

Procedure and costs re Probate and the administration of estates

We advise you to telephone us to discuss your requirements, as we will deal with and cost each estate on an individual basis. The information that follows is by way of general guidance.

Please note that throughout this section, where VAT is referred to it is at the rate of 20%.

What is a Grant?

It is usually necessary to obtain a Grant of Probate of a Will or a Grant of Letters of Administration where there is no Will (an intestacy) in order for the Executors of the Will or the Administrators of an intestate estate (both also known as Personal Representatives) to be able to deal with significant assets such as the sale or transfer of a property, the sale or transfer of shares and the closure of bank accounts with large balances. The Grant is a confirmation by the court of their authority to deal with the assets.

Application procedure for a Grant

In some cases either an IHT205 or an IHT400 will need to be completed in conjunction with the application to the Probate Registry for the Grant, which is done on the basis of a Legal Statement usually signed by the Personal Representatives.

IHT205 Return of Estate Information

Broadly speaking, where there is no inheritance tax payable, as the estate falls under certain thresholds then it is usually not necessary to file a long form Inland Revenue Account IHT400 with HMRC before applying to the Probate Registry for the Grant and instead a short form IHT205 can be submitted direct to the Probate Registry with the Grant application. However, the IHT205 is no longer required for deaths on or after 1 January 2022.

IHT400 Inheritance Tax Account

If tax is payable or the estate is over a certain amount or it is complex, a full IHT400 will need to be submitted to HMRC and any initial inheritance tax paid before the application can be made to the Probate Registry for a Grant. The IHT400 requires much more detailed information than an IHT205 and a separate supplementary schedule relating to each class of asset (for example bank accounts, property, shares, personal belongings, joint assets, trust assets, business assets, lifetime gifts etc.) will also need to be provided together with copy valuations where appropriate to expand upon the information in the IHT400 itself.

We offer two main services: a Grant Only Service and a Full Administration Service.

We will always provide you with an estimate of our fees at the start of the matter or as soon as practical thereafter. The work will be mainly dealt with by a very experienced solicitor who specialises in this area of work and whose applicable hourly rate is currently £300 plus VAT for a partner and £265 plus VAT for a Senior Associate solicitor. You can read the profiles of the solicitors in our private client team on our website. The solicitor may sometimes be assisted by a trainee solicitor (whose hourly rate will be less) or a legal secretary. Please note that our rates are reviewed from time to time (usually on an annual basis) and the applicable hourly rate could increase after such a review.

Our fees are calculated in accordance with The Solicitors Act 1974 and The Solicitors (Non-Contentious Business) Remuneration Order 2009. These allow us to take various factors into account when calculating our fees.

GRANT ONLY SERVICE

Where the Personal Representatives are able to provide us with all necessary information in respect of the assets and liabilities of the estate we can assist by preparing the IHT205 or IHT400 if required and the Legal Statement for you to sign and we will submit the papers to HMRC and/or the probate registry on your behalf.

Our fees

Our fees for a Grant Only Service will be calculated mainly on the estimated time involved on the basis of the hourly rate but a small contribution towards the cost of our postage, telephones and IT systems etc. will also be included within any estimate given. The time would include meetings; considering, preparing and working on papers; correspondence and making and receiving telephone calls.

Our usual fees for Grant Only assume that we would not be contacting banks or investment managers or obtaining valuations ourselves and that we would not be providing any other advice or undertaking any other work on behalf of the Personal Representatives prior to obtaining the Grant or post Grant. However, we would be happy to undertake additional work at the specific request of the PRs, in which case we would provide the PRs with a separate estimate for those services or to include those services in our initial estimate in our client care letter covering the application for the Grant (see Full Administration Service below).

The examples below of our Grant Only Service are not estimates but are provided for approximate guidance only. We will provide the Personal Representatives with a written estimate setting out the basis of our fees as soon as practical and in some cases we may be able to carry out the work for a fixed fee.

Example 1

Where an IHT400 is not required, our fees for a Grant Only Service for a straightforward matter are likely to be between £950 and £1,500 plus VAT and disbursements.

Example 2

Where an IHT400 needs to be submitted to HMRC before we can apply for a Grant but no inheritance tax is payable the approximate cost of a Grant Only Service for a straightforward estate is likely to be in the region of £1,500 to £1,800 plus VAT and disbursements.

