

## **PROBATE FEES**

Our costs for dealing with the administration of Estates are generally set at a percentage of the Estates value, normally 2% of the gross value (its value before the deduction of tax, debts and other liabilities) to which VAT is added. No two Estates are exactly the same and confirmation of the intended fee will be made once we are fully appraised of the nature of the Estate. In most cases a fixed fee can be agreed at the outset but we reserve the right should anything untoward occur during the administration of the Estate that will greatly increase the work involved, such as a challenge being made to a Will or an unknown Beneficiary coming to light to increase the charge and of course you will be informed of this in advance.

A very large Estate may merit a lower percentage fee if the mix of assets is relatively straight forward, conversely a very small Estate which consists of a large number of assets which require attention is likely to be charged at a higher percentage.

Disbursements will also need to be charged including search fees, Land Registry fees where appropriate, the Probate Registry's fees and fees in respect of searches conducted at the unclaimed assets register and for the publication of statutory notices in the London Gazette and the local paper which protect the executors position in the event of an unknown creditor coming to light after the administration of the Estate has been completed. The fees, VAT and disbursements will be incorporated in a client care letter which each of the executors or administrators (in the case of an intestacy) will be asked to sign.

A general note regarding the administration of Estates detailing the paperwork which we will need and the points that you may want to consider is attached to this note.

## **The Administration of an Estate-a few notes**

This note is designed to detail the paperwork and information we will need should you wish this firm to deal with the administration of an estate and to draw your attention to a number of points.

We appreciate that you will have a great deal to consider at this moment but hope that the information supplied below will be of assistance at this stage, it is though of a general nature and we will of course be able to advise more fully on the various points in due course. Some of the points may already have been dealt with and others may not be relevant but the intention is to provide an overview at this stage-please call us if you have any questions.

### **Papers and information required**

The most important work to be undertaken initially is to establish the value of the estate as at the date of death, this is particularly important if the estate is likely to be subject to Inheritance Tax, and values of all assets as at that date, including possibly the house contents, will need to be obtained.

In order that we can commence the administration of the estate we will need the following papers. Please let us have as much paperwork as you can and leave us to contact the organisations concerned:

- (a) The Will, if one is in existence (and is not being held by us). If there is no Will then we will need full details of the closest surviving relatives.
- (b) An original death certificate which we will need to retain.
- (c) All papers relating to the deceased's assets, whether these were held alone or jointly with anyone else, including bank statements (as many as possible particularly in relation to any current account as it may be necessary to check on income details over a period of many months) , share certificates, original policy documents and anything else that might be relevant. As mentioned it is important to establish the value of each asset as at the date of death and this will include the amount of any interest or dividends accrued but not yet paid.

“Assets” include any sums owed to the deceased by any person or organisation, including sums loaned by the deceased with a view to these being repaid. Also included within this category can be assets from which the deceased benefited even if these were not owned outright, such as a trust fund. If in any doubt please let us have details so that we may advise accordingly.

We will also need details of any liabilities at the date of death as these can be set off against the estate's Inheritance Tax bill, if any. The Funeral account together with costs incidental to the funeral, such as catering expenses, can also be offset against the estate's assets so please let us have the invoices. (other costs such as valuation fees incurred after death count as administration expenses and are not deductible from the

value of the estate for tax purposes). Please let us have any utility bills so that I can contact the organisations concerned.

- (d) Any papers concerning the deceased's tax affairs. We will need to inform the Inland Revenue of the death and if there are no records of a particular tax office dealing with the deceased's tax affairs will write to the local office to see if they are holding any records. A note of the deceased's national insurance number would therefore be useful. The Revenue will almost certainly require a Tax Return to be completed up to the date of death and therefore any paperwork relating to the deceased's income, such as tax deduction certificates or share dividend vouchers will also be required. The latter are particularly useful as they provide up to date details about any shareholdings held.
- (e) Any paperwork relating to pensions paid to the deceased including the state retirement pension and also details of any state benefits that were being received. If a private pension was being received we need details of the scheme, any lump sum or continuing instalments payable and of any changes made to the pension plan over recent years.

It is particularly important that we have any paperwork relating to any means tested benefits as the relevant government department may launch an assessment of the estate once probate has been granted which can delay the administration.

- (f) The deeds for any property the deceased's owned if these are not held here. A valuation will be required for any property or share in such, and also in respect of any household contents and personal possessions of value if the estate is likely to exceed the current inheritance tax threshold of £325,000. If not then an estimate of value will suffice. If the property is to be sold marketing should be delayed until we are close to being able to make an application for the Grant of Probate as a sale cannot proceed until this stage is reached.
- (g) Details of any substantial gifts, i.e. in excess of £3,000, in any tax year made in the 7 years prior to the date of death, or gifts made by the deceased at any time where a benefit continued to be received from the asset given away, as these can impact upon an estate's Inheritance Tax liability.
- (h) If the deceased was widowed at any point (even if there was a remarriage) any papers that can be located relating to the administration of the estate of their deceased partner-this can be important in helping to reduce any inheritance tax liability. If the deceased was divorced any papers relating to the divorce proceedings.
- (i) Details of any Power of Attorney that anyone has been operating on behalf of the deceased. Please note that the authority to act under a Power of Attorney ceases at the moment of the deceased's death and under no circumstances should any financial transaction be authorised under such a document after death

Once we have had the chance to check through the paperwork we will be able to advise further on the procedure to be adopted.

