

ESTATE ADMINISTRATION AND PROBATE

Estate administration or the probate process is the process which occurs when an individual dies (the “decedent”) and the assets owned by the decedent are identified and made ready for distribution to the heirs or beneficiaries of the decedent’s probate estate. If the decedent had a Will, a Personal Representative (or sometimes called and Executor) is named within the Will and files the Will with the local Register of Wills and Orphans’ Court office within the county in Maryland in which the decedent resided. The Will filing is accompanied with a Petition for Probate whereby the opening of the probate case and formal appointment as the Personal Representative is requested. Letters of Administration shall be issued by the Register of Wills and Orphans’ Court office to the Personal Representative if the Petition for Probate is granted which serves as the official authorization to administer the probate estate.

During the probate case, the Personal Representative files an Inventory in which the decedent’s probate assets are reported at their fair market value. The Personal Representative also identifies non probate assets which may be subject to Maryland inheritance tax on an Information Report. The probate assets that are included on the Inventory are those in which the decedent owned in their sole name and did not pass via a beneficiary or transfer on death designation. The Will indicates the distribution of the probate assets. Non probate assets are all other assets that may have been owned jointly with someone else and/or passed via a beneficiary or transfer on death designation.

While the probate case is continuing, the Personal Representative assumes custody of the decedent’s probate assets until final distribution is ordered by the Orphans’ Court. The Personal Representative may be managing financial and investment accounts, maintaining real estate and sometimes managing a business owned by the decedent. The Personal Representative has the authority to liquidate these assets or distribute them in kind to the named beneficiaries in the Will. Sometimes there are agreements in place that were created as part of the decedent’s estate planning process that may dictate how some of these assets (usually business assets or real estate holdings) shall be liquidated or distributed. The decedent’s final income tax return and possibly an income tax return for the estate will be completed by the Personal Representative. Sometimes an estate tax return may be required if the decedent’s estate is required to pay estate taxes to Maryland and/or the IRS.

Ultimately, an Accounting will be filed by the Personal Representative with the Register of Wills and Orphans’ Court office which will report receipts collected and expenses paid by the Personal Representative during the probate case. The Accounting will also tabulate any inheritance taxes that may need to be paid from the probate assets and indicate final distributions to be made to beneficiaries. The Orphans’ Court shall review the Accounting and if approved, order the distribution of the probate estate to the beneficiaries.

Probate can be a complicated process and you can contact our office if you need assistance.