

A Guide to Probate



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The word 'probate' is one that is commonly used but what does it actually mean? Well, put simply, the word means 'prove it'.

As such, probate is merely the legal process of proving that a Will made by someone who has passed away is a valid document and reflects their last wishes for their estate.



What is an estate?

An estate is the combined assets of the person who has died. An estate could comprise of, amongst other things, a house, money in a bank, shares, or an interest in a business.

After I die, who will deal with my affairs?

If you have a Will, it should name the individuals (otherwise known as executors) who will look after the administration of your estate. The executors will be required to confirm the assets and liabilities of the estate and, if necessary, apply for a Grant of Probate to deal with your affairs.

What if I die without making a Will?

The process is more complicated if you die without making a Will. If there is no Will, the law will determine who is allowed to act on your estate. The person who acts will be known as an administrator and will usually be a close relative.

There may be more than one person who has a right to act as an administrator. Anyone with the right can apply to the Probate Registry for a Grant of Letters of Administration, which will allow them to administer the estate.

If I am appointed as an executor or administrator, what are my responsibilities?

Executors or administrators are personally responsible for ensuring that the estate is properly dealt with and are generally liable for any mistakes that are made. Whether or not there is a Will, there are certain laws that must be followed and any tax implications must be dealt with.

Do I have to worry about tax?

As an executor or administrator, there are a number of tax implications that you must think about. Income Tax, Capital Gains Tax and Inheritance Tax are generally the three taxes that will impact an estate. You will also have to consider the various allowances and exemptions that are available. If the allowances and exemptions are not properly used, it may prove costly to the estate. There are also penalties for the late filing of tax returns.

What is a Grant of Representation and when will I need it?

A Grant of Representation is a document that is issued by the Court, giving the executor or administrator the power to deal with an estate. Normally a Grant of Representation will be needed when the person who has died has left more than £5,000 in a bank account, has stocks and shares, or a house or land. A Grant of Representation is not usually needed if the person who died has left less than £5,000 in total or owned everything jointly with someone else.

How Blaser Mills can help

One of our Wills, Trusts and Probate solicitors can guide you through the probate process, enabling you to identify the assets and liabilities, arrange valuations and outline any advantages or pitfalls. We can also prepare a tax schedule and calculate the tax due, if any, and can thereafter apply to the Probate Court on your behalf.

Unlike most lawyers, we can offer a fixed-fee structure that remains in place no matter how much time is spent dealing with an estate. Our fee is based on 1% of any real property (houses and land) and 2% on the remainder. Our fixed fees are also inclusive of VAT so you will always have the comfort in knowing exactly how much we will charge.

To talk to us, please call 020 3814 2020 or contact the Head of the Wills, Trusts and Probate team at mit@blasermills.co.uk

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