

What are estate accounts?

Following someone's death, their personal representative will wind up the estate, then prepare estate accounts. These accounts will include details of all the assets and liabilities in the estate.

When you make a Will, you will appoint someone to act as your executor. They will be responsible for collecting in all of the assets in your estate; valuing them, insuring them where necessary, clearing and selling or transferring any property, paying off debts, to include calculating and paying Inheritance Tax. As well as preparing full estate accounts and finally distributing your estate to the named beneficiaries.

It is a complex and time-consuming job and when you select someone to take on this role you should ensure that they are willing as well as capable. If you have not made a Will, then someone will need to apply to the Probate Registry for a Grant of Letters of Administration, giving authority for them to act in a similar capacity as your administrator.

What goes in estate accounts?

The personal representative, either the executor or administrator, has a duty to provide a full inventory of the contents of the estate if required to do so by the court. As well as a full account of the estate administration, referred to as estate accounts.

The accounts will start with a summary page, with details of the deceased's name, date of death, date of any Will, the name of the personal representative and the names of the beneficiaries and the legacies they have been left.

All of the estate's assets will be listed, to include money, property, valuables and other personal possessions and they should all be valued.

Similarly, all the estate debts should be included. This could be tax liabilities, credit card debts, loans and mortgages.

These figures will be needed at the start of the administration process, to enable the personal representative to apply to the Probate Registry for a Grant of Representation, authorising them to wind up the estate.

The accounts should include details of any Inheritance Tax which is due. Along with any exemptions which apply, such as spousal exemption, any nil-rate band or transferrable nil-rate band, residential nil-rate band or transferrable residential nil-rate band or charitable exemption.

A capital account will also be needed, with details of any change in the value of the estate during the administration period. This could also include any over- or under-estimated values. Estate income and any interest paid to the estate should be included, along with administration expenses. This could include accountancy fees, estate agency fees if a property is sold and Probate Registry fees.

Finally, the distribution account will show how the estate is distributed to the beneficiaries named in the Will.

Dealing with the administration of an estate is an onerous job which can take many months or even years to complete. If errors are made, the personal representative can be held personally liable, even if it was a genuine mistake.

For this reason, it is often preferable to appoint a professional to deal with the winding-up of an estate, as they will be used to preparing estate accounts.

Increase in DIY Wills a cause for concern

As the problems of the pandemic continue, there has been a huge rise in the number of people searching online for instructions on writing their own Will.

With difficulties in visiting professional will writers' offices, it can be tempting to have a go at writing a Will yourself. However, it is far more complex than most people realise, and when mistakes are made it can cause disputes as well as lengthy and expensive court battles.

Pitfalls of a DIY Will

Everyone's personal and family situation is different, so there really is no 'one size fits all' option when it comes to writing a Will.

Matters that a professional will consider include how best to manage your tax and Inheritance Tax situation to avoid your estate paying more than is essential. How to provide for children after your death, to include provision of a guardian, putting trusts in place, either for tax reasons or for your children.

Considering whether a life interest in an asset such as a house is appropriate to ensure that your children do not lose out on inheriting it and ensuring that a Will is correctly signed and witnessed.

If your Will is ambiguous or poorly drafted, then it could cause arguments between family members. If they choose to start legal action, then your estate might not be administered for a long time, even several years. It is also the case that much of the money left in your estate could be swallowed up in legal bills.

The courts have seen a steady increase in disputed probate cases over recent years, often as a result of Wills that have not been properly drafted.

If you have instructed a professional to act on your behalf, then this will go a long way to minimising the risk of a dispute.

Firstly, the Will should be correctly drafted, with clear and unambiguous language, and beneficiaries will be correctly identified and included. A professional will writer will also ensure that the Will is properly signed and witnessed; without this it will not be valid. The process is not always straightforward, particularly if the witnesses cannot actually be present, for example during a lockdown. There are special rules in place to cover this, and a professional will writer will be able to ensure that they are properly adhered to and that your Will is in order and can take effect on your death.

A professional will writer would also be able to testify as to your intentions and your capacity, if these were ever questioned. They will speak with you, to understand your wishes, and before they draft your Will they will satisfy themselves that you are capable of understanding what you are signing. In the event that this is likely to be questioned, they would ensure that you have a Certificate of Testamentary Capacity signed by a medical professional.

If your Will is clear, well-drafted and written by a professional, it is less likely that anyone will bring a court case against it. A homemade Will can be easier to challenge and because of this, those who have been left out may feel that they have more of a chance of successfully doing so.

The cost of a Will professionally drafted by a professional is minimal when compared to the expense and disruption of a legal dispute following death. To give yourself peace of mind and reassurance to your loved ones, think about having your Will drawn up by a qualified professional.

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.