

A Maryland Judiciary Production  
My Laws, My Courts, My Maryland  
Series: Preparing to Open an Estate  
Title: Part 2 Small and Regular Estates

## Chapter Headings

Step One: Contact the Register of Wills

Step Two: Identify Assets

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

Hello. This video series is for individuals who are preparing to open an estate. When someone passes away, their assets are referred to as their estate. The assets need to be managed and distributed. This is the job of the personal representative, who will be appointed after the estate is opened.

In this video, we will discuss the difference between small and regular estates and the first three steps to open an estate. As a reminder, this video series refers to the person who passed away as the decedent.

So, let's get started with step one: contact the Register of Wills.

### Step One: Contact the Register of Wills

As you go through the process of opening an estate, the Register of Wills can help you. They can point you to forms and resources. Visit their website [registers.maryland.gov](http://registers.maryland.gov) or contact the Register of Wills in Baltimore City or the county where you will open the estate.

Keep in mind that you will open the estate where the person was domiciled when they passed.

Domicile refers generally to where the decedent intended to maintain their residence. It may or may not be where the person lived at the time of death. For example, if the person was in a nursing

home, but still maintained a home where they had previously been living, that home may be considered their domicile. If you are unsure where the decedent was domiciled, talk to a lawyer.

Next, we'll move on to step two; you will need to identify assets.

### Step Two: Identify Assets

Identify all of the decedent's assets. Assets refer to property solely owned by the decedent or as a tenant in common. Tenants in common is a type of joint ownership. In this type of ownership there is no right of survivorship. This means when one owner dies, the other owners do not receive that person's share. Instead, the decedent's share goes through probate. You are most likely to see land or a house owned as tenants in common, but it is possible to also own other property, like a bank account, with this type of joint ownership.

To identify assets, you may need to look at the decedent's tax returns, mail, wallet, and other documents. You may want to view Maryland land records. You can also talk to the decedent's family and friends. After you open the estate, you will need to know the value of each asset. For more information on the value of assets, watch our series Estate Administration for Personal Representatives.

Let's move on to step three: determine if the estate is a small estate or regular estate.

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

There are certain steps and requirements you will follow when administering the estate. What you need to do depends on whether it is a small or regular estate.

To know if the estate is small or regular, add up the value of the estate's assets. To do this you will need to know whether an asset is considered a probate asset – that is part of the estate – or whether it is a non-probate asset.

Let's talk about probate versus non-probate assets.

Probate assets fall into two categories:

- One - an asset owned solely by the decedent at the time of death without a beneficiary, OR
- Two, an asset owned as a tenant in common.

A non-probate asset is something transferred to another person automatically upon the death of the decedent, usually as a beneficiary or joint owner. Non-probate assets include most joint accounts held with another person. For example, if the decedent had a joint bank account with another family member, in most cases, upon death, all the funds in that account now belong to the joint account holder. Non-probate assets also include life insurance or retirement accounts that name someone as a beneficiary. Upon death, those accounts are payable directly to the beneficiary and do not go through the probate process. They are not part of the probate estate.

When calculating the value of the estate, only add up probate assets. Probate assets include:

- Real property 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 a Power of Attorney.
- Personal property owned solely by the decedent. This includes cash, investments, jewelry and other valuables, furniture, vehicles, and boats.

Please note this is not a complete list. After identifying probate assets, add up the fair market value of the property you identified. If a house has a mortgage or a car has an outstanding loan, subtract the loan amount. If you are unsure of the fair market value, talk to a lawyer.

This will give you the net value of the estate. If the net value is below a certain amount, open a small estate. Otherwise, you will open a regular estate. See the tip sheet accompanying this video for the current limit on the net value of small estates.

For the next steps in opening an estate, watch part 3 of this series, Opening the Estate.

I hope this information is helpful. Thank you for watching.