose of this statutory requirement is to ensure that compensation is fair and reasonable as the payment presents a conflict of interest.)*

Maryland has no jurisdiction over the fees of an attorney or personal representative of an ancillary estate in another jurisdiction; however, the foreign personal representative may be paid from the Maryland estate with proof that the fees/commissions were not also taken in another jurisdiction.

ALL payments to a personal representative or the attorney for the estate are subject to these requirements and guidelines.

All forms referenced are located in the appendix

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Eight

Funeral Expenses

Reference	Description
ET § 8-106	Funeral Expenses
Rule 6-415	Petition and order for funeral expense

References: **ET** **Annotated Code of Maryland Estates and Trusts Article**

Rule **Annotated Code of Maryland Maryland Rules – Volume 1**

Register's Policies and Procedures

Funeral expenses include the costs of a funeral, a burial, a cremation, a disposition of the decedent's remains, a memorial, a memorial service, food and beverages related to bringing together the decedent's family and friends for a wake or pre-funeral or post-funeral gathering or meal, and any other reasonable expenses authorized by the decedent's will.

Funeral expenses are guided by a statutory allowance. However, if the estate is solvent, funeral expenses may be allowed in excess of the allowance by special order of court. (See below regarding estates administered under Modified Administration.)

When the will provides for the payment of an amount not limited by statute, reasonable funeral expenses may be paid at the discretion of the personal representative without an order of court.

The statutory funeral allowance for an estate opened on or after October 1, 2015 is $15,000.

Under Regular Estate Administration a petition is required when:

1. The will does not contain a funeral clause providing for the payment of unlimited funeral expenses and the total funeral expenses exceed the statutory allowance, or

2. The decedent died intestate and the total funeral expenses exceed the statutory allowance.

Petition *(and Order)* for Funeral Expenses **(Form 1130)**

vouchers are required in the form of invoices, receipts or cancelled checks

A certificate of service is required unless consents are filed by the interested persons or the personal representative is the only person receiving from the estate. If a certificate of service is applicable, the petition will be submitted to court for consideration on the 24th day after the date of service. It may be advantageous to file the petition in advance of the filing of an account if time constraints are a concern.

Under Modified Estate Administration

An allowance by the court is not required if the estate is under modified administration and the personal representative includes the funeral expense on the Final Report, *effective for estates opened on or after October 1, 2015.*

(For estates under Modified Administration opened prior to October 1, 2015, refer to the petition requirements shown above for Regular Estate Administration.)

Statutory funeral allowance (ET § 8-106):

Date Estate Opened:	Allowance:
10/01/15 - Present	$15,000

Date of Death:	Allowance:
10/01/12 - 09/30/15	$10,000 (regular and small estates)
10/01/05 - 09/30/12	$10,000 ($5,000 for small estates)
01/01/98 - 09/30/05	$ 5,000
07/01/91 - 12/31/97	$ 3,500
07/01/88 - 06/30/91	$ 2,500
07/01/83 - 06/30/88	$ 1,800
07/01/71 - 06/30/83	$ 1,200
Prior to 07/01/71	$ 500

The personal representative shall pay funeral expenses within six months of the first appointment of the personal representative.

If the funeral expenses are not paid within six months, a creditor may petition the court to require the personal representative to show cause why he should not be compelled to pay the funeral expenses. If the court finds the claim is valid, the personal representative must make payment within ten days after the order is served on the personal representative. ET § 8-106(d)

If an estate is insolvent, the funeral expenses are limited to the statutory maximum and must be paid in the order of payment as directed by ET § 8-105.

Allowable funeral expenses may include the following:

1. Cost of funeral;
2. Cemetery charges, including perpetual care for the grave site up to $500.00;
3. Headstone/monument charges;
4. Cremation charges;
5. Burial clothes;
6. Payment to minister;
7. Charges for organist and/or soloist
8. Charges for the church
9. Charges for pallbearers, etc.
10. Cost of airline tickets to transfer the body to the place of burial;
11. Cost of airline/travel of one person to accompany the body;
12. Food and beverages related to bringing together the decedent's family and friends for a wake or pre-funeral or post-funeral gathering or meal;
13. Flowers;
14. Thank-you cards;
15. Printing charges for newspaper obituary; and
16. Travel for people to attend the funeral only if directed by the will. This is allowed as a distribution and is subject to inheritance tax, if applicable.

Inheritance tax does not apply to the receipt of the first $500 of property that passes from a decedent under a will for the perpetual upkeep of graves.[1]

Expenses of transportation incurred in traveling for the purpose of arranging the decedent's funeral are improper and not allowable.[2]

Expenses of travel for the minister or the family to a distant point for funeral services are unjustifiable expenses of the estate.[3]

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] Tax-General § 7-203(c)
[2] Letter of advice from the Office of the Attorney General dated September 1, 1978
[3] 37 Op. Att'y Gen. 218 (1952)

Chapter Nine

Accountings/Final Reports/Distribution/Closing Estates

Reference	Description
ET § 1-205	Child
ET § 1-208	Illegitimate child
ET § 1-209	Issue
ET § 1-210	Representation per stirpes
ET § 3-101	Order of distribution of net intestate estate
ET § 3-102	Share of surviving spouse (Amendment effective 10/1/2019)
ET § 3-103	Division among surviving issue
ET § 3-104	Distribution when there is no surviving issue
ET § 3-105	Escheat
ET § 3-106	Advancement
ET § 3-107	After-born child
ET § 3-108	Inheritance from illegitimate person
ET § 3-109	Person related to decedent through two lines
ET § 3-110	Certain heirs not surviving decedent for 30 days
ET § 3-111	Prohibition of distribution upon commitment of certain crimes or acts
ET § 3-201	Family allowance
ET § 3-203	Elective share
ET § 4-401	Legatee failing to survive testator by 30 days
ET § 4-402	Presumption that will passes all property
ET § 4-403	Lapse
ET § 4-404	Void or inoperative legacies
ET § 4-405	Change in securities
ET § 4-406	Exoneration
ET § 4-407	Exercise of power of appointment
ET § 4-408	Will passes entire interest of testator
ET § 4-409	Legacy for charitable use
ET § 4-410	“Die without issue” and similar phrases
ET § 4-411	Legacy to inter vivos trust
ET § 4-412	Legacy to testamentary trust
ET § 4-413	In terrorem clause
ET § 5-704	Proceedings after filing election; after discovered property
ET § 5-707	Final reports
ET § 5-709	Closing of estate
ET § 7-301	Duty to account
ET § 7-302	Initial account
ET § 7-303	Subsequent accounts
ET § 7-305	When to render accounts
ET § 7-501	Notice of filing of account; exceptions to account
ET § 8-105	Order of payment
ET § 9-102	Renunciation by testamentary trustee
ET § 9-103	Order in which assets appropriated; abatement
ET § 9-104	Distribution in kind
ET § 9-105	Execution and delivery of evidence of title
ET § 9-106	Effect of distribution

ET § 9-107	Partition for purpose of distribution
ET § 9-108	Where legatee not found, or resides outside of United States
ET § 9-109	Distribution to a minor
ET § 9-111	Release
ET § 9-112	Distribution by court
ET § 9-203	Effect of disclaimer
ET § 10-101	Effect of final approval of final account
ET § 10-102	Liability of heir or legatee to creditor
ET § 10-103	Limitations
ET § 10-104	Subsequent administration
ET § 10-105	Confirmatory acts
ET § 11-112	Treatment of disqualified persons
ET § 11-113	Posthumously conceived child
ET § 13-305	Irrevocable transfer by personal representative or trustee
ET § 13-306	Irrevocable transfer in absence of express authority
ET § 13-501	Payment or delivery of money or chattels
Rule 6-107	Extension of time
Rule 6-414	Notice of proposed payment to personal representative or attorney
Rule 6-416	Attorney's fees or personal representative's commissions
Rule 6-417	Accounts
Rule 6-421	Termination of appointment of personal representative
Rule 6-422	Administration after final account – Newly discovered property
Rule 6-442	Proposal for distribution of property
Rule 6-443	Meeting of distributees and distribution by court
Rule 6-444	Petition for partition on sale of property
Rule 6-455(d)	Final report

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Personal Representative's Account – Regular Estate Administration

A Personal Representative has a duty to file written accounts of his management and distribution of estate property with the register of wills. ET § 7-301

The initial account is due 9 months after the personal representative's appointment and shall include all estate transactions from the date of death to the filing of the account. Subsequent accountings shall be filed the earlier of 9 months from the filing of the previous accounting or 6 months from recording of the approval of the previous accounting, until the estate is closed. The period covered in subsequent accountings must include all transactions occurring from the ending date of the previous accounting to the ending date of the current account.

Prior to preparing the accounting:

1. Review the claims docket in the office of the Register of Wills to verify that all outstanding claims against the estate have been paid in full, released, or formally disallowed.

2. Contact the Financial Analysis Division for any outstanding court costs. In addition to the probate fee pursuant to ET § 2-206, additional charges may be owing, such as: additional letters of administration, and photocopies. Inheritance tax, probate fees, and other costs due the register of wills are payable when the account is filed.

All accountings must contain the following, as applicable:

1. The date of death value of the probate assets as shown on the Inventory.

2. All principal receipts of the estate during the accounting period, setting forth the amount of each receipt, the date received, and a brief description of the nature of the receipt.

3. Each transaction of an estate asset including, but not limited to purchases, sales, leases, transfers and settlements, indicating the date and description of each transaction. The description of the transaction must indicate the effect of the transaction on the estate value, such as a gain or loss and the basis used in the calculation.

4. Each receipt of income including rents collected, interest earned, and dividends received.

5. The total gross value of the estate to be accounted for in the account.

6. An itemized list of all payments and expenses disbursed on behalf of the decedent or the estate during the accounting period. The disbursement schedule should include the date, amount, and a brief description of the payment indicating the payee and the nature of the expense. See also notes on expenses below and Rule 6-417.

7. Each distribution made during the accounting period, or proposed to be made during the prescribed period following the approval of the account, must be reflected in the accounting. Include the calculation of the inheritance tax, if applicable. The distribution schedule must name the heir or legatee, the amount of the distribution and the date of distribution or proposed distribution.

8. Any assets retained by the personal representative for future accounting should be itemized and the value reflected. A brief explanation of the necessity for the retention of assets must be included.

9. The personal representative must attach to the account a verification of the account pursuant to Rule 6-123 stating that the account is true and complete for the period covered in the accounting.

10. Pursuant to Rule 6-417(d), at the time the account is filed, the personal representative must give notice of the filing of the account, by personal delivery or by first class mail, to each interested person who has not waived notice. The notice shall state:
    (1) That an account has been filed;
    (2) That the recipient may file exceptions with the court within 20 days from the court's order approving the account;
    (3) That further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney;
    (4) That upon request the personal representative shall furnish a copy of the account to any person who is given notice; and
    (5) That distribution under the account as approved by the court will be made within 30 days after the order of court approving the account becomes filed.

11. A certificate of service pursuant to Rule 6-417(b)(9) must be filed by the personal representative to certify compliance of the notice requirements set forth above.

Note: A form for Verification of Account and Certificate of Service is located on the Register of Wills' website http://registers.maryland.gov under the Publications tab.

Following an audit of the account by the register and approval by the court, the court will execute an order of approval of the account subject to any exceptions.

