



## KEY ISSUES

Inheritance Tax is payable on the net value of an estate.

What forms part of the estate can be complex especially where assets were jointly owned.

Any person acting as the executor or administrator of the estate may be responsible for paying the tax due, using funds from the estate.

If the deceased's circumstances were simple you it is possible to deal with the probate yourself. For more complex affairs it is advisable to seek the advice of a professional probate solicitor.

## PROBATE STEPS

When someone dies dealing with their estate usually follows these steps:

1. Check if there's a will.
2. Executor applies for a 'grant of probate'
3. Pay Inheritance Tax
4. Collect the assets
5. Pay any debts
6. Distribute the estate in accordance with the will

## What is Inheritance Tax?

Inheritance Tax (sometimes referred to as IHT) is a tax paid on the value of the deceased's estate on death and certain lifetime transfers. It will only be due where the estate is valued in excess of the IHT nil rate band (£325,000 in 2020/21) less any gifts made in the last 7 years.

## Who pays Inheritance Tax?

There can be a number of different people responsible for paying IHT depending on the circumstances. Where the deceased has left a will, it will appoint specific individuals to manage their affairs after death - these people are called executors. If there is no will, a close friend or relative or an other individual can do so - they are referred to as administrators. It will usually be the responsibility of the executors or administrators to pay IHT using funds from the deceased's estate.

## What is the rate of Inheritance Tax?

The standard rate of IHT is 40% on any amount above the IHT nil rate band. This may be reduced to 36% providing at least 10% of the net estate is left to charity. IHT may also be payable by the recipients of gifts from the deceased in the seven years preceding death. Taper relief may be applied to reduce the effective rate of tax due on lifetime gifts, if those gifts, alone or cumulatively, exceed the nil rate band - see table below:

Years between gift and death	% of death rate charge	Effective rate of tax
0-3	100	40%
3-4	80	32%
4-5	60	24%
5-6	40	16%
6-7	20	8%

## What forms part of the estate for IHT?

In simple terms the deceased's estate is made up of all their assets and property. However the value of their debts and liabilities must be subtracted from this in order to calculate the estate's value for IHT. If this figure is more than £325,000 in 2020-21 tax year, IHT will be payable on the excess unless it is left to an exempt beneficiary such as a spouse or civil partner.

Anything that has a value will form part of the estate on death, such as:

- Money in bank, building society or savings accounts
- Houses and land (although where the deceased was a joint owner, care should be taken to calculate their share of its value). An additional nil rate band of up to £175,000 in 2020/21 for those passing their family home down to children or grandchildren.
- Business or business assets owned by the deceased (business assets may qualify for business relief)
- Investments like stocks and shares
- Personal belongings including jewellery, antiques and collectibles
- Furniture, fixtures and fittings in a house
- Motor vehicles
- Any non-exempt gifts made in the seven years before the death
- Any asset that the deceased gave away at any time but in which they kept an interest (e.g. a house they gave away but lived in rent-free)

Where there are any jointly owned property or assets you'll need to find out exactly how they were owned by the deceased in order to properly value them.



## How do you work out the value of the deceased's assets?

You need to find out the market value of all the assets at the time of death. HMRC strongly recommends using a professional valuer for land and buildings in the estate. You may have to pay their fees, but it might be possible to reclaim them from the estate later. You don't have to use a professional valuer if either of the following apply:

- The individual items have a value of less than £500
- You can use publicly available data to value the items (e.g. to value a second-hand car)

You may estimate the value of an item if you don't know its exact value, providing the total value of the estate is likely to be less than £200,000. However you must be as accurate as possible.

## What if the deceased has debts?

The executor or administrator should look carefully at all the deceased's paperwork. Apart from the obvious debts and liabilities such as outstanding mortgages, credit card balances, bank overdrafts, unpaid personal taxes etc there could also be unpaid professional fees for services that the deceased had used but not yet paid for, such as builders, decorators, solicitors or accountants. Unpaid household bills such as electricity or gas and funeral expenses should also be deducted from the value of the assets. Funeral expenses can include the cost of flowers, refreshments for mourners, and a headstone for example. The resulting figure is the value of the estate for IHT purposes.

## Deaths on or after 17 July 2013

From the 17 July 2013 onwards, if the deceased had an outstanding mortgage and the funds raised were not used to buy the property on which the loan was secured you will have to find out what the money was used for. Debts and liabilities for deaths after this date may be affected by changes to IHT legislation where:

- Money has been borrowed and used to buy property which does not form part of the estate for inheritance tax purposes
- Money has been borrowed and used to buy or maintain property which qualifies for business, agricultural or woodlands relief
- The debt or liability is not actually repaid out of the estate after the death

## Are there any exemptions from Inheritance Tax?

The nil rate band for every person's estate is £325,000 (in 2020-21) and there is no IHT payable on the estate up to this amount. Furthermore, since October 2007 married couples and civil partners have been able to increase their IHT allowance (to as much as £650,000 in 2020-21) when the second spouse or civil partner dies. In order to take advantage of this, the executor or administrator must ensure that the first spouse/civil partner's unused IHT allowance is formally transferred to the second spouse/civil partner when they die.

Aside from the nil rate band, the additional nil rate band for passing on the family home and the reducing rate of IHT on gifts above the nil rate band in the seven years preceding death, there are a number of other important exemptions, such as:

- Gifts to spouses/civil partners
- Annual allowance of £3,000 per tax year
- Small gifts up to £250 per tax year to individuals
- Normal expenditure out of income
- Gifts in consideration of marriage/civil partnership (£5,000 by a parent, £2,500 by a party to the marriage/civil partnership, or remoter relative, or £1,000 by any other person)
- Gifts to UK charities

## When should you use a probate solicitor?

It is possible to handle all the resulting affairs of the deceased yourself, particularly where values are small and the circumstances simple. The immediate aftermath of a bereavement is an emotionally fraught time and distributing the estate often leads to friction within families. It will also take up some considerable time and if the estate is likely to be valued above the £325,000 IHT nil rate band, or complex circumstances apply, such as doubts about the validity of the will, you really should consider employing a specialist.

## Useful information

There is lots of useful guidance online from various sources:

[Money Advice Service](#)—includes checklists of what to do in the first few days, template letters guidance.

[HMRC](#)—includes detailed guidance about how to value assets and liabilities for IHT purposes.

*The above is based on our understanding, as at November 2020 of current legislation, taxation and HM Revenue & Customs' practice, all of which are liable to change without notice.*

*The Financial Conduct Authority does not regulate tax advice and will writing.*