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Probate and the administration of deceased persons' estates

**Browne
Jacobson**



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Probate and the administration of deceased persons' estates

When someone dies, we can help to deal with the deceased person's estate. Where the deceased leaves a Will, the persons named as executors in the Will may need to obtain a Grant of Probate from the Probate Registry which confirms their authority to deal with the estate.

If the deceased did not leave a Will, then their estate passes in accordance with the statutory intestacy rules and usually one or two beneficiaries who are entitled to the estate under the intestacy rules will apply for a Grant from the Probate Registry which will provide them with the legal authority to deal with the deceased's assets.

As part of this process, a long or short form inheritance tax return may need to be completed and submitted to the Inheritance Tax office (the type of return to be completed would depend on the value and complexity of the estate). In order to complete this tax return, it will be necessary to collate information about the assets and liabilities of the estate by writing to all relevant organisations and obtaining values and details of the deceased's estate.

The person(s) who are appointed to deal with the estate (whether by the Will, or by the Probate Registry where there is no Will) are responsible for dealing with the estate properly and in accordance with the law. They will need to pay the estate liabilities, finalise the estate tax positions and then distribute the residue of the estate to the correct persons.

There are numerous deadlines and potential traps for the unwary, and the persons dealing with the estate can find themselves in hot water if they make any mistakes. We offer extensive technical expertise and experience together with a sympathetic and gentle hand to guide you through the whole process of administering the estate.

Our team

Our team has over 100 years of collective experience in advising clients in all matters relating to wills and the administration of deceased person's estates. The team has particular experience in high-value estates and inheritance tax matters. We have 11 members of the team who carry out this type of work. Our probate team is overseen by Robin Lecoutre, Head of Probate and Estate Administration, and the team consists of:



Robin Lecoutre
Legal Director

Robin has extensive experience in advising clients on a wide range of private client matters, including probate and the administration of complex estates (including estates with overseas elements), inheritance tax, wills and trusts. Robin is a member of the Society of Trust & Estate Practitioners (STEP), the Law Society Private Client Section, and Solicitors for the Elderly (an independent national organisation of lawyers who provide specialist legal advice for older people). Robin has obtained a STEP Advanced Certificate in Cross-Border Estates.



Lucy Worwood
Partner

Lucy has over 20 years experience advising on all aspects of personal tax, trust and will drafting and estate and succession planning to preserve family assets and businesses through the generations. Lucy has particular experience in restructuring and advising about trusts, advising offshore trustees and providing personal tax planning advice for non UK domiciliaries. Her clients are onshore and offshore and include family businesses, landowners, professional trustees, and those concerned with the preservation of family wealth. Lucy is a member of the Society of Trusts & Estates Practitioners (STEP).



Wenna Thompson
Partner

Wenna has over 20 years' experience in advising clients and accountancy firms on all aspects of private client tax and estate planning. She has particular expertise in advising clients on the use of trusts in the context of the devolution of family wealth and the preservation of family owned estates and businesses.

Wenna is trustee and executor for many clients, and is director of Mowbray Trustees Limited. Wenna is a member of the Society of Trusts & Estates Practitioners (STEP).

Our team

“They are fully deserving of our top award as they consistently demonstrate the highest levels of client experience and achieved high scores against all the criteria we measure.”

Neil Craig, Director, Investor in Customers



Imogen Holmes
Partner

Imogen has over 13 years' experience of acting on a broad range of private client related matters. She advises on and supports decision making in relation to estate and succession planning, wills and trusts, Inheritance, Tax planning and wealth protection, provision for business owners/farming families and estate/trust administration. Imogen also has a background in providing advice to families with disabilities and on mental capacity, care provision and funding issues. Imogen is a member of the Society of Trust & Estate Practitioners (STEP).



Koren Holbourn
Senior Associate

Koren specialises in advising on succession planning (including inheritance tax planning and capital gains tax planning), with a particular focus on preparing wills and trusts for land and business owning clients, preparing powers of attorney and the administration of complex estates. Koren has a diploma in the Administration of Trusts and Estates and is a member of the Society of Trust & Estate Practitioners (STEP).

Our team



Bindu Kotecha
Chartered Accountant

Bindu has over 21 years experience as an accountant specialising in the administration of Trusts, preparing Accounts for Trusts, Estates, and Charities and dealing with their tax compliance work (income tax, capital gains tax, inheritance tax, trust registration). Bindu also regularly deals with the tax affairs of trust and estate beneficiaries. Bindu is a member of the Institute of Chartered Accountants in England and Wales (FCA) and the Society of Trusts & Estates Practitioners (STEP).



Jessica Park
Associate

Jess advises clients in relation to their personal tax and estate planning, drafting Wills and trusts and the preparation of Lasting Powers of Attorney. She also assists clients with the administration of trusts and estates.



Charlotte Ellis
Associate

Charlotte advises on drafting Wills, trusts, the preparation of Lasting Powers of Attorney, personal tax planning and the administration of estates.



