

# HEWITSONS

## EXECUTORSHIPS



### What are your duties

Someone who has appointed you their Executor has just died and of course you want to know what are your duties?

Whether you are appointed Executor under someone's Will or as an Administrator where there is no Will, your duties can be extensive. It is your job to administer the Will (or deal with the intestacy if there is no Will) according to its provisions and the current laws and regulations in place.

This will probably include dealing with all the deceased's personal effects, financial assets (perhaps business assets too) and maybe a house or several properties, as well as debts.

### Will I need help?

If matters are very straight forward and particularly if you have been through the process before, you may find you can do everything necessary without professional help. However, if the estate is subject to Inheritance Tax (IHT) or has complex assets or difficult family circumstances, you will probably need help. Remember the Revenue regard you as responsible for any tax due and the penalties for misreporting to the Revenue are now quite severe. The following circumstances are probably those where it is unwise to proceed without professional help at some point:

- If the death was caused by accident or in unusual circumstances – there may be a claim for the estate.
- Where the Will sets up any kind of trust (including gifts to minor children).
- Where IHT is payable.
- Where there is a transferable nil rate band claim from a previous spouse/civil partner who has died.
- Where the deceased made substantial lifetime gifts.

- If beneficiaries are likely to fall out or someone else may make a claim against the estate.
- Where there is foreign property or the person died abroad.
- If the deceased was an owner of a business or a share of a business or farm.
- If the deceased was a beneficiary of a trust.
- Where there are shares, a house or "real" property to be sold - Capital Gains Tax may be an issue.

In addition to the above, you may be required to deal with areas where you have no experience: for example, dealing with tax returns, managing investments (including sales) and producing accounts. There are potential penalties for producing incorrect information to the Revenue, some of which can be severe.



## How Can “Professionals” Add Value?

Because we are dealing constantly with the authorities involved, such as the Probate Registry and the Revenue, we know our way around the workings of these institutions and this helps to reduce the risk of error and personal liabilities. We can usually settle the estate and get money to the beneficiaries more quickly.

Our expertise really comes into its own in mitigating the tax in an estate. There are many areas where the executors are simply unaware of savings to be made and of course, if they do not maximize the estate they will be criticized or even personally liable. For example, the use of a Deed of Variation (which effectively “re-writes” the Will) will in certain circumstances be useful to reduce IHT or claiming the transferable nil rate band of a spouse/civil partner who has already died.

When someone dies leaving a spouse this can be the only real opportunity to save a substantial amount of IHT in the estate of the survivor.

The private wealth team at Hewitsons are specialists in dealing with all aspects of estate administration. There may be other requirements such as advice for beneficiaries of the estate in getting their own affairs up to date.

Talk to one of us. You will find a helpful, experienced professional who can help with any area which may cause you problems. You have taken on a task usually out of love or respect for the person who has died. Don't let it turn into difficulties for you or the beneficiaries.

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We pride ourselves on delivering an outstanding service to a wide range of individuals, businesses and institutions including charities, educational and sports bodies. The firm's size and breadth of specialisms means each client receives the focus it requires. We operate UK wide and have worldwide reach via our network of independent law firms, LawExchange International.

This document is written as an outline guide only and any action should not be based solely on the information given here. Appropriate professional advice should always be taken in specific instances.

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