

CGT Issues on Sale of Probate Property

Capital Gains Tax ('CGT') - If a property is sold at a higher value than it was valued at the date of death then this could result in CGT being payable. When dealing with an Estate, the Personal Representatives are responsible for settling any CGT due **within 60 days of completion**.

CGT is due on the difference between the Probate value and the sale value, less any expenses and less the Estate's annual tax-free allowance.

Are There Any Deductible Expenses?

The cost of selling the property, stamp duty, solicitors fees, estate agent fees and property improvement costs, such as a new extension or a new kitchen can all be deducted from the potentially taxable value.

However, maintenance costs and mortgage interest cannot.



Are There Any Allowances?

Individuals and estates are entitled to an annual exemption. Any gains above the annual exemption will be subject to tax at the relevant rate.

This exemption is **£6,000** for tax year 23/24.

The rate of CGT for disposing of a residential property in an estate is charged at **28%** However, this can be mitigated through appropriation.

Can You Use A Deed Of Appropriation?

If a property is expected to sell for a substantial gain, it is sometimes more tax-efficient to sell the property on behalf of the Beneficiaries, rather than the Estate. This is known as Appropriation.

This is beneficial if:

- The Beneficiaries are basic rate taxpayers, as the tax payable would be at a lower rate than it would be for the Estate (this rate is **18%**, compared to **28%**).
- The Beneficiaries are charities, as they are exempt from CGT.
- There is more than one Beneficiary entitled to the Residuary Estate, as there would be multiple annual exemptions to apply against the gain.

It is possible to appropriate a property to a Beneficiary with a legal document called a Deed of Appropriation. If the Beneficiary (or Beneficiaries) agree and have not utilised their CGT exemption, a Deed can be drafted.

The Deed would need to be signed and dated before the property is exchanged and completed. This would mean that the property was no longer held by the Estate, but instead held on behalf of the Beneficiaries.