



Senior
Legal
Services



The Bar Association of Baltimore City | Baltimore Bar Foundation Inc.

The Basics of Estate Administration in Maryland

Nicholas G. Pycha, Esq.
Senior Legal Services
Staff Attorney

Who We Are

- Senior Legal Services (SLS) - Non-profit through the Baltimore Bar Association.
- Provides legal representation to seniors 60 and older residing in Baltimore City.
- Focus on civil issues: estate planning, housing issues , and estate administration.

Importance of Estate Administration

- Tangled Title issue in Baltimore City
 - Many families in Baltimore City are residing in properties still titled in the name of their deceased relative
- Preserving family legacy and preventing foreclosure/tax issues.
- Estate Administration is an area of law that does not receive a lot of support from Pro Bono organizations or Pro Bono Volunteers

Presentation Overview

Today I will cover:

- Overview of the Estate Administration process.
 - What property is subject to Probate and what property passes outside the estate
 - Testate vs Intestate succession
 - Small and Regular Estates
- Process of opening an estate
- Estate Timeline and distribution
- Examples of Estate Administration Filings
 - Petition for Probate
 - List of Interested Persons
 - Information Report
 - Inventory / Schedule B
 - Administration Accounting
 - Personal Representative Deed

Probate vs. Non-Probate Assets: Probate Assets

- Two main property groups to consider for Estate Administration: Probate Assets and Non-Probate Assets
- Only Probate Assets are subject to the estate administration process.
- **Probate Assets:** Property solely titled in the name of the Decedent at the time of their death
- Examples:
 - Real Property – solely owned or portion of property owned as Tenants-in-common
 - Bank Accounts – titled only in the decedent's name
 - Vehicles - decedent is the sole owner on the title
 - Other assets that do not name beneficiary's

Non-Probate Assets

- Non-Probate Assets are distributed outside of the estate and are not subject to the estate administration process.
- Examples:
 - Real Property – Jointly owned property with right of survivorship (Joint tenants, Tenants by Entirety, or Life Estate Deeds)
 - Bank Accounts - POD/TOD accounts or jointly owned accounts
 - Life Insurance, Retirement Accounts with named beneficiaries, and other jointly held property.

Determining Estate Type

Estate types: Small (Under 50k) and Regular (Over 50k).

Determined by date of death value of decedent's probate assets.

Valuation depends on asset type (bank, property, vehicle).

Small Estate Limits

| Date | Until | Value of Probate Estate |
|---------|---------|--|
| 11-1-65 | | \$500 |
| 1-1-67 | | \$1,000 |
| 1-1-70 | 6-30-74 | \$2,000 |
| 7-1-74 | 6-30-78 | \$5,000 |
| 7-1-78 | 6-30-82 | \$7,500 |
| 7-1-82 | 6-30-88 | \$10,000 |
| 7-1-88 | 6-30-00 | \$20,000 |
| 7-1-00 | 9-30-12 | \$30,000 |
| 7-1-00 | 9-30-12 | \$50,000 (If Spouse is sole legatee/heir) |
| 10-1-12 | Present | \$50,000 |
| 10-1-12 | Present | \$100,000 (If Spouse is sole legatee/heir) |

