

The Administration of an Estate

Grants Of Administration

Unless the estate is very small it will probably be necessary for the Personal Representatives to obtain a Grant of Representation from the Probate Registry showing their entitlement to deal with the estate. We should be able to tell you straightaway if a Grant is needed and we will be able to handle all the paperwork for you.

If the deceased person has left a Will then those named as the executors apply to the Probate Registry for a Grant of Probate. If the deceased died without leaving a Will ("Intestate") the nearest relative or relatives apply for a Grant of Letters of Administration.

A Will should say not only who the executors are but will also say who is to inherit the estate. If there is no Will then the law dictates which members of the family are entitled to benefit and in what proportions.

The First Steps

Our first task is to gather together the information required to enable us to prepare the papers for the application for the Grant. Sometimes we find we have to wait for all the relevant details to come in, but we are often in a position to apply for the Grant within about six to eight weeks. However, in view of the Revenue's current attitude to the imposition of penalties for providing inaccurate information, it is more important to ensure that correct information is rendered. Once the probate papers are lodged at the Probate Registry it usually takes about two weeks before we receive the Grant.

When the Grant has been issued we are then able to collect in the assets and deal with the payment of any outstanding liabilities. Make sure you let us have any bills or accounts of the deceased, including the funeral account, to deal with.

It may be necessary to deal with outstanding Income Tax returns to the date of death. We can advise on this and often prepare the returns ourselves. It will help us if we can be provided with as much relevant information as possible.

Monies held by us in our Client Account are placed on deposit and will earn interest for the benefit of the estate.

Inheritance Tax

Inheritance Tax is payable when the value of an estate exceeds £325,000. The rate of tax is 40% on the value above £325,000. However assets passing to a widow or widower are usually free of tax.

Tax can sometimes be payable even when the estate is less than £325,000, for example, if there are lifetime gifts or trust interests to consider.

Sometimes tax has to be paid before the Grant is issued. However as one cannot gain access to the assets until the Grant is obtained, it may be necessary to arrange for monies to be borrowed on a temporary basis. We can of course assist in this.

We will also advise on ways in which the tax burden may be reduced, if possible, either now or for the family in the future.

Protection Of The Personal Representatives

Personal Representatives may render themselves personally liable to creditors and other third parties unless they take care to protect themselves. There are two main points to consider.

(a) Personal Representatives may protect themselves against personal liability to creditors of the deceased person of whom they have no knowledge by placing "Statutory Advertisements" in certain publications. We will advise on which publications. We would recommend that all Personal Representatives take advantage of this except where the Personal Representatives are also the Residuary Beneficiaries.

There is of course a cost involved, and a Personal Representative might therefore conclude that placing such advertisements would be a waste of money. That is their decision and their risk.

No protection is afforded by the Statutory Advertisements if the Personal Representative has actual knowledge that a debt exists.

(b) During the period of Six months from the date of issue of the Grant of Representation, the estate is vulnerable to claims from individuals who feel they have been wrongly omitted from a Will, or are insufficiently provided for under a Will or under the rules relating to Intestacy. If an estate is distributed during this Six month period, then a Personal Representative may make themselves personally liable if a successful claim is made against the estate.

Payment Of Legacies Payments On Account To Residuary Beneficiaries

Once the known debts have been settled, and the appropriate reserves made to cover future liabilities, such as Inheritance Tax and professional fees, then any fixed legacies of cash can be paid or specific items handed over to those entitled.

Generally speaking we also try to make interim payments to those entitled to the balance of the estate funds (the Residuary Beneficiaries), as soon as it is prudent to do so. Sometimes it is necessary to be a bit cautious. The last thing we would want to have to do is to ask for any money back if there has been an over distribution.

Finalising Taxes And Estate Accounts

During the administration period we shall be compiling details to produce a final estate account. In all but the most simple and straightforward of cases, this will be a detailed account showing the assets and liabilities at the date of death, any income received and expenditure incurred during the administration period, and finally details of the benefits to be paid to beneficiaries.

At the same time we shall be able to verify that all relevant matters have been reported to the Inland Revenue, and the appropriate amounts of tax paid.

In some cases we will be required to render Income Tax returns for the period of the administration.

Finally we will apply to the Revenue for official clearance in respect of Inheritance Tax liabilities on the estate.

Accounting To The Beneficiaries

We will ensure that the Residuary Beneficiaries receive any balance of funds due to them, together with copies of the estate accounts.

Note:

Please note that the above points are general in nature and may not apply in full in every case. Please do ask your professional advisor for more detailed information relating to the matter with which you are concerned.

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