If an exception is filed by an interested person within 20 days after entry of the order approving the account, the court will set the matter for hearing and notify the personal representative and such other persons as the court deems appropriate of the date, time, place and purpose of the hearing.

If no timely exceptions are filed, the order approving the account becomes final 20 days after it is entered on the docket. Distribution as reflected in the account must be made within 30 days after the order approving the account becomes final. See Rule 6-417

Final Report Under Modified Administration

A verified Final Report under Modified Administration shall be filed no later than 10 months from the date of the personal representative's appointment. ET § 5-702(3)

Prior to preparing the final report:

1. Review the claims docket in the Register of Wills Office to verify that all outstanding claims against the estate have been paid in full, released, or formally disallowed.

2. Contact the Financial Analysis Division for any outstanding court costs. In addition to the probate fee pursuant to ET § 2-206, additional charges may be owing, such as certified mail or registered mail charges, additional letters of administration and photocopies. Inheritance tax, probate fees, and other costs due the register are payable when the Final Report is filed.

To avoid delays in the approval of a final report or closing a modified estate the following are notes and recommendations of the Financial Analysis Division:

1. Any disallowance of a claim should be filed no later than 10 months from the date of the personal representative's appointment. All claims should be resolved on or before the filing of the Final Report.

2. Fees and any inheritance tax are due with the filing of the Final Report and must be paid before the Final Report is approved.

3. All petitions, including but not limited to personal representative's commissions and attorney's fees, should be filed as early as possible to avoid delays in the approval of the Final Report.

4. A prompt response to all notices and Audit Requests is recommended to avoid revocation. All Audit Requests should be complied with prior to the distribution of assets. Final distribution must be made within 12 months of the personal representative's appointment or Modified Administration will be revoked. A modified estate must close within 13 months of the personal representative's appointment. ET § 5-709 (Note: Under certain circumstances, the time periods for filing a final report and for making distribution may be extended. See ET § 5-703.)

5. We recommend filing any request for refund of Maryland estate tax to be paid directly to the Register of Wills (Form MET 2 ADJ) as early as possible to avoid any complications due to delays.

Extensions: ET § 5-703

The initial time periods for filing a final report and for making distribution to each legatee and heir are extended for ninety (90) days on a consent for extension of the time periods signed by the personal representative and each interested person and filed within ten (10) months from the date of appointment. *(Effective for decedents dying on or after October 1, 2003)*

The register may extend the time periods for filing the Final Report and making distribution for an additional period not to exceed ninety (90) days on the filing of a request signed by the

personal representative and consented to by each interested person and filed before the date of filing the Final Report as extended by the initial request. *(Effective for decedents dying on or after October 1, 2015)*

Consent to Extend Time to File Final Report and to Make Distribution **(Form 1146)**

Request for and Consent to Further Extend Time to File a Final Report and to Make Distribution **(Form 1152)**

The Final Report shall be filed in the form designated in Rule 6-455(d) and contain the following:

1. A statement indicating that the estate continues to qualify for modified administration.

2. Since an Inventory (Forms 1122 and 1123) is not required under Modified Administration, Schedule A of the Final Report must itemize all reportable property, indicating the basis of the valuation of the property and include all information normally required when filing an Inventory. Specific details about assets, including but not limited to: name of financial institution; account number (last four digits), type of account, name of stock, numbers of shares and value per share. Appraisals, copies of real property tax assessments or closing disclosure statement are required at the time of filing of the Final Report, as are appraisals for tangible personal property and any other item that the personal representative is not authorized to appraise, such as partnership interests.

3. Schedule B must contain an itemized list of all payments and expenses disbursed on behalf of the decedent or the estate. The schedule should include the date, amount and a brief description of the payment indicating the payee and the nature of the expense, as is required in an account under regular estate administration.

4. Schedule C must reflect each distribution made or proposed distribution to estate beneficiaries, as reflected in the will or pursuant to the laws of intestacy, and calculation of inheritance tax, as applicable. This schedule should indicate to whom distribution was/will be made.

5. The personal representative must mail or deliver a copy of the Final Report to each interested person who has not waived notice of the Final Report, and file a certificate of service accordingly.

Final Report Under Modified Administration **(Form 1143)**

Certificate of Service of Final Report Under Modified Administration **(Form 1144)**

Except as otherwise noted, modified administration is subject to the same rules and provisions as a regular administrative probate proceeding. ET § 5-710

Expenses of the Estate

The personal representative's account or final report under modified administration must reflect the expenses paid by the personal representative on behalf of the estate or decedent.

Unless the will provides otherwise and subject to applicable legislation, all expenses incurred in connection with settling an estate including debts, funeral expenses, family allowances, attorney and personal representative compensation, and court costs shall be charged as provided for in ET § 15-503

The personal representative is to distribute the net income and the net principal receipts to the beneficiary who is to receive the property which is the subject of a specific bequest.
ET § 15-503

If a will has a valid tax clause[1] directing the payment of taxes from the residuary estate, the inheritance tax on a specific bequest and interim distributions of the residuary estate is calculated at the accelerated rate, for example 11.11111%, and may be claimed as an expense of the estate.

If the will does not contain a valid tax clause, or the decedent died intestate, the taxes are apportioned to the persons receiving the property; thereby reducing the principal distribution to the legatee or heir.

Inheritance taxes that are pre-paid to this office or held in escrow are not considered expenses of the estate until the inheritance taxes are assessed on reported distribution. The prepaid inheritance taxes remain a credit on the estate ledger and are carried forward in the assets retained.

Travel expenses of a personal representative or attorney are generally included in the commissions. See annotations in ET § 7-601[2]

Travel expenses to attend the funeral are not allowable expenses for the purpose of reducing the inheritance tax. Any such payment may be disallowed or, if made on behalf of an heir or legatee, the payment may be considered interim distribution to the heir or legatee.

Expenses for out of state real property are reportable and allowable expenses provided the expenses have not been claimed against the foreign estate proceeding. Additionally, if the property is earning rental or other income, the receipts must be reported and accounted for in the applicable account.[3]

Unless the will provides otherwise, expenses for shipping tangible personal property to a beneficiary is not considered an expense of the estate.

An expense to repair or upgrade an asset, other than what is required to maintain and preserve the asset, is not an allowable deduction for inheritance tax purposes. However, the expense may be deducted from the distribution to the heir or legatee after any applicable inheritance tax.

Under regular estate administration, when the assets of the estate are insufficient to pay all allowable expenses and claims in full, the personal representative must make payment in the order of priority as established in ET § 8-105. In an insolvent estate the funeral expenses are reduced to the maximum per statute, regardless of any funeral clause in the will, unless approved

[1] Letter of advice from the Office of the Attorney General dated April 13, 2000.
[2] See also 59 Op. Att'y Gen. 613 (1974)
[3] Letter of advice from the Office of the Attorney General dated January 24, 1983.

by special order of court. (Note: Under Modified Administration the estate must be solvent and sufficient assets exist to satisfy all testamentary gifts.)

Proposed payment to personal representative or attorney

Before making a proposed payment to the personal representative or the attorney for the estate for a claimed debt existing prior to the death of the decedent, the personal representative shall serve a notice on each unpaid creditor who has filed a claim and on each interested person and shall file a copy with the register. Rule 6-414

Payment of contingency fee to attorney for services other than estate administration authorized without court approval if:

1. The fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or by a previous personal representative;
2. The fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the current personal representative of the decedent's estate provided that the personal representative is not acting as the retained attorney and is not a member of the attorney's firm;
3. The fee does not exceed the terms of the contingency fee agreement;
4. A copy of the contingency fee agreement is on file with the register of wills; and
5. The attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate. Rule 6-416

The Personal Representative's expenses for estate litigation shall be allowed regardless of the outcome of the litigation if the proceeding is defended or prosecuted in good faith and with just cause. ET § 7-603

Family Allowance (ET § 3-201)

10/01/13 – present	$10,000 to spouse;	$5,000 for use of each unmarried minor child of the decedent to be distributed according to ET § 13-501
07/01/91 – 09/30/13	$ 5,000 to spouse;	$2,500 for use of each unmarried minor child of the decedent to be distributed according to ET § 13-501
07/01/81 – 06/30/91	$ 2,000 to spouse;	$1,000 for use of each unmarried minor child of the decedent; allowance of unmarried minor child who is not also a child of the surviving spouse to be distributed according to ET § 13-501
07/01/76 – 06/30/81	$ 1,000 to spouse;	$ 500 for use of each unmarried minor child of the decedent
01/01/70 – 06/30/76	$ 1,000 to spouse;	$ 500 for use of each unmarried child under 21 of the decedent and the surviving spouse
Prior to 1970	$ 500 to spouse;	$1,000 to spouse with minor child of decedent

The personal representative may claim as an expense of the estate the allowance for the surviving spouse. For each unmarried minor child of the decedent a family allowance **shall** be paid by the personal representative as provided in ET § 13-501.

Distribution

Intestate Estate

If a person dies without a will, or with a will that is not admitted to probate, distribution shall be made in accordance with Title 3 of the Estates and Trust Article. Additionally, any part of the estate not effectively disposed of by the will shall be distributed by the personal representative to the heirs of the decedent in the same manner. ET § 3-101

Distribution to Spouse ET § 3-102
In an intestate estate the identity of the heirs of the decedent will determine the distribution to a spouse.

If there is a surviving minor child, the spouse receives one half of the net estate.

If survived by an adult child or children (no minors), the spouse receives the first $40,000[1] plus one half of the remaining balance for distribution.

In the event a decedent does not leave a surviving child or children but does leave surviving parent(s), the spouse receives the first $40,000 plus one half of the remaining balance for distribution, if the decedent and spouse were married less than 5 years.

If the decedent and spouse were married at least 5 years or more, the spouse receives the entire estate even if there are surviving parents.

If there is no surviving issue or parents, the spouse receives the entire estate.

Surviving Issue ET § 3-103
After reducing the available balance for distribution by the spouse's share, the remaining net estate shall be divided equally among the surviving issue by representation, as defined in ET § 1-210.

If there is no surviving spouse, the entire net estate shall be divided equally among the surviving issue, by representation, as defined in ET § 1-210.

No Surviving Spouse or Issue ET § 3-104(b)
If there is no surviving spouse or issue, the net estate shall be distributed to the surviving parents equally, or if only one parent survives, to the survivor.

No Surviving Spouse, Issue, or Parents ET § 3-104(b)
If there is no surviving spouse, issue, or parents, the net estate shall be distributed to the issue of the parents by representation.

No Surviving Spouse, Issue, Parents, or Issue of Parents ET § 3-104(c)
The net estate shall be distributed one half to the surviving paternal grandparents equally, or to the survivor, and if no paternal grandparent survives, to the issue by representation; and one half to the surviving maternal grandparents equally, or to the survivor, and if no maternal grandparent survives to the issue by representation.

[1] For a date of death July 1, 1982 through September 30, 2017, the surviving spouse receives the first $15,000 plus one-half of the remainder.

In the event that neither of one pair of grandparents and none of the issue of either of that pair survives, the one half share applicable shall be distributed to the other pair of grandparents, the survivor, or the issue of either of them.