Example 3

Where Inheritance Tax is payable our fees for Grant Only Service are likely to be between £1,500 and £2,500 plus VAT and disbursements, assuming everything is straightforward, all the assets are in the UK and that all the initial tax would be paid under the Direct Payment Scheme on the basis of an IHT423 sent by us to the deceased's bank and/or investment manager.

How long will it take to get a Grant?

If it is a simple and relatively small estate not involving an IHT400 we should be able to apply for the Grant within four to six weeks of receiving all the information we need from you. Where an IHT205 is required, it will be submitted with your Legal Statement to the Probate Registry and the Registry normally issues the Grant within 2 - 3 months of our application if there are no complications.

It is likely to take longer to obtain the Grant in an estate where an IHT400 is required. We may need to raise money from the deceased's assets to pay Inheritance Tax, or arrange an Executors' loan. The IHT400 would need to be sent to HMRC and any initial tax paid. We cannot apply for the Grant for 20 working days following submission of the tax forms to HMRC, and in any event the probate registry will not issue the Grant until they have received a formal receipt from HMRC (this is required even when no tax is payable). HMRC has been responsible for considerable delays in the past in sending out the IHT421. As above, the probate registry normally issues the Grant within 2 - 3 months of our application.

FULL ADMINISTRATION SERVICE

This service is a bespoke service under which, as well as preparing the inheritance tax and probate papers leading to the application for the Grant, we can undertake as much or as little of the administration of the estate as we agree with the Personal Representatives. Our full service could include, for example, establishing the facts and gathering relevant documentation, notifying beneficiaries of their inheritance, contacting banks and investment managers and instructing professional valuers in order to ascertain the nature and value of assets as at the date of death, calculating the taxable value of lifetime gifts, selling and/or transferring assets post Grant, paying liabilities and administration expenses out of estate funds, dealing with administration tax returns where appropriate, dealing with the District Valuer and the Shares Valuation Division of the Capital Taxes Office and obtaining clearance for inheritance tax, the payment of cash legacies and interim and final distributions of the residuary estate to the residuary beneficiaries and the preparation of estate accounts and tax deduction certificates.

Please note that we would estimate separately for setting the deceased's personal tax to the date of death, conveyancing, litigation or the management of ongoing trusts.

Our fees

The administration of most estates would be dealt with by us mainly on a time-costing basis in accordance with an hourly rate but a small contribution towards the cost of our postage, telephones and IT systems etc. will also be included within any estimate given. The time would include meetings; considering, preparing and working on papers; correspondence and making and receiving telephone calls.

In some more complex estates we may also charge a value element calculated on the value of the estate. This value element reflects the additional financial and personal responsibility of dealing with higher value or complex estates or estates where there is more risk involved. Where a value element is to be charged it would be on a regressive scale commensurate with the size of the estate. We would set out how the value element would be calculated in any written estimate provided to our client.

Every estate is different and it is not possible for us to provide a standard fee which fits all estates. The assets will differ, the provisions of the Will will differ and the circumstances of the deceased and the deceased's family will be different so that the time spent on one estate and the advice given could be very different from the time and advice on another estate even of similar value.

On receipt of details of the estate, we will provide a clear estimate of costs as soon as practical after a preliminary assessment. The estimate is not fixed and our final fees will depend on how much work is carried out and the time involved. We may need to re-assess our estimate during the course of the administration as further details or issues emerge. However, we will endeavour to keep you informed in writing as to costs throughout the administration and render interim accounts where appropriate as well as a final account on completion of the administration. Whatever the basis of our charges, we will review the matter as a whole on completion to ensure that our fees are fair and reasonable in relation to the work done and the size of the estate.

The examples below are not estimates but are provided for approximate guidance only. They assume no complications of any kind. If the estate is passing to only one beneficiary and there are only a few assets the fees might be towards the lower end. If there is more than one beneficiary or more assets the fees might be towards the higher end. In some very straight forward cases we may be able to deal with the administration for a fixed fee.

Example 1

For a straight forward estate where there is no need to provide a full Inland Revenue Account for inheritance tax (IHT400) to HMRC, our likely fees for the complete estate administration could be between £2,000 and £5,000 plus VAT and disbursements depending on the nature and number of assets, the number of beneficiaries and the time involved.

Example 2

For a straight forward estate where no inheritance tax is payable but an IHT400 is required in order to claim the Residence Nil Rate Band, for example, our likely fees for administering the estate could be between £2,500 and £6,000 plus VAT and disbursements depending on the nature and number of assets, the number of beneficiaries and the time involved.

