



## **GUIDE TO ESTATE ADMINISTRATION**

When someone dies, their estate (i.e. everything which they own in their sole name, and sometimes particular types of property held in joint names) has to be distributed either in accordance with the deceased person's Will or, if they have not left a Will, amongst various blood relations according to statutory rules. If someone dies without leaving a Will, they have died "intestate".

Each estate has different features but this note gives a general outline of what is involved in most estates.

### Who is responsible for dealing with an estate

Those responsible for dealing with an estate fall into two categories:

- Executors – these are appointed by the deceased in the Will
- Administrators – these are the persons entitled by law to deal with the estate of a family member who has died without making a Will.

Executors and Administrators are often referred to as the Personal Representatives.

### How long does it take to administer an estate?

This will depend on a number of factors such as the size of the estate, the nature of the assets, whether the estate is subject to inheritance tax, whether there is a property to be sold, the number of beneficiaries in the Will etc. Most estates can be administered within 6 to 12 months – although large or involved estates where inheritance tax is payable can take longer than 12 months.

### The first priorities of the Personal Representatives

In the immediate aftermath of someone dying, the first priorities of the Personal Representatives are to register the death and arrange the funeral. If the Personal Representatives are not family members, this can normally be delegated to family members if they wish. It is usually advisable to obtain several copies of the death certificate. The funeral account can normally be paid from one of the deceased's bank accounts.

### Securing the assets

The next priority is to secure the assets. If the deceased owned a property which is now unoccupied, it is important to ascertain whether the property is insured and notify the insurers of the death and that the property is now unoccupied. It is common for insurance companies to apply certain conditions to the policy, such as the requirement for it to be checked once a week or for the boiler to be drained down. It is also advisable to remove any valuables from the property.

### Smaller estates

There are some estates, typically where the value of the deceased person's assets are small or where the majority of the assets were held jointly with someone else, when the Personal Representatives can deal with the estate with minimal formality – a copy of the deceased person's death certificate can be produced (e.g. to banks where the deceased had an account) and a withdrawal form signed – sometimes withdrawal

forms in small estates have to be signed in front of a Solicitor but apart from that formality, no further proof of entitlement to a deceased person's assets is needed.

### Larger Estates

In larger estates, however, (typically those where the estate includes a property or other estate assets are over £30,000) the Personal Representatives cannot simply produce a death certificate and a repayment form. They have to obtain formal proof from the Probate Registry that they are the persons entitled to deal with the deceased person's estate. The proof of entitlement is known as a Grant of Representation. If the deceased left a Will, then the Grant of Representation is a Grant of Probate. If the deceased did not leave a Will, but died intestate, then the Grant of Representation is a Grant of Letters of Administration. The term "Grant of Representation" covers either a Grant of Probate or a Grant of Letters of Administration, as appropriate.

### Obtaining a Grant of Representation

To obtain a Grant of Representation, the Personal Representatives have to gather together detailed information on the deceased's assets (i.e. what they owned) and liabilities (i.e. what they owed) as at the date of death. Assets include savings in banks and building societies; stocks and shares; property; any businesses owned; insurance policies; household contents; cars, etc. Debts include normal household expenses that were unpaid when someone died; HP or finance loans; mortgages etc.

The Personal Representatives need to establish the value of all assets and liabilities as at the date of death. There are certain rules that stipulate the way in which assets are valued (for example with savings accounts, the value at the date of death, for Grant of Representation purposes, is not simply the capital balance on the account at the date of death but allowance must also be made for any interest that had been earned on the account up to the date of death but which had not been added to the account at the date of death). Other specific valuation rules apply to stocks and shares; chattels (e.g. household contents and cars) and property (i.e. houses; flats; etc).

The Personal Representatives will need to send a death certificate to most of the holders of the estate assets to record the death and obtain the valuation figures as at the date of death. The Personal Representatives may also need to instruct specialists to value stocks and shares, household contents, houses, businesses, etc. The Personal Representatives must also obtain details of the deceased's income tax position and any pensions that were outstanding (or may have been overpaid) as at the date of death – including any State Pensions or benefits.

### When is Inheritance Tax ("IHT") payable?

It is not possible to give a detailed explanation as to when IHT is payable, as each estate has different assets and the deceased may have made lifetime gifts and transfers which can affect the amount of IHT payable. The general rule for an individual is that IHT is payable at 40% on total assets upon death over the (current) figure of £325,000 ("the Nil Rate Band"). Where the deceased was married or in a civil partnership as at the date of death then no IHT is payable if all the estate passes to a surviving spouse or civil partner. If the deceased has been married or in a civil partnership previously and his or her spouse or civil partner has died then it may be possible to claim transferable nil rate band relief, whereby the unused Nil Rate Band is carried forward and up to £650,000 can be left free of tax.