No Surviving Spouse, Issue, Parents or Issue, Paternal/Maternal Grandparents or Issue ET § 3-104(d)
The net estate shall be distributed one quarter to each pair of great-grandparents equally or all to the survivor, or if neither survives, all to the issue of either or of both of that pair of great-grandparents, by representation. In the event that neither member of a pair of great-grandparents nor any issue of either of that pair survives, the quarter share applicable shall be distributed equally among the remaining pairs of great-grandparents or the survivor of a pair or issue of either of a pair of great-grandparents, in the same manner as prescribed for a quarter share.

No Surviving Blood Relative Entitled to Inherit Under § 3-104 ET § 3-104(e)
The net estate shall be divided into as many equal shares as there are stepchildren of the decedent who survive the decedent and stepchildren of the decedent who did not survive the decedent but of whom issue did survive the decedent. (Used here, "stepchild" means the child of any spouse of the decedent if the spouse was not divorced from the decedent.)

Escheat

In the event a decedent dies without leaving a person who is entitled to receive under an intestate distribution, the estate shall be converted to cash and distributed in accordance with ET § 3-105.

If the decedent was a recipient of long term care benefits under the Maryland Medical Assistance Program, the distribution shall be made to the Maryland Department of Health.

If the decedent was not a recipient of long term care benefits described above, distribution is made to the board of education in the county where the estate was opened.

If after payment is made to the Maryland Department of Health or the county board of education, a relative within the fifth degree is found who was living at the time of the decedent's death, a claim for refund may be made to the Maryland Department of Health or the board of education. If the claim is timely filed and approved, the claimant is entitled to a refund without interest of the amount distributed by the estate. See ET §§ 3-105 and 9-108.

After-born child

A child of the decedent who was conceived prior to death, but not born until afterward shall inherit as if the child had been born in the lifetime of the decedent. No other after-born relation may be considered as entitled to distribution in the relation's own right unless: (1) the decedent had consented in a written record to use of the decedent's genetic material for posthumous conception in accordance with the requirements of § 20-111 of the Health-General Article; (2) the decedent consented in a written record to be the parent of a child posthumously conceived using the person's genetic material; and (3) the child posthumously conceived using the decedent's genetic material is born with two years after the death of the decedent. ET § 3-107 (*Amendment effective for date of death on or after October 1, 2012)*

Illegitimate child

Property of an illegitimate person passes in accordance with the rules of intestate distribution; however, the father and his relations can inherit only if the decedent is treated as a child of the father as set forth in ET § 1-208. ET § 3-108

Person related to decedent through two lines

A person who is related to the decedent through two lines of relationship would receive only a single share based on the relationship which would entitle him to the larger share. ET § 3-109

Certain heirs/legatees not surviving decedent for 30 days

Intestate:
If a descendant, ancestor or an ancestor's descendant fails to survive the decedent by thirty full days, he shall be determined to have predeceased the decedent for the purposes of intestate succession and is not entitled to the rights of an heir. If the time of death of the decedent or of a descendant, ancestor, or descendant of an ancestor of the decedent who would otherwise be an heir cannot be determined in order to establish that the person survived the decedent by the full thirty days, he shall be determined not to have survived for the required time period. ET § 3-110

Testate:
To receive from an estate, a legatee, other than a spouse, must survive the testator by 30 full days or he is considered to have predeceased the testator, unless the will expressly creates a presumption that the legatee is considered to have survived the decedent or requires that the legatee survives the decedent for a stated period in order to take under the will and the legatee survives for the stated period. ET §§ 4-401 and 4-404

Lapse (aka anti-lapse statute)

Absent a provision in the decedent's will to the contrary, if a legatee dies after the execution of the will but prior to the death of the testator, determination as to whether the legacy may lapse is made in accordance with ET § 4-403.

The lapse statute provides rules for the devolution of ineffective bequests to save them from slipping into intestacy when no other rule concerning the devolution of property applies.[1]

Note: When the distribution to the legatee is saved by the anti-lapse statute, the List of Interested Persons (Form 1104) must include the persons who would have taken the property if the legatee had died, testate or intestate, owning the property.

Void or inoperative legacies

Unless the will indicates otherwise, property failing to pass under the void or inoperative legacy, and which is not provided for under the lapse statute, shall be distributed as part of the estate of the decedent to those legatees who would have taken the property if the void or inoperative legacy had not existed in the will. When a residuary distribution is void or inoperative, the other residual legatees receive a proportionate share of the void legacy. ET § 4-404

Change in securities

If a will leaves a specific bequest of securities and, after the execution of the will, other securities of the same or another entity are distributed to the testator (or the personal representative after the decedent's death) because of testator/decedent's ownership of the original securities, the specific bequest includes the additional or substituted securities unless the will expressly indicates a contrary intent. ET § 4-405

Lien

[1] *Gallaudet Univ. v. National Soc'y of Daughters of Am. Revolution*, 117 Md. App. 171, 699 A.2d 531 (1997)

Unless the will indicates otherwise, a specific bequest of property passes subject to a security interest or lien on the property which existed at the time of execution of the will or which is renewal, extension or refinancing. If a security interest is attached or created following the execution of the will, the legatee is entitled to exoneration. ET § 4-406

Advancement

A gift of property by the decedent prior to his death to an heir of his estate may be considered an advancement of the heir's distribution if the following applies: the decedent dies intestate as to that part of his net estate and it is declared in writing by the decedent or acknowledged in writing by the heir to be an advancement. ET § 3-106

Power of appointment

A residuary clause in a will exercises a power of appointment only in the following instances: a) the will expressly indicates the intent to exercise the power of appointment, or b) the instrument creating the power of appointment fails to provide for the disposition of the subject matter of the power if it is not exercised. ET § 4-407

Will passes entire interest

A decedent's will is presumed to pass all of the testator's property owned at the time of death. This includes property acquired after the execution of the will. ET § 4-402

The will passes the decedent's entire interest in property that is the subject of a legacy unless the will indicates otherwise. ET § 4-408

Penalty for contesting the will

A provision in a will purporting to penalize an interested person for contesting a will or initiating other proceedings related to the estate is void if there is probable cause for instituting the proceeding. ET § 4-413

Insufficient assets

When bequests exceed the amount available to distribute the bequest shall abate. Abatement within each classification is in proportion to the amounts of property each of the legatees or heirs would have received, had full distribution of the property been made in accordance with the terms of the will. See ET § 9-103 for the order in which assets abate.

In kind

Subject to the terms of the will and the needs of administration, assets should be distributed in kind to the extent possible. ET § 9-104

Retained assets

A personal representative is required to settle and distribute an estate as promptly as possible. See ET § 7-101. If an account is not filed as a final account, the schedule reflecting the retention of assets (Schedule 7 if following the register's sample account) must indicate the reason the estate remains open.

In the event that the estate appears to be held open unnecessarily, a petition to retain assets may be required. The petition should include a detailed account of the reason for delay in closing the estate and indicate when the estate can be expected to close. If a petition and order to retain assets does not indicate a period of time during which the estate may retain assets, each subsequent accounting may require a petition to retain assets. Failure to provide sufficient reasons for the necessity of the estate remaining open may result in the court issuing an order for the personal representative to appear before the court to show cause why a final account should not be filed. A petition to retain assets, like any other petition must contain a verification. A copy must be sent to all interested persons and a certificate of service filed accordingly. Unless consents to the petition are filed by all interested person, the petition will be held for the required 20-day objection period.

Location of heir or legatee not known

Distribution of a share or legacy may be made to the Board of Education in the county where the estate was opened when the personal representative is unable to locate an heir or legatee and the court has been satisfied of the attempts made to locate the heir. In this instance a petition and order to distribute to the Board of Education must be filed and all interested parties must be notified including the Board of Education. See ET § 9-108.

Heir or legatee not known, survival unknown; disagreement concerning distribution

The personal representative may file a petition for distribution by court if the interested persons or legatees are not known or if it is not known if an interested person is still alive. This type of petition may also be submitted if there are disagreements regarding the disposition of personal property, or if there is any objection to the proposed disposition of the realty. If this option is selected the personal representative shall give notice of a meeting of all interested persons to be held on a day designated by the court. The notice must be published once a week for three successive weeks in a newspaper of general circulation, indicating the time, date, place and purpose of the meeting. The first publication must be no less than 20 days prior to the date of the meeting. On the date of the meeting distribution shall be made under the court's direction. See ET § 9-112 and Rule 6-442 and 443.

Partition

When two or more heirs or legatees are entitled to receive distribution of undivided interests in property of the estate, the personal representative or one of the heirs or legatees may petition the court prior to closing the estate to order partition of the property or sale of the property in lieu of partition. After notice to the interested parties the court may partition the property in the same manner as provided by law for civil actions. See ET § 9-107 and Rule 6-444.

Distribution to a minor

When distribution of assets from an estate is made to a minor, the orphans' court must be informed of the method of distribution. See ET §§ 9-109, 13-306 and 13-501

A personal representative has several options when making distribution to a minor as follows:

1. If there is not a judicially appointed guardian, the personal representative may petition the court for an order directing that cash be deposited in a banking institution or insured savings and loan association in the name of the minor, where it may draw interest, subject to further order of court. The banking institution shall be named in the order. The personal

representative shall deliver the account book to a person who is approved by the court. When the minor reaches the age of majority or a guardian is appointed the account book shall be turned over to the minor or the guardian. ET § 9-109(a)

2. The personal representative may file a petition to appoint a custodian and with the approval of the court he may transfer the property to a custodian who shall hold or dispose of the property in accordance with the provisions of the Maryland Uniform Transfers to Minors Act (ET § 13-301). The personal representative shall subject to court approval designate the custodian who shall be either an adult or a trust company. ET § 9-109(b)

3. If the distribution is of tangible personal property and a guardian has not been appointed, the personal representative may make distribution to the person he considers responsible and appropriate subject to court approval. ET § 9-109(c)

4. If a guardian is appointed, distribution may be made to the guardian upon the filing of a copy of his authority authenticated pursuant to 28 U.S.C. § 1738. ET § 9-109(d)

5. If a guardian is not appointed, or if he is unknown, payments or delivery of amounts not to exceed $5,000.00 per annum may be made to the parent or grandparent of the minor with whom the minor resides. If there is no guardian, or parent or grandparent with whom the minor resides, amounts not to exceed $5,000 per annum may be made to a parent or other person standing *in loco parentis* with the minor. The payer is not under a duty to inquire whether the minor has a guardian. ET § 13-501(a)

6. A deposit may be made in a financial institution in the sole name of the minor. The minor may not withdraw any funds without an order of court or until he attains majority. ET § 13-501(b)

Specific bequests

A specific bequest to a person not exempted from inheritance tax must be reduced by the appropriate inheritance tax unless the will contains a valid tax clause. If the will contains a tax clause, the taxes may be paid at the accelerated rate and claimed as an expense of the estate. Specific bequests made in the form of distributions to a trust are taxed at the accelerated rate. Once a legatee has received his bequest, that person ceases to be an interested person according to ET § 1-101(i).

The personal representative is to distribute the net income and the net principal receipts to the legatee who is to receive the property which is the subject of a specific bequest. If the net income and principal are not sufficient (or if there are no income or principal receipts), expenses related to the specific property are paid by the beneficiary who is to receive the specific bequest, or charged against a share of the estate to which the beneficiary is entitled. ET § 15-503

Distribution of residuary estate

The inheritance tax on interim distributions of the residual estate may be calculated at either the accelerated rate (for example 11.11111%) and the tax claimed as an expense of the estate, or the straight rate (10%) and deducted from the distribution reported in the accounting. If it is the final distribution of the residual estate, the tax is assessed at the straight rate, thereby reducing the final distribution by the tax. Note: When the residuary estate is distributed to persons in different

classes (distribution includes both taxable and exempt beneficiaries), the register's office is available to assist you with the calculation of the appropriate tax.

