

Executor made personally liable for £340,000 tax bill

In the recent case of Glyne T Harris as Personal Representative of Helena Norma McDonald (deceased) v HRMC (2018), Mr Harris, was found liable for a tax bill of £341,279.

Mr Harris had transferred a beneficial entitlement to a beneficiary of the will, on the understanding that that beneficiary would settle the outstanding tax bill. However, the beneficiary failed to do this, thus leaving Mr Harris with the totality of the tax bill. Despite the fact that Mr Harris had complied with his Executor duties for inheritance tax purposes he was found personally liable for the tax amount. On appeal, his claim was struck out on the basis that it is not a defence to be ignorant of one's obligations as a Personal Representative. In short, Mr Harris should have settled the tax bill before transferring assets to the beneficiaries.

There appears to be a common misconception surrounding the role of an Executor/Personal Representative. I often come across clients who consider themselves perfectly capable of administering an estate and, whilst this may be true, it is more often the case that when an estate is taxable, clients will come unstuck and contact a Solicitor since they have underestimated the complexity involved.

The role of an Executor can be a thankless task, particularly where the testator may not have included a legacy for the Executor by

may find themselves personally liable for a significant tax bill.

Whilst the instruction of a solicitor results in costs, these costs are normally payable by the estate and most solicitors will defer payment of those fees until the conclusion of the matter.

At Duncan Lewis Solicitors, our wills and probate department will assist you in administering the estate of a loved one. Our specialist team have a wealth of probate knowledge which can serve as a protection to you against any potential claims made by the beneficiaries to a will. Let us take the burden of estate administration away from you - call one of our specialists today.



Caroline Roche

*Author, **Caroline Roche**, is a solicitor and Director in the wills and probate department. Her specialist experience includes, drafting wills; advising on inheritance tax due from an estate; gathering the estate when a loved-one has passed; dealing with both taxable and non-taxable estates, handling the affairs when a loved-one has died without a*

way of a thank you. It also confers great responsibility on the Executor since they have a fiduciary duty to the beneficiaries to ensure the will is executed properly. Failure to do so may result in court action being taken against the Executor which can result in significant financial penalties to the Executor, or, as in the case of Mr Harris, the Executors

will.

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