

Probate for non-taxable estates

Introduction

This information sheet is relevant to anyone dealing with the affairs of a person (the deceased) who died domiciled in England & Wales, and where no Inheritance Tax (IHT) is payable even though the estate is not a standard or exempt 'excepted estate'. For an explanation of these terms, please refer to our information sheet 'Excepted Estates'.

An example of such an estate is one where the spouse* or charity exemption applies, but the gross asset value exceeds £1 million. Other examples are where the IHT value of the estate may be reduced below the level of the tax threshold by Business or Agricultural Property Relief, or the deceased had a record of lifetime gifts, an interest in a trust or foreign assets which exceed the limits imposed for an excepted estate.

In all these cases, it will be necessary for the deceased's personal representatives (executors or administrators) to answer detailed questions in an IHT account required by HM Revenue & Customs (HMRC). The obligation to submit an IHT account is accompanied by substantial penalties for not providing accurate information by reason of fraud or negligence. Until the IHT account is dealt with, it will not be possible for the personal representatives to obtain a Grant of Probate or Letters of Administration (the grant) from a Registry of the High Court in order to administer the estate of the deceased.

As a leading private client legal practice in the South East of England, we are able to offer an efficient grant only service to the personal representatives of non-excepted estates where no IHT is payable. Using our local District Probate Registry, we can complete applications for grants in such

estates in as little as 7 – 10 weeks from receipt of all requisite information and documentation and in most cases for a fixed fee.

If the deceased was not domiciled in the United Kingdom, you should read our information sheets 'Probate for deceased persons domiciled outside the UK' and 'Probate resealing'. All our information sheets, including details of other fixed fee probate services, may be accessed via our website.

What we need

The following documents are required:

- 1 the Probate questionnaire (grant only) fully completed
- 2 the relevant supporting documents detailed in the checklist at the end of the Probate questionnaire (grant only)
- 3 an official copy of the death certificate for the deceased
- 4 the deceased's original will and codicils (if any)
- 5 a passport copy and recent utility bill (confirming home address) for each of the deceased's executors or proposed administrators, in each case certified by a solicitor, accountant, doctor or bank official
- 6 a cheque in favour of 'HM Courts & Tribunals Service' for £160 to pay the probate registry fees including the cost of ten official copies of the grant.

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Fees

Our normal charge for obtaining a grant in a non-excepted estate where no IHT is payable is £2,800 excluding VAT. This assumes that the personal representatives are able to provide full information in the Probate questionnaire (grant only) together with all other relevant items referred to above, and that there is no requirement to undertake further investigation of the deceased's estate.

In some cases the replies given in the questionnaire may necessitate investigative work for which an additional charge is justified. This is likely to arise, for example, where a claim is to be made for Business or Agricultural Property Relief. In such cases, we shall notify the personal representatives as soon as possible and agree the supplementary fee before taking any further steps in the matter. Similarly, if there is a requirement for us to commission a professional valuation (for example in respect of shares) we shall obtain approval for the additional costs from the personal representatives before the relevant action is taken.

In view of the above, while we expect the fixed fee to apply in the majority of cases, we recommend that the fully completed Probate questionnaire (grant only) and supporting documents are posted or emailed before the other items are sent, so that any element of additional expense can be identified at the outset.

Our invoice will be presented on receipt of the grant, and should be settled promptly from estate monies collected by the personal representatives, or from their own funds.

Disclaimer

This information sheet has been prepared for those seeking assistance with an application for a grant in a non-excepted estate where no IHT is payable. It is intended for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at October 2018 and may be affected by subsequent changes in the law.

For more information about our fixed fee probate services, please contact Helen Stewart on 01892 510000 or by email at:

helen.stewart@ts-p.co.uk

* All references to the term 'spouse' include a civil partner as defined by Section 1 of the Civil Partnership Act 2004.