Treatment of disqualified persons

A "disqualified person" as defined in ET § 11-112 means a person who feloniously and intentionally kills, conspires to kill, or procures the killing of the decedent. A disqualified person shall be treated as if the disqualified person disclaimed the property or interest in the property at the time of the decedent's death. *Effective for date of death on or after October 1, 2013.*

A disqualified person shall be disqualified from:

1 Inheriting;
2 Taking;
3 Enjoying;
4 Receiving; or
5 Otherwise benefiting from the:
   a. Death;
   b. Probate estate; or
   c. Non-probate property of the decedent;
6. Receiving a general or special power of appointment conferred by the will or trust of the decedent; and
7. Serving as a personal representative, guardian, or trustee of a trust created by the decedent.

Collateral heir or legatee

Collateral heirs, legatees, or beneficiaries are defined as any person or corporation not identified as exempt pursuant to Tax-General § 7-203 in effect at the decedent's date of death.

Closing estates

The order approving a final account automatically closes an estate. If the final account so requests, it also terminates the appointment of the personal representative. ET § 10-101

After an estate has been closed, a claim that has not been barred may be prosecuted against one or more of the persons to whom property has been distributed. An heir or legatee shall not be held responsible for an amount exceeding the amount of his distribution. ET § 10-102.

If no action or proceeding involving the personal representative is pending one year after the estate is closed, the personal representative shall be discharged from any claim or demand of an interested person, except the right to recover from a personal representative for fraud, material mistake or illegal act. ET § 10-103

After-discovered property

If property is discovered after an estate has been closed and the appointment of a personal representative has not been terminated pursuant to ET § 10-101, a request for an additional letter of administration to administer the additional asset(s) may be made.

If the personal representative's appointment has been terminated or the original personal representative is unwilling or unable to administer after discovered assets, a petition to

appoint a successor personal representative must be filed. The estate is then conducted as any administrative probate proceeding. See also ET § 10-104 and Rules 6-421 and 422.

Regular Estate Administration
Within 60 days after receipt of the asset, a supplemental inventory and account must be filed indicating the receipt of the asset; the nature of the asset; its valuation and appraisal as necessary pursuant to ET § 7-202; any expenses in administering the property; and distribution of the additional assets according to the will admitted to probate or the laws of intestacy. A verification of account and, if applicable, a certificate of service must be provided.

Modified Administration
If the personal representative discovers property of the decedent after the time for filing a Final Report, a Final Report with respect to the after-discovered property must be filed within 60 day of the discovery of the property and final distribution of the after-discovered property within 90 days of the discovery of the property.

Overpayment of costs to the register, or inheritance tax of $5,000 or less where no Maryland estate tax return (MET-1) filed

In the event of overpayment of the probate fees/costs or inheritance taxes of $5,000 or less, an Authorization for Refund form will be completed and signed by the auditor or deputy handling the closing of the estate and forwarded to the register for approval. This form is an inter-office form and does not require the personal representative's signature or the approval of the Comptroller of Maryland.

Overpayment of inheritance tax to the register in an amount more than $5,000, or where Maryland estate tax return (MET-1) filed

For the overpayment of inheritance taxes a refund form is generally completed to the extent possible by the auditor after review of the final accounting or final report. It is forwarded to the attorney of record or personal representative for completion. Attached to the refund form are receipts reflecting the payment of taxes as indicated on the refund form. Upon receipt of the completed form, it is forwarded to the register for approval and to the comptroller for authorization of payment.

In the event someone (other than the personal representative) has overpaid inheritance taxes on non-probate assets, a refund form may be completed by the payee and upon approval by the register, submitted to the comptroller for authorization of payment. Upon the receipt of authorization this office forwards the refund to the appropriate person.

Claim for Refund of Tax Erroneously Paid **(Form 1140)**

If an inheritance tax is due to the register, and the payment would result in a refund of Maryland estate tax, the personal representative may request that the comptroller pay the estate tax refund directly to the register to be applied against the inheritance tax liability. TG § 13-906(b)

Form for Application for Refund of Maryland Estate Tax to be Paid Directly to the Register of Wills (MET-2 ADJ) is available from the Comptroller of Maryland or the register.

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

SAMPLE GUIDE
FOR FILING ACCOUNTS

Within nine months of the date of appointment, an initial account must be filed.

The following sample of a First & Final Account should be used as a guide and checklist only. Each account must include the original signatures of all personal representatives and the attorney for the estate, if applicable. Addresses and telephone numbers are also required.

Questions should be directed to the Register of Wills
FINANCIAL ANALYSIS DIVISION
240-777-9640

Account overview

The purpose of an account is to report all financial activity involving probate assets from the date of death of the decedent to the end of the current accounting period. The initial account is due nine months after the date of appointment of the personal representative.

There are two types of accounts, an interim account and a final account. With an interim account, not all estate assets are distributed. After filing an interim account, the estate will stay open and a subsequent account will be due six months from the approval of the account or nine months from the date the last account was filed, whichever occurs first. With a final account, all estate assets will be accounted for and upon the approval of the account, if no exceptions are timely filed, the estate will close. No additional documents will be required by this office after the order approving the final account has become final.

You may prepay probate fees and taxes due to this office; however, probate fees will not be assessed until after the filing of the first account and Inheritance tax will be assessed when distribution is shown in an account. A bill will be sent to you from this office. This does not apply to non-probate tax which is billed separately.

Account checklist

Before submitting your account, make sure the following items are completed and included:

- ☐ Verification of the account and certificate of service attesting to the fact that notice of the account has been sent to all interested persons. This page must be signed by all personal representatives and attorney (if applicable).

- ☐ Account includes a summary page, schedule pages one through seven, and any supporting documentation.

- ☐ The CLAIMS DOCKET at the Register of Wills Office has been reviewed prior to the estate closing to verify all claims against the estate have been paid in full, settled, or formally disallowed

- ☐ Ensure that all figures balance. The sum of the beginning balance, principal receipts, change in assets, and income should equal the sum of the disbursements, distribution, and if applicable balance retained for future accountings.

Contact the Register of Wills Financial Analysis Division (240-777-9640) for any questions you may have regarding the proper completion of your account.

NOTE: INHERITANCE TAX RATES ARE DETERMINED BY THE DATE OF DEATH OF THE DECEDENT AND RELATIONSHIP OF HEIR/LEGATEE TO THE DECEDENT.

A Sample First and Final Account (with instructions) is available on our website
http://registers.maryland.gov/main/publications as a PDF.
You may choose to follow this format when filing your account.

Chapter Ten

Probate Fees and Taxes

Reference	Description
ET § 2-206	Enumeration of fees
ET § 5-606	Fees – small estate
TG § 7-203	Exemptions – inheritance tax
TG § 7-204	Tax rate
HG § 6-101	Proof of domestic partnership

References:

ET **Annotated Code of Maryland Estates and Trusts Article**

TG **Annotated Code of Maryland Tax-General**

HG **Annotated Code of Maryland Health General**

Register's Policies and Fee Schedules

Regular Estate Fee Schedule:

Fees are based on the gross estate value and due at the filing of the first account. Adjustments to fees will be made on subsequent account(s), if applicable.

Under modified administration, the fee is due at the filing of the Final Report Under Modified Administration.

Probate fees will be assessed at the following rates:

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

The probate fee includes two certified copies of the will/codicil(s) and twelve letters of administration.

In addition to the probate fees as listed above, the following fees may be charged, if applicable:

Claims for date of death on or after January 1, 1998 …….. $ 3.00
Safekeeping Wills……. $ 5.00
Photocopies (per page)……. $ .50
Additional letters of administration (each) ……. $ 1.00
Affixing seal of office to transcript or other record…….. $ 1.00
Affixing seal of office to exemplified copy of proceeding …….. $ 2.00
Transcribing papers filed in caveat or other controversial
proceedings when mandate of higher court is filed (per page)……..…. $ 2.00
Copies of a paper or record, including plain certification and
seal, per page or part of a page …….. $ 2.00
Entering papers in caveat or other controversial matter, for each side ……. $ 10.00

Small Estate Fee Schedule:

There is a graduated fee schedule (as listed below) based on the gross value of the small estate:

IF THE VALUE OF THE PROBATE ESTATE IS AT LEAST	BUT LESS THAN	THE FEE IS
$ --------	$ 200	$ 2.00
$ 200	$ 5,000	1% of the value of the small estate

See regular estate probate fees for small estates in excess of $5,000.

For each additional certificate of letters over four (4) furnished in connection with a small estate, there is a fee $1.00.

If a small estate is converted to a regular estate, the fee paid with the small estate is listed as an expense of the regular estate, however it is not deducted from the probate fee due in the regular estate.

Guardianship Fees:

Effective January 1, 1998
All filings and entries regarding a
guardianship proceeding, a single fee of……...……..$20.00

Prior to January 1, 1998
For filing and recording (if applicable) petitioners, consents,
orders, show cause orders, accounts…….…..$2.00 per page

Foreign Personal Representatives:

Effective for date of death on or after January 1, 1998
All proceedings involving the foreign personal representative - a single fee of 1% of the gross value of the estate, not to exceed $100.00 (in addition to any applicable inheritance tax)

Effective for date of death prior to January 1, 1998
Filing and recording…….……..$2.00 per page

Inheritance Tax Exemptions – TG § 7-203

Effective for date of death on or after July 1, 2010. (*For a date of death prior to July 1, 2010, refer to the applicable Code or contact the register for information.)*

(a) *Payments received under employee's pensions or benefit plans.* - The inheritance tax does not apply to the receipt of an annuity or other payment under a public or private employees' pension or benefit plan if the annuity or other payment is not taxable for Federal estate tax purposes.

(b) *Family allowance*

(1) (i) In this subsection the following words have the meanings indicated.

(ii) "Child" includes a stepchild or former stepchild.

(iii) "Parent" includes a stepparent or former stepparent.

(iv) "Surviving spouse" means a surviving spouse who has not remarried.

(2) The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of:

(i) a grandparent of the decedent;

(ii) a parent of the decedent;

(iii) a spouse of the decedent;

(iv) a child of the decedent or a lineal descendant of a child of the decedent;

(v) a spouse of a child of the decedent or a spouse of a lineal descendant of a child of the decedent;

(vi) a surviving spouse of a deceased child of the decedent or of a deceased lineal descendant of a child of the decedent who was married to the child or lineal descendant of the child at the time of the child's or lineal descendant's death;

(vii) a brother or sister of the decedent; or

(viii) a corporation if all of its stockholders consist of individuals specified in items (i) through (vii) of this paragraph.

(c) *Grave maintenance* - The inheritance tax does not apply to the receipt of the first $500 of property that passes from a decedent under a will for the perpetual upkeep of graves.

(d) *Life insurance benefit* - The inheritance tax does not apply to the receipt of the proceeds of a life insurance policy payable to any beneficiary other than the estate of the insured.

