

ESTATE ADMINISTRATION GUIDE

When a person dies, someone must be authorised to deal with their estate, which may consist of assets such as a home, personal belongings, finances and liabilities. The person or persons who have the right to deal with or “administer” the estate are known as the deceased’s **personal representatives** (“PRs”).

Their role is to:

- collect in all the assets of the deceased;
- pay the liabilities; and
- distribute the balance according to the deceased’s will or the intestacy rules in the absence of a valid will.

This guide provides you with some useful tips and things you must consider when acting in your role as a PR of a deceased’s estate.

Did the deceased make a later Will?

As a PR, it is your responsibility to ensure that you administer the latest Will made by the deceased. You could be personally liable for any loss caused by administering a Will which has been revoked by a more recent Will made by the deceased.

To help reduce the risk, you may wish to undertake a Certainty Will search. Please feel free to contact us if you would like any further advice in this respect.

Did the deceased own a property?

If the deceased owned a property, there are steps to be taken in respect of notifying the building and contents cover insurers.

You will be responsible for adhering to any restrictions the insurers may place on the unoccupied property. You could be personally liable for any loss caused by failure to insure the property or to comply with the restrictions on a policy.

Ascertaining all assets and liabilities

As the PR, you must ensure that you report all the assets and liabilities in the deceased’s name as at the date of their death. If you are unsure of the extent of assets, you may wish to consider carrying out a Landmark Financial Asset Search.

With regards to any debts, it is possible to limit the extent of the PRs liability for any unknown debts by placing certain notices in the local and other newspapers.

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Inheritance Tax (“IHT”)

Everyone has a personal allowance, known as “the Nil-Rate Band” which is free of IHT. Currently this allowance is £325,000. It is also possible for certain individuals to claim an additional relief known as the residence nil rate band (“RNRB”). This is currently £125,000 per person and can be claimed if various conditions are fulfilled. If the estate exceeds the Nil-Rate Band and the RNRB the balance is taxed at 40%. There are various other IHT exemptions, for example the “spouse exemption” on assets that pass to the deceased’s spouse/registered civil partner.

The amount of the Nil-Rate Band which can be used against a deceased’s estate can be increased (by transferring a deceased spouse’s unused allowance) or decreased (if the Nil-Rate Band has already been used up against lifetime gifts made by the deceased). Similarly, it is possible for an unused RNRB to be transferred to a surviving spouse to be utilised upon their own death.

If the deceased’s estate is liable to pay IHT, you must complete a detailed IHT account and submit this to HMRC. If no tax is payable then a short form account can be prepared, but there can still be some situations where a long form account is required despite no IHT being payable.

Any IHT due (or a proportion of it if the instalment option is available) must be paid within 6 months from the end of the month in which the deceased died, otherwise interest will become payable.

Lifetime Gifts

When ascertaining whether any IHT is payable on the deceased’s estate, it is your responsibility as PR to ensure you have checked what lifetime gifts the deceased made in the 7 years before their death. You do not have to declare any gifts totaling less than £3,000 in any one tax year or small gifts of less than £250, or any gifts made to a spouse/registered civil partner or a charity.

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HMRC do raise enquiries from time to time as to who the PRs have spoken with, and what records or bank accounts have been considered in order to confirm the position regarding gifts made.

Income and Capital Gains Tax

As a PR, it is your responsibility to ensure that the deceased's lifetime tax affairs (income tax and capital gains tax) are finalised with HMRC. In addition to this, PRs must also account to HMRC for income tax and capital gains tax during the administration of the estate. This is because the estate is liable for such taxes and has its own allowances accordingly.

PRs must also provide certain information to HMRC for each beneficiary who receives income from the estate. You will need to know whether the beneficiaries are lower or higher rate taxpayers.

Whenever a beneficiary receives a distribution of estate income, the PRs need to provide the beneficiary with an income tax deduction certificate known as form R185E.

Deeds of Variation

In some circumstances beneficiaries can enter into a Deed of Variation which allows an estate (or intestacy provisions) to be redistributed for tax purposes e.g. a beneficiary may wish to pass on their inheritance to their own child or children.

Such a Deed can be effective for both inheritance tax and capital gains tax purposes. It can also be used where it may be felt that someone else should have also benefited under the Will of the deceased.

There are strict time limits on when a Deed of Variation can be entered into.

The information in this guide is intended as guidance only and does not constitute specific legal advice. If you require specific legal advice in relation to your circumstances, please contact a member of the Private Client Team at Clarion.

Finalising the estate

Once the administration of the estate is drawing to a close, you, as the PR, should prepare Estate Accounts. These set out in detail the extent of the estate and how each asset has been dealt with. These Accounts also set out all the liabilities and administration expenses of the estate to show the net amount available for distribution to the beneficiaries. Once all the PRs have approved the Estate Accounts, the estate can be wound up and the net estate distributed to the beneficiaries.

PRs are advised to carry out bankruptcy searches on all beneficiaries immediately prior to any distributions. You can be personally liable for the value of the money if you pay money to a bankrupt beneficiary.

“ Clarion's strongest points are their level of professionalism, their immediate responsiveness to issues identified and raised, and their total care, respect, and individual approach to each of the clients they work with. Chambers UK ”

If you would like to discuss any of the above protection documentation further, please do not hesitate to contact a member of our Private Client team on 0113 336 3427.



Stephanie Parish, Legal Director

0113 336 3355
Stephanie.Parish@clarionsolicitors.com



Gareth Marland, Legal Director

0113 733 2486
Gareth.Marland@clarionsolicitors.com

Clarion
Elizabeth House, 13-19 Queen Street, Leeds LS1 2TW

Tel: 0113 246 0622
Email: enquiries@clarionsolicitors.com
www.clarionsolicitors.com

Clarion