

## INHERITANCE ACT & PENALTIES

### What needs to be paid & what are the deadlines?

#### What are penalties?

Penalties are financial fines imposed by HM Revenue & Customs (HMRC) on Personal Representatives (PRs) if the amount of Inheritance Tax (IHT) assessed as payable on an estate is incorrect because the PRs have failed to exercise reasonable care and have submitted an incorrect account of the assets in the estate to HMRC. Penalties can be as much as 100% of the extra tax due plus interest from the date the tax was due until the date of payment.

#### When can penalties arise?

The most common occasion when penalties can arise on a deceased's estate is when an asset is omitted, or a liability is included in error. However, penalties also arise if a lifetime gift made by the deceased is not disclosed or the value of an asset is significantly in excess of the submitted value, and HMRC believe that the PRs have not taken reasonable care in arriving at this valuation.

#### What action do PRs need to take?

PRs must disclose all assets and lifetime gifts made within seven years of death. They must exercise reasonable care and must act carefully and reasonably. HMRC assume that a reasonable PR will:

- Make the fullest enquiries that are reasonably practicable to identify all the property forming part of the deceased's estate
- Seek professional help regarding valuations
- Read the account submitted to them carefully and the guidance notes
- Check the contents of an account prepared by an agent

In practice, this requires the PRs to take actions such as making a comprehensive search of the deceased's papers, contacting professional advisers with whom the deceased may have had dealings during his lifetime, checking entries on the deceased's Tax Return in case these show income from a source that has not been taken into account, checking bank statements and records for the seven years before death, for evidence of lifetime gifts or purchase of other assets. Professional valuations, possibly more than one of the same asset (usually a house), should be requested and it is important to ensure that the valuer is given the correct instructions and asked to value the asset on an open market value basis. Full investigation should be made as to the grounds for claiming any relief or exemption.

### **Who is liable to pay the penalty?**

The PRs are personally responsible for payment of the penalty and they might not be beneficiaries of the estate. If this firm are appointed as PRs, and the deceased's family fail to provide us with all necessary information in answer to our enquiries (for example, a lifetime gift is not disclosed or the existence of an asset is not revealed), then we regret that we cannot accept liability for any consequent penalty that may be imposed by HMRC and this will have to be paid by the estate or by the person withholding information. Deliberately misleading HMRC is an offence.

### **How can GL Law help you?**

We have specialist lawyers who will take time to get to know you in order to provide you with advice tailored to your specific needs and wishes.

Full and transparent information about our fees structure will be provided at the outset, and the basis of our charging agreed before we begin work.

**For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email [hello@gl.law](mailto:hello@gl.law)**

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