



Dealing With Tax After Someone's Death

This factsheet deals with the tax aspects of administering someone's estate after their death. For more information on what to do after someone's death, and clarification of the duties of an executor, please refer to the Executor Duties Factsheet.

❖ Your Duties As A Personal Representative

What is a personal representative?

When someone dies, the **personal representative** is the person who administers the deceased person's estate. If they are named in the will they called the **executor**. If there is no will, or they are not named in the will, they are known as the **administrator**.

Dealing with the income tax due after the date of death

As personal representative, you will be chargeable to Income Tax on income arising on the assets in the estate during the administration period.

Income Tax rules

Any income arising on the estate after someone's death belongs to their estate. As the personal representative of the estate, you will be liable to income tax on this income. Income arising can be the following:

- Interest from banks or Building societies
- Dividends from shares held in the estate
- Rental income from properties held in the estate
- Income from abroad
- Interest from some National Savings Bank accounts or bonds

Interest from banks or building societies, and dividends from shares will have been taxed at source. You will therefore not have to pay further tax on this type of income.

However, income tax will be charged on any untaxed income that is not exempt. Any payments due will need to be made to the deceased's Tax Office. If you have not been contacted by the Tax Office, you should advise them of any untaxed income and any tax due on that income. You will then be sent a payslip for you to return with your payment. If on the other hand, the Tax Office sends you a **Self-Assessment Trust and Estates Return**, you will be responsible for the completion and submission of the return. You will need to enter details of any income received and chargeable disposals made by the estate during the period of administration. Here again, we can help you complete the return and calculate the tax due.

You do not have to complete a Trust and Estate Return if the estate is relatively straightforward. For example, if the total Income Tax and Capital Gains Tax due for the whole of the administration period is less than £10,000, you will not need to complete a tax return. You will need to get in touch with the HMRC office that handled the deceased's tax affairs. They will tell you how to pay any tax due.

Payment of Tax

Any tax due for any one year is payable in three stages, and reflects the payments under the self-assessment rules.



Payments will generally need to be made in the following way:

- A payment on account on 31 January in the tax year
- Another payment on account on 31 July after the end of the tax year
- Balancing payment on the following 31 January if there is any more tax due.

The first and second payments on account are each equal to half of the total liability for the previous year (net of tax deducted at source and excluding Capital Gains Tax).

Winding up the estate

If and when you want to wind up the estate, you can contact the relevant Tax Office to agree the liability for the final period and agree to pay any outstanding tax early. The estate will then be wound up without having to wait until the normal tax assessment dates.

Rate of income tax on you as Personal Representative

As the estate's personal representative, you will be charged income tax at the basic rate only.

Dividends from UK companies as usual carry a 10% non repayable tax credit. **You will not be eligible for a personal allowance.**

However, you may be able to claim the following reliefs:

- If you take over the deceased's business and make a loss, you may be able to claim loss relief.
- If you take out a loan to pay Inheritance Tax, the interest on the loan may qualify for tax relief.

If you think that you may be eligible for Tax relief, please do not hesitate to contact us, we will be able to help you claim these reliefs.

❖ Your Duties Towards The Beneficiaries Of The Estate

The 'Administration Period'

The period during which the personal representatives are settling the estate is called the 'period of administration'. It starts on the day following the date of death of the deceased person and ends when the personal representatives have taken all the steps necessary to complete the administration of the estate.

During the administration period

Subsequent to any payments that you make to the beneficiaries of the estate during the administration period, you should provide a statement of income and tax paid on the income to the beneficiaries, if they ask you for one. **You can use the R185 form to do so.** This can be obtained from HMRC (just type 'R185' into your search engine) or from our office on request.

At the end of the administration period

You should supply the beneficiary with a statement showing the full amount of estate income, and the tax paid on that income, from their share of the residue since the administration of the estate period. This should exclude income already treated as income of the beneficiary in previous years.

Dealing with Capital Gains Tax due after the date of death

The sale of assets from the estate by you as the personal representative will give rise to Capital Gains Tax.

Note that death is not a chargeable event for Capital Gains Tax purposes. However, if the deceased had made a chargeable gain before passing away, on which tax was still due, as the personal representative, you will need to include the gain on the self-assessment death

and estate return for the period and pay any tax due.

Capital Gains Tax rules

You are treated as acquiring the assets at their market value at the date of death. You may need to get the assets professionally valued at that date for tax purposes.

Transferring assets to the beneficiary

If you transfer the assets to the beneficiary of the estate according to the deceased's will, or according to the rules of intestacy, this will not be treated as being a chargeable disposal for Capital Gains Tax purposes. This means that no chargeable gain (or allowable loss) will arise on this disposal. Instead, the beneficiary will be treated as having acquired the asset at its market value at the date of death.

Sale of assets during the administration period

As the personal representative, you may need to sell some assets from the estate. In this case, any chargeable gains realised will need to be declared on the **Trust and Estate tax return**. Any tax due will need to be paid out of the estate funds.

Use of capital losses

Any allowable losses accumulated by the deceased in their year of death, if not all used by chargeable gains made in that same tax year, can be offset against the gains of the previous three tax years, starting with the most recent. **Excess losses cannot be carried forward.**

Inheritance Tax (IHT)

Being the personal representative, you will also be liable to pay any Inheritance Tax due on the estate.

