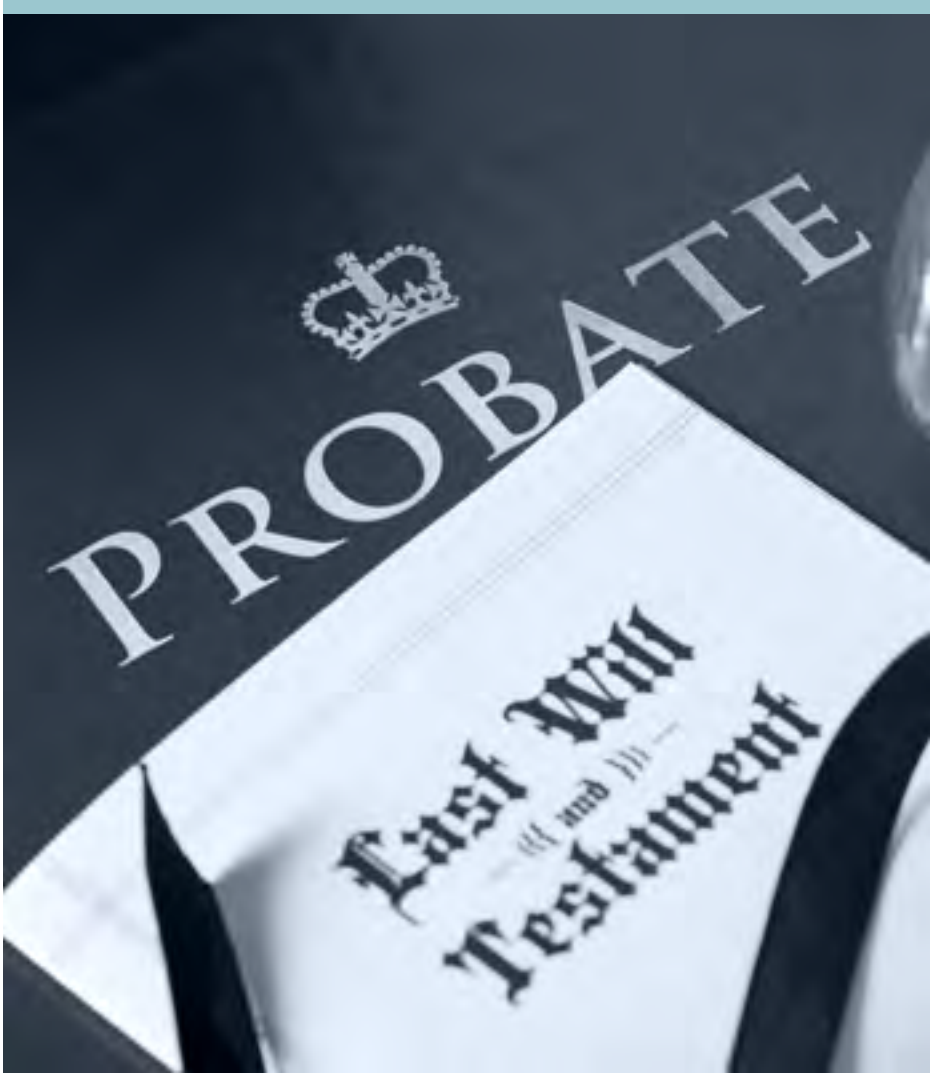


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Your Guide to
Probate & Estate Administration



Probate

Probate and estate administration is the financial and legal process which takes place after someone has died. The purpose is to make sure all relevant taxes are collected, money owing to creditors is paid, debts owed to the deceased are collected and the remaining assets from the estate are distributed to the relevant beneficiaries.

It can be a very complex procedure and with this in mind Ward Williams has created this Mini-guide to Probate to help explain what's involved.

We are one of the first accountancy firms to be licensed to carry out probate work, following a major change in the law which previously only allowed solicitors or banks to carry out this work.

As licensed practitioners for probate work and specialists in all aspects of taxation, accounts preparation and estate planning, Ward Williams are best placed to take care of your probate and estate administration work.

Using Ward Williams to apply for Probate

Ward Williams is licensed by the Institute of Chartered Accountants in England and Wales to carry out the reserved legal activity of non-contentious probate in England and Wales.

