



## **WILLS & PROBATE GLOSSARY OF TERMS**

### **ABATEMENT**

The process of determining the order in which the estate will abate to pay debts, liabilities and expenses.

### **ADEMPMENT**

When a person makes a declaration in their will to leave a gift to another but revokes the gift before death either by destroying it, selling it or disposing of it in some other way

### **ADMINISTRATION**

Managing the affairs of the deceased. This involves establishing, collecting and distributing the assets of the estate as laid out in the will or, where there is no will, according to the intestacy rules that apply.

### **ADMINISTRATION PERIOD**

The time taken from the date of death to the completion of the estate's administration.

### **ADMINISTRATOR / ADMINSTRATRIX**

A man / woman who deals with distributing the estate in cases where there is no will or where they are not named as executor in the will.

### **ALTERNATIVELY SECURED PENSION (ASP)**

A fund (whether sums or assets) held under a money purchase arrangement that have been 'designated' to provide a scheme member (who is aged 75 or over) with a pension.

### **ANNUAL EXEMPTION**

The amount you can give away each tax year that will be exempt from IHT. This is currently £3,000 and applies to one gift or a number of gifts up to that amount. There are other exemptions that can apply.

### **APPORTIONMENT**

The proportionate division of income between certain beneficiaries.

### **ASSET**

A possession which has value, such as a house, land or cash.

### **ATTESTATION**

Witnessing of a signature.

### **BENEFICIARY**

A person or organisation which receives property or benefit from a will, intestacy or trust.

## **BEQUEST**

Any gift left in a will that is not land or buildings

## **CAPITAL GAINS TAX (CGT)**

A tax made on the profit when selling an asset.

## **CHARGEABLE GIFT**

From 22 March 2006, a chargeable gift is a gift which is not wholly covered by exemptions and given to the trustees of a relevant property trust or to a company. Gifts from one individual to another or to a disabled person's trust are not chargeable gifts, but are potentially exempt transfers.

## **CHATTELS**

Any movable personal property or belongings not used for business.

## **CIVIL PARTNERSHIP**

The legal relationship existing between two people who have registered their partnership in accordance with the Civil Partnership Act 2004. This act came in to force on 5 December 2005.

## **CODICIL**

A document stating an addition or minor change to a will

## **CONSIDERATION**

A legal term meaning 'something given for something done', i.e., the payment made for goods or services received. For a contract to be valid some consideration must be given.

## **CONTINGENT LEGACY**

A gift with a condition attached

## **COVENANT**

A legally binding obligation contained in a deed.

## **DEED OF VARIATION**

A document used by beneficiaries to redirect inheritance entitlements in a will or intestacy within two years of the date of death. Most commonly used to reduce the amount of IHT from the deceased's estate.

## **DEEMED DOMICILE**

A legal concept for IHT purposes where a person is treated as if they were domiciled in the UK at the time of a transfer if

- They were domiciled in the UK within three years of the transfer, or
- They were resident in the UK in at least 17 of the last 20 years

## **DEVISE**

A gift of freehold or leasehold property stated in a will.

## **DISCRETIONARY TRUST**

A trust under which no individual has a right to an interest in possession. Generally, the trustees have the power to decide who should receive the capital or income from the trust. Discretionary trusts are also relevant property trusts.

## **DOMICILE**

Generally, a person's domicile is where they have their fixed and permanent home and to which, when they are absent, they always have the intention of returning to

## **DONEE**

A person who receives a gift.

## **DONOR**

A person who makes a gift of some of their assets.

## **ESTATE**

The property, money and possessions of the deceased person.

## **ESTATE ACCOUNTS**

Accounts of the financial transactions recorded during the administration period.

## **EXCEPTED ESTATE**

An estate where no IHT has to be paid and where a full IHT account is not required. From April 2004 there are three types of excepted estate

- Low value estates
- Exempt estate
- Foreign domiciles

## **EXECUTOR / EXECUTRIX**

A man / woman appointed in a deceased person's will to administer the estate.

## **EXEMPT ESTATE**

A type of excepted estate where the gross value of the estate does not exceed £1,000,000 and there can be no liability to IHT because spouse or civil partner exemption or charity exemption bring the estate below the IHT threshold

## **EXEMPT GIFTS**

Gifts which are exempt from IHT. These include:-

- Gifts to individuals more than seven years before death
- Gifts to spouses or civil partners
- Gifts not exceeding £3,000 in any one tax year
- Gifts on consideration of marriage or civil partnerships
- Gifts to UK charities
- Gifts for national purposes
- Small gifts
- Gifts which are normal expenditure out of income

## **GIFT WITH RESERVATION OF BENEFIT**

A gift which is not fully given away so that the person receiving the gift does so with conditions attached or the person making the gift keeps back some benefit for themselves.

## **GRANT**

The term used to describe whatever type of grant of representation is taken out.

## **GRANT OF LETTERS OF ADMINISTRATION**

The legal document issued by the Probate Registry appointing a person to deal with a deceased person's estate where there is no will, or any will made is invalid

## **GRANT OF PROBATE**

The legal document issued by the Probate Registry authorising the executors named in a will to deal with the estate of a deceased person.

## **GRANT OF REPRESENTATION**

The legal document issued by the Probate Registry authorising someone to deal with a deceased person's estate

## **GUARDIAN**

A person chosen by the testator to look after their minor children after their death.

## **IMMOVABLE PROPERTY**

Freehold or leasehold property.

## **INDEMNITY**

An agreement to compensate someone for any loss suffered as a result of a failure to act.