(e) *Nonprofit organization* - The inheritance tax does not apply to the receipt of property that passes from a decedent to or for the use of an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code or to which transfers are deductible under § 2055 of the Internal Revenue Code if the organization:

(1) is incorporated under the laws of this State;

(2) conducts a substantial part of all its activities in this State or in the District of Columbia; or

(3) has its principal place of business in a jurisdiction whose law:

(i) does not impose death taxes on the receipt of property that passes from a decedent to a beneficiary of this State that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code or to which transfers are deductible under § 2055 of the Internal Revenue Code; or

(ii) contains a reciprocal exemption from death taxes similar to the exemption allowed in this subsection.

(f) *Nonresident decedent personal property*

(1) Except as provided in paragraph (2) of this subsection, the inheritance tax does not apply to the receipt of personal property that passes from a nonresident decedent if, at the time of death, the decedent is a resident of a state or foreign country whose law, on the date of the decedent's death:

(i) does not impose death taxes on the receipt of similar personal property of a resident of this State; or

(ii) contains a reciprocal exemption from death taxes similar to the exemption allowed under this subsection.

(2) The exemption under paragraph (1) of this subsection does not include the receipt of tangible personal property that has a taxable situs in this State.

(g) *$1,000 limit per person* - The inheritance tax does not apply to the receipt of property that passes from a decedent to any 1 person if the total value of the property does not exceed $1,000.

(h) *Small estate* - The inheritance tax does not apply to the receipt of property that is distributed from an estate that qualifies under § 5-601 of the Estates and Trusts Article for administration of a small estate.

(i) *State, county or municipal corporation* - The inheritance tax does not apply to the receipt of property that passes from a decedent to the State, a county, or a municipal corporation of the State.

(j) *Income on probate assets* - The inheritance tax does not apply to the receipt of property that is income, including gains and losses, accrued on probate assets after the date of death of the decedent.[1] *(Effective for date of death on or after Jan. 1, 1998)*

(k) *Holocaust moneys*

(1) (i) In this subsection the following words have the meanings indicated.

(ii) "Holocaust victim" means an individual who died or lost property as a result of discriminatory laws, policies, or actions targeted against discrete groups of individuals based on race, religion, ethnicity, sexual orientation, or national origin, whether or not the individual was actually a member of any of those groups, or because the individual assisted or allegedly assisted any of those groups, between January 1, 1929 and December 31, 1945, in the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, areas occupied by those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of invasion by Nazi Germany or by any European country allied with or occupied by Nazi Germany.

(iii) "Nazi Germany" means:

1. for the period from 1929 to 1933, the Republic of Germany, commonly referred to as the Weimar Republic; and
2. for the period from 1933 through 1945, Deutsche Reich.

(2) The inheritance tax does not apply to the receipt of property that is:

(i) tangible or intangible property or compensation for tangible or intangible property that was seized, misappropriated, or lost as a result of the actions or policies of Nazi Germany toward a Holocaust victim; or

[1] The portion of the receipt accruing before the date on which a decedent dies or which an income interest begins shall be allocated to principal and the balance shall be allocated to income. ET § 15-506

(ii) amounts received by a decedent as reparations or restitution for the loss of liberty or damage to the health of the decedent because the decedent was:
1. a Holocaust victim; or
2. a spouse or descendant of a Holocaust victim.

(3) The exclusion under paragraph (2) of this subsection includes interest on the proceeds receivable as insurance under policies issued by European insurance companies prior to and during World War II to a Holocaust victim.

(4) The exclusion under paragraph (2) of this subsection does not include:
(i) assets acquired with the assets described in paragraph (2) of this subsection; or
(ii) assets acquired with the proceeds from the sale of the assets described in paragraph (2) of this subsection.

(5) The subtraction under paragraph (2)(i) of this subsection shall only apply if the decedent:
(i) was the first recipient of the assets described in paragraph (2)(i) of this subsection after their recovery; and
(ii) was:
1. a Holocaust victim; or
2. a spouse or descendant of a Holocaust victim.

(l) *Exemption from inheritance tax for domestic partnership (Effective for date of death on or after July 1, 2009); (Amendment effective 7/1/2017)*

(1) (i) In this subsection the following words have the meanings indicated.
(ii) "Domestic partner" means an individual with whom another individual has established a domestic partnership.
(iii) "Domestic partnership" means a relationship between two individuals that is a domestic partnership within the meaning of § 6-101(a) of the Health–General Article

(2) If the domestic partner of a decedent provides the affidavit described in § 6-101(b)(1) of the Health-General Article, or any two of the proofs of domestic partnership listed under § 6-101(b)(2) of the Health-General Article, the inheritance tax does not apply to the receipt of an interest in a joint primary residence that:
(i) at the time of death was held in joint tenancy by the decedent and the domestic partner; and
(ii) passes from the decedent to or for the use of the domestic partner.

<u>Requirements of Domestic Partnership as Described in Health–General § 6-101</u>

(a) "Domestic partnership" defined. – In this title, "domestic partnership" means a relationship between two individuals who:
(1) Are at least 18 years old;
(2) Are not related to each other by blood or marriage within four degrees of consanguinity under civil law rule;
(3) Are not married or in a civil union or domestic partnership with another individual; and
(4) Agree to be in a relationship of mutual interdependence in which each individual contributes to the maintenance and support of the other individual and the relationship, even if both individuals are not required to contribute equally to the relationship.

(b) *Requirements* - An individual who asserts a domestic partnership under subsection (a) of this section may be required to provide:

(1) An affidavit signed under penalty of perjury by two individuals stating that they have established a domestic partnership;

(2) Proof of any two of the following documents:

(i) Joint liability of the individuals for a mortgage, lease, or loan;

(ii) The designation of one of the individuals as the primary beneficiary under a life insurance policy on the life of the other individual or under a retirement plan on the other individual;

(iii) The designation of one of the individuals as the primary beneficiary of the will of the other individual;

(iv) A durable power of attorney for health care or financial management granted by one of the individuals to the other individual;

(v) Joint ownership or lease by the individuals of a motor vehicle;

(vi) A joint checking account, joint investments, or a joint credit account;

(vii) A joint renter's or homeowner's insurance policy;

(viii) Coverage on a health insurance policy;

(ix) Joint responsibility for child care, such as guardianship or school documents; or

(x) A relationship or cohabitation contract.

Inheritance Tax Rates TG § 7-204

	"Straight" Rate:	Accelerated or Higher Rate:
Direct/Lineal:		
Date of Death on or after 7/1/2000	Not Applicable	
7/1/1999 – 6/30/2000	0.9%	0.9081736%
3/17/1935 – 6/30/1999	1.0%	1.010101%
Collateral:		
Date of Death on or after 6/1/1975	10.0%	11.11111%
3/17/1935 – 5/31/1975	7.5%	
4/1/1908 – 3/16/1935	5.0%	5.2631579%
Siblings Only: (Siblings became tax exempt 7/1/2000)		
7/1/1999 – 6/30/2000	8.0%	8.6956522%
Prior to 7/1/1999 - see collateral rate		

Unless interim distributions of the residuary estate are reduced by the appropriate amount of tax at the time of distribution, tax is charged at a higher rate. Tax charged at the higher rate may be claimed as an expense in the account.

If there is a sufficient tax clause in the will, a specific bequest should be paid without reduction by the tax, and tax is charged at the higher rate.

If the inheritance tax is not taken out of the distribution generating the tax, then the tax is considered a distribution and subject to tax. This is accomplished by using the formula for the higher rate on the distribution reported.

Caveats

Reference	Description
ET § 5-207	Caveat proceeding
Rule 6-431	Caveat
Rule 6-432	Order to answer; register's notice and service
Rule 6-433	Subsequent procedure on petition to caveat

References: **ET** **Annotated Code of Maryland Estates and Trusts Article**

Rule **Annotated Code of Maryland Maryland Rules – Volume 1**

Register's Policies and Procedures

A verified petition to caveat may be filed by an heir of the decedent or a legatee in any instrument purporting to be a will or codicil. The petition may challenge the validity of any instrument purporting to be the decedent's will or codicil, whether or not offered for or admitted to probate. Generally, a petition to caveat shall be filed within six months after the first appointment of a personal representative under a will, even if there has been a subsequent judicial probate or appointment of a personal representative under that will. There are exceptions to the filing date. See Rule 6-431(b)(1) and (2)

Required to initiate a caveat proceeding:

Petition to Caveat (see Rule 6-431(c) for content requirements)
List of Interested Persons (who could be affected by the proceeding) **(Form 1104)**
Notice of Caveat **(Form 1131)**
Public Notice to Caveat **(Form 1132)**

Filing fee to the register - $10.00

Costs of publication of the Notice of Caveat is paid by the petitioner directly to the newspaper.

The petitioner shall file a sufficient number of copies of the petition to caveat and Notice of Caveat for the register to comply with Rule 6-432.

Within five days after the filing of the petition to caveat the register shall:

1. Issue an Order to Answer requiring a response within 20 days after service;
2. Serve the Order together with a copy of the Notice of Caveat and Petition on the personal representative and attorney for the estate by first class mail;
3. Serve on each interested person a copy of the Notice of Caveat by first class mail, and if no personal representative appointed under the will or codicil is currently serving, furnish with the notice a copy of the petition to caveat; and
4. Publish the Public Notice of Caveat once a week for two successive weeks.

The filing of a Petition to Caveat terminates the appointment of a personal representative (if one has been appointed), and converts the personal representative to a special administrator.

The Orphans' Court does not have jurisdiction to conduct a jury trial. If a caveator or caveatee wishes to obtain a jury trial in a caveat proceeding, such party should file in the Orphans' Court a Petition for Transmission of Issues to the Circuit Court. The following fees are required with the filing of the petition: 1) controversial fee of $10.00 and deposit of $40.00 payable to the Register of Wills for the transfer of the file to Circuit Court; and 2) check payable to the Circuit Court for filing fees in the amount of $165.00.

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Elective Share

Reference	Description
ET § 3-203	Right to elective share
ET § 3-204	Right to election personal to surviving spouse
ET § 3-205	Waiver of rights in decedent's estate
ET § 3-206	Time limitation for making election; withdrawal
ET § 3-207	Form of election
ET § 3-208	Effect of election upon will
ET § 11-112	Treatment of disqualified persons
Rule 6-411	Election to take statutory share

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Elective Share

Instead of property left by a will, the surviving spouse may elect to take a one-third share of the net estate if there is also a surviving issue, or a one-half share of the net estate if there is no surviving issue. The surviving spouse who makes this election may not take more than a one-half share of the net estate. The net estate and the value are defined in ET § 3-203.

An election to take statutory share shall be filed within the later of: nine (9) months after the date of the decedent's death or six (6) months after the first appointment of a personal representative under a will, unless extended under Rule 6-411(c).

The surviving spouse may file with the register a withdrawal of the election at any time before the expiration of the time, or any extension thereof granted by the court, for filing an election.

Upon the filing of an election, the spouse may receive no benefits under the will. Contribution to pay the elective share shall be prorated among all legatees.

Election to Take Statutory Share **(Form 1126)**

Notice of Extension of Time to Elect Statutory Share **(Form 1127)**

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Requirements of Signing Attorney/Appearance of Attorney

Rule 6-132	Appearance of attorneys
Rule 6-133	Attorney may act for person
Rule 6-134	Signing of petitions and other papers
Rule 6-135	Requirements of signing attorney
Rule 6-141	Bad faith – Unjustified proceeding

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

An appearance of an attorney may be entered by signing and filing a petition for probate or other paper, by filing an entry of appearance or by requesting the entry of an appearance in open court. An attorney may withdraw their appearance when the client has another attorney of record by filing a notice of withdrawal. If the client has no other attorney of record, an attorney may withdraw an appearance by filing a motion to withdraw pursuant to Rule 2-132 and 6-132.

