



Preparing to Open an Estate Part 3: Opening the Estate

The video series, "Preparing to Open an Estate," and the accompanying tip sheets cover important things to keep in mind before you open an estate and the steps to take to open an estate with the Register of Wills. This tip sheet covers the last three steps to take to open an estate. For the first three steps in opening an estate, view tipsheet 86.



Step Four: List the Interested Persons

- Interested persons are the heirs and legatees.
 - Heirs are the people who are entitled to inherit the decedent’s property when there is no Will.
 - Legatees are the people named in the Will to inherit property.
- If there is no Will, list only the heirs.
 - Heirs may include the decedent’s:
 - Spouse or registered domestic partner
 - Children
 - Grandchildren
 - Parents
 - Siblings
 - Nieces and Nephews
 - Grandparents
 - Aunts and Uncles
 - Stepchildren
 - Not everyone who *could* be an heir in the list above *is* the decedent’s heir. Who is an heir depends on who survived the decedent.



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- For instance, if the decedent has a spouse and a minor child, the spouse and minor child are the decedent’s heirs and will inherit all of the decedent’s assets.
- For help determining heirs, refer to section ten of the Register of Wills guide, [Administering Estates in Maryland: A Basic Instructional Guide](#).
- For small estates, include the list of interested persons with your petition to administer the estate, that is your paperwork to open the estate.
- For regular estates, you can file the list of interested persons up to 20 days after your appointment as personal representative.
- For both small and regular estates, use [form RW 1104 to file your list of interested persons](#).

Step Five: File the Petition for Administration

The table below details the forms and documents you will need to open a small estate and a regular estate.

Small Estates	Regular Estates
Petition For Administration RW 1103	Petition for Administration RW 1112
Schedule B RW 1137	Schedule A RW 1136
Original Will	Original Will
Certified death certificate	Certified death certificate
Notice of Appointment, RW 1109	Notice of Appointment, RW 1114
If not a Maryland resident, file to appoint a resident agent, RW 1106	If not a Maryland resident, file to appoint a resident agent, RW 1106
Bond or waiver (see more information below)	Bond or waiver (see more information below)
List of Interested Persons, RW 1104	

- For regular estates, you can file the list of interested persons up until 20 days after appointment of the personal representative. However, you can file your list of interested persons at the time you open the estate, if you are ready to do so. Use [RW 1104](#).
- After you file to open the estate, the Register of Wills will contact a newspaper to publish notice of appointment.
 - For small estates, the notice will be published one time. Depending on the value of the estate, newspaper publication may not be required for a small estate.
 - For regular estates, the notice will be published once a week for three weeks.
 - The notice lets people know that they can object to the appointment of the personal representative and to the probate of the Will. It also lets creditors know they can file a claim against the estate.
 - The estate pays for publication costs.
- For help with the forms, contact the [Register of Wills](#).

The Bond

- If the value of the estate’s assets minus family allowances and administration expenses totals 10,000 dollars or more, you may be required to include a bond with your petition to administer the estate.
 - **Family allowances** are one-time payments made to a spouse or registered domestic partner, and to minor children. They are paid from the estate like other expenses. They are not included in the final distributions to heirs and legatees.
 - **Administration expenses** are the expenses involved in handling the decedent’s estate. This may include funeral expenses; costs to appraise assets; expenses to maintain property, like a mortgage; and attorney’s fees and the personal representative’s commissions.
- There are two types of bonds, the **bond of the personal representative** and the **nominal bond**.

The table below details the purpose of each bond type and the appropriate form to use.

Bond of Personal Representative	Nominal Bond
This bond provides financial protection against potential harm to heirs, legatees, creditors, and the State of Maryland.	The nominal bond is less expensive and does not protect heirs or legatees.
The bond covers losses to the estate if the personal representative steals from or defrauds the estate.	This bond covers the estate’s debts, inheritance taxes, court costs, and Register’s fees.
	The Will must allow for a nominal bond or all interested persons must agree to it.
Use form RW 1115 for bond of personal representative .	Use form RW 1116 for a nominal bond .

- If the Will allows for it or all interested persons agree to it, you don’t have to secure a bond of personal representative. In that case, you still have to get a nominal bond.
 - If all interested persons agree to waive the requirement to have a bond of personal representative, use [form RW 1117, Waiver of Bond](#).
- Contact the Register of Wills for more information about getting the bond. The Register or the Orphans’ Court will set the bond amount based on the value of the estate.
- The bond company may require that you complete an application. They may look at your employment history, assets, and credit score. If you do not qualify for the bond, someone else may be appointed as personal representative.

Step Six: Appointment as Personal Representative

- The Register or Orphans’ Court will appoint a personal representative.
- If your paperwork is complete and correct, the Register of Wills will appoint you as Personal Representative. That is when the estate process begins.
- If your paperwork is complete and correct and you submit the original Will, the Register of Wills will appoint you as Personal Representative and the estate process begins. If the Will is a copy, you may have to wait for the Orphans’ Court to decide whether to admit it to probate.

- If there is more than one petition to open the estate, you will have to wait for a hearing before the Orphans’ Court to open the estate and appoint a Personal Representative.
- Once appointed as personal representative, you will receive Letters of Administration. Ask the Register of Wills for official copies of the Letters. You will need one copy for each financial account you need access to.
- Once you receive the Letters, the clock will start running. Many deadlines are based on when the Letters were issued. The Register of Wills will give you a document listing deadlines and responsibilities.

Types of Probate

- There are two types of probate: administrative probate and judicial probate.

The table below details who appoints the personal representative in each type of probate and the situations that trigger each type.

Administrative Probate	Judicial Probate
The Register of Wills may appoint the personal representative and set the bond.	The Orphans’ Court will hold a hearing to decide who will serve as personal representative and sets the bond amount.
<p>Administrative probate happens in two situations:</p> <p>One, the person named in the Will to serve as the personal representative files a petition to administer the estate.</p> <p>Two, there is no Will, and the person with the highest priority to serve as personal representative files a petition to administer the estate.</p>	<p>Judicial probate, when there is a Will, can happen in several situations:</p> <ul style="list-style-type: none"> ▪ Someone other than the person named in the Will files a petition to administer the estate, without the consent of all interested persons. ▪ The Will has markings on it. This means it was written on after it was executed, or finalized. ▪ A copy of the Will was submitted to probate without the consent of all heirs and legatees. <p>Judicial probate, where there is not a Will, can happen in a few situations:</p> <ul style="list-style-type: none"> ▪ One, a person who does not have the highest priority to serve as personal representative, files the petition to administer the estate without the consent of all interested persons. ▪ Two, two or more people file a petition to administer the estate. <p>Judicial probate can also happen when an interested person asks the court for a judicial probate hearing.</p>