

# ESTATE & TAX PLANNING

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## What Happens To My Estate If I Do Not Leave A Will?

**When a person passes away without a will or had a will that was considered invalid, they are considered to die 'intestate',**

If you pass away without a will, what happens to your estate will depend on the intestacy rules depending on where you live in the UK. The rules follow an order of succession in regard to who will benefit from the estate first.

### 1. Spouse

In England and Wales, the first person who will benefit from some of the estate is your surviving spouse or civil partner. If the estate is worth less than £270,000 or you have no children, your spouse will receive the whole estate, but if it is worth more what happens is different depending on whether you have children or not.

If you have children, the estate will be split slightly differently:

Your spouse would receive the first £270,000 and all your personal belongings.

The remainder of your estate is shared equally, between your spouse and your children. If any children has predeceased you, then their share will pass to their children (your grandchildren), that they have left behind.

It is worth mentioning that this rule only applies to spouses and civil partners, it does not apply if you are not married or in a civil partnership. Unmarried partners cannot inherit under the rules of intestacy.

### 2. Children and direct descendants

If you are separated and not yet divorced, your

spouse or civil partner can still inherit under the rules of intestacy. Their rights are revoked as soon as you are divorced or the civil partnership is dissolved.

If you no longer have a spouse or were never married, or in a civil partnership, the next to inherit under the rules would be any children. The estate will be split equally between them, and once again, if any child has predeceased you, their share will go to any children they leave behind.

Whilst adopted children have the same rights as natural children, step-children will not be considered and so will not inherit under these rules

### 3. Parents

Although many people will outlive their parents, if you do not have a spouse or children, your parents will inherit the first 50% of your estate each.

### 4. Siblings

If your parents have predeceased you, the next in line to inherit your estate will be any siblings, who will receive the estate in equal share. As with children, if your siblings have predeceased you, their share will go to any children that they leave behind.

**Following these rules, should a beneficiary still not be found, the list will continue as follows:**

5. Half brothers and sisters
6. Grandparents
7. Aunts and uncles
8. Half aunts and uncles
9. The Crown

As you can see, without making a will your estate is left in the hands of fate, with no control over where it will go. In the worst case it could go to a person you really would not like to benefit under your estate, such as a disowned child or separated spouse.

Equally, a much-loved partner could also end up with nothing if you are not married or in a civil partnership, or step-children will not be considered at all.

It is always best to protect your family and your estate by making a will and make your wishes clear.

## What is probate?

**Probate is not a topic of conversation that many wish to have, but most people will have to deal with probate at some point in their life, so it best to know what the process is and what is involved.**

### What is needed to distribute a person's estate?

When a person passes away and leave behind what is known as their estate; this will include their possessions, money and any property. For an estate to be distributed, the person or people dealing with it will need a 'grant of representation', which will depend on the circumstances of how the deceased left their estate.

If a person has left a will, executors or personal representatives will have been appointed to distribute the estate. To do this they will need to get a 'grant of probate'.

If a person has died with no will, known as intestacy, the next of kin will need to apply for a 'grant of letter of administration'.

### What happens when a grant of representation is obtained?

A grant will allow those winding up the estate to legally take control of the estate and distribute it either according to the wishes in the will or to the rules of intestacy, which is currently what is known as probate.

### What happens during probate?

The process of probate will involve gathering up any assets, paying any bills and then distributing what remains. The grant will allow the person dealing probate to begin gathering up the estate by sending copies to companies that may hold assets, such as bank accounts, life insurance, pension providers and mortgage companies.

Any joint accounts will automatically transfer to the other party, which is the same for any property hold as joint tenants, under survivorship. However, if property is owned as tenants in common, the deceased's share will pass in accordance with the will or by the rules of intestacy.

### Does probate need to be done for every estate?

No, not every estate needs to have the representative obtain a grant of representation. If the estate is going to pass through survivorship or to a spouse, probate is not usually required.

Probate is also not required when the estate is 'small', which generally means the estate is worth less than £5,000. However, there are other circumstances where probate *may* not be required, such as when the estate is straightforward and falls well below the Inheritance Tax threshold.

If you are unsure as to whether a grant of representation is needed for probate, it is best to get professional advice and call us on 020 8670 0917.

**If you would like to discuss your Estate & Tax Planning, call David on 020 8670 0917 or email him at: [david@marcus-bishop-associates.co.uk](mailto:david@marcus-bishop-associates.co.uk).**