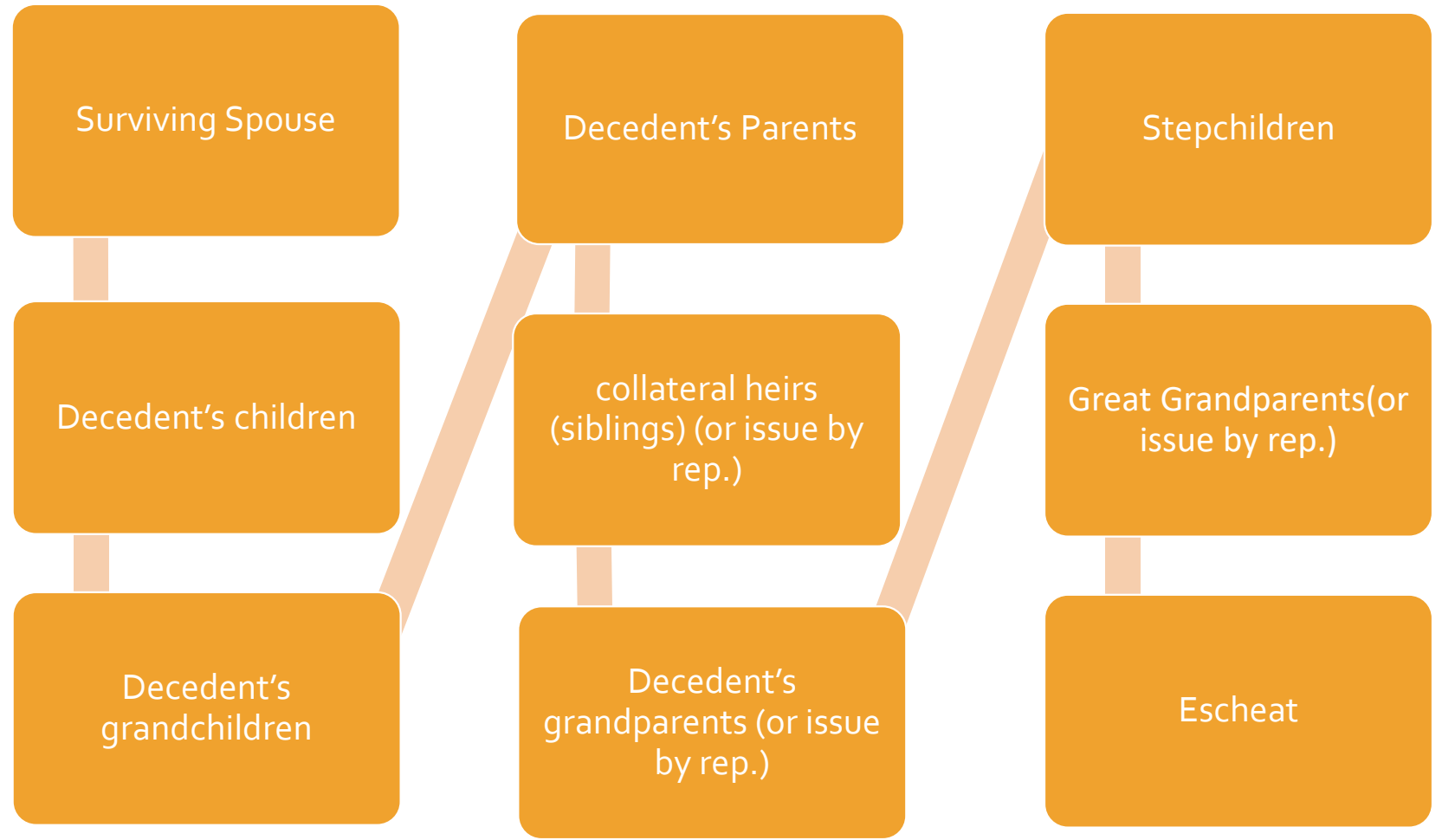
Testate vs. Intestate: Testate

- **Testate:** Dying with a Will.
- Through the Will, the Testator or Testatrix provides instructions for what happens after death, such as:
 - Who will serve as the Personal Representative of the Estate;
 - Who will receive specific/general bequests, tangible personal property, etc.
 - Who will receive the residual estate (the remaining assets of the estate after expenses and other bequests)
 - Other possible Will Provisions (tax planning, guardian for a minor child, survival clauses, etc.)

