COLMAN COYLE

A guide to:

Wills and Probate

Although not at the forefront of everyone's mind, making a will is crucial if you want to decide who gets your assets after your death. Colman Coyle's Wills and Probate department offer advice and guidance in helping you to care of your estate.

WILLS

Should I make a Will?

- This is the only way to make sure the people whom you wish to benefit from your estate in the event of your death do so.
- Ideally you should review your Will every few years in the event that either your circumstances change or the law changes.
- If you die without a Will then the Intestacy Rules apply. These are the rules which decide how your estate will be divided if you do not leave instructions.
- If you have no close family, instead of your estate passing to close friends or organisations of your choice, it may be passed onto just a relative.
- This can cause considerable stress to family and friends. A Will prevents this from happening.

Should I use a solicitor?

- Although it is possible to write a Will without a solicitors help, this is generally not advisable as there are various legal formalities you need to follow to make sure that your Will is valid.
- Without the help of an expert, there is a real risk you could make a mistake which could cause problems for your family and friends after your death.

After my death who carries out my wishes?

- This person(s) is called an Executor who is someone who carries out the terms of the Will and is also responsible for administering your estate.
- If you have made a Will, an Executor applies for Probate which involves collecting all your assets, paying your debts and distributing them to beneficiaries.
- This involves making an application to the High Court for permission to deal with your property and affairs.
- Executors are also usually the Trustees of any trust created by your Will.
- An Executor has to be someone you trust and is capable of carrying out your wishes during a difficult period.

Dealing with an estate can be very time consuming and stressful. You could consider appointing Colman Coyle LLP to act either alone or jointly with a family member.

This is one of the advantages of utilising our expertise, it also takes the paperwork and anxiety from your family and friends and ensures continuity.

Who will benefit from my Will?

They are referred to as beneficiaries and usually fall into four categories: -

- Those that receive an outright gift of money.
- Those that receive a gift of a particular object you own.
- Those that receive the remainder of your estate i.e. the residue.
- Those that are beneficiaries under a Trust in your Will.

Will I pay inheritance tax?

- The nil rate band is the maximum value of your estate on which no inheritance tax is payable. This is currently £325,000.00.
- Inheritance tax is therefore payable on all estates whose value is more than £325,000.00.

- No inheritance tax is due on assets which pass between married couples or civil partners.
- There has been a recent change in the law which allows an extra benefit for married couples / civil partners. The nil rate band (currently £325,000.00) can now be transferred from one partner / spouse to another on the death of the second partner / spouse.
- Therefore after you and your partner / spouse die, £650,000.00 could be tax free (typically, the nil rate band increases annually).

LIVING WILLS

Are Wills only enforceable after my death?

- You can if you wish make a Living Will.
- This is the document which usually outlines those treatments you do not wish to receive in the event of certain illnesses / accidents.
- You should register these with your normal doctor to ensure that it is enforceable.

LASTING POWERS OF ATTORNEY

Who looks after my interests if I no longer have the mental faculties to make any sound choices?

- You may want to appoint someone you trust to look after your affairs if this happens.
- A Lasting Power of Attorney ensures someone else handles these matters in the event that you are unable to do so in the future
- There are two types of Lasting Powers of Attorney.
  - Property and Affairs
  - Personal Welfare

Colman Coyle can advise you which would suit your circumstances.

PROBATE

What is Probate?

- When someone dies, an application is made to the Probate Registry of the High Court to give permission to deal with their property and affairs.
- This process is called Probate.

Who obtains Probate?

- If you don't leave a Will, the law sets out who can apply to the Probate Registry**.**
- When you make a Will the people you have appointed as Executors will obtain Probate on behalf of your estate.

Why do I need a Grant of Probate?

- Unless the overall value of the estate is very small (usually less than £5,000.00) you will have to show the Grant of Probate to various financial institutions etc.
- This is so that they can be sure you are entitled to deal with the deceased's assets and affairs.

What does it involve?

- Obtaining full details of the value of the assets belonging to the deceased as at the date of death.
- Paying any inheritance tax due.
- Calculating and settling the debts of the estate.
- Identifying all of the people who would be entitled to share in the estate.

Colman Coyle will be able to give you professional help and guidance in obtaining the grant and administering the estate as well as advice on whether post death variations can be used to save inheritance tax. We pride ourselves on dealing with estates quickly and efficiently.

For advice or more information please contact:
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