

# SENATE BILL 170

N2, Q7

3lr1088  
CF 3lr1987

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By: **Senator Forehand**

Introduced and read first time: January 17, 2013

Assigned to: Budget and Taxation

Reassigned: Judicial Proceedings, January 18, 2013

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Committee Report: Favorable

Senate action: Adopted

Read second time: February 6, 2013

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Estates and Trusts – Modified Administration and Inheritance Tax**

3 FOR the purpose of altering the circumstances under which a personal representative  
4 of an estate may file for an election for modified administration; providing that,  
5 if a personal representative discovers certain property after the time for filing a  
6 certain verified final report, the representative shall file a certain report and  
7 make a final distribution of the property within certain time periods; providing  
8 that a certain application to prepay inheritance tax for a subsequent interest  
9 may be filed with the register of the county where a certain information report  
10 was filed; making conforming changes; providing for the application of this Act;  
11 and generally relating to the modified administration of trusts.

12 BY repealing and reenacting, with amendments,  
13 Article – Estates and Trusts  
14 Section 5–702, 5–704, and 5–706  
15 Annotated Code of Maryland  
16 (2011 Replacement Volume and 2012 Supplement)

17 BY repealing and reenacting, with amendments,  
18 Article – Tax – General  
19 Section 7–219  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2012 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Estates and Trusts**

4 5–702.

5 An election for modified administration may be filed by a personal  
6 representative of an estate within 3 months from the date of appointment, if:

7 (1) All residuary legatees of a testate decedent and the heirs at law of  
8 an intestate decedent are limited to [the]:

9 (i) [Decedent's] **THE DECEDENT'S** personal representative;  
10 [and]

11 (ii) Individuals or entities exempt from inheritance tax in the  
12 decedent's estate under § 7–203(b), (e), and (f) of the Tax – General Article; **AND**

13 **(III) TRUSTS UNDER WHICH EACH PERSON WHO HAS A**  
14 **CURRENT INTEREST IN THE TRUST IS AN INDIVIDUAL OR ENTITY EXEMPT FROM**  
15 **INHERITANCE TAX IN THE DECEDENT'S ESTATE UNDER § 7–203(B), (E), AND (F)**  
16 **OF THE TAX – GENERAL ARTICLE;**

17 [(2) All trustees of each trust that is a residuary legatee are limited to  
18 the decedent's:

19 (i) Personal representative;

20 (ii) Surviving spouse; and

21 (iii) Children;]

22 [(3)](2) The estate is solvent and sufficient assets exist to satisfy all  
23 testamentary gifts;

24 [(4)](3) A verified final report under modified administration is filed  
25 within 10 months from the date of appointment;

26 [(5)](4) Final distribution of the estate can occur within 12 months  
27 from the date of appointment; and

28 [(6)](5) All residuary legatees of a testate decedent and the heirs at  
29 law of an intestate decedent consent to a modified administration as required under §  
30 5–706 of this subtitle.

1 5-704.

2 (A) After filing an election for modified administration, the personal  
3 representative shall:

4 (1) File a verified final report under modified administration no later  
5 than 10 months from the date of appointment instead of filing a formal inventory and  
6 account; and

7 (2) On the request of any interested person, provide a formal  
8 inventory and account, as required under Title 7 of this article, to all interested  
9 persons.

10 (B) IF THE PERSONAL REPRESENTATIVE DISCOVERS PROPERTY OF THE  
11 DECEDENT AFTER THE TIME FOR FILING A VERIFIED FINAL REPORT REQUIRED  
12 BY SUBSECTION (A) OF THIS SECTION, THE PERSONAL REPRESENTATIVE SHALL:

13 (1) FILE A VERIFIED FINAL REPORT UNDER MODIFIED  
14 ADMINISTRATION WITH RESPECT TO THE AFTER-DISCOVERED PROPERTY  
15 WITHIN 60 DAYS OF THE DISCOVERY OF THE PROPERTY; AND

16 (2) MAKE FINAL DISTRIBUTION OF THE AFTER-DISCOVERED  
17 PROPERTY WITHIN 90 DAYS OF THE DISCOVERY OF THE PROPERTY.

18 5-706.

19 The consent required under [§ 5-702(6)] § 5-702(5) of this subtitle shall state  
20 that the subscribing person has notice that:

21 (1) Instead of filing a formal inventory and account, the personal  
22 representative shall file a verified final report under modified administration no later  
23 than 10 months from the date of appointment;

24 (2) On request by any legatee or heir not paid in full, a formal  
25 inventory and account shall be provided by the personal representative to the legatees  
26 or heirs;

27 (3) A written objection to modified administration by an interested  
28 person may be filed with the register of wills at any time during administration, which  
29 shall revoke the modified administration;

30 (4) By filing a written objection:

31 (i) The modified administration is revoked;

1 (ii) The estate shall be administered under administrative  
2 probate; and

3 (iii) The personal representative shall file a formal inventory and  
4 account as needed until the estate is closed;

5 (5) Unless an interested person waives notice of the verified final  
6 report under modified administration, the personal representative shall provide a copy  
7 to each interested person within 10 months from the date of the appointment; and

8 (6) Under modified administration, distribution to all legatees and  
9 heirs shall be made within 12 months from the date of appointment.

## 10 Article – Tax – General

11 7–219.

12 (a) Within a reasonable time after the valuation of a less than absolute  
13 interest in property that passes from a decedent, an application to prepay the  
14 inheritance tax for a subsequent interest in the same property may be filed with the  
15 register of the county where the [inventory] **INFORMATION REPORT** was filed under  
16 **[§ 7–225] § 7–224** of this subtitle.

17 (b) (1) An application under subsection (a) of this section may be filed by  
18 or for a person or class of persons, whether or not then in being, in whom may vest a  
19 subsequent interest in the property valued.

20 (2) An application under subsection (a) of this section may not be  
21 made by or for a person who, under the instrument that created the property interests,  
22 has no interest other than the possibility of becoming an appointee by the exercise of a  
23 power of appointment.

24 (3) A person who only has the interest described in paragraph (2) of  
25 this subsection is entitled to receive the benefits of prepayment under § 7–210(b) of  
26 this subtitle.

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be  
28 construed to apply only prospectively and may not be applied or interpreted to have  
29 any effect on or application to an estate of a decedent who dies before October 1, 2013.

30 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
31 October 1, 2013.