Testate vs. Intestate: Intestate

- **Intestate:** Dying without a Will
- When someone passes away without a Will, the Estates and Trust Article dictates the parameters of the Estate Administration.
 - The State of Maryland's Estate Plan governs
- Intestacy succession controls estate distribution (October 1, 2023 – Present)
 - Surviving Spouse – if the decedent has a surviving spouse and no minor children, the surviving spouse inherits the entire estate.
 - Exception: if the decedent has adult children, who also are not children of the surviving spouse, then the surviving spouse receives the first \$100,000 plus $\frac{1}{2}$ of the residuary estate with the remaining being split among those children.
 - If no surviving spouse – the estate shall be divided equally among the surviving issue (children), by representation as defined in Md. Code, Est. & Trusts § 1-210.

Intestate Succession



Opening the Estate

What Do You Need To Open An Estate

- Original Death Certificate
- Original Last Will and Testament
- Consents to Appointment from Interested Persons for estates without wills, if applicable
- Resident Agent Form (signed by Maryland resident, for out-of-state Personal Representatives, if applicable)
- Funeral Contract/Bill
- Approximate value of assets in the decedent's name alone
- Account statements for any accounts held in the decedent's name alone
- Stock information for stock's owned by the decedent in their name alone
- Title to decedent's automobiles and/or other motor vehicles held in their name alone
- Information on Real Property (If decedent solely owned as fee simple or owned property as Tenant in Common)
- Names and addresses of persons interested in the estate including heirs (surviving spouse, registered domestic partner, children, living parents, or others who would inherit without a will) and; with a will, the personal representative, all who inherit under the will, and all heirs.
- Regular Estate Forms - forms available on the web site
- Small Estate Forms - forms available on the web site
- Any applicable filing fee
 - Nominal / Personal Representative Bond
 - Publication Fee (Notice of Appointment)
 - Probate Fee, if applicable

IN THE ORPHANS' COURT FOR
(OR)
BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND

IN THE ESTATE OF:

ESTATE NO. _____

FOR:

REGULAR ESTATE

PETITION FOR ADMINISTRATION

Estate value in excess of \$50,000.
 (If spouse is sole heir or legatee, \$100,000.)
 Values for DOD before October 1, 2012 are
 \$30,000 and \$50,000 if spouse is the sole
 legatee or heir.

Complete and attach **Schedule A.**

SMALL ESTATE

PETITION FOR ADMINISTRATION

Estate value of \$50,000 or less.
 (If spouse is sole heir or legatee, \$100,000.)
 Values for DOD before October 1, 2012 are
 \$30,000 and \$50,000 if spouse is the sole
 legatee or heir.

Complete and attach **Schedule B.**

WILL OF NO ESTATE

Complete items 2 and 9

LIMITED ORDERS

**Complete item 2 and
 attach Schedule C**

NOTE: For the purpose of computing whether an estate qualifies as a small estate, value is determined by the fair market value of property less debts of record secured by the property as of the date of death, to the extent that insurance benefits are not payable to the lien holder or secured party for the secured debt. See Code, Estates and Trusts Article, §5-601 (d).

The Petition of:

| | |
|------|---------|
| Name | Address |
| Name | Address |
| Name | Address |

Each of us states:

1. I am (a) at least 18 years of age and either a citizen of the United States or a permanent resident of the United States who is the spouse of the decedent, an ancestor of the decedent, a descendant of the decedent, or a sibling of the decedent or (b) a trust company or any other corporation authorized by law to act as a personal representative.
2. The Decedent, _____, was domiciled in _____, State of _____ and died on the _____ day of _____, _____, at _____ (County), _____ (place of death).
3. If the decedent was not domiciled in this county at the time of death, this is the proper office in which to file this petition because: _____
4. I am entitled to priority of appointment as personal representative of the decedent's estate pursuant to §5-104 of the Estates and Trusts Article, Annotated Code of Maryland because: _____
5. I am mentally competent.
6. I am not a disqualified person because of feloniously and intentionally killing, conspiring to kill, or procuring the killing of the decedent.

Petition for Probate

Petition for Probate – Cont.

