



The Administration of Estates

A broad summary of the procedure

The administration of an estate can involve a wide range of issues. Each person's estate is different in terms of the provisions they make under their will and the nature and value of the assets and liabilities they leave behind.

Step 1: Summary of Assets and Liabilities

Generally the first step is to establish the exact nature and value of the assets and liabilities in the estate and how they are held (i.e. in the sole name of the deceased or in joint names with someone else). The extent to which exact valuations are required depends on the inheritance tax position.

Step 2: Inheritance Tax

Once a summary of the assets and liabilities is available it is possible to assess whether a full inheritance tax return (the IHT 400) needs to be submitted to the Inland Revenue and whether any inheritance tax is payable.

If the assets in the estate (being any assets in the sole name of the deceased, and his or her share of any jointly held assets) amount to a total in excess of £325,000 then it will be necessary to complete and submit an IHT 400. An exception to this may apply if an estate is less than £1 million and passes mainly to a spouse or charity. In all other cases it will be necessary to complete and submit a simpler tax summary.

The IHT 400 details the value of all of the assets and liabilities of the estate as at the date of death. In some circumstances estimated values can be used but generally formal valuations are required.

If the assets in the estate amount to a total in excess of £325,000 then the estate is potentially liable to pay inheritance tax on the amount over and above this sum at 40%.

Depending on the nature of the assets in the estate and the status of the beneficiaries, there may be some exemptions and reliefs which reduce or even negate the inheritance tax liability. Common examples are the spouse and charitable exemptions, and agricultural and business property reliefs. Full details of any claims for such reliefs need to be provided up front in the IHT 400.

Step 3: Application of the Grant of Representation

The Grant, in essence, provides proof that the people named on it are the appropriate people for asset holders (such as banks) to deal with in respect of the deceased's estate and to pay out to.

Once any inheritance tax liability has been paid an application for a Grant can be made.

Who applies for the Grant depends on whether the deceased left a Will appointing executors or not. If no Will has been left the deceased is said to have died intestate and we can advise further on who is entitled to take out a Grant and ultimately who is entitled to benefit from the estate.

Step 4: Collecting in the Assets and Paying the Liabilities

Once a Grant has been issued the executors can close any accounts, sell any investments they wish to and generally collect in the assets. From this pool any liabilities, expenses and legacies can be paid.

Step 5: Finalising the Estate

The executors are liable to income tax and capital gains tax in the same way as an individual. Tax returns covering the whole period of administration will therefore need to be submitted and any tax liability settled before the estate is distributed.

Estate accounts should be prepared on behalf of the executors. These detail all the assets and liabilities as at the date of death, the movement of these and all administration expenses, leading to the final totals available for distribution.

Associated issues

■ Trusts

A Will may create trusts and if so consideration will need to be given to their future administration.

■ Deeds of Variation

These may be appropriate if a beneficiary wants to pass on some or all of their inheritance to someone else for tax or other reasons.

■ Review

Beneficiaries may want to review their own financial position and make or alter their own Wills in a tax efficient manner.

■ Foreign Element

We can advise on matters relating to the law of succession in other jurisdictions.

■ Contentious Issues

Disputes can arise in many ways. Some are minor and some more serious. We can explain the procedures and the rights of those involved, and act for or against any claims against an estate. Hopefully any such claims can be resolved amicably but if not we can advise and act fully in any Court proceedings.

■ Land

An estate may comprise land which must be administered. Be it a house or an agricultural estate, we can, in association with our property department, act in any sale or transfer and advise on any issues which may arise.

■ Businesses

Our corporate department can advise on any issues relating to the ownership or running of any business and act in any sale.

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