

The Executor's Burden

New powers given to HMRC to penalise executors where incorrect or inaccurate valuations on the deceased's property are submitted even where the error was an honest mistake.



When someone dies any property that they own, or live in rent free under an interest in possession, will be part of their estate for inheritance tax purposes and HMRC will require a valuation of the property as at the date of death. HMRC recommend using a professional valuer to obtain an accurate valuation which should be a realistic 'open market' value which takes into account any required repairs that would reduce the value or distinguishing features that would increase the value.

Even if you obtain a number of valuations HMRC may still challenge the value that is disclosed. Last year HMRC challenged nearly ten thousand probate valuations of land, raising an extra £70 million of inheritance tax charges.

The exact number of disputed valuations was 9,368, according to official figures. Where a challenge was brought, the resulting re-valuation raised the house's estimated value on average by £24,600.

HMRC's new enforcement powers are further encouraging it to crack down on alleged under-valuations for probate. The agency is now asking personal representatives how much care they took when getting an independent valuation.

The implication is that penalties may follow where "reasonable care" was not taken with the valuation. If HMRC decide it was not, the estate and its beneficiaries could end up having to pay penalties of 30 to 100 per cent of the additional tax liability, on top of the additional tax due. This liability is **personal to the executors** and is not a debt on the estate which could leave a family member with an unexpected debt.

Advice should always be given to clients when they are choosing executors. There are many common hidden pitfalls and problems that most clients would be horrified to think that they are burdening their executors with.

Appointing a **professional executor** can release the family from this potential liability and allow the professional to take responsibility for ensuring that an accurate valuation is obtained and will be accepted by HMRC. If HMRC do deem the valuation to be inaccurate (despite taking all precautions) then the professional will have to meet the additional cost to HMRC themselves, not from the estate of the deceased. The English Will Company view is that the new powers enforced on executors are potentially onerous and therefore it may prove beneficial for clients to consider using a trusted probate provider such as SWW Trust Corporation instead.