## **INHERITANCE TAX (IHT)**

A tax on the value of a person's estate on death and on certain gifts made by an individual during their lifetime

## **INHERITANCE TAX THRESHOLD**

The amount above which inheritance tax becomes payable. If the estate, including any assets held in trust and gifts made within seven years of death, is less than the threshold, no inheritance tax will be due on it.

## **INSOLVENCY**

When there is a shortfall of funds to meet all liabilities.

## **INTEREST**

The right to property.

## **INTEREST IN POSSESSION**

This is a term in general law. Generally, a person has an interest in possession in property held in trust if they have the immediate right to use or enjoy the property or receive any income arising from it. An interest in a trust arising on or after 22 March 2006 will be regarded as an interest in possession (and therefore treated for IHT purposes as owned by the person having an interest in possession) if it is one of the following.

- An immediate post-death interest
- A disabled person's interest
- A transitional serial interest

## **INTESTATE**

When a person dies without making a will, or without fully disposing of their property by will. The administration of the estate is then governed by the provisions of the Administration of Estates Act 1925.

## **ISSUE**

All the direct descendents of a person.

## **JOINT TENANCY**

A form of joint ownership where all the joint owners have an identical interest in the property. On the death of one owner, their interest passes to the remaining owner(s) by survivorship.

## **LIABILITIES**

The debts of a deceased person that need to be settled by the estate.

## **LIFE INTEREST**

A common form of interest in possession in settled property where a person has an interest for their lifetime

## **LIFE TENANT**

A person who holds a life interest in settled property

## **MINOR**

A person under the age of 18.

## **MOVEABLE PROPERTY**

Any property that can be moved.

## **NATIONAL PURPOSES**

Exemption from IHT is given for gifts and bequests to certain national institutions such as the National Gallery.

## **NEXT OF KIN**

The nearest living relative of the deceased.

## **NIL-RATE BAND**

The amount of an estate on which there is no IHT to pay. If the value of an estate, including any assets held in trust and gifts made within seven years of death, falls within the nil-rate band there will be no IHT payable on the estate. Where the value exceeds the nil-rate band, only the amount above is taxed at 40%

## **NOMINATED PROPERTY**

Assets that can be given to a beneficiary outside of a will or estate.

## **PECUNIARY LEGACY**

A gift of money under a will.

## **PER STIRPES**

If a property is to be divided 'per stirpes' among the children of a deceased person, then each child takes an equal share. If a child has predeceased the deceased, that child's children will take equally between them the share that the predeceased child would have taken

## **PERSONAL REPRESENTATIVE**

A person who administers the estate of a deceased person. If there is a will and the personal representative is named in it they are known as the executor. If there is no will, or they are appointed by the court, they are known as an administrator.

## **PET (POTENTIALLY EXEMPT TRANSFER)**

A gift made during one's lifetime that is exempt from IHT if the donor lives for seven years after making the gift.

## **POWER OF ATTORNEY**

An authority given by one person to another to act for him in their absence. The person authorised to act is the attorney of the other

## **PROBATE**

A legal document that gives the executors of a will the right to deal with the deceased person's estate. Commonly used as a general term to describe the process of obtaining a grant of representation.

## **REALISATION**

Converting estate assets into cash.

## **REGISTRAR**

The officer who registers the death.

## **RELATED PROPERTY**

Property that is in the estate of a spouse or civil partner, or belonging to a charity or one of the political, national or public bodies to which exempt transfers may be made.

## **REMOTER ISSUE**

The grandchildren and great-grandchildren (and so-on) of the deceased.

## **RENOUNCING PROBATE**

Where a named executor in a will signs a legal document cancelling his appointment from the start of the administration period.

## **RESIDUE**

The part of an estate which is left after the payment of the specific and pecuniary legacies, debts, funeral expenses and IHT.

## **RESIDUARY BENEFICIARY**

A person entitled to receive the whole or a share of any residue of the estate, under the terms of a will in intestacy.

## **REVOCATION**

When the testator decides to change their will completely and invalidates the previous one.

## **SETTLEMENT**

This occurs when property is held in trust for successive beneficiaries. The property which a seller puts into trust is known as the trust fund or 'settled property'.

## **SETTLOR**

A person who puts property into a trust. For IHT purposes a settlor is the person who makes a settlement or who directly or indirectly provides the assets for a settlement.

## **SEVERANCE**

The action of dividing the ownership of a property. Usually performed to enable joint tenants to become tenants in common and leave their share of the property to someone other than the other tenant.

## **SMALL GIFTS**

Small gifts which are exempt from IHT of up to £250 in each tax year to any number of different recipients. The exemption cannot be combined with any other exemption such as the annual exemption.

## **SPECIFIC LEGACY**

Specific gifts left to specific people.

## **SURVIVORSHIP**

Where property is owned jointly under a joint tenancy, on the death of one of the joint tenants, the deceased's share passes automatically to the survivor. The property cannot be passed to anyone else under a will or intestacy.

## **TENANT IN COMMON**

Property that is owned jointly but each has a distinct share forming part of their estate on death which does not pass automatically to the surviving tenant,

## **TESTAMENTARY CAPACITY**

Essential mental ability need in order to make a valid will.

## **TESTATOR / TESTATRIX**

A man / woman who has made a will.

## **TRUST**

Part of an estate administered by trustees for the benefit of a named person in accordance with the trust document

## **TRUSTEE**

The person who holds the legal title to settled property and who is obliged to deal with the property for the benefit of the beneficiary