

Power reserved

Introduction

An executor of a Will who does not wish to act in the administration of the deceased person's estate can formally renounce his or her right to apply for a Grant of Probate. Alternatively, if an executor does not want to act at the outset, but wishes to retain the right to take out a Grant of Probate at a later stage, power may be reserved to that executor, enabling him or her to apply for a Grant in the future.

Implications

If an executor to whom power has been reserved subsequently decides to prove the Will, he or she will obtain a Grant of what is known as 'Double Probate'. The person applying for the Grant of Double Probate must swear an Executors' Oath and complete an Inheritance Tax Account with details of the estate for HM Revenue & Customs just as the other executors will already have done.

Alternative

A Grant of Double Probate is a somewhat cumbersome procedure. A more satisfactory alternative may be for the executor to prove the Will in the first instance, and subsequently sign a Trustee Power of Attorney appointing someone else, including the other executors, to act in his place. The duration of a Trustee Power of Attorney cannot exceed 12 months, although a further Trustee Power of Attorney may be signed at the end of each 12 month period.

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.

If you require further information, please contact Alan Dickins or Helen Stewart on 01892 510000 or by email at:

alan.dickins@ts-p.co.uk

helen.stewart@ts-p.co.uk

Head Office

3 Lonsdale Gardens
Tunbridge Wells
Kent TN1 1NX
T 01892 510000
F 01892 549884

Thames Gateway

The Old Rectory
St. Mary's Road
Greenhithe
Kent DA9 9AS
T 01322 623700
F 01322 623701

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