



Estate Administration for Personal Representatives Part 1:

The Personal Representative as Fiduciary

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 the role of the personal representative.



Key Terms

- **Assets:** Assets refers to someone’s property, including personal property, such as a car or furniture; real estate, such as a home; bank accounts; and investments.
- **Estate:** When someone passes away, their assets are referred to as their estate.
- **Personal Representative:** A personal representative is appointed to handle the legal affairs of an estate. They manage and distribute someone’s assets after they die. In some states this person is referred to as the “executor.” In Maryland we use the term “personal representative.”
- **Estate Administration:** Estate administration is the process of managing and distributing someone’s assets after they die.
- **Decedent:** The person who died.
- **Register of Wills:** The Register of Wills is an elected official who administers estates and serves as the clerk of the Orphans’ Court. There is a Register of Wills in each Maryland jurisdiction. The Register of Wills appoints the personal representative in administrative probate. You will file documents with the Register of Wills to open an estate and to take other actions in managing the estate. The Register also assists with forms, keeps the record of proceedings, tracks estates, and collects inheritance taxes and probate fees, among other tasks.
- **Orphans’ Court:** The Orphans’ Court, and sometimes a circuit court when it sits as the Orphans’ Court, appoints the personal representative in judicial probate. The Orphans’ Court can decide on legal issues related to managing and distributing an estate’s assets.



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- **Letters of Administration:** The Register of Wills issues Letters of Administration to the personal representative. These documents give the personal representative authority to handle the estate.
- **Heirs:** Heirs are the people who are entitled to inherit the decedent's property when there is no Will.
- **Legatees:** Legatees are people who are entitled to inherit the decedent's property as written in the Will.

What is Probate?

- Probate is the legal process to transfer property from the person who passed away to the people entitled to inherit the property. Remember, **heirs** are the people entitled to inherit the property when there is no Will, and **legatees** are the people entitled to inherit when there is a Will.
- Probate involves:
 - Gathering the assets.
 - Management of assets.
 - Paying expenses.
 - Settling debts.
 - Distributing assets.
- You will distribute assets according to what the Will says, or if there is no Will, according to Maryland law.
- Some property does not have to go through the probate process. That property is called **non-probate property**.
 - As personal representative, you do not have control over non-probate property. It passes automatically to someone else.
 - Non-probate property includes property that:
 - Names a beneficiary.
 - Is a payable on death account.
 - Is owned jointly with right of survivorship. Right of survivorship means that when one joint owner dies, their share of the property passes to the other joint owner.

The Role of the Personal Representative

- The personal representative has the legal authority to administer the decedent's estate. Administering the estate means:
 - Gathering assets.
 - Paying debts and taxes.
 - Distributing the assets to the legatees named in the Will.
- The personal representative is a fiduciary.

What is a fiduciary?

- A fiduciary is a person who acts for another and is entrusted with the property of another.

- The personal representative, as a fiduciary, acts on behalf of the estate. As the personal representative, you are in charge, but the assets do not belong to you. They belong to the estate.
- Keep in mind:
 - You cannot use the decedent's credits cards for yourself or someone else.
 - You cannot write checks from the estate checking account for yourself.
 - You should not drive the decedent's vehicles or allow someone else to do so.
 - You cannot deposit any money that belongs to the estate into your own account. It must be deposited into the estate account.