



### *Personal Tax*

## Wills and Probate Services

**It's important to ensure that your estate is passed onto your loved ones with a minimum of fuss and in the most tax efficient way.**

Our new Wills and Probate Service has been designed to assist you by:

1. Making sure that your Will reflects your wishes.
2. Helping you to minimise Inheritance Tax liabilities.
3. Assisting with the administration of your estate to ensure that the terms of the Will are carried out; thus easing the administrative burden on your family.

#### Will Writing Service

It's easy to put off making a Will; it's not always something that we relish thinking about! But, if you die without making a Will then your assets may be distributed according to the law rather than to wishes. It could mean that a partner receives less whilst other family members receive your money, and they may not need it.

There are lots of sound financial reasons for making a will:

- You decide on how your assets are shared
- If you're not married or in a Civil Partnership your partner will not automatically inherit. Making a will makes sure that your partner is provided for.
- You can make sure that you don't pay more Inheritance Tax than absolutely necessary.

With this in mind, we will discuss with you your wishes and a strategy to achieve this. This will involve producing a list of all your assets and liabilities and then discussing with you whom you want to receive what. At the same time we can discuss potential Inheritance Tax liabilities and ways of minimising the tax payable.

Once we have a clear idea of your wishes, we will then instruct a lawyer on your behalf to draw up a Will to reflect your wishes. We take the view that Will drafting is a specialised skill and as such is best done by lawyers.

#### Probate Services

Dealing with the financial affairs of a close relative can be a complicated task at the best of times but with the ever-changing tax and legal system it can also be a time-consuming and complex experience. Our new probate service is designed to help families through this difficult time. We provide an efficient, timely, sensitive and professional service and ensure that you receive impartial advice whenever necessary. Specifically, we offer;

- Tax advice to try and minimise the tax payable on death and during the administration period.
- Accept appointments as Executors in your Will to work alongside your family.
- Help and assistance in identifying assets and liabilities of the Estate and provide a full valuation for Probate purposes.
- Assistance with the Probate application and obtaining the Grant of Probate or Letters of Administration.
- Completion of the Inheritance Tax return and negotiating with HMRC regarding all Inheritance Tax liabilities.
- Administration of the Estate to include collecting all assets, settling all liabilities and legacies and completion of the complex tax forms and negotiating with HMRC when required.
- Preparation of detailed Estate accounts and liaising with the family and all beneficiaries.
- Advice to beneficiaries in connection with estate planning and deeds of variation as appropriate.

#### What is Probate?

Probate is the term commonly used when talking about applying for the right to deal with a deceased person's affairs (called administering the estate).

There are different terms associated with probate:

##### **If a person leaves a will:**

One or more executors may be named in the Will to deal with a person's affairs after death. **The Executor** applies for a grant of probate from a section of the court known as the Probate Registry. The grant is a legal document that confirms the executor has the authority to deal with the deceased person's assets. It is used to show the right of access to funds, sort finances, collect and share out the deceased person's assets as set out in their Will.

## What is Probate (continued)?

### If a person has died but not left a Will:

A close relative of the deceased can apply to the Probate Registry to deal with the estate. They apply for 'grant of letters of administration', a legal document that confirms that administrator's authority to deal with the deceased person's assets. If the grant is given, they become known as 'administrators to the estate'.

The Executor or administrator **cannot** deal with the deceased's assets until Probate has been obtained.

## Is a grant of probate/representation always needed?

Grant of probate/representation is almost always required. It is needed if the deceased person leaves one or more of the following:-

- £5,000 or more
- Stocks or shares.
- Certain insurance policies.
- Property or land held in their own name or as "tenants in common".

Grant may not be needed when;

- The deceased person leaves less than £5,000.
- They owned everything jointly with someone else and everything passes automatically to the surviving joint owner.

## Handling the Affairs

Whoever is dealing with a deceased estate will need to:

1. Obtain "Probate", giving them the right to deal with the deceased persons assets.
2. Quantify all the deceased's assets and liabilities.
3. Complete the Inland Revenue form "IHT400" and supporting schedules.
4. Pay over any Inheritance Tax due within 6 months of the end of the month in which death occurred. (Unless the tax relates to assets where payment by instalments is allowed). Interest accrues on tax paid late.
5. Distribute the estate in accordance with the Will (or intestacy rules if no Will), unless there is a deed of family arrangement to vary the distribution.

Howsons are well placed to assist with all the above, but in particular in quantifying assets and liabilities and completing IHT400 and calculating the correct IHT to pay.

## Deeds of Family Arrangement

This allows the family to alter who gets what under the terms of a Will. An example of where this could be useful is if the entire estate is left to the surviving spouse and they decide that they do not need it all and wish to pass on some assets direct to the children or other beneficiaries. It is also useful if a family wish to divide up assets differently from the Will. Individuals foregoing monies must be over 18 and of sound mind and the interests of a minor cannot be reduced without court approval.

In order for this to be valid, a deed of family arrangement must be entered into within 2 years of death.

## Joint Tenancy / Tenants in Common

If something is owned under a 'joint tenancy', on death the asset automatically passes to the other joint tenant.

If something is owned as a 'tenant in common', then each tenant owns a part of the asset, which will form part of the estate and will pass to whomever is nominated as the beneficiary in the Will.

If this is applicable to you, it is obviously important that you understand which 'tenancy' applies to any jointly owned property.

## Call our Probate Specialists for more help

We have offices in Staffordshire and North Shropshire.

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