A person's attorney may perform any act required by Maryland Rules except for the signing of documents required by law to be filed by a personal representative with the register or the court. When any notice is to be given by or to a person, the notice may be given by or to the attorney for that person.

Every petition or other paper of a person represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State and who complies with Rule 6-135. The signature of an attorney on a paper constitutes a certification that the attorney has read the paper; that to the best of the attorney's knowledge, information, and belief there is good ground to support it; and that it is not interposed for improper purpose or delay.

In addition to having been admitted to practice law in this State, an attorney signing a petition or paper in compliance with Rule 6-134 shall comply with one of the following two requirements. The attorney shall:

1. Maintain an office for the practice of law in the United States, or
2. Be a regular employee for an agency of government or of a business or other non-governmental organization or association and be authorized to sign pleadings on behalf of the employer.

If an attorney signing a petition or paper in compliance with Rule 6-134 does not maintain an office of the practice of law in this State, the first paper signed by the attorney and filed in the action shall be accompanied by the attorney's signed certification of admission to practice law in this State. Rule 6-135

Please note: Established policies are subject to change and may not be applicable in every situation.

Disclaimers

Reference	Description
ET § 9-201	Definitions
ET § 9-202	Disclaimer in general
ET § 9-203	Effect of disclaimer
ET § 9-204	Joint holders
ET § 9-205	Disclaimer by trustees
ET § 9-206	Holder disclaiming power of appointment or other non-fiduciary power
ET § 9-207	Disclaimer by appointee of power of appointment
ET § 9-208	Fiduciaries - Time of taking effect; effectiveness as to other fiduciaries
ET § 9-209	Delivery and effectiveness
ET § 9-210	When barred
ET § 9-211	Effect of federal laws and regulations
ET § 9-212	Filing, recording, registering
ET § 9-213	Unexercised disclaimers under former provisions
ET § 9-214	Severability
ET § 9-215	Rights under other statues not affected
ET § 9-216	Short title
ET § 11-112	Treatment of disqualified persons
ET § 13-203	Preservation and application of property
ET § 13-204	Authorization of specific transaction without appointment of guardian
Rule 6-412	Disclaimer

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Maryland Uniform Disclaimer of Property Interests Act. ET §§ 9-201 through 9-215
effective October 1, 2004

"Disclaimer" is the refusal to accept an interest in or power over property. A person may disclaim in whole or in part any interest in or power over property, including a power of appointment.

Content of Disclaimer Rule 6-412

Requirements of Disclaimer ET § 9-202(c)

To be effective, a disclaimer must:
1. Be in writing or other record;
2. Declare the disclaimer;
3. Describe the interest or power disclaimed;
4. Be signed by the person making the disclaimer; and
5. Be delivered or filed as provided in § 9-209

Effect of Disclaimer ET § 9-203

The disclaimer takes effect as of the time the instrument creating the interest becomes irrevocable or if the interest arose under the law of intestate succession, as of the time of the intestate's death.

The disclaimed interest passes according to terms of the instrument; however, if the instrument does not contain a provision, the following rules apply:
1. If the disclaimant is an individual, the disclaimed interest passes as if the disclaimant died immediately before the time of distribution; or
2. If by law or under the instrument the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive the time of distribution;[1] or
3. If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

When Barred ET § 9-210(b)

A disclaimer of an interest in property is barred if any of the following occurs before the disclaimer becomes effective:
1. The disclaimant accepts the interest sought to be disclaimed;
2. The disclaimant voluntarily assigns, conveys, encumbers, pledges, or transfers the interest sought to be disclaimed or contracts to do so; or
3. A judicial sale of the interest sought to be disclaimed occurs.

[1] ET § 9-201(j) "time of distribution" means the time when a disclaimed interest would have taken effect in possession or enjoyment; Letter of advice from the Office of the Attorney General dated September 12, 2008.

When Irrevocable ET § 9-202(e)

A disclaimer becomes irrevocable when it is delivered or filed as provided in § 9-209, or when it becomes effective as provided in §§ 9-203 through 9-208, whichever occurs first.

Delivery and Effectiveness ET § 9-209

[4]

Interest created by intestate succession or by will, other than an interest in a testamentary trust:

1. A disclaimer shall be delivered to the personal representative for the decedent's estate; or
2. If there is no personal representative, it shall be filed with a court having jurisdiction to appoint the personal representative.

Interest in testamentary trust:

1. A disclaimer shall be delivered to the trustee, or if no trustee is then serving, to the personal representative of the decedent's estate, or
2. If there is no personal representative, it shall be filed with a court having jurisdiction to enforce the trust.

Interest in *inter vivos* trust:

1. A disclaimer shall be delivered to the trustee.
2. If there is no trustee, it shall be filed with a court having jurisdiction to enforce the trust.
3. If the disclaimer is made before the time the instrument creating the trust becomes irrevocable, it shall be delivered to the settlor of a revocable trust or the transferor of the interest.

Interest created by beneficiary designation - before the time the designation becomes irrevocable:
A disclaimer shall be delivered to the person making the beneficiary designation.

Interest created by beneficiary designation - after the time the designation becomes irrevocable:
A disclaimer shall be delivered to the person obligated to distribute the interest.

Surviving holder of jointly held property:
A disclaimer shall be delivered to the person to whom the disclaimed interest passes.

Object or taker in default of exercise of power of appointment:
At any time after the power was created

1. The disclaimer shall be delivered to the holder of the power or to the fiduciary acting under the instrument that created the power; or
2. If there is no fiduciary, it shall be filed with a court having authority to appoint the fiduciary.

Appointee of non-fiduciary power of appointment:

1. The disclaimer shall be delivered to the holder, the personal representative of the holder's estate, or to the fiduciary under the instrument that created the power; or
2. If there is no fiduciary, it shall be filed with the court having authority to appoint the fiduciary.

Treatment of Disqualified Persons ET § 11-112 *effective October 1, 2013*

A "disqualified person" as defined in this section means a person who feloniously and intentionally kills, conspires to kill, or procures the killing of the decedent. A disqualified person shall be treated as if the disqualified person disclaimed the property or interest in the property at the time of the decedent's death.

A disqualified person shall be disqualified from:
1. Inheriting;
2. Taking;
3. Enjoying;
4. Receiving; or
5. Otherwise benefiting from the:
   a. Death
   b. Probate estate; or
   c. Non-probate property of the decedent;
6. Receiving a general or special power of appointment conferred by the will or trust of the decedent; and
7. Serving as a personal representative, guardian, or trustee of a trust created by the decedent.

Disclaimer by Trustee ET § 7-205

If a trustee disclaims an interest in property that otherwise would become trust property, the interest does not become trust property.

Preceding and Future Interest ET § 9-203(e)

Upon the disclaimer of a preceding interest, a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution, but a future interest held by the disclaimant is not accelerated in possession or enjoyment.

Disclaimer on Behalf of Minor

The circuit court has the power to authorize or direct the guardian to disclaim on behalf of the minor or disabled person, in whole or in part, the right of succession or transfer to that person of any property interest in any property. ET § 13-203(c)(2)(ii)

If a basis exists for assuming jurisdiction over the property of a minor or disabled person, the circuit court, without appointing a guardian, may authorize or direct a transaction with respect to the property of the minor or disabled child. This includes any transaction under the Maryland Uniform Disclaimer of Property Interest Act. ET § 13-204(a)

Disclaimers in Estates Administered Under Modified Administration

To continue under modified administration after a disclaimer has been filed, the ultimate residuary takers must continue to fall within the class of residuary takers specified in ET § 5-702(1).[1]

[1] Letter of advice from the Office of Attorney General dated January 14, 2000.

A disclaimer is not a transfer, assignment, or release. ET § 9-202(f)(1)

Creditors of the disclaimant have no interest in the property disclaimed. ET § 9-202(f)(2)

An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates. ET § 9-204(c)

The inheritance tax is based on the ultimate taker. 61 Op. Att'y Gen. 882 (1976)

Please note: Established policies are subject to change and may not be applicable in every situation.

Acceptance of Papers

Reference	Description
ET § 1-102	Verification
Rule 6-108	Register of wills – acceptance of papers

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

A register of wills shall not refuse to accept for filing any paper on the ground that it is not in the form mandated by Maryland Rules Title 6, with the exception of any petition or paper requiring service unless it is accompanied by: 1) a signed certificate showing the date and manner of service as prescribed in Rule 6-125 or, 2) a signed statement that, for reasons set forth in the statement, there is no person entitled to service. A certificate of service is prima facie proof of service.

A photocopy or facsimile copy of a pleading or paper except a will or codicil, once filed with the court, shall be treated as an original for court purposes**. However, no filing of a pleading or paper may be made by transmitting it directly to the court or register by electronic transmission. This includes facsimile and/or email.**

Please note: Established policies are subject to change and may not be applicable in every situation.

Venue

Reference	Description
ET § 5-103	Venue
Rule 6-111	Venue

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

The venue for administrative or judicial probate is in the county in which the decedent had his domicile at the time of his death or, if the decedent was not domiciled in Maryland, the county in which the petitioner believes the largest part in value of the property of the decedent in Maryland was located at the time of his death.

The register will not determine venue for any estate. The petitioner must determine the venue and file appropriately. The Maryland Court of Appeals had indicated that the two most important elements in determining domicile are where a person actually lives and votes.[1] If the place of residence and place of voting are not the same, additional factors should be considered.[2] These factors include:

- Payment of taxes and statements on tax returns;
- Ownership of property;
- The address at which one receives mail;
- Statements as to residency contained in contracts;
- Statements on licenses or governmental documents;
- Where furniture or other personal belongings are kept;
- Where decedent's bank accounts are located;
- Membership in professional, fraternal, religious or social organizations;
- Where one's regular physicians and dentists are located; and
- Where one maintains charge accounts.

Please note: Established policies are subject to change and may not be applicable in every situation.

[1] *Harrison v. Harrison* 117 Md. 607; 84 A. 57 (1912)
[2] *Bainum v. Kalen* 272 Md. 490; 325 A.2d 392 (1974)

Reference	Description
ET § 5-603	Procedures after petition (small estate)
ET § 8-101	Claim not paid in normal course of administration
ET § 8-102	Effect of statute of limitations
ET § 8-103	Limitation on presentation of claim
ET § 8-104	Manner of presentation of claim; form
ET § 8-105	Order of payment
ET § 8-107	Allowance of claim
ET § 8-108	Payment of claim
ET § 8-109	Liability of personal representative
ET § 8-110	Claim not yet due
ET § 8-111	Secured claim
ET § 8-112	Contingent claim
ET § 8-113	Counterclaim
ET § 8-114	Execution and levy prohibited
ET § 8-115	Exemption of proceeds of life insurance and other benefits
ET § 10-102	Liability of heir or legatee to creditor
Rule 6-413	Claim against estate – procedure
Rule 6-414	Notice of proposed payment to personal representative or attorney
Rule 6-441	Meeting of creditors

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

A claimant may make a claim against an estate within the time allowed for presenting claims, either by: (1) serving it on the personal representative; (2) filing it with the register and serving a copy on the personal representative; or (3) filing suit.

