

# THE ROLE OF AN EXECUTOR

The people who are legally allowed to deal with a deceased person's estate are generally referred to as the Executors (nominated as such in a Will) or Administrators (where there is no Will). The term "personal representatives" is often used in reference to both Executors and Administrators. For the purpose of this communication we will refer to them as Executors.

Acting as an Executor of a Will can be a very daunting prospect. The role carries with it a considerable amount of legal, tax and administrative responsibilities.

It is crucial to get everything right because the Executor is legally responsible for administering the estate in accordance with both the terms of the Will, and the law. Although in practice an Executor's responsibilities last for the duration of the administration of the estate (often a year) and can also carry on into any ongoing trust.

An Executor is in effect a role for life – if any claims against the estate arise in the future, the executor is responsible for dealing with them and carrying out the duties correctly.

## Executor responsibilities

An Executor can be held financially liable for any loss resulting from a breach of their duty, even if the mistake was made in good faith, such as failure to:

- Pay the debts and liabilities of the deceased.
- Pay all inheritance tax, income tax & capital gains tax due.
- Distribute funds to an individual who is successful in their claim against the estate.
- Identify, and correctly distribute funds to the beneficiaries; including those of which the Executors were not initially aware.

Disappointed family members or dependants have up to six months to make a claim after the Grant of Probate has been issued, while the deceased's creditors can potentially make a claim against the Executor for up to 12 years after the death.

## Legal responsibilities

- Applying for the Grant of Representation, which is the confirmation of legal authority to administer the estate. If this is done by the named Executor in the Will, this is called the Grant of Probate; if there is no valid Will, this is called Letters of Administration.
- Identifying and dealing with any valid claims against the estate.

## Tax responsibilities

- Completing and submitting the inheritance tax (IHT) return, paying any IHT owed and finalising the position with HMRC.
- Completing the relevant income tax and capital gains tax returns and paying any outstanding tax owed.

## Estate administration responsibilities

- Notifying and corresponding with all relevant organisations in order to cash or transfer the deceased's assets and pay the debts and liabilities of the estate.
- Searching for unclaimed or missing assets.
- Preparing and distributing estate accounts to relevant parties.
- Correctly distributing the residue of the estate to the beneficiaries.

## How can Moore Kingston Smith assist?

Moore Kingston Smith can attend to the administration of the estate on your behalf, ensuring that this responsibility is transferred to us as professionals. Our legally trained team can advise and guide you through the administration process and on your role as Executor of an estate. We can help make the process less daunting and easier for you.

Our private client services team of dedicated professionals offer a full range of personal tax; estate planning, private client and financial services which can be advantageous to beneficiaries and executors.

Our position as a top 20 accountancy firm means we are big enough to offer all the technical expertise that you would expect, while retaining our ethos of personal care and attention that you would expect from your professional adviser.