



Dickins Hopgood Chidley

SOLICITORS

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What is probate?

When a person dies, someone has to deal with their affairs and decide what will happen to the things they owned.

Executors

The executors are the people appointed in a Will to deal with the estate of the person who has died. An administrator is the person who deals with the estate of a person who has died without a Will (intestate). They can both be called personal representatives.

Executors can arrange the funeral and take charge of the house and possessions, unless they automatically pass to a joint owner.

If there are sufficient assets the executors will have to apply for probate. This is the legal document proving the Will and authorising the executors to deal with the assets and liabilities of the estate.

Applying for probate

To apply for probate, the value of all of the deceased's possessions, assets and debts has to be ascertained.

If there is, or could, be Inheritance Tax to pay, the executors must report the value of the estate to HM Revenue. If the estate is not liable to IHT the executors must still complete a form giving details of the assets and certain gifts made by the person who died. This must be arranged before an application is made to the Probate Registry.

Once the matter of inheritance tax is resolved, an oath is sworn by the executors or administrators, confirming

that they will administer the estate. When probate is granted, the executors have the right to deal with the assets and property of the deceased, including closure of bank accounts, sale or transfer of shares, transfer or sale of property, and payment of debts and expenses etc.

Executors are responsible for distributing the estate to the beneficiaries of the Will. Administrators must follow the 'rules of entitlement', which govern who will benefit from the estate of a person who has died intestate (without a will).

Instructing Us

Instructing a solicitor to act for you if you are an Executor or Administrator has the following advantages: -

1. It reduces the distress of dealing with the property and assets of a close relative or friend.

2. A solicitor advises on whether or not Inheritance Tax is payable and if so, how and when it must be paid. Inheritance Tax is complicated and in most cases you will need specialist legal advice. A solicitor will complete the lengthy inheritance tax return.

3. Financial institutions have different requirements to be met before they will release the deceased's assets. A solicitor will be familiar with these procedures.

4. Administering an estate can be lengthy and complicated. A solicitor will be used to the complexity and be able to commit the time needed to sort out the estate.

5. A solicitor can deal not only with Inheritance Tax but also with income tax and capital gains tax arising during the administration of the estate, for which tax returns are required.

