

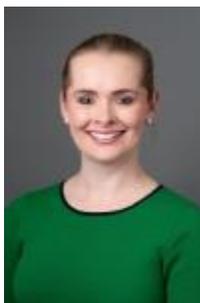


February 2020

### In this issue...

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- Administration of £9 Million Estate Delayed by a Decade
- Extension of the Trust Registration Service
- Closures to Probate Registries Delay Estate Distributions
- Court Rectifies Drafting Error in Will After the Testator's Death
- Why are Will Disputes on the Rise?



### Administration of £9 Million Estate Delayed by a Decade

Mr Taj died in 2007 and appointed his brother and wife's brother-in-law as his executors. Although the Grant of Probate was obtained in 2008 and stated the net value of the estate to be just under £9 million, the estate has yet to be distributed to the deceased's widow and children over a decade later.

The executors claim that this delay is the result of an extensive investigation by HMRC into offshore companies, which may increase the value of the estate to £118 million. As the investigation was ongoing, the executors refused to provide the beneficiaries with details of the estate's assets or progress with the administration, on the grounds that it would be pointless to do so.

The beneficiaries successfully issued a summons for an Inventory and Account of the estate to be produced to them within 28 days. The High Court noted that it was a 'cardinal duty' of executors to keep accounts and records. The fact that, over a decade after the death, the beneficiaries did not have a clear idea of their inheritance or how the estate had been administered represented an 'unconscionable delay' and a 'dereliction of duty on the part of the executors'. The beneficiaries are now seeking to have the executors removed.

If you are concerned about how an estate is being administered or feel that there has not been a full disclosure of assets, please contact Tiffany Benson on 01604 463340 or [click here](#) to email Tiffany.

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## Extension of the Trust Registration Service

HMRC is proposing to extend the Trust Registration Service ('TRS') to accord with EU law. This will bring most express UK trusts (and some non-EU resident express trusts) within TRS, whether or not they incur a tax liability. The proposals will require trusts set up on or after 10 March 2022 to register within 30 days. Trusts in existence before this date will have 30 days or until 10 March 2022 to register, whichever date is later.

However, in more welcome news, it is currently proposed that some trusts will remain beyond the scope of TRS. These include most trusts of co-owned land (e.g. a jointly owned house), life insurance policies that pay out on death or critical illness, and those involving approved share options and profit-sharing schemes. Registered pensions, personal injury, and disabled person's trusts will also be exempt, as well as most types of charitable, statutory, and implied trusts.

Although HMRC's proposals have not yet been finalised and are subject to change, currently Will trusts, small charities, and insurance trusts that pay out other than on death or critical illness will have to register. Furthermore, HMRC's intention to look at bare trusts on an individual basis may pose an administrative burden on families who simply want to save money for their minor children.

If you need help understanding whether an existing or future trust will come within the scope of the TRS and how to meet the new registration requirements, please contact a member of our Tax and Trust team on the details below.

- Eric Wardle on 01908 247015 or [click here](#) to email Eric.
- Elaine Morgan on 020 7400 5037 or [click here](#) to email Elaine.
- Alan Taylor on 01604 463350 or [click here](#) to email Alan.
- Alexia Simon on 01223 447495 or [click here](#) to email Alexia.



## Closures to Probate Registries Delay Estate Distributions

A freedom of information request has revealed that only 9% of probate applications since April 2019 resulted in the issue of a Grant within the agreed timeframe of 10 days working days. In December 2019, it took 8 weeks to process applications, a slight decrease from the 10-week delay experienced in the summer of 2019. These delays are likely to continue, as 18 sub-registries closed last week and there are further closures planned for April 2020.

Inheritance Tax (IHT) is due six months after death and must be paid before the Grant can be applied for. The time required to ascertain the tax position of an estate and the potential delay in obtaining the Grant therefore means that executors and beneficiaries face an uncertain wait before the estate can be distributed.

If you need help administering an estate efficiently, to ensure that IHT is paid correctly and on time, and to obtain the Grant as swiftly as possible, please contact one of our team below.

- Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.
  - Francesca Rossi on 020 7400 5037 or [click here](#) to email Francesca.
  - Kerri Woodrow on 01604 463350 or [click here](#) to email Kerri.
  - Alexandra Francis on 01223 447422 or [click here](#) to email Alexandra.
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## Court Rectifies Drafting Error in Will After the Testator's Death

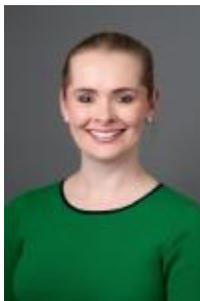
Mr Kelly signed a Will in 2010 dividing his £1.7 million estate into ten equal shares. The shares were split equally between his five surviving siblings, and the five children of his sixth sibling who had died before him. The effect of this Will was that his siblings and nieces and nephews would all inherit the exact same amount from his estate.

However, after his death, the executor of the Will claimed that Mr Kelly had actually intended to divide his estate into six equal shares – one share for each of his five surviving siblings and one share to be divided between his late sister's five children. This would have a significant impact on the amount being inherited by Mr Kelly's siblings.

The fact that the Mr Kelly had signed the Will would usually indicate that it confirmed his intentions. However, an attendance note prepared by his solicitor at the time of the Will being made recorded Mr Kelly's instructions for the estate to be divided into six parts rather than ten. Luckily for Mr Kelly's siblings, the Court accepted that the Will had been drafted incorrectly and ordered it to be rectified. Clearly the solicitor who prepared the Will should not have made this mistake. However, this case does show the importance of accurate attendance notes being taken during the Will discussion process.

If you would like your Will to be prepared by an experienced solicitor who will not only record your instructions carefully, but also ensure that your Will accurately reflects your wishes, please contact one of our team below.

- Carolyn Bagley on 01908 247015 or [click here](#) to email Carolyn.
  - Francesca Rossi on 020 7400 5037 or [click here](#) to email Francesca.
  - Hauke Harrack on 01604 463131 or [click here](#) to email Hauke.
  - Kelly Wardell on 01223 461155 or [click here](#) to email Kelly.
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## Why are Will Disputes on the Rise?

The last ten years has seen a significant increase in the number of Will disputes being brought both inside and outside Court. Whilst it is true that we are becoming a more litigious society, there are a number of other factors potentially playing a role in this rise.

An increase in home-made Wills has made it easier for people to claim that Wills are invalid on the grounds that either the testator did not understand what they were signing, or that the correct Will execution formalities were not complied with. The amount of information online has also made it easier

for people to challenge a Will, because they can easily research what legal weight can be attached to their suspicions.

There has also been a rise in valid Wills being challenged by those who feel that they have not been adequately provided for. An increase in second marriages and cohabiting couples plays a part in this, as 'blended families' often experience competing interests between different parties. Furthermore, increasing property prices mean that children are now more reliant on inheriting property from a parent's estate in order to get on the property ladder as soon as possible. A challenge may be brought if they don't get what they are hoping for under the will!

To read more about the increase in Will disputes in the last decade and whether you may have a valid reason to challenge a Will, please [click here](#).

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