

Paying Inheritance tax

Paying inheritance tax when estate funds are tied up

When applying for probate if inheritance tax is due, the Probate Registry requires tax to be paid *before* releasing the grant of probate. This can prove difficult as most financial institutions will not pay out without first seeing the grant, but there are ways to deal with this dilemma.

'If assets are tied up in a business or property, then executors may not be holding sufficient liquid funds to pay the inheritance tax up front,' says Ruth Bailey, a senior associate solicitor in the wills and probate team with Dexter Montague LLP

'However, executors can apply to a bank and request payment HMRC directly. In addition, certain inheritance tax payments can be deferred.'

Paying inheritance tax by instalments

If inheritance tax falls due on an estate you must pay this within six months of the person's death. Payments made after the six month deadline will be subject to interest and possible fines. However, HMRC do allow inheritance tax to be paid by instalments over a ten year period on certain estate assets which are:

- land and real property;
- business assets;
- shares which gave the deceased complete control of a company; and
- certain unquoted minority shareholdings (dependent upon specific criteria).

When opting for payment by instalments, it is important to note that interest may accrue. With land or real property, the instalments carry interest from six months following the date of death until the full inheritance tax is settled, even if all instalments are paid on time.

Because of this, many executors opt for the instalment option in order to obtain the grant of probate but then pay all of the inheritance tax due as soon as assets are sold to minimise interest.

What can be done if funds are not sufficient to pay the first instalment of inheritance tax?

If you are the executor of an estate where you find yourself without available funds to pay any of the inheritance tax due prior to obtaining the grant of probate. You, or the beneficiaries, may have to temporarily meet the inheritance tax liability personally, by way of a loan to the estate. Alternatively, you can apply for a bank loan to cover the tax due.

Either of these options will require you to ensure that the terms of the agreement are clear and fair, and you should seek advice as to the suitability of these options in your individual circumstances.

How can we help?

Payment of inheritance tax can be tricky to navigate, as is it often a circular issue between payment of tax and release of the grant of probate. However, it is not an insurmountable issue and can be resolved with the correct professional advice. Obtaining advice as early as possible can prevent stress and unnecessary interest. Our solicitors can advise you on the payment of inheritance tax and which options are likely to be the most suitable for your needs.

For further information, please contact Ruth Bailey in the Wills and Probate team on 01189 393 999 or email ruth.bailey@dextermontague.co.uk

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