7. (Check one of the following boxes)

- I have not been convicted of fraud, extortion, embezzlement, forgery, perjury, theft or any other serious crime that reflects adversely on my honesty, trustworthiness, or fitness to perform the duties of a personal representative or
- I was convicted of such a crime, namely _____, in _____, (year) but the following good cause exists for me to be appointed as personal representative

8. I am not excluded otherwise by law from serving as a personal representative.

9. I have made a diligent search for the decedent's will and to the best of my knowledge:

- none exists; or
- the will dated _____ (including codicils, if any, dated _____)

_____ accompanying this petition is the last will and it came into my hands in the following manner:

and the names and last known addresses of the witnesses are:

10. Other proceedings, known to petitioner, regarding the decedent or the estate are as follows:

11. If appointed, I accept the duties of the office of personal representative and consent to personal jurisdiction in any action brought in this State against me as personal representative or arising out of the duties of the office of personal representative.

WHEREFORE, I request appointment as personal representative of the decedent's estate and the following relief as indicated:

- that the will and codicils, if any, be admitted to administrative probate;
- that the will and codicils, if any, be admitted to judicial probate;
- that the will and codicils, if any, be filed only;
- that only a limited order be issued;
- that the following additional relief be granted: _____

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information and belief.

Attorney

Petitioner Date

Address

Petitioner Date

Address

Petitioner Date

Telephone Number

Petitioner Date

Facsimile Number

Telephone Number (optional)

Email Address

Schedule A (Regular Estate)

IN THE ORPHANS' COURT FOR
(OR) _____, MARYLAND
BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF: _____ ESTATE NO. _____

SCHEDULE - A
Regular Estate
Estimated Value of Estate and Unsecured Debts

Personal property (approximate value) _____
Real Property (approximate value) _____
Value of property subject to:
 (a) Direct Inheritance Tax of _____ % _____
 (b) Collateral Inheritance Tax of _____ % _____
Unsecured Debts (approximate amount) _____

Attorney _____ Petitioner _____ Date _____

Address _____ Petitioner _____ Date _____

Petitioner _____ Date _____

Telephone Number _____ Telephone Number (optional) _____

Facsimile Number _____

E-mail Address _____

(FOR REGISTER'S USE)

Safekeeping Wills _____ Custody Wills _____
Bond Set \$ _____ Deputy _____

Consent to Appoint of Personal Representative

IN THE ORPHANS' COURT FOR
(OR) _____, MARYLAND
BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF: _____ ESTATE NO. _____

CONSENT TO APPOINTMENT OF PERSONAL REPRESENTATIVE

I, _____, the personal representative named in
the will **OR** I, _____, ask the court or register to appoint
(state name and relationship to decedent or other basis for appointment)
_____ instead of me to serve as personal representative. I
consent to that appointment. I understand that if _____
is so appointed I may not withdraw this consent so long as _____
remains personal representative, except upon a showing of good cause.

I, _____, further

- consent that _____ shall serve
as personal representative without a bond, except as required by law, or
- do not consent that _____ shall serve
as personal representative without a bond.

| DATE | SIGNATURE | NAME <small>(typed or printed)</small> |
|-------|-----------|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Attorney

Address

Address

Telephone Number

Facsimile Number

Email Address

(FILE IN DUPLICATE)

(name and address of attorney)

**NOTICE OF APPOINTMENT
NOTICE TO CREDITORS
NOTICE TO UNKNOWN HEIRS**

To all persons interested in the estate of _____ ESTATE NO. _____

Notice is given that: (name and address)

was on _____ appointed Personal Representative of the estate of: _____
(date)

who died on _____ (with) (without) a will.
(date)

Further information can be obtained by reviewing the estate file in the office of the Register of Wills or by contacting the personal representative or the attorney.

All persons having any objection to the appointment (or to the probate of the decedent's will) shall file their objections with the Register of Wills on or before the _____ day of _____,
(6 months from date of appointment)

Any person having a claim against the decedent must present the claim to the undersigned personal representative or file it with the Register of Wills with a copy to the undersigned on or before the earlier of the following dates:

- (1) Six months from the date of the decedent's death; or
- (2) Two months after the personal representative mails or otherwise delivers to the creditor a copy of this published notice or other written notice, notifying the creditor that the claim will be barred unless the creditor presents the claims within two months from the mailing or other delivery of the notice. A claim not presented or filed on or before that date, or any extension provided by law, is unenforceable thereafter. Claim forms may be obtained from the Register of Wills.

