INHERITANCE TAXES

Effective for persons dying on or after July 1, 2010
(For an earlier date of death, contact the Register for applicable inheritance tax exemptions.)

PROPERTY SUBJECT TO INHERITANCE TAX

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

EXEMPTIONS FROM INHERITANCE TAX

For inheritance tax purposes only, the words below have the following meanings: "child" includes a stepchild or former step-child; "parent" includes a stepparent or former stepparent; "surviving spouse" means a surviving spouse who has not remarried.

1. Inheritance tax does not apply to the receipt of property that passes to or for the use of the following: grandparent; parent; spouse; registered domestic partner; child or lineal descendant of a child; spouse of a child or a spouse of a lineal descendant of a child; surviving spouse of a deceased child or of a deceased lineal descendant of a child who was married to the child or lineal descendant at the time of the child or lineal descendant's death; a brother or sister of the decedent; or a corporation, partnership, or limited liability company if all stockholders, partners, or members consist of the individuals named above;
2. Life insurance benefits payable to any beneficiary other than estate of the insured;
3. Grave maintenance up to $500 passing under a Will for the perpetual upkeep of graves;
4. Property passing to a non-profit organization which is exempt from taxation under Section 501(c)(3) of the IRS Code or to which transfers are deductible under Section 2055 of the IRS Code if it is incorporated under laws of Maryland; conducts a substantial part of its activities in Maryland or in the District of Columbia; or has its principal place of business in a jurisdiction whose law contains a reciprocal exemption;
5. State, county, or municipal corporations;
6. Property administered under a Small Estate proceeding;
7. Total property not exceeding $1,000 passing to any one person;
8. Personal property of a non-resident decedent with the exception of tangible property located in Maryland;
9. Income, including gains and losses, accrued on probate assets after the date of death of decedent; and
10. Joint primary residence that passes from a decedent to or for the use of a "domestic partner" of a decedent within the meaning of Section 6-101(a) of the Health-General Article.

Collateral Inheritance Tax at the rate of 10% applies to distributions to persons or organizations not identified as exempt.

HOW WILL MY ESTATE BE DISTRIBUTED IF I DIE WITHOUT A WILL?

IF THE DECEDENT IS SURVIVED BY:

1. **Spouse or registered domestic partner and no children -** the spouse or registered domestic partner receives the entire net estate
2. **Spouse or registered domestic partner and children, at least one of whom is a minor -** the spouse or registered domestic partner receives one half of the net estate and the children divide the remaining one half equally*****
3. **Spouse or registered domestic partner and children, all of whom are adults and are children of both the spouse or registered domestic partner and the decedent -** the spouse or registered domestic partner receives the entire net estate
4. **Spouse or registered domestic partner and children, all of whom are adults but at least one is not a child of both the spouse or registered domestic partner and the decedent -** the spouse or registered domestic partner receives the first $100,000 plus one half of the remaining net estate, and the children divide the remaining one half equally*
5. **Children only -** the children divide net estate equally*****
6. **Surviving parent(s) only -** parent or parents receive the entire estate
7. **Surviving sibling(s) only -** siblings divide net estate equally*****
8. **Grandparents without any other heirs listed above -** the grandparents divide net estate equally (if all grandparents deceased, to issue of the grandparents)
9. **Stepchildren without any other heirs listed above -** stepchildren divide net estate equally*****
10. **No living heirs or stepchildren -** the entire net estate passes to the Board of Education in the jurisdiction in which the estate is opened, or to the Department of Health if the decedent received long term care benefits under the Maryland Medical Assistance Program

*** The share of a predeceased heir in these categories passes to the issue of the predeceased heir.**

NOTE: "Child" does not include a stepchild or foster child

FOREIGN PERSONAL REPRESENTATIVE

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

Administration of Estates in Maryland

Prepared by the Register of Wills Association

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

http://registers.maryland.gov

EFFECTIVE FOR DATE OF DEATH ON OR AFTER OCTOBER 1, 2023 UNLESS OTHERWISE NOTED

VARYING LAWS MAY APPLY FOR PRIOR DATE OF DEATH

Estates and Trusts Laws are Subject to Change by the Legislature at Any Time

10/2023

Maryland law requires that the custodian of a document appearing to be the Last Will and Testament (including any Codicil) of the decedent shall file it promptly with the Register of Wills in the county where the decedent was domiciled at the time of death, *even if it is not to be offered for probate.*

Assets held in the decedent's name alone (including interests held as a tenant in common) must be reported to the Register of Wills. A Personal Representative must be appointed by the Register or the Orphans' Court before disposing of any assets. When appointed, Letters of Administration will be issued to the Personal Representative.

Forms and procedures herein are mandated by Maryland Code and Maryland Rules. (Forms are available from the Register of Wills Office or at http://registers.maryland.gov.)

SMALL ESTATES

Assets subject to administration valued at $50,000 or less ($100,000 if the spouse is the sole legatee or heir) Contact the Register for values for date of death before October 1, 2012

Small Estate value is determined by the fair market value of property less debts of record secured by the property, as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party.

