



A guide to dealing with **Probate**



Blackhurst Budd
SOLICITORS

Dealing with the estate of someone who has died can be a challenging task, sometimes involving the sale of properties and investments, or the settlement of loans, debts, mortgages or tax issues. An individual who takes on that challenge may have to manage a wide range of legal, financial and administrative matters, often at a time of emotional distress.

The administration of an estate is often divided into three parts:

1. Who should administer and value the estate?

If the person applying for the Grant is named in the deceased's Will they are known as an 'Executor', otherwise they are an 'Administrator'. 'Personal Representative' is a general term for both.

2. Applying for Probate

It is important to value the estate properly. This includes valuing all assets plus gifts in the last 7 years and all debts such as credit cards, loans and utility bills, etc. In some cases you may need to obtain a professional valuation of the property for HMRC.

When the Personal Representative has all the required information, the application is drafted before being signed by the Personal Representative(s).

3. Administering the estate

When the Personal Representative receives the Grant of Probate they can start to collect in the assets and settle any debts of the estate. When all assets have been received and debts have been dealt with, the balance of the estate can be given to the appropriate beneficiaries, according to their entitlement under the Will or intestacy rules.

What is probate?

The term 'probate' is a general term used to refer to the process of estate administration.

A Grant of Probate is a court order that gives the personal representatives authority to deal with the estate. Probate is required whether or not there is a Will and, due to the possibility of fraud or loss to the estate, the application for probate should start as soon as possible.

How long does probate take?

Probate is often a complex and time consuming process, which involves many organisations, individuals and government departments. For a large estate, probate can take between six to nine months to complete. However, every case is different and delays can occur, for example if the asset or liability holders take a long time to reply to requests for information.

When is probate not required?

Under the Administration of Estates (Small Payments) Act 1965, if the estate is worth less than £5,000 it can be distributed without proof of formal title. Therefore if the total value of everything owned by the deceased in their sole name is less than £5,000, you do not normally need to apply for probate. There are also some assets which can normally be claimed without the need for probate. For example, life insurance policies held in trust, pension benefits and nominated property.

Do I need to use a Solicitor?

You are not bound to use a Solicitor to obtain a grant of probate or administer an estate, but you should consider the complexity of the matter and whether you have the time and knowledge to deal with the legal requirements involved.

Blackhurst Budd offer a free initial meeting to discuss your particular circumstances and a fixed fee probate service from £595+VAT.

Call: 01253 629300 or e-mail: info@blackhurstbudd.co.uk



Glossary

Abatement

Where there are insufficient funds to settle all funeral expenses, testamentary and administration debts and legacies in full, the legacies must reduce or abate pro rata.

Acquisition (probate value)

The value at which either the Personal Representatives or the beneficiary acquires the assets.

Administration period

The period between the date of death and the end of the administration.

Administrator

The legal representatives of a deceased person who has died without a Will. They are usually the closest relatives of the deceased.

Agreed value

The probate value as formally agreed by HMRC Inheritance Tax where inheritance tax is payable. HMRC may seek verification of the values from the District Valuer.

Apportionment

The division of income in proportionate shares between certain beneficiaries, calculated on a daily basis.

Appropriation

The transfer of an asset to a beneficiary, instead of its sale proceeds, on account of a legacy or share of residue.

Beneficiary

A person entitled to receive funds or property under a Will or intestacy.

Bequest

A gift of personal property, e.g. my ring.

Codicil

A written amendment to a Will.

Deed of Variation

Enables beneficiaries of a deceased's estate to alter the distribution of the estate to reflect family circumstances and possibly save future inheritance tax.

Devise

A gift of real property, e.g. a house.

Estate

All the assets and liabilities of a deceased person – such as property, shares, cash, savings and investments as well as outstanding debts.

Estate accounts

Accounts recording the financial transactions during the administration period.

Executor

A person appointed by a Will or Codicil to administer the estate.

Grant of Representation

This is obtained from the Probate Registry following a death. The Grant will be made to the Personal Representatives where there is a Will and to the closest relatives where there is no Will.

Inheritance tax (IHT)

The tax paid by the estate of the deceased when that person dies.

Insolvent

An estate is insolvent if the assets are insufficient to pay all funeral, testamentary and administration expenses and debts.

Intestacy

The situation where a person dies without making a Will fully disposing of all his assets. The administration of an 'intestate' estate is governed by the Administration of Estates Act 1925.

Letters of administration

If the deceased died 'intestate' i.e. leaving no Will, or if the Will is invalid for any reason, the Grant is called a 'Letters of Administration'

Letters of Administration with Will Annexed

If the deceased left a Will, but did not appoint any Executors or all of the Executors are unable or unwilling to act or the Will does not dispose of all of the deceased's assets, then the Grant is called 'Letters of Administration with Will Annexed'.

Nil rate band

This is the value of an estate that is not subject to Inheritance Tax. Any value above this amount is subject to Inheritance Tax.

Personal Representative

An Executor or Administrator.

Residuary beneficiary

The persons entitled to the whole or part of the deceased's estate after the payment of all debts, funeral and testamentary expenses and legacies.

Spouse, civil partner or charitable exemption

Any gifts made to spouses, civil partners or charities are exempt from Inheritance Tax.

Testator/Testatrix

Deceased who left a Will.

**To arrange your free initial consultation call: 01253 629300
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