We can help you in a variety of ways:

Obtaining a grant of probate – assisting the executors or administrators to obtain the “grant” in order to deal with the deceased's estate.

Identifying the assets and liabilities of the Estate – this can include bank accounts, credit cards, pensions, properties, shareholdings, insurances, utilities, taxes, etc.

Valuing the assets of the Estate – valuing assets in accordance with the Inheritance Tax Act 1984, and claiming all reliefs (spouse exemption, charitable gifts, etc.) and transferable nil rate band if applicable.

Completing the forms PA1 and IHT forms – this will include either IHT400 or IHT205 depending upon whether the estate is excepted.

Estate accounts preparation – drawing up financial statements showing incoming and outgoings of the Estate, and ensuring that assets are distributed in accordance with the will (or as deemed by law where there isn't a will).

Income tax returns – a self assessment tax return may be required if the deceased had income from sources such as self-employment, overseas income or had a Capital Gains Tax liability.

Why use Ward Williams Chartered Accountants

If the deceased was a client of ours you can be assured that we knew a lot about his or her financial circumstances. Our relationship may have involved: preparing annual accounts or completing tax returns; meeting up on a regular basis to discuss business and financial affairs; and developing an understanding of his or her background and family. This is all vital information when going through the probate process.

Furthermore, we can simplify the process as we are likely to have the details of their finances, assets and business dealings. This can save you significant time and money when it comes to preparing the necessary paperwork for the Probate Office and HMRC.

Not an existing client?

We are happy to work with the deceased's existing accountancy firm, if they are not licensed to provide probate services, to extract the necessary financial and legal information required. Probate and estate administration is largely an accounting and taxation exercise, which of course is what we do all the time.

Competitive pricing

Traditionally, banks and solicitors have charged a percentage of the value of the estate to carry out any probate work. In some cases this has been as high as 4% for even the simplest estates to administer. Also, in some cases, the time it takes them to gather all the necessary financial and tax related information can prolong the process.

At Ward Williams our understanding of financial documents, particularly when it comes to calculating inheritance tax, income tax and capital taxes, means that we can carry out the procedure quickly and succinctly. This is especially relevant where the deceased was an existing client. This means we spend less time gathering all the relevant information, therefore keeping the costs to a minimum.

Tax specialists, helping to keep your tax liability to a minimum

As Chartered Accountants you can be confident that we have the specialist knowledge required to handle the tax affairs of the deceased. Not only can we steer you through the intricacies of inheritance tax, income tax and capital taxes, but our experience may also help you and the beneficiaries to minimise the amount of tax that needs to be paid from the estate.

As well as calculating the tax liabilities of the deceased's estate, we can also work with you and any of the beneficiaries to set in place plans to minimise their future tax burdens.

A confidential, personal service

Last, and by no means least, you can be assured of a discreet and compassionate service. We fully appreciate how difficult a time this is for you, your family and your loved ones, so we take as much of the administrative burden away from you as possible.

Applying for Probate

The probate process can be very time consuming and involves complicated legislation and financial information, which can be very daunting if you're not used to dealing with such matters. Typically the process involves:

Finding the will:

- Going through the deceased's paperwork, or requesting a copy from his or her solicitor or bank, or;
- if there isn't a will, identifying the next of kin who can take on the role of administering the estate.

Applying for the grant of representation:

- Completing the probate application form.
- Filling in the inheritance tax forms for Her Majesty's Revenue and Customs (HMRC) including providing valuations of all the deceased's assets and calculating how much tax there may be to pay.
- Sending the above forms and relevant fees to the Probate Office.
- Swearing an oath that all the information provided is correct to the best of your knowledge, that you are entitled to take out the grant and that you will administer the estate in accordance with the law.

Administering the estate:

- Sending copies of the grant of representation to the deceased's bank and other asset holders.
- Advertising for creditors to come forward with any outstanding debts the deceased owed them.
- Liquidating the assets to provide funds to pay debts, taxes and the beneficiaries of the estate.

Preparing estate accounts:

- Drawing up financial accounts which show all the transactions coming into and going out of the deceased's estate.
- Distributing the assets to the beneficiaries as highlighted in the will, or as deemed by law if there isn't a will.



