

Don't get caught out by new, higher probate fees

From the start of this month, the probate fees for grant of probate applications had a big increase. The increase is quite significant. The fees increase from £155 for applications made by licensed professionals and £215 for applications made by individuals for estates of more than £5,000. The good news is for those under £50,000, or those who are exempt for a grant of probate, the cost will be nil.

The grant of probate lets the executor obtain access to the assets of an estate for the wishes of the deceased to be carried out.



LEGAL MATTERS

with solicitor Julie Butler

If the total value of the deceased person's estate is in jointly owned assets passing automatically to a surviving spouse or civil partner, probate may not be needed.

For estates with a value under £300,000, for example, the fees are only £250. However, for above £2m the fees are £6,000.

Between £50,000 and £300,000 it is £250 and for £500,000 to £1m it is £2,500.

It is considered that calculating the fees on a banded system causes extra work for the probate office.

At a practical level, executors will have to pay the fee up front before reclaiming it from the estate once the probate has been granted.

It is expected thousands of estates will be exempted by raising the estate value

threshold to £50,000. However, it is considered the top end of the estates will be paying disproportionately.

The new hike will represent a problem for a widow when the property remained in the name of the late husband. In such cases a widow would still need to pay the higher probate fee to obtain probate and have the property transferred into her own name.

Regarding tax planning and ownership, lifetime gifting will be good. The survivorship rules allow joint property of assets and bank account. This allows

property to automatically pass on death rather than via the will and therefore will not be included in the estate at the grant application stage.

While survivorship is very effective for mitigating the new fees, it can lead to inequality between children and a misunderstanding as to who inherits what and possibly not fulfil the deceased's wishes.

Lifetime gifting can leave the elderly deprived of assets and this must be given full consideration.

Everyone must check their wills and how their property is owned

and verify how survivorship can be utilised.

The validity of using the current executor must be considered. The potential for gifting to reduce assets away from inheritance tax and probate fees must be given full consideration, mindful of worries over deprivation.

*Julie Butler FCA of Butler and Co, Bennett House, The Dean, Alresford (01962 735544, email j.butler@butler-co.co.uk) is the author of several books, including *Tax Planning for Farm and Land Diversification*.*