



## Glossary

**administrator** means a person not named as executor in the will to whom the court grants Letters of Administration to enable him to administer the Estate according to the will or the laws of intestacy.

**beneficiary** means a person who receives part or all of the Deceased's estate under a will. It is sometimes used to refer to next of kin.

**bequest** means a gift of personal property by will.

**codicil** means a written amendment to a person's will.

**commission** means a payment made from the estate assets to an executor or administrator to reimburse him for his efforts in the administration of the Estate.

**devise** means a gift of real estate by will.

**devisee** means a person who receives a gift of real estate.

**executor** means a person appointed by the will-maker in the will to look after the realisation of the estate, payment of debts and distribution of the estate.

**exemplification** means a copy of the Probate or Letters of Administration issued by the Court.

**formal requirements** means the physical steps required to be done when making a will in order for it to be valid (eg in writing, signed by testator and witnesses).

**intermeddle** means to take an action in relation to the assets of the Deceased which shows an intention in the named executor to take up his role as executor. Merely arranging a funeral is not intermeddling. An executor who has intermeddled cannot renounce Probate.

**inter vivos** means an event which occurred during the testator's lifetime.

**intestate** means having died without leaving a will and **partially intestate** has a corresponding meaning (ie intestate as to an executor or intestate as regards some assets).

**legacy** means a gift of money by a will.

**legatee** means a person who receives a legacy.

**letters of administration** means an order made by the Court to give a person the power to administer an estate where the deceased did not name an executor or that executor dies or does not take a grant of Probate.

**next of kin** means the relatives who receive the assets of a person who dies without a will (intestate) or without a will which deals with all assets (partially intestate).

**passing accounts** means filing accounts of the administration of the estate with the Court and providing receipts for each expenditure item (vouching).

**probate** means a court order by the Probate Division of the Supreme Court confirming the validity of a will and the office of the executor appointed by the will. It gives the Executor permission to deal with the estate of the Deceased. Until revoked, it is conclusive evidence of the death of the testator, the date of death, the due execution of the testamentary document and its validity.

**residuary beneficiary** means the beneficiary who receives the residue of the estate.

**residue** means what is left of the estate once all of the debts and costs of administration have been paid and after payment of legacies and transfer of bequests and devises.

**specie** means in their current form.

**testament** means a will.

**testator** means a person who has died and left a will.

**will** means a document in writing intended to have effect on death and disposing of the assets of a person.

## Capital gains tax

Charities need to be particularly alert to the capital gains tax benefits (and traps) associated with the administration of estates of which they are beneficiaries and seek expert advice in this regard.

# Estate Administration

Beneficiary learns of death of benefactor

1

Beneficiary seeks to obtain a copy of the Will

2

Executor applies for Probate

3

Challenges to the Will and Probate granted

4

Beneficiary obtains a copy of the Probate, including the Inventory of Assets

5

Executor realises assets

6

Executor pays all of the debts of the estate

7

Executor attends to taxation issues of the deceased and estate

8

A claim may be made against the estate under the family provision act legislation. Executor cannot distribute until the claim is resolved.

9

Executor makes an interim distribution to the beneficiaries

10

Executor accounts to the beneficiaries

11

A commission is negotiated between the beneficiaries and the executor

12

Executor makes final distribution to beneficiaries and Release and Indemnity

13

## Contact Details

For additional information regarding any of aspect of our client services, please feel free to contact:

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