



## Probate



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“A very professional  
and efficient service  
provided in a very  
kind and considerate  
manner”

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When someone dies they leave an estate which needs to be administered and eventually passed on to beneficiaries. This process can vary in complexity depending on the nature of the deceased's affairs and their family set up. We at Brachers are here to help you through this process at what is a difficult time.

#### First steps

The three initial steps which need to be taken when someone dies are:

- register their death with the Registrar of births, deaths and marriages;
- arrange their funeral; and
- make sure the home and contents insurance is in place (and the insurer is notified), the property is secure and the fridge is emptied.

Frequently, the deceased will leave their wishes for their funeral in their will, if they have one, or will have made their wishes known to friends and family. A good funeral director can make the funeral arrangements much easier to cope with and we can offer recommendations for funeral directors.

#### Where there is a will

If the deceased has left a will this states who is to benefit from their estate and names executors. Executors are the people who administer and distribute the estate. They have legal authority over the estate from the moment of death. It is the executors' role to establish what the deceased's estate consists

of, pay any inheritance tax which may be due, collect in and preserve the assets of the estate, settle any liabilities and distribute the estate to the beneficiaries named in the will. It is sometimes the case that although the will has named executors they are unable to act, either because they are unwilling to, are unable to, or have died. In this situation we can advise on who will have the authority under the law to deal with the estate instead.

#### Where there is no will

If the deceased has not left a will the law dictates who benefits from his estate and who should administer it. Frequently the beneficiary is also the person who is able to administer the estate but this is not always the case, for example, where the beneficiaries are children.

At Brachers we can advise on who is to benefit and deal with the estate.

The person who deals with the estate in these circumstances is called an administrator. Their role is similar to that of an executor, but the legal authority does not pass to the administrator until a court order is issued.

#### Estate administration

Frequently an early requirement in administering the estate is sorting through the paperwork of the deceased to establish where they held assets and who they may owe money to. The next step is to contact these institutions to notify them of the death and to establish the value of the asset or liability.

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## Probate

Once the value of the estate has been established the application for the grant of probate can be applied for. The grant of probate is a court order confirming the authority of the executors, and is frequently required by institutions before they are prepared to release assets to the executors.

Before this can happen inheritance tax will need to be paid to H M Revenue & Customs, if any is payable. Brachers are able to help with the completion of the paperwork needed to obtain probate and to calculate inheritance tax due.

Once the grant of probate has been received the executors are then able to deal with the assets of the estate, allowing money to be released to pay any outstanding debts. Once this stage is completed the estate can be distributed to the beneficiaries under the terms of the will or intestacy rules.

### Tax

When someone dies there are several taxes which need to be thought about. The main taxes are inheritance tax, income tax and capital gains tax.

Inheritance tax may be payable on the net value of the estate after the deduction of any exemptions or reliefs. In order to calculate the tax thought also needs to be given to any relevant lifetime gifts made by the deceased within seven years of their death and also certain trusts.

The deceased's income tax affairs need to be finalised up to their date of death. During the period whilst the estate is administered there is also likely to be income arising on the various assets. This income may also need to be reported to H M Revenue & Customs.

Although capital gains tax does not arise on the death of a person, whilst dealing with an estate certain assets may be sold, such as a house or shares, for more than they were worth at the time of the deceased's death. The gain in value may result in capital gains tax becoming payable. Although sometimes this tax charge may be reduced. We would be able to advise you on and prepare the necessary paperwork.

### How can Brachers help?

At Brachers we pride ourselves on providing a sensitive but efficient service. Our specialists have years of experience plus the benefit of the assistance of other service areas which may need to be called upon, such as our property team. The ways in which we can help include:

- advising who can benefit from and administer the estate;
- advice on variation of an entitlement from an estate;
- prepare paperwork to obtain probate
- calculate tax and advise on reducing tax; and
- advise on the order of payment of debts.

The information contained in this document provides background information only. The document may be misleading if relied upon as an exhaustive list of the legal issues involved. If any matter referred to in this document is sought to be relied upon, further information should be sought.