Name of newspaper designated by personal representative: _____ Personal Representative

Date of publication: _____ Personal Representative

Personal Representative

True Test Copy

Name and Address of Register of Wills for

Notice of
Appointment

(Published in
newspaper)

IN THE ORPHANS' COURT FOR
(OR) _____, MARYLAND
BEFORE THE REGISTER OF WILLS FOR

IN THE ESTATE OF: _____ ESTATE NO. _____

DATE OF DEATH _____

WITH WITHOUT WILL

INFORMATION REPORT

1.a. At the time of death did the decedent have any interest as a joint owner (other than with a person exempted from inheritance tax by Code, Tax General Article, §7-203) in any real or leasehold property located in Maryland or any personal property, including accounts in a credit union, bank, or other financial institution?

No Yes **If yes, give the following information as to all such jointly owned property:**

| Name, Address, and Relationship of Joint Owner | Nature of Property | Total Value of Property |
|--|--------------------|-------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

1.b. At the time of death did the decedent have any interest in any real or leasehold property located outside of Maryland either in the decedent's own name or as a tenant in common?

No Yes **If yes, give the following information as to such property:**

| Address, and Nature of Property | Case Number, Names, and Location of Court Where Any Court Proceeding Has Been Initiated With Reference to the Property |
|---------------------------------|--|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

Information
Report

Information Report – Cont.

ESTATE OF: _____ ESTATE NO. _____

2. Except for a bona fide sale or a transfer to a person exempted from inheritance tax pursuant to Code, Tax General Article, §7-203, within two years before death did the decedent make any transfer of any material part of the decedent's property in the nature of a final disposition or distribution, including any transfer that resulted in joint ownership of property?

No Yes If yes, give the following information as to each transfer:

| Date of Transfer | Name, Address, and Relationship of Transferee | Nature of Property Transferred | Total Value of Property |
|------------------|---|--------------------------------|-------------------------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

3. Except for interests passing to a person exempted by Code, Tax General Article, §7-203, at the time of death did the decedent have (a) any interest less than absolute in real or personal property over which the decedent retained dominion while alive, including P. O. D. account, (b) any interest in any annuity or other public or private employee pension or benefit plan, (c) any interest in real or personal property for life or for a term of years, or (d) any other interest in real or personal property less than absolute, in trust or otherwise?

