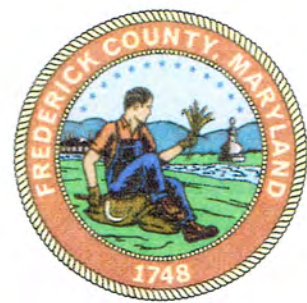




Mary C. Rolle
Register of Wills for Frederick County
100 West Patrick Street
Frederick, Maryland 21701
301.600.6565
www.registers.maryland.gov



**Information to Have Available
when Calling the Register of
Wills Office.**

- Full Name of Decedent
- Date of Death
- Was the Decedent a Resident of Frederick County?
- Is there a Will? If so, where is the Original Will?
- Name, Address, and Phone Number of the Personal Representative.
- A list of closest living relatives, including addresses.
- Name of Funeral Home and total costs.
- List of ALL Assets/Property in the DECEDENT'S SOLE NAME

A Note from the Register:

Please accept our condolences on the loss of your loved one. The Register of Wills assists and advises the public in the preparation of forms required in the probate process.

Please make your first contact with our office by phone. This will save you time, effort, and expense.

Probate is a legal process, and you may wish to retain professional counsel.

Obtain the Death Certificate

Proof of death is required before you can open an estate. A death certificate or obituary printed in a local paper may be used as proof of death.

Find the Will and/or Trust.

The Register of Wills requires the original Will before the probate process may begin. The original Will may be kept in safekeeping at the Register of Wills Office, or the decedent may have kept their Will among their personal papers. All Trust documents are reviewed by the Register of Wills for tax purposes. Please plan to provide a copy which will be promptly returned or destroyed after review. Trust documents are not public documents and are not made a part of the estate file.

Seek Professional Advice

You may avoid mistakes by consulting with Estates and Trusts Attorney, Tax Accountant, Appraiser, or other professional(s). * An attorney can advise you on the legal steps to take and help handle questions that arise during the administration of an estate.

Take Your Time

Most estates in Maryland remain open for a minimum of nine (9) months. All debts/claims must be satisfied before an estate can be closed. An attorney can help the Personal Representative avoid acting hastily and making mistakes.

Please Call the Register of Wills to Make an Appointment

* While the Register of Wills likes to be helpful, Personnel of the Register of Wills Office **cannot** provide legal advice.

**Mary Rolle
Register of Wills
For Frederick County**

We are committed to giving constituents the best possible service. Every effort is made to provide accurate information and assistance regarding matters important to you.

We Serve

The decedent – that his or her last wishes will be carried out.

The heirs, legatees and creditors – that they will receive what they are entitled to.

The State of Maryland – that the proper taxes and fees will be collected.

- **Hours and Availability**

- Our office is open from 8:30 am – 4:30 pm, Monday through Friday.
- It is highly recommended that you contact us in advance to schedule an appointment if you would like to come to the office for services.
- Most services provided by this office can be fulfilled by telephone (301.600.6565), fax (301.600.6580), mail, or our online services (www.registers.maryland.gov). We strongly encourage you to utilize these services.
- For your convenience, drop boxes for filing are available at front and rear courthouse entrances. We strongly encourage you to utilize these drop boxes.

- **Will Safekeeping**

- Your will may be filed with the Register of Wills for safekeeping for a one-time fee of \$5.00. An original will brought to the office for safekeeping should be sealed in an envelope, with your name, address and your social security number clearly legible on the cover. During your lifetime, the will you deposited in the Register of Wills' office can only be released to you or a person authorized by you in writing to receive the same. You should always make sure that the person you named as Personal Representative is made aware of the location of your will.

- **Pleadings and Estate Filings**

- We are accepting filings by in person delivery, mail, or drop box.
- We cannot accept electronic or fax submission of estate filings.

- **Research Area**

- Our Office holds estate records dating back to 1744.
- In addition, we offer online services for research on our website.

- **Website**

- Please visit our website at <http://www.registers.maryland.gov> for current updates and for further information regarding services, information or unforeseen closures.

Frequently Asked Questions About Wills

What Is A Will?

A will is a written document directing the disposition of a person's assets after death.

Requirements For A Valid Will

In Maryland, a will must be signed by the person making the will (testator/testatrix) and Attested and signed by two credible witnesses in the presence of the person making the will.