1. **Petition for Probate with Schedule B** — Required appraisals must be submitted. The value of each item shall be fairly appraised as of the date of death. The Personal Representative may appraise corporate stocks listed on a national or regional exchange, over-the-counter securities, debts owed to the decedent, accounts held at banking institutions, money, annuities and life insurance payable to the estate. All other assets must be appraised by qualified disinterested appraiser. (Contact the Register for alternative procedures available for valuing real property and vehicles.)
2. **List of Interested Persons** listing the names and addresses of those named in the Will, if any, and those who would inherit if there were no Will. (See "How Will My Property Be Distributed If I Die Without A Will?")
3. **Consent to Appointment of Personal Representative** if the person named in the Will, if any, or the person entitled to appointment, is not applying.
4. **Appointment of Resident Agent** if petitioner is not a Maryland resident.
5. **Proof of Execution of Will** if Will lacks an attestation clause.
6. **Information Report** listing any interest in assets that pass outside the probate estate to a person or organization that is not exempted from inheritance tax, such as, jointly held property, retirement and payable on death accounts, transfers made within two years of death, and trusts. Also reports real property not located in Maryland.
7. **Notice of Appointment, Notice to Creditors, Notice to Unknown Heirs** designating an approved newspaper for publication may be required for certain small estates. (Leave dates blank except date of death.)
8. **Bond** (applicable in some estates)
9. **Funeral bill or contract** (suggested but not required)
10. **Copy of death certificate** (available from Division of Vital Records)
11. Commissions are not available in a small estate.

REGULAR ESTATES

Assets subject to administration in excess of $50,000 ($100,000 if the spouse is the sole legatee or heir) Contact the Register for values for date of death before October 1, 2012

1. **Petition for Probate with Schedule A**
2. **Notice of Appointment, Notice to Creditors, Notice to Unknown Heirs** designating an approved newspaper for publication (Leave dates blank except date of death)
3. **Bond** (required by law)
4. **Consent to Appointment of Personal Representative** (only applicable if the person named in the Will, if any, or the person entitled to appointment is not applying)
5. **Appointment of Resident Agent** if petitioner is not a Maryland resident
6. **Proof of Execution of Will** if Will lacks attestation clause
7. **List of Interested Persons** to include the names and addresses of those named in the Will, if any, and those who would inherit if there were no Will. See "How Will My Property be Distributed if I Die Without a Will." Must be filed within 20 days after appointment of a Personal Representative.
8. **Copy of death certificate** (available from Division of Vital Records)

It is the duty of every Personal Representative or Special Administrator of a Regular Estate to timely file the following documents in the Register of Wills office:

Inventory with Schedules *Within three months after the date of appointment,* an inventory of property owned solely by the decedent and decedent's interest in property held as a tenant in common. Each item is to be listed in reasonably descriptive detail, indicating its fair market value as of the decedent's date of death. A personal representative may appraise corporate stocks listed on a national or regional exchange, over-the-counter securities, debts owed to the decedent, accounts held at banking institutions, money, annuities and life insurance payable to the estate, vehicles and real property. All other assets must be appraised by qualified disinterested appraisers.

Information Report - *Within three months after the date of appointment* - (See No. 6 under Small Estates)

First Account - *Within nine months after the date of appointment* the First Account must be filed. The Account includes the inventoried assets and all financial activity of the administration. All receipts, including income, sales and redemptions, disbursements, distributions and list of assets remaining in the hands of the personal representative must be reported. If real property is sold, a copy of the closing disclosure statement is required.

Subsequent Accounts - If the First Account is not a final, then subsequent accounts must be filed *as required by law until the estate is closed.*

Petitions for Personal Representative's Commission and Attorney's Fees - Commissions and fees are subject to Court approval unless: 1) each creditor who has filed a claim that is still open, and all interested persons consent in writing to the payment; 2) the combined sum of commissions and attorney's fees does not exceed the amounts provided below; 3) the signed consent form states the amounts of the payments and is filed with the Register of Wills; 4) Unless the consent form is filed simultaneously with the final administration account or final report under a modified administration, each payment consented to is for services rendered by the attorney or personal representative prior to the date of consent.

Commissions are computed as follows:

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

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

If the value of the probate estate is:

At least:	But less than:	The Fee is:
$ 0	$ 50,000	$ 0
$ 50,000	$ 100,000	$ 100
$ 100,000	$ 500,000	$ 200
$ 500,000	$ 1,000,000	$ 1,000
$ 1,000,000	$ 2,500,000	$ 2,000
$ 2,500,000	$ 5,000,000	$ 5,000
$ 5,000,000	$ 7,500,000	$ 7,500
$ 7,500,000	$ 10,000,000	$ 10,000
$ 10,000,000	- - - - - - - - - - -	$ 10,000 plus .02% of excess over $ 10,000,000

Important: Effective October 1, 2022, no fees are due on Small Estates even if valued between $50,000 and $100,000 with a spouse as a sole heir or legatee.

MODIFIED ADMINISTRATION

Modified Administration is an option available to a Personal Representative within three months from the date of appointment. This streamlined procedure, which is to be completed within twelve months, is available if the residuary legatees or heirs in a Regular Estate are limited to: 1) the personal representative; 2) individuals or entities exempt from inheritance tax in the decedent's estate under Section 7-203(b), (e) and (f) of the Tax-General Article; and 3) 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 Section 7-203(b), (e) and (f) of the Tax-General Article. The estate must be solvent and sufficient assets exist to satisfy all testamentary gifts.

CLAIMS

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