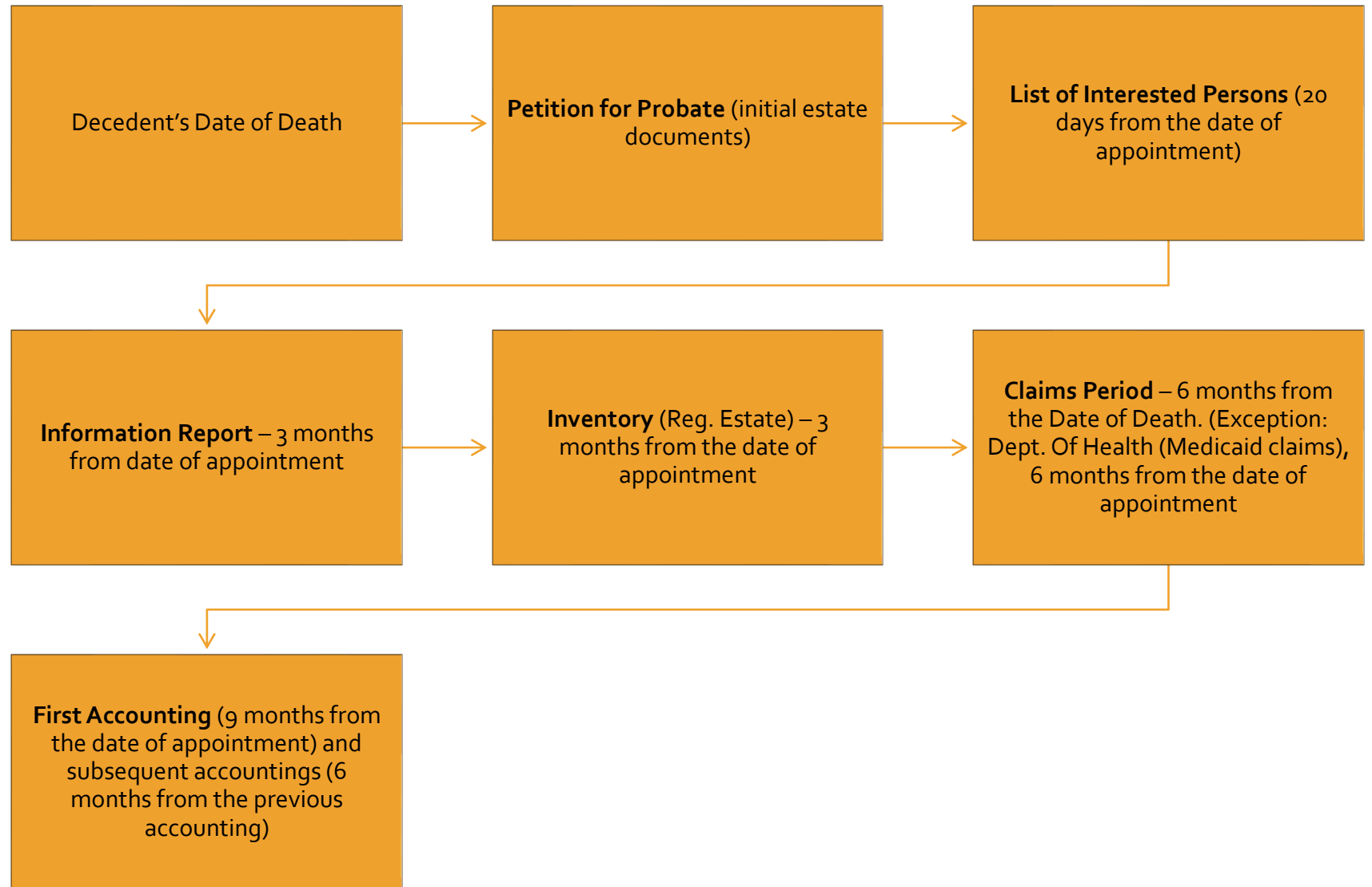
No Yes If yes, give the following information as to each interest:

| Description of Interest and Amount or Value | Date and Type of Instrument Establishing Interest | Name, Address, and Relationship of Successor, Owner, or Beneficiary |
|---|---|---|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

I solemnly affirm under the penalties of perjury that the contents of this document are true to the best of my knowledge, information, and belief.

| | | |
|---------------------------|----------------------------------|---------------|
| _____ Attorney | _____ Personal Representative | _____ Date |
| _____ Address | _____ Personal Representative | _____ Date |
| _____ Telephone Number | _____ Personal Representative | _____ Date |
| _____ Facsimile Number | | |
| _____ Email Address | | |

Estate Timeline: Important Dates



Distributing Assets : Insolvent Estate

- Payment order for insolvent estates.
 - 1. Fees due to the Register
 - 2. Costs and expenses of administration
 - 3. Funeral expenses
 - 4. Compensation of PR and/or attorney's fees
 - 5. Family allowance
 - 6. Taxes due by the decedent
 - 7. Reasonable expenses of the last illness of the decedent
 - 8. Rent payable by decedent (up to three months)
 - 9. Payments for services performed prior to death
 - 10. Repayment for public assistance to Adults Program
 - 11. All other claims

