



May 2013 Newsletter

Avoiding pitfalls when valuing shares for probate

A correctly prepared probate valuation is crucial in completing the Revenue affidavit form CA24. It can also be useful later in the administration and to the beneficiaries in calculating the capital gains tax

Our probate valuation service dovetails with the CA24. We separate the Irish listed and Irish un-listed shares, then separate the valuation too on the basis of currency and jurisdiction.

We check each holding with the registrar where possible to confirm the quantity at date of death. This is because the share certificates alone may not tell the full story. For example, there may have been a stock split and the company may not have issued extra share certificates – this happened with Greencore – or perhaps some of the certificates are missing or invalid.

We then apply the Revenue-approved formula to calculate the share values, displaying both the local and euro currency sub-total. This can provide an 'at a glance' snapshot to help decide whether the holding qualify for the relevant registrar's small estates procedure

However, several pitfalls lurk when preparing a probate valuation. For example, for inheritance tax purposes, the location of the shares follows the location of the registrar rather than the country of share quotation or company registration. This can create apparent anomalies such as Diageo being an Irish asset for capital acquisitions tax and Aryzta being an English asset!

Within the UK, some shares have registrars in Jersey. So if the estate is Irish resident and domiciled and the Primary Grant of Representation is in Ireland, you may need additional Grants of Representation in Jersey – for example, if you hold Experian to a greater value than the small estates threshold. The same applies in the other 'offshore' UK jurisdictions.

Our cover letter also says whether in our opinion you may have to get a foreign Grant of Representation for the probate valuation assets, and whether there may be a tax liability based on our limited information at the time.

If there is an exposure to US federal estate tax – the threshold is only US\$60,000 – we will point out that it is payable within 9 months of death unless an extension is filed within 9 months of the same date. This tax often catches out estates and when they file late, the IRS penalties and interest soon mount up.

We can also provide valuations at other important tax dates, such as the date the Grant of Representation issues, or for other special purposes such as for wards of court or inheritance tax planning.

Motive the key in antique and art valuation

People seek valuations for 4 main reasons: with a view to possible sale, for insurance, for tax and for dividing assets among family members. Requests can come from private individuals, private organisations, insurance companies and anyone acting in a fiduciary context such as lawyers, bankers and accountants.

Motives are probably as mixed as desired outcomes! Sellers tend to want a high valuation while those dealing with tax tend to seek the opposite. Valuations for insurance are still more complicated as there are different levels of cover: to insure at low auction level, at high auction level and at full retail replacement level.

Valuation providers include auction houses, specialist valuers and retail traders, and their motives vary too. For example, auctioneers tend to value with a view to possible sale, even if they've been asked to provide an insurance valuation, as that is how they really make their money. Specialist valuers may not sell but tend to value high because they never have to prove their opinion. Retail traders understandably tend to reinforce and justify the prices on their shelves – try getting one of them to buy the item you've just asked them to value for insurance!

Auctioneers, whose professional reputations have to stand behind their valuations, often reserve the right to alter their estimates once they have the item and have quietly tested the market. They also try to cover themselves through an estimate spread. For example, an estimate of £200,000 to £400,000 is not uncommon – a spread of £200,000!

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Hockley Smith Fine Art Consulting provides a wholly independent fine art service for companies, organisations and individuals who need impartial advice, or wish to buy or sell fine art and antiques.

Matthew R H Smith has over 24 colourful years' experience in the international art world - including auction, gallery and museum work, as a generalist, specialist and business development leader. Matthew is able to advise clients on all technical aspects of the art and antiques spectrum from furniture and jewellery to pictures and contemporary art. He has access to a worldwide network of supporting experts when needed and is comfortable communicating with and nurturing high net worth clients.

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Checking those missing asset registers pays off with US\$80,000 windfall

To prove it's well worth checking missing asset registers – as mentioned in the last newsletter – we uncovered a windfall when working on an estate that included mostly US shares. We'd already received quite a lot of re-issued dividend from transfer agents, but for thoroughness we decided to check the missing asset registers. After about an hour, we unearthed another US\$80,000. This comprised uncashed dividends and shares in a company that had been acquired over 10 years ago.

For an Irish resident, though, you could be dealing with several states to reclaim the assets, as missing assets revert to the state where they were incorporated. In this case we got lucky as 4 of the 6 shares were Delaware incorporated and there was no significant claim elsewhere.