

Intestacy

When the Intestacy Rules apply

The 'intestacy rules' govern the distribution of a deceased's estate when the deceased has died either:

- Wholly intestate (i.e. without disposing of any property by a Will due to never making one or their Will being invalid) – In these circumstances the entire estate will be governed by the intestacy rules.
- Partially intestate (i.e. there is a valid Will but it does not dispose of the whole of the estate) - In these circumstances the rules will only apply to the deceased's property that does not pass under the Will.

Entitlement to a Grant of Administration

The persons entitled to apply for a Grant of Administration is determined under the terms of the *Non-Contentious Probate Rules 1987*.

The order broadly follows the order of entitlement to share in the estate of the intestate (as seen below).

The obtaining of a grant can be stressful and time consuming, we can lighten this burden. Clear Accountancy and Tax can prepare the papers that lead to a Grant of Administration being issued and can make an application to the Court on your behalf.

Entitlement to the Estate

1. Married couples and civil partners without children
 - The spouse or civil partner inherits the full estate regardless of whether there are surviving parents and remoter relations or not.
2. Married couples and civil partners with children
 - The spouse (or civil partner) is entitled to:
 - The personal chattels absolutely
 - Statutory legacy of £250,000
 - One half of what is left.
 - The remaining one half is shared equally among the children.

All property passing to the surviving spouse or civil partner under these rules passes tax free as it enjoys the benefit of the inheritance tax spouse/civil partner exemption (UK domiciled spouse/civil partner only)

3. There is no surviving spouse or civil partner and there are children or remoter issue of the deceased.

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- The whole estate will pass to the children of the deceased in equal shares. If any of the children have died leaving issue, then the issue will receive their parents' share divided equally.
 - This includes adopted children.
4. If there are no surviving spouse/civil partner or issue, the order of entitlement to share in the estate is as follows:
- Parents (equally if both alive); but if none then
 - Brothers and sisters of the whole blood (ie share the same parents as the deceased) on the statutory trusts; but if none then
 - Brothers and sisters of the half blood (ie who share one parent with the deceased) on the statutory trusts; but if none then
 - Grandparents (equally if more than one); but if none then
 - Uncles and aunts of the whole blood (ie brothers and sisters of the whole blood of one of the intestate's parents) on the statutory trusts.
 - It is blood relatives of the intestate who are entitled, not those related by marriage.
5. No surviving relatives entitled to qualify in the estate
- If there are no surviving relatives entitled to qualify in the estate then the Crown takes the residuary estate as "bona vacantia".

There is no entitlement under the intestacy rules for a divorced spouse/civil partner or a spouse/civil partner judicially separated but he/she may be able to make a claim under the Inheritance (Provision for Family and Dependents) Act 1975 through the Courts.