



# Preparing to Open an Estate Part 2: Small and Regular Estates

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 first three steps to take to open an estate. For the remaining steps in opening an estate, view tipsheet 87.



## Step One: Contact the Register of Wills

- The Register of Wills can help you find forms and resources. Visit the website at [registers.maryland.gov](https://registers.maryland.gov) or the Register’s office in the county where you will open the estate.
- Open the estate in the county where the decedent was domiciled. This may or may not be where the person lived at the time of death. For example, the person may have lived in a nursing home but kept their home where they were previously living. That home may be their domicile. If you are unsure where they were domiciled, talk to a lawyer.

## Step Two: Identify Assets

- Identify all of the decedent’s property owned by the decedent by themselves, or owned jointly as a tenant in common.
  - Tenant in common is a type of joint ownership. In this type of ownership, when one owner dies, the other owners do not receive that person’s share of the property. That share of ownership goes through probate. This means it is part of the decedent’s estate.
  - You are most likely to see land or a house owned as tenants in common, but it is possible to own other property, like a bank account, with this type of joint ownership.
  - For property the decedent owned by themselves, make sure the property did not have a beneficiary listed.
- You may need to look at the decedent’s tax returns, mail, wallet, and other documents to discover all their property. You may also want to view Maryland land records and talk to the decedent’s family and friends.



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### Step Three: Determine if the Estate is a Small Estate or Regular Estate

- What steps to take when opening and administering an estate depends on whether it is a small or regular estate.
- Add up the value of the estate's assets that you identified earlier.
  - Remember, you identified the property owned by the decedent by themselves without a beneficiary, and the property owned as tenants in common. The property you identified is called **probate assets**, meaning they are part of the estate.
  - **Non-probate assets** were transferred to another person automatically when the decedent died. This typically happens because a beneficiary was named to receive the property, or the property was jointly owned in a way that the other person received the decedent's ownership share. Do not include these assets when you add the value of the estate.
  - Examples of non-probate assets include most jointly owned bank accounts, insurance or retirement accounts that name a beneficiary, and jointly owned property owned as joint tenants or tenants by the entirety.
    - Joint tenancy is a type of joint ownership in which the owners have right of survivorship. This means when one owner dies the other owner automatically receives their share of the property.
    - Tenants by the entirety is a type of joint ownership specific to married couples. In this type of joint ownership, when one spouse dies, the other spouse inherits their share of the property automatically.
- Estate assets – also called probate assets – may include:
  - Real property – that is land or a house – solely in the name of the decedent.
  - The decedent's portion of property owned as tenants in common.
  - Bank accounts held solely by the decedent.
  - Investment accounts or stock, with no beneficiary.
  - Any account titled as Power of Attorney.
  - Personal property owned solely by the decedent. This includes investments, jewelry, and other valuables.
- When adding up the value of the estate's assets, use the fair market value of each property you identified. If a house has a mortgage or a car has an outstanding loan, subtract the loan amount from the value. Talk to a lawyer if you are unsure of the value of the estate's assets.
- Adding up the fair market value of each asset will give you the **net value** of the estate.
- **Small Estates:** If the spouse is the sole heir or legatee – that is person who will inherit – and the estate is **\$100,000 or less**, the estate is a small estate. Otherwise, if the net value of the estate is **\$50,000 or less**, the estate is a small estate.
- **Regular Estates:** If the spouse is the sole heir or legatee – that is the person who will inherit – and the estate is **over \$100,000**, the estate is a regular estate. Otherwise, if the net value of the estate is **over \$50,000**, the estate is a regular estate.