There is also an additional allowance called the residence nil rate band which is being gradually introduced from April 2017 and applies where a main residence passes to direct descendants i.e. to children and grandchildren. The allowance starts at £100,000 for tax year 2017/18 increasing by £25,000 per year until it reaches £175,000 by April 2020. The residence nil rate band can also be transferred between spouses or civil partners if it is not used in whole or part when the first spouse or civil partner died, even if the first death occurred before April 2017.

### Reporting to HM Revenue & Customs (“HMRC”)

Once all the asset and liability information has been collated, a form detailing this has to be completed by the Personal Representatives before the Grant of Representation can be applied for. There are certain rules which determine the type of form to be completed which largely depend on the size and complexity of the estate.

Where an estate is taxable and for certain other types of estates, a full detailed inheritance tax return must be forwarded to HMRC and any inheritance tax paid before a Grant of Representation can be applied for. Banks and building societies will usually release a deceased person’s funds, even prior to a Grant of Representation being issued, in order to pay inheritance tax

**NOTE** – if the estate is large enough to be liable for inheritance tax it is very important that the details of the estate assets are accurate and nothing is left out. If estate assets come to light after the Grant of Representation has been issued, then this can mean the Personal Representatives are liable to large fines and penalties by HMRC if they think the Personal Representatives did not take enough care when finding out what the deceased person owned when they died.

HMRC can take several months to approve the inheritance tax return and the timescale largely depends on the size and complexity of the estate.

Once the inheritance tax forms have been dealt with (and any inheritance tax paid), the Personal Representatives can then apply for the Grant of Representation. The Personal Representatives will have to swear an Oath which will then be forwarded to the Probate Registry with any Will left by the deceased, the relevant HMRC form and the Court fee.

The Probate Registry will check that all is in order – if they have any queries, then those will have to be dealt with by the Personal Representatives before the Grant of Representation can be issued.

### Once the Grant of Representation has been issued

Once the Grant of Representation has been issued, the Personal Representatives then have the necessary proof that they are entitled to call in the estate assets; sign repayment forms; sell stocks and shares; sell any properties in the estate; pay off the estate debts; etc. The Personal Representatives will also have to finalise any outstanding income tax liabilities; pay any additional inheritance tax that may be due and generally finalise a deceased person’s affairs.

It is sometimes advisable for the Personal Representatives to obtain professional advice from a financial advisor/stockbroker before they deal with any stock market investments.

Once all of the above has been attended to, the Personal Representatives then prepare an account of the estate showing what monies have been received and what monies have been spent and they will then distribute the estate once all of the residuary beneficiaries have approved the accounts.

### Can the distribution of an estate be varied?

In certain situations, a beneficiary of a deceased person’s estate may wish to redirect their inheritance to another person or charity, for example if their own estate is potentially taxable. This can be achieved by what is called a Deed of Variation, which must be completed within two years of the date of death. This is a very useful tax-planning tool which basically re-writes part of the deceased person’s Will or the distribution on intestacy. It can save large amounts of inheritance tax for the next generation and can also be used to pass assets to beneficiaries not named in the Will, or in different proportions to those set out in the Will.

It is important that the Personal Representatives understand that administering an estate can be a rather onerous duty and can be very time consuming. If they wish, the Personal Representatives can deal with all the above work themselves – alternatively they can ask a Solicitor to carry out the work on their behalf. Dealing with the estate of a relative or friend can be a daunting task at a difficult time. Our Solicitors provide guidance on each stage of the process in a caring and sensitive manner.

**Contact us for further information or to arrange an appointment**

Email: [enquiries@boneandpayne.co.uk](mailto:enquiries@boneandpayne.co.uk)

**Llandudno**

55 Madoc Street  
Llandudno  
Conwy  
LL30 2TW

T: 01492 876 354

Gareth Tierney-Jones  
Roger Griffith  
Rhiannon Morgans  
Carys Jenkins

**Colwyn Bay**

13 Wynnstay Road  
Colwyn Bay  
Conwy  
LL29 8NB

T: 01492 532 385

Claire Dutton

**Old Colwyn**

333 Abergele Road  
Old Colwyn  
Conwy  
LL29 9PG

T: 01492 515 371

Mark Sandham