Why Should You Make A Will?

A will is one of the most important of all legal documents. It is the legal declaration of a person's intentions and desires that he directs to be carried out after his death. By making a will you can specify how you want your property distributed after your death; you can name a personal representative who has the responsibility to collect assets, pay bills and distribute your estate according to the terms of your will; you can make charitable bequests; and you can nominate someone in whom you have confidence to be a guardian of your minor children. Without a will, the intestate laws of the State of Maryland direct the order of priority for those individuals to serve as personal representative of the estate and what heirs are entitled to receive the assets of the estate.

What If There Is No Will?

If there is no will, the intestate laws of the State of Maryland, which are subject to change from time to time, will determine the distribution of probate assets.

Are Wills public records?

Wills of living persons, which are held for safekeeping by the Register of Wills, are not public records. In the State of Maryland, you may not review the Will of a living person if it is in the custody of the Register of Wills.

Does the Register of Wills prepare Wills for individuals?

Unfortunately, no. We are prohibited by law from giving legal advice and, apart from providing assistance with completion of probate forms, we cannot prepare legal documents.

Who can withdraw a living person's Will if it is filed at the Register of Wills Office?

Only the testator, or someone who has explicit written instructions signed by the testator, can withdraw a Will from safekeeping. Proper identification is required. For more information, please call our office at 301-600-6565.

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 stepchild; "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; 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 and minor children of decedent** — spouse receives one-half, children share remaining one-half
2. **Spouse and children (all adult) of the decedent**—spouse receives \$40,000 (\$15,000 for a date of death prior to October 1, 2017) plus one-half of remaining estate; children divide balance (the interest of a predeceased child passes to issue of that child)
3. **Children only of the decedent** — children divide entire estate (the interest of a predeceased child passes to issue of that child)
4. **Spouse and parents of the decedent** — if married more than 5 years see No. 5, if married less than 5 years the spouse receives \$40,000 (\$15,000 for a date of death prior to October 1, 2017) plus one-half of remaining estate — both parents divide balance or surviving parent takes balance
5. **Spouse of the decedent without other heirs listed above** — spouse receives entire estate
6. **Parents of the decedent without other heirs listed above** — both parents divide entire estate or surviving parent takes all
7. **Brothers/sisters of the decedent without heirs listed above** — brothers and sisters divide estate equally (share of deceased sibling goes to their issue - nieces and nephews of the decedent)
8. **Grandparents without other heirs listed above** — grandparents divide entire estate or, if deceased, to their issue (see applicable law for details)
9. **Great-grandparents without other heirs listed above** — great-grandparents divide entire estate or, if deceased, to their issue (see applicable laws for details)
10. **Stepchildren** — if there are no heirs listed above
11. **No living heirs or stepchildren** — if decedent was recipient of long-term care benefits under the Maryland Medical Assistance Program at time of death, net estate is paid to Department of Health. Otherwise, the net estate is paid to the Board of Education in the county of the decedent's domicile.

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, 2019
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*

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.

- 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.)
- List of Interested Persons** listing the names and addresses of those named in the Will, if any, and those who would inherit if there were no Will. (See "How Will My Property Be Distributed If I Die Without A Will?")
- Consent to Appointment of Personal Representative** if the person named in the Will, if any, or the person entitled to appointment, is not applying.
- Appointment of Resident Agent** if petitioner is not a Maryland resident.
- Proof of Execution of Will** if Will lacks an attestation clause.
- Information Report** listing 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.
- 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.)
- Bond** (applicable in some estates)
- Funeral bill or contract** (suggested but not required)
- Copy of death certificate** (available from Division of Vital Records)
- 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

- Petition for Probate with Schedule A**
- Notice of Appointment, Notice to Creditors, Notice to Unknown Heirs** designating an approved newspaper for publication (Leave dates blank except date of death)
- Bond** (required by law)
- Consent to Appointment of Personal Representative** (only applicable if the person named in the Will, if any, or the person entitled to appointment is not applying)
- Appointment of Resident Agent** if petitioner is not a Maryland resident
- Proof of Execution of Will** if Will lacks attestation clause
- List of Interested Persons** 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.
- 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; and 3) the signed consent form states the amounts of the payments and is filed with the Register of Wills.

Commissions are computed as follows:

If the property subject to administration is:	The 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.