

## ESTATE ADMINISTRATION

### Are there any Government fees or death duties payable when I die?

Apart from a fee (see table below) paid to the Supreme Court if probate is needed, there are no direct death duties. However, capital gains tax may be payable by your estate and it is advisable to consult a solicitor experienced in estate administration before you dispose of or transfer major assets in an estate.

### What is Probate?

Probate is technically a court order verifying that the deceased's will is the last will and that the executor(s) are entitled to deal with the assets in the estate. To obtain a grant of probate, the executor needs to prepare a list of assets and liabilities in the estate at the date of death, an oath, affidavit and various other documents for lodgement at the Probate Registry with the applicable filing fee as per the table below:

Lodgement fee (for 2024/2025 financial year) for Probate or Letters of Administration applications payable to the Supreme Court of SA where the deceased estate gross value:	
• is \$200,000 or less	\$957.00
• is more than \$200,000 but less than or equal to \$500,000	\$1,914.00
• is more than \$500,000 but less than or equal to \$1 million	\$2,549.00
• is more than \$1 million	\$3,826.00

The documents are technical and if incorrectly prepared, will result in documents needing to be corrected, re-sworn and re-submitted. If probate is required for one asset, then all assets are transferred or redeemed using certified copies of the grant. Our fees to prepare probate documents only (with all relevant information being supplied by the client), have the documents signed and filed at the Supreme Court are \$2,640 incl. 10% GST (for an estate with up to six assets – for a large number of assets a higher fee will apply), with any additional work being charged on the basis of an hourly rate fixed in reference to the Higher Courts scale of costs (i.e. if clients wish us to handle some or all of the administration).

### When is Probate required?

If you own real estate (other than jointly with your spouse or any other person), or generally have other significant assets in your own name such as shares, debentures, money in financial institutions or life assurance policies. However, in small estates the assets may be able to be transferred without probate if there is no real estate involved.

The following are the general requirements setting out when the various institutions may require probate:-

- **Real estate** where the property is held by one person, or where it is held by two or more persons as tenants in common, will always require probate.
- **Banks** vary but most are now \$50,000 in any one person's name.
- **Credit unions** vary but most are now \$25,000 in any one person's name.
- **Share registries** generally when there are shares in any one company with a market value of \$15,000 or more at the date of death; some registries have a higher limit of \$50,000.
- **Insurance companies** usually if the policy payout figure is \$50,000 or above.

## **How can assets in an estate be transferred if probate is not needed?**

With cars or other vehicles; all that is needed is a copy of the will and death certificate and a completed disposal notice signed by the executor in place of the deceased owner.

For small accounts in banks and other financial institutions, the executor will be required to complete a small estates indemnity form and provided certified copies of the will and death certificate. Each institution has its own requirements and will send the executor details of what it requires.

## **Do I have to get probate on the death of my spouse if we hold all assets jointly?**

No, joint assets never require a grant of probate if there is a surviving joint tenant.

## **How do I deal with joint assets if my spouse dies?**

- **bank accounts and accounts in other financial institutions** – provide a certified copy of the death certificate to the bank/financial institution. The bank or financial institution **may** require that a new account be opened in the survivor's name and all funds held in the joint account transferred, but check with the bank.
- **shares** - an application form to register the death can be downloaded from the share registry website, and this needs to be completed and sent to the share registry with a certified copy of the death certificate.
- **other financial investments** - send a certified copy of the death certificate to the investment body with a letter requesting that the death be noted.
- **real estate** - an application to register death by survivor needs to be lodged at Land Services with the registration fee. We can assist with this process. As of 1 July 2024, the Land Services registration fee is \$192.00 and the PEXA fee is \$43.45. Our fees to prepare the documentation including verification of identity and lodgement via PEXA would be approximately \$528.00 including 10% GST.

For further information, please contact Sedsman Legal:

Ph. 08 8231 0256

E. [admin@sedsmanlegal.com.au](mailto:admin@sedsmanlegal.com.au)

W: [www.sedsmanlegal.com.au](http://www.sedsmanlegal.com.au)

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