Valuing the Estate

IHT is calculated on the net estate of the deceased. The assets (and liabilities) to be considered will include:

- Assets held in the deceased's sole name
- Assets held jointly
- Foreign assets (where the deceased was UK domiciled)
- Assets held in certain trusts from which the deceased was entitled to benefit
- Liabilities of the estate

The basic requirement is to treat the assets as if they had been sold on the open market on the date the deceased died. However, the IHT legislation lays down specific requirements for the way in which some of these assets are to be valued.

In some cases, if IHT is payable on the estate, or it is just below the IHT threshold, it is advisable to use a chartered surveyor to value land and buildings and a suitably qualified valuation professional to value unquoted shares.

As a rule, estimated values should not be included for significant assets. However where some figures are not known then the return can include estimated figures. These should be based on information available rather than just be guessed. The IHT400 notes make it clear that estimates should only be used for small items such as household liabilities or tax refunds. Where an estimate has been used the fact should be disclosed on the IHT400.

Income tax to date of death

A self-assessment form will always be required where the deceased:

- was self employed
- had taxable income from securities options or share options (excluding dividends) or share-related benefits
- received income from abroad except for foreign dividends up to £300
- received income from the estate of a deceased person or a trust
- was covered by a foreign life insurance policy
- had a capital gains tax liability

Where required, the personal representatives must complete a self-assessment return for the deceased for the period from 6 April up to the date of death. HMRC will normally send the return after the end of the tax year in which the person died. However, the return can be asked for earlier if required.

Inheritance Tax (IHT)

As part of the application for the grant of probate the applicant(s) must provide information about the IHT status of the estate to the probate registry. This will usually be included in the oath, and the figures can be obtained from the IHT421.

Where a personal application is made, the information needs to be included in section E of form PA1.

The information required depends on whether or not the estate is “excepted”, the domicile of the deceased and whether or not a personal application is being made.

Where the deceased was UK domiciled the IHT liability is based on the whole of their worldwide assets.

If an estate qualifies as excepted then there is no requirement to deliver an IHT account (form IHT400) to HMRC. Other IHT forms must however be sent to the probate registry as part of the grant application. The probate registry will then onwards report to HMRC.

The majority of estates are excepted estates, which means there is no IHT liability because there are insufficient assets chargeable to IHT. However there are other conditions that the estate must also meet.

Deed of variation

Where the assets pass to the beneficiaries in a way that is felt not to be desirable it is possible for the Will to be ‘rewritten’. This is achieved by an arrangement known as a ‘deed of variation’ or ‘deed of family arrangement’.

The deed must be executed within two years of the death.

The deed can be effective for IHT and/or capital gains tax (CGT). If the beneficiaries making the variation want it to take effect for IHT, CGT or both, the variation must contain a statement to that effect.

The changes will only be effective from the date of death (S62TCGA92 and s142 IHTA 1984) if the deed contains a statement of intent that it is to take effect for tax purposes. Deeds of variation may be effective for Capital Gains Tax and IHT but they do not change either the general law position or the income tax position.



Estate tax returns

Any untaxed income and capital gains received during the administration period should strictly be returned on the self assessment 'Trust and Estate Tax Return' SA900.

The administration period means the period beginning with the deceased's death and ending with the completion of the administration of the estate. Any asset still held by the personal representatives at the end of the period of administration is treated as though held under a bare trust and any income arising is assessed on the beneficiaries.

The personal representatives may claim deductions for trading or rental business expenses as usual. However, on this return, relief cannot be given for funeral expenses, testamentary expenses, administrative expenses or loan interest. The only exception is interest relating to a loan taken out to pay the inheritance tax; this may be deducted.

Although strictly a self assessment return should be completed, in practice, HMRC often adopt informal procedures for agreeing the tax liabilities of the estate where the tax liability is small.

The Next Step

We try to complete the probate process as quickly and smoothly as possible. We also aim to keep the costs of administering the estate as low as possible.

For an initial probate consultation at our cost, please contact Malcolm McKinnell or Mark Speed or get in touch with your normal contact at Ward Williams. Contact details for each office are on the back page. We look forward to hearing from you.



Ward Williams Chartered Accountants is fully supported by other divisions within the Ward Williams group: Ward Williams HR and Ward Williams Financial Services. www.wardwilliams.co.uk

Information for users:

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