

6. DO I NEED A LAWYER?

Many estates are simple enough that you may not need to retain legal counsel. However, if you feel overwhelmed by having to handle an estate, if there is conflict in the family, or there are complex assets involved, you should consider hiring an attorney to take over the estate for you.

7. ARE THERE FEES?

The Register's fees are set by the Maryland General Assembly and vary depending on the value of the estate. There is no fee for a Small Estate, however there is a fee for a Regular Estate. Please consult the Register of Wills website for a full breakdown of the probate fee schedule.

8. DO I HAVE TO PAY TAXES?

There may be tax issues to address after someone has passed away. If you have questions about estate taxes, you should contact an attorney, the Comptroller, or the IRS. The Registers of Wills do, however, collect Maryland inheritance taxes. This is a flat 10% tax based on the relationship of the individual inheriting, whether it is a probate or non-probate transfer. Spouses, registered domestic partners, descendants, ancestors, siblings, and stepchildren are exempt. If you have a question about the inheritance tax, call the Register's office.

9. WILL I GO BEFORE A JUDGE?

If there is disagreement among family members, the Orphans' Court may hold a hearing. Otherwise, all Regular Estate accounts and petitions go before the court, while most Small Estates and estates in Modified Administration never require action by the court. Most estates are handled exclusively by the Register of Wills' staff and do not involve the court.

RESOURCES

LEGAL

Maryland Bar Association
msba.org

Maryland Volunteer Lawyers Service
mvlslaw.org

Maryland Law Library
mdcourts.gov/lawlib

Maryland Attorney General
marylandattorneygeneral.gov

STATE GOVERNMENT

Motor Vehicle Administration
mva.maryland.gov

Comptroller of Maryland
www.marylandtaxes.gov

Unclaimed Property
interactive.marylandtaxes.gov/individuals/unclaim

Maryland Dept. of Assessments & Taxation
dat.maryland.gov

FEDERAL GOVERNMENT

Internal Revenue Service
irs.gov

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PROBATE IN MARYLAND

A Basic Guide to What to Do After You've Lost a Loved One



A PUBLICATION OF THE REGISTERS OF WILLS OF MARYLAND

For more information, visit us online at registers.maryland.gov.

OUR MISSION

The death of a loved one is one of the hardest times in our lives. It is the mission of the Register of Wills to guide you through the probate process and make it as easy, straightforward, and efficient as possible. Please know that when you need help with a loved one's estate, we are here to serve you.

1. A LOVED ONE HAS PASSED AWAY. WHERE DO I START?

After someone close to you has passed away, your responsibilities depend on (1) if they had a will, (2) if they had assets titled solely in their name (called "probate assets"), and (3) the value of those assets.

Assets can include real property (homes or land), motor vehicles, any kind of financial accounts, tangible items owned by the decedent, and more.

A. If the decedent died with no will or probate assets

You don't need to open an estate and don't have anything to file with the Register of Wills.

B. If the decedent died with a will but no probate assets

You will need to file their Last Will & Testament with the Register of Wills. This is required to ensure that if any probate assets are ever located, the decedent's final wishes regarding who would serve as their personal representative (also known as an "executor") and who would inherit are both honored. There is no fee for filing the will.

C. If the decedent died (with or without a will) with probate assets

You will need to file the will (if any) and petition to be appointed personal representative of the estate. The Register of Wills will guide you on which papers are required, how to account for the assets, and which type of estate you'll need to open.

2. HOW DO I OPEN AN ESTATE?

To open an estate and be appointed Personal Representative, you'll need to bring in or mail some documents to the Register of Wills in the jurisdiction (the county or Baltimore City) in which the decedent was domiciled (their permanent home). You'll need to provide the following:

1. Last Will and Testament (original, unless only a copy can be located)
2. Death certificate (copy or original) or any proof of death
3. Date of death value of probate assets & debts (including funeral bill)
4. Title to motor vehicles (original or copy)
5. Names and addresses of "interested persons" (all heirs - those who would inherit if there is no will - and legatees - those named to inherit in the will)
6. Nominal Bond (depending on the value of the estate)
7. Filing fee

3. WHO WILL INHERIT?

If the decedent died **with a Last Will & Testament**, we will follow the terms of the will to determine who will inherit, provided the estate is solvent and the assets and funds are available.

If they died **without a Last Will & Testament**, they are considered to have died "intestate," and Maryland law determines who inherits based on which heirs survived the decedent. This begins with the spouse or registered domestic partner, then children and grandchildren, then parents, then descendants of parents (siblings, nieces, and nephews), etc. The Register of Wills can assist with determining who the heirs are.

If we cannot locate any blood relative as far removed as descendants of the decedent's grandparents or any stepchildren, an estate will "escheat" and will be distributed to the local Board of Education.

4. WHAT TYPES OF ESTATES ARE THERE?

Will of No Estate: Used when the decedent died with a will and no probate assets. There is no fee.

Small Estate: Used when assets total \$50,000 or less. A simple list of assets and debts is required. If the assets don't exceed the funeral expenses and family allowances you won't be required to publish notice of the estate in the newspaper. In rare cases, you may need a bond.

Regular Estate: Used when assets exceed \$50,000. An initial estimate of the value of the estate is required, then you are given 3 months to file a formal inventory of assets, and 9 months to file a first account. The Register's auditors will assist with this process. The accountings are subject to approval by the Orphans' Courts.

Modified Administration: Used as a more streamlined alternative to a Regular Estate, when all heirs and legatees consent and the estate can be closed within 10 months. Instead of a formal inventory and account, a final report is required and reviewed by the Register of Wills. These estates are not subject to approval by the Orphans' Courts.

5. HOW LONG DOES PROBATE TAKE?

If an estate is insolvent - the expenses and debts exceed the assets - the Register's office will open and close it the same day. If the estate is solvent, most creditors have 6 months to file a claim, so that's the earliest an estate could close. Most estates close within a year of being opened, but they can be open longer if there is conflict among the interested persons or there are complex assets involved.