



Estate Administration for Personal Representatives Part 7: Closing the Estate and Making Distributions

The video series, “Estate Administration for Personal Representatives,” and the accompanying tip sheets cover the role of the personal representative, filing requirements while the estate is open, tips on managing the estate, how to prepare an Account, claims against the estate, distributing estate assets, and closing the estate. This tip sheet covers inheritance tax, estate tax, personal representative commissions, attorney’s fees, and distributions.



Inheritance Tax on Probate Property

- **Inheritance tax** is due on both probate and non-probate property with a few exceptions.
- As the personal representative, you are responsible for making sure inheritance taxes are paid on probate property.
- Inheritance tax does not apply to small estates.
- For regular estates, inheritance tax does not apply for property that passes to a:
 - Spouse
 - Registered domestic partner
 - Child or another direct descendant, or the spouse of a child
 - Parent, grandparent, stepchild, or stepparent
 - Corporation with only those persons listed above as stockholders
- For other heirs or legatees, there is a 10% inheritance tax on most property that passes to them.
- When a distribution is made (transfer of property to an heir or legatee), you must account for the inheritance tax on the Account. Submit the tax payments when you file your Account.
- A Will may allow for inheritance tax to be paid from the estate, or it may not.



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Will allows for inheritance tax to be paid from the estate funds	Will does not allow for inheritance tax to be paid from the estate funds
Calculate the tax percentage (such as 10%) of the value of the property to be distributed. Pay that amount from the estate's funds held in the estate account as inheritance tax.	Deduct a 10% inheritance tax from the property to be distributed.
The inheritance tax rate may change when the tax is paid from the estate.	The inheritance tax rate is usually 10%.
For example, a decedent left \$10,000 to his niece:	For example, a decedent left \$10,000 to his niece:
If the inheritance tax rate is 10%, \$1,000 will be paid from the estate's funds. The niece will receive the \$10,000 the decedent left to her without taking the tax out from that \$10,000 because the tax was paid from the estate funds held in the estate account, instead of from the property to be distributed.	The niece's inheritance tax is \$1,000. The niece, therefore, will only receive \$9,000 and \$1,000 will be paid as inheritance tax.

Inheritance Tax on Non-Probate Property

- The Register of Wills will collect inheritance tax on all taxable non-probate property.
- Remember, you reported all non-probate property on the Information Report. Non-probate property passes from the decedent to someone else without first becoming part of the estate and going through probate.
- The Register of Wills will determine the amount of inheritance tax due on non-probate property.
- The Register will give you as the personal representative, or the person who received the property, an invoice for tax due.

Estate Tax

- Maryland and the federal government collect an **estate tax** on very large estates.
- The Register of Wills can help you determine if the decedent's estate is large enough for estate tax to apply.
- If the estate you are administering is large enough for estate tax to apply, consider speaking with a lawyer.

Personal Representative's Commissions

- The personal representative's commissions (payment) are not allowed in a small estate.
- In regular estates, a personal representative may request commissions in two ways.
 - The interested persons may consent to providing compensation to the personal representative. Use [form RW 1138 Consent to Compensation for Personal Representative and/or Attorney](#).
 - The personal representative can file a Petition for Commissions asking the Orphans' Court to approve commissions. Send a copy of the petition to all interested persons and include a certificate of service with the petition stating that you sent copies to each interested person. The interested persons can file an objection.

- Maryland law caps the amount of commissions that you as personal representative can take. The amount is determined by a formula applied to the value of the estate.

Attorney's Fees

- If you hired a lawyer to help with estate administration, their fees may be paid from the estate. Their fees may be included in the [Consent for Compensation, RW 1138](#).
- If their fees were not included or one was not filed, the lawyer may file a Petition for Fees with the Orphans' Court.
- The court may allow attorney's fees that are fair and reasonable under the circumstances.

Final Account

- For more information on the Account, see tip sheet 92 or watch Part 5 of this video series.
- In your **Final Account**, begin with the amount left in the estate as listed in the last approved Account. Add any final income and subtract any final deductions to determine the final total value of the estate.
- Unless already reported in an earlier account, the Final Account should document:
 - All funeral expenses have been paid.
 - The probate fees, costs, and administration expenses have been paid.
 - All necessary payments, such as spousal allowance and family allowance, have been paid.
 - All claims, if any, have been paid.
 - All inheritance taxes have been paid.
 - All requests for commissions and fees, even if not yet paid.
 - All distributions of the remaining estate.
- The Register of Wills will audit your account.
- The Orphans' Court will then review your account and any outstanding petition for commissions and attorney's fees.
- If the court does not have questions or does not need additional information, the court will issue an order approving the Final Account, and, if necessary, an order granting commissions and attorney's fees.
- After **twenty days** have passed from the order approving the Final Account, you may make distributions.
 - During the twenty days, interested persons may file exceptions to the orders if they disagree with the account, commissions, or attorney's fees.
 - If an exception is filed, wait until the exception is resolved before making distributions.

Distributions

- Making a **distribution** means transferring property to those in line to inherit. Distributions are reported on the Account.
- If there is a Will, follow the instructions in the Will when distributing property.

- If the interested persons agree to divide property differently than what the Will says, file a written agreement with the court at the same time you file the Final Account.
- If there is no Will, distribute the property to the heirs according to Maryland law and what is stated in the Final Account.
- Once all distributions are made, the estate will close.
- Once closed, your service as the personal representative is complete. You may ask the court to end your appointment when you file the Final Account or after you have made all distributions.