

Estate + Trust Administration



What happens when someone dies?

Estate Administration is a wide term applied to dealing with an estate when someone dies. Heckford Norton are experienced and knowledgeable in this area of law, including regarding the various complications that can develop. We can deal with any taxation issues. We can help you through what can often be a difficult and emotional time and reduce the burden of work placed upon you as a Personal Representative.

If the deceased person left a valid Will, then it will state how the estate is to be administered. If there is no Will, then the estate is distributed under the Intestacy Rules.

We can help you through what can often be a difficult and emotional time.



What is a personal representative?

There are two types of Personal Representatives: Executors and Administrators.



EXECUTOR



ADMINISTRATOR

If there is a valid Will then this will appoint Executors, who will be responsible for dealing with the estate administration and ensuring the estate is distributed in accordance with the terms specified in the Will.

If there is no Will or there is no valid appointment of executors under a Will, the closest relatives of the Deceased can apply to take on the role of Administrator, who will act in the same way as an Executor.



Grant of representation

The grant of probate is a formal legal document that confirms the Executors have the legal authority to deal with the assets of the deceased. Where there is no Will the document is called a grant of letters of administration. Generally any inheritance tax due on the deceased's estate (or at least a proportion of it) must be paid before the grant of probate is issued. In some instances no Grant is required and we would recommend you seek legal advice regarding the requirements of an estate administration.



Tax payable from the estate

If the deceased's estate is above the nil rate band then the amount in excess of this may be subject to Inheritance Tax at the rate of 40%. In certain circumstances, Inheritance Tax is not payable, eg in the case of spouse or charity exemption.

Recent changes in legislation potentially allow a double nil rate band to be claimed and a reduction in the rate of Inheritance Tax payable when you meet certain requirements regarding gifts made to charity in your Will. Heckford Norton can provide Personal Representatives with advice on this and on the payment of other taxes such as Capital Gains Tax and Income Tax which may need to be paid from the estate.

What do trusts involve?

1

A trust can be set up in someone's lifetime or under the terms of a Will.

2

Trustees are appointed under the Trust Deed to administer the Trust. They are bound to abide by the terms of the Trust Deed and comply with the Trustee Act 2000, to ensure they administer the trust correctly. Most trusts will require some degree of administration and we can offer guidance and advice to trustees.

3

Under recent legislation (the Perpetuity and Accumulations Act 2009), trusts are now able to exist for a period of 125 years. However, it is quite usual for trustees to distribute the trust fund assets to the beneficiaries before the end of the period.

4

There are set rules and allowances applicable to trusts with regards to the main taxes, namely Income Tax, Capital Gains Tax and Inheritance Tax. A trust will have to pay certain taxes depending on the nature of the trust assets and who the beneficiaries are – we would recommend you seek our professional advice to assist you with this.