If the claim is filed prior to the appointment of the personal representative, the claimant may file the claim with the register in the county in which the decedent was domiciled or in any county in which the decedent resided.

Except as otherwise expressly provided by statute, with respect to claims of the United States and the State, claims not filed in accordance with ET § 8-103, shall be barred.

Unless a contrary intent is indicated in the will, a claim which was barred by a statute of limitations at the time of the death of the decedent may not be allowed or paid. ET § 8-102(a)

Presentation of Claims

Claims may be presented in the following manner:

(1) The claimant may deliver or mail to the personal representative a verified written statement of the claim indicating the following:
   (a) The basis for the claim;
   (b) The name and address of the claimant;
   (c) The amount claimed.
   (d) Additional requirement such as described in ET § 8-104 may also be required. *Failure to provide requested information may be a basis for disallowance of a claim in the discretion of the court.*

(2) If the claim is filed prior to the appointment of the personal representative, the claimant may file his claim with the register in the county: 1) in which the decedent was domiciled or 2) in any county in which he resided on the date of his death or 3) in which real property or a leasehold interest in real property of the decedent is located.

If the claim is filed after the appointment of the personal representative, the claimant shall file his claim with the register of the county in which probate proceedings are being conducted and shall deliver or mail a copy of the statement to the personal representative.

Claim against Decedent's Estate **(Form 1128)**

Filing fee $3.00
The register may refuse for filing a claim that does not have the correct filing fee.[1]

(2) When a cause survives death, the claimant does not have to file a claim as described in paragraphs 1 and 2 above, but can commence an action against the estate or person to whom property has been distributed, within the time limit for filing claims.

[1] Memorandum of the Office of the Attorney General dated September 9, 1997

Insufficient Assets

If the assets of the estate are insufficient to pay all of the claims in full, the personal representative shall make payment according to the order of payment as set for in ET § 8-105.

Priority of Claims

Claims by the IRS shall take priority over all other claims. See *United States v. Bielaski*, 360 Md. 67, 756 A.2d 583 (2000)

Public assistance claims. Refer to ET § 8-105(a)(10)

A preference shall not be given in the payment of one claim over another claim of the same class. *A claim due and payable is not entitled to a preference over claims not yet due.*

Disallowance of Claim

If the personal representative intends to disallow a claim that has been presented within the appropriate time and in the form prescribed in ET § 8-104(b) or (c), in whole or in part, he shall file with the register and mail to the claimant a notice stating:

(1) That the claim is disallowed in whole or in a stated amount, or
(2) That the personal representative will petition the court to determine whether the claim should be allowed. See ET § 8-107

Notice of Disallowance **(Form 1129)**

The claimant is forever barred to the extent of the disallowance unless he files a petition for allowance in the court or commences an action against the personal representative or against one or more of the persons to whom property has been distributed. The action shall be commenced within 60 days after the mailing of notice of disallowance by the personal representative.
ET § 8-107(b)

Petition by Claimant

If no action has been taken by the personal representative disallowing the claim in whole or in part, the claimant may petition the court for determination of the validity of the claim.

Hearing

Upon the filing of a petition by the personal representative or a claimant, the court shall hold a hearing on the petition after notice to the personal representative, the claimant, and such other persons as the court may direct.

Liability of Heir or Legatee to Creditor

After an estate has been closed, a claim not barred may be prosecuted against one or more of the persons to whom property has been distributed. ET § 10-102

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Show Causes/Extensions

Reference	**Description**
ET § 5-703	Modified administration – Extension of time periods
ET § 6-306	Removal
ET § 7-305(b)	When to render accounts - extensions
Rule 6-106	Computation of time in accordance with Rule 1-203
Rule 6-107	Extension of time
Rule 6-124	Show cause order
Rule 6-125	Service
Rule 6-452	Removal of a personal representative
Rule 6-456	Modified Administration – Extension of time to file a final report and make distribution

References: **ET** **Annotated Code of Maryland**
Estates and Trusts Article

Rule **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Requirement:	**Due Dates**:
List of Interested Persons unless a complete and accurate list was previously filed – does not apply to small or judicial estates as the list is required at the time of filing the petition**.**	Within 20 days after appointment of a personal representative
Sufficient Copies of Notice of Appointment - to be mailed to all interested persons in a regular (or modified) estate that did not waive notice	Within 20 days after appointment of a personal representative
Information Report – if a personal representative is appointed	Within three months of appointment of a personal representative
Application to Fix Tax on Non-probate Assets	Within ninety days after date of death
Inventory Summary and Supporting Schedules – (regular estate only)	Within three months of appointment of a personal representative
First Account (regular estate only)	Within nine months of appointment of a personal representative
Subsequent Account (regular estate only)	Regular intervals of the first to occur: six month from the order approving the prior account, or nine months after the prior account was filed, until the estate is closed by court approval of the final account.
Final Report (modified administration only)	Within ten months of appointment of a personal representative

Extensions for Filing Information Report, Inventory or Account Rule 6-107

For good cause shown, a written request for an extension of time may be granted by the register or the Orphans' Court provided the written request is received prior to the filing deadline. The Register will not grant extensions for more than 30 days beyond the filing deadline.

A verified petition for extension of time and proposed order for the Court's consideration must be filed if an extension exceeding 30 days is required. Interested persons should be given notice of any petition requesting an extension.

Unless a written request for extension of time is granted in advance of the filing deadline, failure to timely file any required document will result in an order to show cause why the personal representative should not be removed for failure to file the required document. A copy of the order to show cause will be mailed to all interested persons.

A petition for extension filed after the issuance of a show cause order will be accepted for filing but not processed.

Delinquent Notice for Failure to File Information Report, Inventory or Account

Upon the detection of an overdue filing, a delinquent notice is generated and mailed to the personal representative and attorney of record. The notice informs the personal representative that the required document must be submitted within 15 days. Failure to comply with the notice will result in the court issuing a show cause order.

Show Cause Order for Failure to File Information Report, Inventory or Account

A show cause order directs a person to show cause on or before a specified date why the court should not take action described in the order. If a hearing is scheduled when the order is signed, the order shall set forth the date and time. The order shall also specify who is to be served and the method of service. A copy of any related petition or other paper shall be served with a copy of the order.

The personal representative, after being served with the order, may exercise only the powers of a special administrator or such other powers as the court may direct. Rule 6-452

Generally, in order to rescind a show cause order for statutory required filings, the document required must be filed five business days prior to the hearing date to assure proper notice to the interested persons of the cancellation of the hearing.

Service

Except where these rules specifically require that service shall be made by first-class mail, return service requested, service may be made by (1) personal delivery, (2) certified mail, or (3) first class mail. Service by certified mail is complete upon delivery. Service by first- class mail, including first-class mail, return service requested, is complete upon mailing. If a person is represented by an attorney of record, service shall be made on the attorney pursuant to Rule 1-321. Service need not be made on any person who has filed a waiver of notice pursuant to Rule 6-126.

If first-class mail, first-class mail return service requested, or certified mail is returned with a forwarding address, service of the paper shall be made to the forwarding address.

Extensions for Filing Final Report Under Modified Administration and Making Distribution Rule 6-456

The initial time periods for filing a Final Report and for making distribution to each legatee and heir are extended for 90 days on a consent for extension of the time periods signed by the personal representative and each interested person and filed within 10 months from the date of appointment. (Effective for decedents dying on or after October 1, 2003)

Effective for a date of death on or after October 1, 2015, the register may extend the time periods for filing the Final Report and making distribution for an additional period not to exceed 90 days on the filing of a request signed by the personal representative and consented to by each interested person and filed before the date of filing the Final Report as extended by the initial request.

Consent to Extend Time to File Final Report and to Make Distribution in a Modified Administration **(Form 1146)**

Request for and Consent to Further Extend Time to File a Final Report and to make Distribution in a Modified Administration **(Form 1152)**

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Chapter Eleven, Section IV
Appeals

Reference	Description
Rule 6-463	Appeals
Rule 8-201	Method of securing review – Court of Special Appeals
Rule 8-202	Notice of appeal – Times for filing
Rule 8-205	Information reports
Rule 8-206	Prehearing and scheduling procedure
CJP § 12-501	Appeal to Court of Special Appeals
CJP § 12-502	Appeal to Circuit Court except in Harford and Montgomery County
CJP § 12-701	Stays

References: **Rule** **Annotated Code of Maryland**
Maryland Rules – Volume 1

CJP **Annotated Code of Maryland**
Courts and Judicial Proceedings

Register's Policies and Procedures

An appeal from a judgment of the court may be taken to the Court of Special Appeals of Maryland.

The notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken. A controversial fee of $10.00, payable to the register, is due with the filing of the notice of appeal.

An appeal from an Orphans' Court stays all proceedings in the Orphans' Court concerning the issue appealed.

An appeal from a final order removing a personal representative does not stay an order appointing a successor personal representative or special administrator. If a successor personal representative's appointment is made, upon the filing of an appeal, the successor personal representative shall have the powers of a special administrator.

Upon receipt of the order to transfer, the file will be prepared and the cost for certification of the record and postage will be billed. Payment of said cost is due to the register prior to the file being transferred. A separate check, payable to the Court of Special Appeals in the amount of $61.00, is also required. If the appellant requests a transcript of the hearing to be forwarded with the case file, the transcript must be ordered from the technical services division of the Circuit Court and delivered to the Register of Wills office.

Please note: Established policies are subject to change and may not be applicable in every situation.

Limited Orders

Reference	Description
Rule 6-122	Petitions

Reference: **Rule** **Annotated Code of Maryland**
Maryland Rules – Volume 1

Register's Policies and Procedures

Limited Order to Locate Assets

A verified petition pursuant to Rule 6-122(a) may be filed requesting the Orphans' Court to issue a limited order to search for assets titled in the sole name of a decedent.

Filing requirements for issuance of limited order to locate assets:

Petition for Limited Order **(Form 1147)**
Schedule C **(Form 1148)**
Limited Order to Locate Assets **(Form 1150)**
(The limited order is prepared by the register of wills office)
Copy of death certificate or proof of death (ex: funeral bill)

Filing fee to register: $2.00

The issuance of this order is intended for the use of the person with priority to serve as personal representative. The order directs the named institution(s) to disclose to the petitioner the assets, and the values thereof, titled in the sole name of the decedent. This order may not be used to transfer assets.

The limited order to locate assets is not necessary if a determination can be made that the estate will be opened as a regular estate.

Limited Order to Locate Will

A verified petition pursuant to Rule 6-122(a) may be filed requesting the Orphans' Court to issue a limited order to a financial institution to enter the safe deposit box in the presence of the register of wills (or authorized deputy) and the manager (or authorized agent) of the financial institution, for the sole purpose of locating the decedent's will. If the will is located it shall be delivered to the register of wills office.

Filing requirements for issuance of limited order to locate will**:**

Petition for Limited Order **(Form 1147)**
Schedule C **(Form 1148)**
Limited Order to Locate Will **(Form 1149)**
(The limited order is prepared by the register of wills office)
Copy of death certificate or proof of death (ex: funeral bill)

Filing fee to register: $2.00

All forms referenced are located in the appendix.

Please note: Established policies are subject to change and may not be applicable in every situation.