Rosie Dickens
Legal Assistant

Rosie assists with the preparation of lasting powers of attorney and the administration of trusts and estates.

Danielle Ashworth
Legal Assistant

Danielle assists with the preparation of lasting powers of attorney and the administration of trusts and estates.

How much does our service cost?

Our charges are based on the amount of time we spend on the work. However, to give you an idea of our charges for helping with “straightforward” estates (including collating information to prepare the Inheritance Tax return, applying to the Probate Registry for a Grant, collecting in and distributing the estate assets), we have found in practice that our charges often fall within the following price ranges:

For estates where no Inheritance Tax is payable:

£8,500
— £17,250

+ VAT (charged at 20%)

The exact cost will depend on the individual circumstances of the matter, although they will always be fair and reasonable.

For example, if there is one beneficiary and no freehold/leasehold property, costs are likely to be at the lower end of the range.

For estates where Inheritance Tax is payable:

£17,250
— £25,000

+ VAT (charged at 20%)

If there are multiple beneficiaries, a property and multiple bank accounts and/or shares, costs will be at the higher end.

We can provide you with a more precise fee estimate once we have more information about the estate. Our fees are normally paid from the estate after Probate has been obtained.

The indicative fee ranges on the previous page are for “straightforward” estates, e.g. estates where:

1

There is no more than one freehold/leasehold property;

2

There are no more than four bank/building society accounts, and no more than 10 quoted shareholdings/investment holdings;

3

There are no more than five cash legatees and four residuary beneficiaries;

4

The estate has no unusual assets or liabilities/potential liabilities, and no business interests or private company shareholdings;

5

There are no disputes between the beneficiaries about the division of assets, nor is the estate involved with any actual or threatened litigation (including any disputes about the validity or interpretation of the will);

6

There is nothing which complicates the inheritance tax position for the estate (e.g. significant lifetime gifts by the deceased or gifts in which the deceased ‘reserved a benefit’, claims for agricultural or business property relief, complications with claiming the transferable nil rate band or the residence nil rate band, or trusts which the deceased created or had an interest in);

7

The deceased was domiciled in England and had no foreign assets, and there is no multi-jurisdictional aspect to the estate.



If the estate does not meet any of the opposite criteria it is likely that the administration of the estate will not be straightforward. More time would usually need to be spent dealing with these complicating factors which in all likelihood would lead to an increase in fees.

We would be very well equipped to assist you with any of these matters and would provide you with a fee estimate for that work once we have more information. Please note that the above list indicates many (but not all) of the factors that can complicate an estate. In particular, we would strongly recommend that legal advice is sought if the estate does not meet criteria 4–7 above.

In addition to our fees, the following “disbursements”/ additional costs will also be paid out of the estate:

- Probate Registry application fee of £273, plus £1.50 for each additional copy of the grant (one additional copy per asset usually).
- Bankruptcy-only Land Charges Department searches (£2 per beneficiary).
- £200-300 (approx.) for publication of public notices in The London Gazette & local newspaper – these notices (where applicable) protect against unexpected claims from unknown creditors.

“Disbursements” are costs related to your matter that are payable to third parties, such as Probate Registry fees. We handle the payment of the disbursements on your behalf to ensure a smoother process.



Potential additional costs

- If a significant amount of inheritance tax needs to be paid “up front” before applying for probate and that tax is to be raised from anywhere other than from the deceased’s bank account (e.g. perhaps by sale of estate investments prior to probate or by taking out an Executor’s loan from a bank), then there are likely to be additional costs for dealing with that.
- Dealing with the sale or transfer of any freehold or leasehold property in the estate is not included in the above fee ranges (legal conveyancing costs would be charged for separately).

How long will this take?

On average, straightforward estates are dealt with within 6-12 months, depending on how long it takes others (e.g. the Inheritance Tax office) to deal with matters. Typically, obtaining the grant of probate takes 2–3 months from obtaining instructions (assuming no inheritance tax is payable and a short form inheritance tax return can be completed).

It will usually take longer where inheritance tax is payable “up front” before applying for Probate and/or a long form inheritance tax return has to be completed – we would be able to give you an indication of timescale when we have more information about the estate.

About Browne Jacobson

We are a national law firm and experts across the private and public sectors. We don't just say it, we do it – here's why you'll want to work with us:

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- Sector experts, working in partnership with our clients – including blue chip corporates, local and owner-managed businesses, NHS Trusts, major insurers, education and public sector organisations.
 - Specialists in legal solutions across the private and public sectors, providing a unique offering where they overlap.
 - National reach from our offices in major UK cities including Birmingham, Exeter, London, Manchester and Nottingham.
 - Over 500 lawyers, including over 130 partners, managed and supported by a team of professional specialists.
 - We are an employer of choice with accreditations from Investors in People and featured in the Sunday Times 100 Best Companies to Work For (2013).
 - A true partnership approach with our clients – our clients stay with us for the long term because of our sector expertise, straightforward advice, pricing and product innovation and exceptional client service.



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