CHARTER TAX

A Guide to Probate & Estate Administration

This guide sets out what has to happen, from a legal and financial perspective, when somebody dies.

We understand that this can be a very upsetting and difficult period for you. You should think carefully before deciding if you want to take on the additional burden of obtaining probate and administering the estate, which can be complicated and take months to finalise.

If you have any concerns about dealing with this, Charter Tax are licensed to provide probate services in England and Wales and can help you during this stressful time.

What is probate?

Probate is a generic term used to refer to the process of dealing with the estate of a deceased person. The people who are legally entitled to deal with the estate are known as "personal representatives".

If there is a will and it names executors who are willing and able to act, they become the personal representatives. They will need to obtain a "grant of probate" from the Probate Registry, which will enable them to fulfil their duties.

If there are no executors willing or able to act, or if there is no will, the personal representatives will be called "administrators" and they will need to obtain a "grant of letters of administration" which gives them authority to administer the estate.

To keep things simple, the term "probate" is used throughout this guide to cover all situations.

The probate process ensures that the relevant taxes are calculated and paid, money owing to creditors and owed by debtors is collected, and, if a will has been made, the deceased's remaining assets are distributed to the beneficiaries in accordance with the deceased's wishes.

Is probate always required?

In certain circumstances, you do not have to go through the probate process, for example where:

- The deceased did not own any property, land or shares and the estate is valued at less than £5,000.

- The deceased's entire estate is held jointly with another and passes automatically to

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the other joint party (such as for joint bank accounts and some properties).

If you are not sure whether probate will be required, we will be happy to discuss this with you.

The probate process

There are several stages to the probate process, which are set out below.

Find the will

First, it is necessary to establish whether the deceased left a will. If it is not at the deceased's home, it may be with:

- his or her accountant
- his or her solicitor or will writer
- his or her bank(s)
- a will storage company
- the London Probate Department

If you are liaising with accountants, solicitors, will writers, banks or will storage companies, they will need to see a copy of the death certificate and also proof that you are the executor named in the will before they can release any documents.

If the deceased did not leave a will (referred to as "dying intestate") it is usual for the next of kin to oversee the probate process. As noted above, for the purposes of probate they are referred to as "administrators". Please refer to our separate helpsheet for more information on the intestacy rules and who can administer the estate.

Applying for the grant of probate

The deceased's personal representatives (executors or administrators) are responsible for handling the probate process.

The personal representatives can choose if they are happy to undertake the administration of the probate process, or whether they would like to engage the services of a suitably qualified professional, such as Charter Tax. Some solicitors and banks can also undertake probate work.

It is advisable to get comparable quotes before choosing who you want to administer the deceased's estate.

The first part of the process to is to apply for a grant of probate. There are three stages to the application process:

1. COMPLETE INHERITANCE TAX (IHT) FORMS – you and/or a professional valuer need to calculate how much the deceased's estate is worth, including property, bank accounts, shares, goods and chattels etc. This valuation will decide which forms you need to complete and how much IHT there may be due on the estate. If inheritance tax is payable, the IHT forms must be sent to HMRC and the IHT paid before probate can be applied for. HMRC will send a form directly to the Probate Registry, confirming

the value of the estate and that any IHT due has been paid.

2. **Complete the probate application either online or on paper** – links to both options can be found at www.gov.uk/applying-for-probate/apply-for-probate.

3. **Submit your application online or by post to the Probate Registry** – currently, the Probate Registry requests that applications are not submitted until 20 working days after the IHT forms have been submitted to HMRC. Whichever way you submit the application, you will also need to send to the Probate Registry the original of the will and any codicils, a Statement of Truth, as well as a copy of the death certificate and payment of the probate application fees. If the application is a paper one, you will also need to include two copies of the will/codicils on plain A4 paper.

Once the forms have been processed, you should receive the grant of representation within 4 to 8 weeks (subject to the Probate Registry's workload).

Probate fees

Currently, the probate application fee payable where a probate professional is not submitting the application is £215 for estates with a value of £5,000 or more, with no fee payable for estates worth less than £5,000.

Where a probate professional, such as Charter Tax, submits the application, the fee is £155.

The intention had been that from April 2019 the probate application fee payable would, in most cases, increase significantly and be based on the value of the deceased's estate. However, this was put on hold at the last moment and, in mid-October 2019, the Government announced it no longer intended to proceed with these proposals.

It is recommended that additional copies of the grant are ordered when the application is made, so that they can be sent to different organisations at the same time. Currently, these cost £1.50 per copy.

Administering the estate

Once the grant of probate has been received, you will need to send a copy to the deceased's asset holders, such as banks, building societies etc.

At this point you can start liquidating the deceased's assets, which will provide funds to clear debts and pay any additional inheritance tax, income tax or capital gains tax arising from the estate.

As the personal representative, you are personally liable if a creditor of the deceased makes a claim for an unpaid debt after you have distributed the estate to the beneficiaries. To protect yourself from this happening, you can give notice to potential creditors under Section 27 of the Trustees Act 1925. This involves placing an advert in the deceased's local paper and in the London

Gazette. Potential claimants have a set timeframe for responding, which can be no less than 2 months and one day from publication of the notice. The cost of placing a notice normally ranges from around £100 to £200, plus VAT.

Preparing estate accounts

Once all claims on the estate have been investigated and all debts and taxes have been paid, you can proceed to distributing the remainder of the estate.

As the personal representative for the estate, you must distribute the estate assets to the beneficiaries as identified in the will, or by the intestacy rules if there is no will. All beneficiaries should sign a discharge to confirm receipt of their assets or funds.

You will need to prepare estate accounts, which the residuary beneficiaries will approve and sign to confirm they are happy to accept the amount left to them once all other payments have been made and to confirm that they have no further call on the estate.

Contact us

At Charter Tax, we understand that losing a loved one is a difficult time for family and friends. You can be confident that we will provide a compassionate, confidential and personal service, taking as much of the administrative burden away from you as possible.

If you would like to have an initial discussion with us, at no cost to you, about how we can help, please contact **Mark Howard** at mark.howard@charter-tax.com or **Jane Hodge** at jane.hodge@charter-tax.com or call us on **01580 313108**.

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