Orphans' Court

Reference	Description
ET § 1-301	All property of decedent; devolution at death
ET § 2-102	Jurisdiction of court

References: ET Annotated Code of Maryland Estates and Trusts Article

Register's Policies and Procedures

The court may conduct judicial probate, direct the conduct of a personal representative, and pass orders which may be required in the course of the administration of an estate of a decedent. It may summon witnesses. The court may not, under pretext of incidental power or constructive authority, exercise any jurisdiction not expressly conferred by law.

The court may determine questions of title to personal property not exceeding $50,000 in value for the purpose of determining what property is includable in an estate. ET § 1-301(b)

If the majority of individuals under Health General § 5-509(c) cannot agree on the arrangements, any individual specified in §5-509(c) or the practitioner who has custody of the body, or both, may file a petition in the circuit court for the county in which the decedent was domiciled at the time of death or the county in which the body is located requesting the court to decide the final disposition of the body.[1]

Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions Rule 6-416(a)(4). The court must take into account commissions paid or to be paid in determining reasonableness of counsel fees.[2]

The issuance of a Show Cause Order requires the appearance of the personal representative and attorney unless compliance is completed **prior to (5) five business days of the scheduled hearing date.**

Please note: Established policies are subject to change and may not be applicable in every situation.

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[1] Health-General § 5-510

[2] *Wright, et. al. v. Nuttle*, Court of Appeals 267 Md. 698; 298 A.2d 389 (1973)

FORM	DESCRIPTION Alphabetical Index
1119	ADMINISTRATIVE PROBATE ORDER
1151	AFFIDAVIT OF ATTEMPTS TO CONTACT, LOCATE, AND IDENTIFY INTERESTED PERSONS
1342	ANNUAL REPORT OF GUARDIAN OF THE PERSON, WHO IS A MINOR (CC-GN-014)
1133	APPLICATION BY FOREIGN PERSONAL REPRESENTATIVE TO SET INHERITANCE TAX
1125	APPLICATION TO FIX INHERITANCE TAX ON NON-PROBATE ASSETS
1106	APPOINTMENT OF RESIDENT AGENT
1115	BOND OF PERSONAL REPRESENTATIVE
1144	CERTIFICATE OF SERVICE OF FINAL REPORT UNDER MODIFIED ADMINISTRATION
1128	CLAIM AGAINST DECEDENT'S ESTATE
1140	CLAIM FOR REFUND OF TAX ERRONEOUSLY PAID
1118	CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE
1138	CONSENT TO COMPENSATION FOR PERSONAL REPRESENTATIVE AND / OR ATTORNEY
1142	CONSENT TO ELECTION FOR MODIFIED ADMINISTRATION
1146	CONSENT TO EXTEND TIME TO FILE FINAL REPORT AND TO MAKE DISTRIBUTION IN A MODIFIED ADMINISTRATION
1429	CONSENT TO PROBATE OF COPY OF EXECUTED LAST WILL AND TESTAMENT
1314	DESIGNATION OF A GUARDIAN OF THE PERSON BY A MINOR (CC-GN-008)
1314	DESIGNATION OF A GUARDIAN OF THE PROPERTY BY A MINOR (CC-GN-009)
1141	ELECTION OF PERSONAL REPRESENTATIVE FOR MODIFIED ADMINISTRATION
1126	ELECTION TO TAKE STATUTORY SHARE OF ESTATE
1143	FINAL REPORT UNDER MODIFIED ADMINISTRATION
1320	GUARDIAN'S ACCOUNT (CC-GN-012)
1317	GUARDIANSHIP BOND
1322	GUARDIANSHIP SHOW CAUSE
1124	INFORMATION REPORT
1122	INVENTORY SUMMARY & SUPPORTING SCHEDULE
1123	INVENTORY SUPPORTING SCHEDULE
1318	INVENTORY/INFORMATION REPORT OF GUARDIANSHIP ESTATE (CC-GN-011)
1104	LIST OF INTERESTED PERSONS
1116	NOMINAL BOND OF PERSONAL REPRESENTATIVE

1114 NOTICE OF APPOINTMENT, NOTICE TO CREDITORS, NOTICE TO UNKNOWN HEIRS

1131 NOTICE OF CAVEAT

1129 NOTICE OF DISALLOWANCE

1127 NOTICE OF EXTENSION OF TIME TO ELECT STATUTORY SHARE

1113 NOTICE OF JUDICIAL PROBATE

1134 NOTICE TO CREDITORS OF APPOINTMENT OF FOREIGN PERSONAL REPRESENTATIVE

1325 NOTICE TO INTERESTED PERSONS (GUARDIANSHIP OF PERSON) (CC-GN-005)

1325 NOTICE TO INTERESTED PERSONS (GUARDIANSHIP OF PROPERTY) (CC-GN-006)

1343 PARENT'S CONSENT TO GUARDIANSHIP OF A MINOR (CC-GN-007)

1121 PERSONAL REPRESENTATIVE'S ACCEPTANCE AND CONSENT

1130 PETITION AND ORDER FOR FUNERAL EXPENSES

1430 PETITION FOR ADMISSION OF COPY OF EXECUTED LAST WILL AND TESTAMENT

1313 PETITION FOR GUARDIANSHIP OF MINOR (CC-GN-001)

1147 PETITION FOR LIMITED ORDERS

1321 PETITION FOR TERMINATION OF GUARDIANSHIP (CC-GN-028)

1135 PETITION FOR WILL OF NO ESTATE

1102 PROOF OF EXECUTION OF WILL

1319 PROOF OF RESTRICTED GUARDIANSHIP ACCOUNT FORM (CC-GN-024)

1132 PUBLIC NOTICE OF CAVEAT

1112 REGULAR ESTATE PETITION FOR PROBATE

1152 REQUEST FOR AND CONSENT TO FURTHER EXTEND TIME TO FILE A FINAL REPORT AND TO MAKE DISTRIBUTION IN A MODIFIED ADMINISTRATION

1136 SCHEDULE A (REGULAR ESTATE)

1137 SCHEDULE B (SMALL ESTATE)

1148 SCHEDULE C REQUEST FOR LIMITED ORDER

1109 SMALL ESTATE NOTICE OF APPOINTMENT, NOTICE TO CREDITORS, NOTICE TO UNKNOWN HEIRS

1103 SMALL ESTATE PETITION FOR ADMINISTRATION

1117 WAIVER OF BOND

1101 WAIVER OF NOTICE

FORM	DESCRIPTION	Numerical Index

1101 WAIVER OF NOTICE

1102 PROOF OF EXECUTION OF WILL

1103 SMALL ESTATE PETITION FOR ADMINISTRATION

1104 LIST OF INTERESTED PERSONS

1106 APPOINTMENT OF RESIDENT AGENT

1109 SMALL ESTATE NOTICE OF APPOINTMENT, NOTICE TO CREDITORS, NOTICE TO UNKNOWN HEIRS

1112 REGULAR ESTATE PETITION FOR PROBATE

1113 NOTICE OF JUDICIAL PROBATE

1114 NOTICE OF APPOINTMENT, NOTICE TO CREDITORS, NOTICE TO UNKNOWN HEIRS

1115 BOND OF PERSONAL REPRESENTATIVE

1116 NOMINAL BOND OF PERSONAL REPRESENTATIVE

1117 WAIVER OF BOND

1118 CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE

1119 ADMINISTRATIVE PROBATE ORDER

1121 PERSONAL REPRESENTATIVE'S ACCEPTANCE AND CONSENT

1122 INVENTORY SUMMARY & SUPPORTING SCHEDULE

1123 INVENTORY SUPPORTING SCHEDULE

1124 INFORMATION REPORT

1125 APPLICATION TO FIX INHERITANCE TAX ON NON-PROBATE ASSETS

1126 ELECTION TO TAKE STATUTORY SHARE OF ESTATE

1127 NOTICE OF EXTENSION OF TIME TO ELECT STATUTORY SHARE

1128 CLAIM AGAINST DECEDENT'S ESTATE

1129 NOTICE OF DISALLOWANCE

1130 PETITION AND ORDER FOR FUNERAL EXPENSES

1131 NOTICE OF CAVEAT

1132 PUBLIC NOTICE OF CAVEAT

1133 APPLICATION BY FOREIGN PERSONAL REPRESENTATIVE TO SET INHERITANCE TAX

1134 NOTICE TO CREDITORS OF APPOINTMENT OF FOREIGN PERSONAL REPRESENTATIVE

1135 PETITION FOR WILL OF NO ESTATE

1136 SCHEDULE A (REGULAR ESTATE)

1137 SCHEDULE B (SMALL ESTATE)

1138 CONSENT TO COMPENSATION FOR PERSONAL REPRESENTATIVE AND / OR ATTORNEY

1140 CLAIM FOR REFUND OF TAX ERRONEOUSLY PAID

1141 ELECTION OF PERSONAL REPRESENTATIVE FOR MODIFIED ADMINISTRATION

1142 CONSENT TO ELECTION FOR MODIFIED ADMINISTRATION

1143 FINAL REPORT UNDER MODIFIED ADMINISTRATION

1144 CERTIFICATE OF SERVICE OF FINAL REPORT UNDER MODIFIED ADMINISTRATION

1146 CONSENT TO EXTEND TIME TO FILE FINAL REPORT AND TO MAKE DISTRIBUTION IN A MODIFIED ADMINISTRATION

1147 PETITION FOR LIMITED ORDERS

1148 SCHEDULE C REQUEST FOR LIMITED ORDER

1151 AFFIDAVIT OF ATTEMPTS TO CONTACT, LOCATE, AND IDENTIFY INTERESTED PERSONS

1152 REQUEST FOR AND CONSENT TO FURTHER EXTEND TIME TO FILE A FINAL REPORT AND TO MAKE DISTRIBUTION IN A MODIFIED ADMINISTRATION

1313 PETITION FOR GUARDIANSHIP OF MINOR (CC-GN-001)

1314 DESIGNATION OF A GUARDIAN OF THE PERSON BY A MINOR (CC-GN-008)

1314 DESIGNATION OF A GUARDIAN OF THE PROPERTY OF A MINOR (CC-GN-009)

1317 GUARDIANSHIP BOND

1318 INVENTORY/INFORMATION REPORT OF GUARDIANSHIP ESTATE (CC-GN-011)

1319 PROOF OF RESTRICTED GUARDIANSHIP ACCOUNT FORM (CC-GN-024)

1320 GUARDIAN'S ACCOUNT (CC-GN-012)

1321 PETITION FOR TERMINATION OF GUARDIANSHIP (CC-GN-028)

1322 GUARDIANSHIP SHOW CAUSE

1325 NOTICE TO INTERESTED PERSONS (GUARDIANSHIP OF PERSON) (CC-GN-005)

1325 NOTICE TO INTERESTED PERSONS (GUARDIANSHIP OF PROPERTY) (CC-GN-006)

1342 ANNUAL REPORT OF GUARDIAN OF THE PERSON, WHO IS A MINOR (CC-GN-014)

1343 PARENT'S CONSENT TO GUARDIANSHIP OF A MINOR (CC-GN-007)

1429 CONSENT TO PROBATE OF COPY OF EXECUTED LAST WILL AND TESTAMENT

1430 PETITION FOR ADMISSION OF COPY OF EXECUTED LAST WILL AND TESTAMENT