Distributing Assets

Probate Fee for Estates Opened October 1, 2022 and After

| IF THE VALUE OF THE PROBATE ESTATE IS AT LEAST | BUT IS LESS THAN | THE FEE IS |
|--|------------------|--|
| \$0 | \$50,000 | \$0 |
| \$50,000 | \$100,000 | \$100 |
| \$100,000 | \$500,000 | \$200 |
| \$500,000 | \$1,000,000 | \$1,000 |
| \$1,000,000 | \$2,500,000 | \$2,000 |
| \$2,500,000 | \$5,000,000 | \$5,000 |
| \$5,000,000 | \$7,500,000 | \$7,500 |
| \$7,500,000 | \$10,000,000 | \$10,000 |
| \$10,000,000 | ----- | \$10,000 plus .02% of excess over \$10,000,000 |

Distributing Assets: Family Allowances

- E&T §3-201 -Surviving spouse and minor children of the decedent receive an allowance in addition to property passing under the Will or by the laws of intestacy

| | | |
|--------------------|------------------------------|---------------------------------------|
| Prior to 1/1/70 | \$500 to surviving spouse | \$1,000 to spouse with minor children |
| 1/1/70 to 6/30/81 | \$1,000 to surviving spouse | \$500 to each minor child |
| 7/1/81 to 6/30/91 | \$2,000 to surviving spouse | \$1,000 to each minor child |
| 7/1/91 to 9/30/13 | \$5,000 to surviving spouse | \$2,500 to each minor child |
| 10/1/13 to Current | \$10,000 to surviving spouse | \$5,000 to each minor child |

Claims against the Estate

- Creditors have ONLY 6 MONTHS from the date of death to file any and all claims against the estate for things owed by the Decedent.
 - Examples: Credit cards, claims in contract, or other outstanding debts
- Exception: The Department of Health can file a claim within 6 months from the date from the final notice of appointment of a Personal Representative's appointment.

Inheritance Tax

- DIRECT/LINEAL HEIR: Includes spouse, children, grandchildren, great grandchildren, parents, grandparents and stepchildren.

| | | |
|--------------------------|-----------------------------|-----------------------------------|
| 3/16/35 to 6/30/99 1% | 7/1/99 to 6/30/2000 0.9% | 7/1/2000 to Current NO TAX DUE |
|--------------------------|-----------------------------|-----------------------------------|

- COLLATERAL HEIR: Includes siblings, nieces, nephews, aunt, uncle, cousin, etc.

| | | | |
|-----------------------|--------------------|-------------------------|--------------------------|
| 1874 to 1908 2 ½ % | 1908 to 1935 5% | 1935 to 6/1/75 7 ½ % | 6/1/75 to Current 10% |
|-----------------------|--------------------|-------------------------|--------------------------|

- As of 7/1/2000 – Siblings – NO TAX DUE

Distribution of Assets and Closing Estate: Final Accounting

- For regular estates, the Personal Representative is responsible for filing an Administrative Accounting.
- The Accounting represents the Estate's income, expenses, and distributions during the administration period.
- The Final Accounting can be filed once the Personal Representative collects all probate assets, pays all estate expenses and claims, and the claim period has passed.
- Once the Orphans' Court issues an order approving the Final Accounting and no exceptions have been filed (20 days from the date the Order was docketed by the Register of Wills), the Personal Representative can distribute the estate assets.

Distribution of Assets and Closing Estate: Real Property

- Distributing Real Property from the Estate
 - Personal Representative is vested with title to real property
 - PR Deed will recite satisfaction of administration obligations
 - PR Deed will recite how the property is held by new owners
 - PR Deed is exempt from transfer and recordation taxes
- Fees associated with Personal Representative Deed
 - Must obtain a Lien Certificate before recording the Deed (\$55.00 Fee)
 - Must pay any outstanding property taxes or water bill
 - Recordation Cost – depending on length of deed and recording surcharge. Normally around \$60.00 for recordation fee.

Closing Remarks and Q&A

- Recap of Estate Administration essentials.
- Open floor for questions and further discussion.
- Additional resources and contacts for further training.