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## **CHECKS TO TAKE BEFORE DISTRIBUTING THE RESIDUARY ESTATE**

### SECTION XVII

#### **Obtain Inheritance Tax clearance**

If you have paid inheritance tax on the estate and no changes to the asset values need to be reported to HMRC complete form IHT30 and request a formal clearance before distributing the residuary estate.

This only applies if you have completed a full inheritance tax account using form IHT400. For excepted estates automatic clearance is granted after 30 days of the form being submitted to the Probate Registry (so if you don't hear from HMRC within 30 days IHT clearance is obtained).

#### **Check if Inheritance Tax relief can be claimed**

Inheritance Tax on death is calculated on the value of assets at the date of death. If a property or shares are subsequently sold at a lower price, relief from IHT may be available. This effectively amounts to a refund on the excess tax paid.

This applies where:

- Inheritance Tax has been paid in the estate.
- A property is subsequently sold at a loss within 4 years of the date of death. In this case HMRC form IHT38 should be completed and submitted to HMRC. To qualify the claim has to be within 7 seven years from the date of death.
- Shares are sold at a loss within 1 year of the date of death. In this case HMRC form IHT35 should be completed and submitted to HMRC. To qualify the claim has to be within 4 years from the date the shares were sold.

#### **Statutory Notices**

Do you need to place Notice under Section 27 Trustee Act 1925?  
See section XII for full details.

#### **Claims against an Estate**

A claim may be made against an estate, either by a creditor or an individual. Unless the claim is straightforward, e.g. by a previously unknown creditor where the debt is not disputed, always seek advice from a solicitor.

A claimant should submit the claim within 6 months of the date of the Grant of Representation.

This period of six months may be extended by court rule, but it is the claimant's role to pursue this extension and this will be only successful in exceptional circumstances.