As part of your application for legal representation of the asset, you may need to fill in an Inheritance Tax account. You will be able to do this using form **IHT 400** which can be downloaded from the HMRC website, or obtained from our office. On this form, you will be required to provide details of:

- Assets owned by the deceased valued at the date of death
- Debts owned by the deceased at the date of death
- Funeral expenses
- Gifts made by the deceased during their lifetime

These values will be used by HMRC to calculate if any IHT is due by assessing the value of the estate with reference to the nil rate band. This has currently been frozen at £325,000. Your responsibility, as the personal representative, is to sign this form.

Inheritance tax on the main assets, such as land and houses, does not need to be paid until six months after the month in which death occurred.



❖ How are you affected as a beneficiary of the estate?

Your income tax liability

If you are to receive a **legacy** from a deceased individual's estate, your income tax liability may be affected. A legacy is usually a sum of money, or a specific asset that is left to you under a person's will.

Generally, no Income Tax liability will arise unless:

- It is an asset that generates income, such as shares on which dividends are paid, properties generating rental income and bank accounts producing interest. You will be assessed on this income arising as if you had, for instance, rented out the property yourself.
- The legacy is paid late and the personal representative pays you interest on it. This interest will generally be paid to you gross, you will therefore need to report it on your tax return and pay tax on it. If you do not submit a tax return, you should contact HMRC and they can collect the Income Tax from you, for instance by adjusting your PAYE coding.

If you are entitled to the residue of an estate, you may again be liable to Income Tax.

The **residue** of an estate is what is left after the payment of debts, expenses, tax and legacies. It is the responsibility of the personal representatives of the estate to calculate the residuary income of the estate during the administration of the estate. This is done by deducting allowable expenses from income received by the estate. The relevant income share is either paid out during the administration period, or can be paid at the end.

If income is paid out to you during the administration of the estate, it is treated as your income for the tax year in which you receive it, for Income Tax purposes. For any given year, the estate income that you must put on your personal tax return will be the lesser of:

- The amount actually paid to you in that year
- Your residuary income, being:
 - The total of your residuary income from the date of death until the end of

the tax year in which the payment is made, less

- Any amounts which have already been treated as your income for earlier years.

After the administration of the estate has been completed, the balance of the income will be paid out to the beneficiaries of the estate. If no payment has been made to you yet, all income received at that point is treated as your income for that tax year for Income Tax purposes.

Income tax on income you received from the estate (not legacy or residue)

Income that you receive from the estate will be treated as having borne tax already, as it is the duty of the personal representative to pay Income Tax on income arising in the estate. However, you may have to pay more Income Tax if:

- This income, combined with your other sources of income, pushes your total taxable income to the higher rate of Income Tax. This is because Personal Representatives will have paid Income Tax at the basic rate of 20% only.
- You receive an age related allowance as your level of income will affect that allowance.

You will need to inform HMRC if you do receive income from the estate, either via your personal tax return, or by contacting HMRC by the 5th October after the end of the tax year in which you first receive the income.

On the other hand, if you are not liable to tax, or only pay tax on your savings income at the 10% starting rate, you may be eligible for a tax refund from HMRC. Again, you should include this income on your tax return or contact HMRC as soon as possible.

You will know how much income to enter on your tax return by requesting a form R185

from the personal representatives of the estate. This form will set out all income paid out to you as well as Income Tax already paid by the Personal Representatives.

Your liability to Capital Gains Tax

The transfer of assets according to the terms of the deceased's will or the terms of intestacy is not chargeable for Capital Gains Tax purposes. You will be treated as having acquired the asset at its market value at the date of death. This will be your base cost in the calculation of chargeable gain if you choose to dispose of the asset in the future.

Trusts resulting from death

A trust may be established as a resulting of a death in one of the following ways:

- Per the terms of the deceased's will.
- Per the rules of intestacy

If this is the case, the legacy, instead of going directly to an individual, will be held on trust. The trust will then be treated as having started from the date of death.

A trust may also commence at a later date at the end of the administration period, where what is left of the deceased's property, after all debts, taxes and legacies have been paid, passes to a trust, or settlement, instead of the ultimate beneficiaries.

Your responsibility as a Trustee

Your responsibility as a trustee will be different from those of a personal representative. You will be required to manage the property held on trust, as well as any income generated by that property.

Income tax on income generated by trust property

You will be liable to tax on income generated by property held by the trust. Income arising to you by virtue of your role as trustee will be

taxed separately from income arising to you in your personal capacity, such as income from your employment, or interest income from your bank and building society accounts.

Liability to Capital Gains Tax

As is the case when a personal representative transfers an asset to a beneficiary, there may be a Capital Gains Tax liability on the transfer of an asset to the trustees.

You are treated as having acquired the asset at its market value at the date of death. You may be liable to CGT if the trust assets are disposed of, or if the beneficiaries become entitled to them.

Liability to Inheritance Tax

Depending on the type of trust, Inheritance Tax may arise on the value of the assets in the trust every ten years or when they are distributed, if the value of the assets in question exceeds the Inheritance Tax Threshold of £ 325,000.

Let us know if you think we can help. You can contact us on 01509 635467, or at www.woodgatefp.co.uk.

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