Factors which could complicate the estate administration:

There is no Will

If we need to instruct genealogists or tracing agents to find beneficiaries

There are no surviving or capable executors appointed in the Will

If there is any form of disagreement or dispute concerning the Will or the estate

Where inheritance tax is payable

Where an executor's loan is required for payment of inheritance tax

There is a farm or business or the deceased is a member of Lloyds of London or a Lloyds LLP

Significant lifetime gifts have been made by the deceased

The deceased left large debts, the deceased's affairs are in disarray, there is a potential claim from DWP or the Local Authority for overpaid benefit or care fees or it is an insolvent estate

Settling complex income tax and/or capital gains tax issues

There are foreign assets and/or questions of domicile

- Share certificates, deeds or other significant paperwork is missing

Where there is no family to make funeral or other practical arrangements

Where an unusually large amount of communication is required between solicitor and client

Assets are not to be divided pro rata among the beneficiaries or we are required to enter into complex distribution schemes for tax planning or other reasons

Beneficiaries wish to vary the Will

Disbursements

Disbursements are expenses related to the administration of the estate which are paid to third parties by us on your behalf. We may ask you to pay some expenses yourself or we may pay some small expenses on your behalf and add them to our bill as disbursements to ensure a smoother process. Some, but not all, will be liable for VAT. Please note that the cost of disbursements can change from time to time and we have no control over these costs. We aim to update the information on our website as soon as practical but the details of disbursements on our website may not necessarily be current. However we will provide you with up to date information in respect of likely disbursements when we provide you with our written estimate.

Examples of disbursements include:

- Probate application fee of £273 (non-vatable)
- Sealed copies of Grant £1.50 each plus VAT
- Approximately £200 - £250 including VAT to advertise in The London Gazette and a local newspaper
- Fees charged by professional valuers (usually for property and personal belongings) will be advised during the course of the administration, as these vary
- Bank transfer fees for transfers over £100,000 to UK banks -£36 plus VAT per transfer
- Bank transfer fees to overseas banks-the fee depends on the bank and the country
- Bankruptcy searches (Land Charges Department) £2 plus VAT per UK beneficiary (but please note the cost will be significantly higher for non-UK resident beneficiaries)

- Land Registry search fees £3 plus VAT per title (more if plans or copy documents required)
- Land Registry fees (non VATable) on the transfer of property vary depending on the value of the property and you will be advised during the course of the administration
- Inheritance Tax, Capital Gains Tax and income tax where applicable

How long will the estate administration take?

In a simple non-taxable estate, we may be able to apply for the Grant of Representation within six to twelve weeks and thereafter it will take 2 - 3 months for the probate registry to issue the Grant if there are no complications. We aim to complete the administration within six months to a year from the date of death, although if there is a house to sell this could delay matters.

Personal Representatives are usually advised to place statutory advertisements for unknown creditors and wait for the statutory period of two months to expire before paying any distributions (otherwise they could be held personally liable to creditors if there is insufficient money left in the estate to pay them) but if the PRs and the beneficiaries are the same people, for example, or the deceased's affairs are very well known to them they may be happy to make distributions beforehand.

It may take longer to obtain the Grant in a taxable estate.

How long the administration takes post Grant depends on the circumstances.

Completion of the estate administration of a taxable estate could take more than a year if there is a house to sell and we need to obtain clearance for inheritance tax and other taxes, however it is usual to make interim distributions where practical to beneficiaries. The estate administration cannot be completed until all assets, debts, liabilities and claims have been dealt with.

If a Will is contested this could hold up the administration of an estate for a very long time. Certain family members or dependents of the deceased might seek to bring a claim against the estate if they believe they have not been properly provided for. The usual time limit for a claimant to issue a claim is six months from the date of the Grant and there is a four month time limit thereafter to serve the claim on the PRs. However in certain circumstances the court may grant the claimant an extension of time.

The above information is for costs guidance only and does not constitute a contract of any kind. The advice is general in nature and any legal or tax advice contained within it should not be relied upon for specific matters. Advice tailored to your particular matter should always be sought. We would be happy to assist with the application for a Grant and any or all aspects of the administration of an estate. We will provide you with an estimate of our fees in relation to a specific matter on application.

Contact us: Marshalls Solicitors LLP, 102 High Street, Godalming, Surrey, GU7 1DS

Telephone 01483 416101 Email Lisa, Belinda or Rhoddy via our website