

## Personal representatives, the payment of Estate debts and the merits of statutory advertisements

### Introduction

The general principle is that personal representatives who distribute assets to the beneficiaries remain liable for the unpaid debts and liabilities of the deceased to the extent of the assets which have passed through their hands. This is the case even though, when they made the distribution, they were acting in good faith and had no notice of such debts and liabilities.

Therefore, personal representatives could find themselves in the unfortunate position of being personally liable for unknown debts which may come to light some considerable time after the estate has been wound up. The personal representatives may be able to recover their losses from the beneficiaries, but this is not always possible.

### Statutory Advertisements

Personal representatives can escape liability for unknown debts by advertising for claimants in accordance with Section 27 of the Trustee Act 1925. Under Section 27 personal representatives may give notice of their intention to distribute the estate assets and require any interested person to send particulars of their claim within a stated time which must not be less than two months from the date of the notice. This applies not only to creditors of the estate but also to claims from next-of-kin or other beneficiaries. The notice or notices must be published as follows:

**1 by advertisement in the London Gazette; and**

**2 if any land forms part of the estate, by advertisement in a newspaper circulating in the district in which the land is situated; and**

**3 in special cases by giving such further notices as a court would have directed in an administration action. This requirement is only likely to arise in exceptional circumstances. But if the personal representatives are in any doubt as to what advertisements are needed, they will only be safe by applying to the court for directions as to the notices required.**

### Consequences

Once the time limit specified in the advertisements has expired, the personal representatives may distribute the estate assets to the persons entitled under the Will or intestacy having regard only to the claims of which they have notice. The personal representatives are not liable for any other claims although this does not prevent the other claimants who had not responded to the advertisements from following assets into the hands of the beneficiaries.

It should be noted that statutory advertisements do not protect personal representatives against liability for any debt of which they had actual notice at the time of distribution, even though the claimant did not respond to the advertisements. In addition, formal notice of the claim need not have been received, and it is sufficient that the personal representatives were simply aware of the debt or liability.

### Conclusion

When the personal representatives and the beneficiaries are one and the same, there is little point in going to the trouble and expense of placing statutory advertisements, since any claimant can follow the assets to those to whom they were distributed.

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## Personal representatives, the payment of Estate debts and the merits of statutory advertisements (continued)

Where the personal representatives are not also the beneficiaries, careful consideration should be given to the placing of statutory advertisements. If the personal representatives are in any doubt about the existence of debts or liabilities, or if they believe that the beneficiaries would not discharge any debts or liabilities from the funds distributed to them, then statutory advertisements should be placed.

### Disclaimer

This information sheet is written as a general guide. As any course of action must depend on your individual circumstances, you are strongly recommended to obtain specific professional advice before you proceed. We do not accept any responsibility for action which may be taken as a result of having read this information sheet.

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