## Procedure

The work that we will undertake in administering the estate will, amongst other things, involve:-

- (a) Writing to all asset holders subject to our sorting through the estate paperwork.
- (b) Preparing a schedule of assets and liabilities.
- (c) Preparing the papers which the executors need to sign and swear for the application for the Grant. The Grant is the formal document issued by the Probate Registry, part of the High Court, which confirms the authority of the executors (where the distribution of the estate is dealt with by a Will) or the Administrators (where the deceased died intestate) to deal with assets in the estate.
- (d) Completing an Inheritance Tax Account for submission to the Capital Taxes Office if necessary or a Return of Estate Information form for smaller estates. It is very important that full details of the deceased's assets and liabilities are included on these documents.
- (e) Contacting the Inland Revenue to inform them of the death and completing Tax Returns up to the date of death if required.
- (f) On the issue of the Grant completing all paperwork necessary to allow repayment of assets to the estate and submitting these to the asset holders.
- (g) Distributing the estate to those due to receive legacies or a share in the residue.
- (h) Completing Estate Accounts and submitting these to the executors for approval before making a final distribution. It makes the administration of the estate much smoother if funds are received and paid out from this office, therefore as far as possible please let us arrange all receipts and payments.
- (i) Reporting to the Inland Revenue as required with regard to the estate income.
- (j) Where the Will establishes a trust drawing up the appropriate documentation to constitute the trust fund or to terminate it if appropriate.

We should point out that regardless of any contact already made with banks or other asset holders we will need to write to them to confirm that we are dealing with the estate, to obtain all the information that we will need from them for inclusion in the estate accounts and any returns to be made to the Inland Revenue in respect of income tax or inheritance tax, and to obtain the relevant paperwork for completion to allow recovery of the assets. Therefore to avoid any duplication of effort please leave such administrative matters for us to deal with. There are however two points that it is worth dealing with at the earliest opportunity:

-if the deceased had a current account the bank should be informed of the death so that the account can be frozen, thus ensuring that regular payments are discontinued and credits are

not made that will have to be repaid-please note that no funds should be paid into any account after death nor should any withdrawal be made for any purpose whatsoever. All payments due to or from the estate should be directed to us so that a full account of these can be made in the estate accounts. Any creditor of the estate will be informed that they will have to wait for payment, if appropriate until Probate has been granted, and funds released.

-if the deceased owned a property ensure that buildings insurance is in place. If details of the policy cannot be located please let us know as soon as possible and we will arrange emergency cover

Please do not worry about preparing lengthy schedules of the estate's assets, as we will prepare our own which ultimately will be utilised in the preparation of the estate accounts, nor about putting together an elaborate file of the estate papers as we will only then need to disassemble this in order to add the papers to our own system. A simple pile of papers is all we need!

The administration of an estate is of necessity a time consuming process and the amount of work involved, and the time taken to complete the administration, often comes as a surprise to family members. Please therefore do not be alarmed if the initial work takes some time as information will be required in all likelihood from many organisations and until that is received the application for the Grant cannot proceed.

### **Statutory Notices**

We will arrange for statutory notices to be placed in the local paper and the London Gazette asking any creditors who might have a claim against the estate to contact us within two months of their publication. After that two months has elapsed the estate can be distributed without any fear of personal liability attaching to an executor should an unknown creditor appear in the future.

### **Possibility of any claim against the estate?**

If the deceased has not made provision for any close relative who under normal circumstances might have been expected to benefit (such as an estranged child), or for any person for whom they normally made financial provision or maintained, again please let us know. In such circumstances there is the possibility that a claim could be made against the estate. Such a claim must be lodged with the court within six months of the date of issue of the Grant of Probate but does not have to be served on the executors for a further four months. Therefore if there is any possibility of such a claim serious consideration must be given to delaying the distribution of the estate until such time as we can be certain that no claim will be made.

### **Lost assets**

We will arrange a search of the Unclaimed Assets Register which holds details of unclaimed life policies, pensions, shareholdings, dividends and unit trusts. The Register's fee for the search is £25. Please let us have as much information as possible about the deceased's former addresses.

## **Mail redirection**

The Post Office will redirect mail for a maximum period of two years. Again this is a very worthwhile service as it can result in previously unknown assets coming to light following the receipt of a statement or annual valuation. We would suggest a redirection is arranged so that any post is sent here.

## **Costs**

We are obliged by the Law Society to let the executors have in due course a formal letter of engagement confirming how this firm will charge for the work carried out on behalf of the estate and we will at that point ask them to sign a duplicate of that letter agreeing to those terms. The fees charged by this firm will normally be calculated in accordance with the value of the estate, based on a percentage of the gross value to which VAT will apply.

## **Executors' expenses**

Although non-professional executors are not permitted to charge the estate for their time, out of pocket expenses such as petrol and phone calls can be repaid from the estate. If appropriate any lay executor should please keep a record of any such expenses and let us have full details prior to the completion of the administration.

## **Money laundering regulations**

In accordance with the regulations we are obliged to ask you to provide us with some form of proof of identity (this applies even if you are a previous client of the firm and unfortunately is unavoidable). Please let us have your passport or photo driving licence so that we may take a copy for our records, together with an original utility or council tax bill or bank or building society statement issued within the last 3 months.

We look forward to discussing matters with you further but in the meantime if you have any questions please do give us a call.

**JOHN WELCH & STAMMERS**

**November 2018**