

Deceased Estate Services

EXECUTING A DECEASED ESTATE

MAKING COMPLEX SIMPLE

You have lost a loved one and you're taking the first steps to finalise their financial affairs. Where to start? You will know there are certain legal and regulatory requirements to be fulfilled, but what exactly? How best do you manage the financials? The following information is designed to help you take those first steps and de-mystify the process. Talk to our estate experts, we'll do what we can for you to lighten the load and ensure that the financial aspects of the estate are properly addressed, just the way your loved one would have wanted.

The deceased may have been a Burrell client, you yourself may have a relationship with Burrell, or you may want to establish or renew a relationship with Burrell to help you sort the financial aspects of the deceased's estate. Regardless, you've come to the right place. Let's get started.

Upfront, there are a few items to be established:

- Are you the deceased's appointed Executor and properly authorised to manage the estate on their behalf?
- Did the deceased have a valid will? If yes, then is a Grant of Probate required? Or is a Small Estate Indemnity form sufficient?
- If the deceased does not have a will, do you need to apply for Letters of Administration?
- What assets and investments are held in the estate?
- Are certain assets within the estate held with a partner as 'joint tenants', for example, shares or property? If yes, it may be a relatively simple exercise to transfer the assets over, without probate, to the surviving party.
- Did the deceased have a broker with their shares registered on the ASX CHESS system or were their shares separately 'Issuer Sponsored'?
- Did the deceased plan the financial aspects of their estate and the treatment of their assets before their passing, i.e. estate planning? Did they have a nominated financial planner?
- Do you have a lawyer or accountant to help you? Lawyers can help you apply for a Grant of Probate or Letters of Administration. They can also help you with the transfer of the home and other real property by preparing and lodging the necessary transfer documents. If you don't have a lawyer and/or accountant, we can recommend one from our own preferred panel of estate specialists.

These questions may have raised a few more, so here's an explanation of some of the terms you'll come across.

Executor: When an individual dies, the person nominated as their Executor is obliged to look after the assets of the deceased person and pay the person's debts and generally wind up their affairs. The person to finalise the affairs is either appointed as the deceased's executor by the will or if there is no will, an application may be made to the Supreme Court for appointment as the administrator of the estate.

Grant of Probate: Probate is a Supreme Court order declaring a deceased's will valid and that the person/s deceased's wishes. The value of assets in the estate, the complexity of the will, and even the likelihood of a dispute over the estate, can all dictate the need for probate. To determine whether a probate is needed, the person appointed executor in the will must contact the organisations with which the deceased held assets to determine each organisation's requirements for transfer of those assets to the executor or the beneficiaries.

Letters of Administration: The same process applies where the deceased did not leave a will. Any close relative or a creditor of an estate can apply for a grant of Letters of Administration. The only difference is that the law determines who is to inherit the estate. Your lawyer can help you apply for a grant of administration.

Small Estate Indemnity: In relation to shares held by the deceased, where the estate is straightforward and no individual shareholding on the CHESS sub-register exceeds \$15,000, with combined holdings less than \$50,000, then probate is usually not required and the executor/s can sign a Small Estate Indemnity form to sell/transfer the shares as per the deceased's wishes. However, most estates will hold assets other than shares, so probate may be required anyway.

CHESS

(Broker Sponsored) and Issuer Sponsored: The two ways shareholders can register legal title to ASX listed securities are on the CHESS Subregister or Issuer Sponsored Subregister. The entire holdings of the two electronic subregisters make up the principal register of all shareholdings for a particular company. Irrespective of how

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you hold your securities, you will always need to trade through a broker.

Step 1: Making contact and locking shareholdings

When you notify us of the decease, we will require written advice and some initial verification like a funeral account, death notice or letter from your solicitor. It also helps to receive:

- a copy of the will if it is available.
- the name and contact details of the person representing the estate, for example, the executor, next of kin, or administrator, as well as the beneficiaries if possible.
- the contact details of any solicitor involved.

If Burrell is the deceased's sponsoring broker and the deceased's shares are on CHESS, we immediately change the name of the account to 'Estate of [deceased's name]' and lock the deceased's Holder Identification Number (HIN). Locking the estate's holdings serves to notify all registries with which the deceased held shares and also prevents:

- transfers or conversions from the deceased's CHESS holding.
- acceptance of a buy-back or an off-market takeover bid.
- withdrawal of a previous accepted buy-back or off-market takeover bid.
- change of a controlling participant.

For managed products, each managed fund must be notified of the deceased at which time they will confirm their holdings. In time, they will also require copies of the will, death certificate and probate before they will transfer the managed product to the estate. Fixed interests holdings are transferred in a similar way.

Step 2: Preparing the paperwork

To unlock the locked holdings, we require the documents listed in Table 1 overleaf to help you execute the deceased's estate. First, consider whether the estate's shareholdings are:

- held jointly or individually.
- subject to a will.
- 'broker sponsored' or 'issuer sponsored', and,
- the value of the deceased's shareholdings (so you can compare to the threshold).

Depending on the circumstances of the estate, there may be other paperwork to attend to, for example:

- **New CHESS agreement.** Once probate is received, we advise executors to sign a CHESS agreement and transfer the shareholdings out of the deceased's name and into the executor/s names as trustee. Similarly, if the estate is continuing, a new CHESS agreement will help to account properly for dividends in the name of the estate, the production of portfolios and minimise ongoing costs by proper set up.
- **Bank accounts.** Bank accounts solely in the deceased person's name will be locked until probate is granted. In the meantime, it is advisable to open a new bank account in the name of the estate to start putting money through and attend to any estate costs. The Bank of Queensland/ DDH Graham account, which yields a higher rate of daily interest, is ideal for this purpose. Alternatively, joint bank accounts can be transferred to the surviving party with a copy of a death certificate.
- **Changing the broker.** If the deceased's shares are sponsored by broker other than Burrell, you will need to enter into a CHESS agreement with Burrell, open an account in the executor/s names as trustee for the estate, and sign a Broker to Broker form. Subject to the existing broker's personal requirements, we can then arrange transfer of the CHESS registration.
- **Issuer Sponsored shares.** Should the deceased hold any Issuer Sponsored shares, we simply load them onto CHESS when we are in a position to unlock the HIN.

"Over the 26 years I have been investing through Burrell, they have helped to guide and manage my investment portfolios. I have found them to be trustworthy, reliable, helpful, friendly and courteous. At all times, I have felt they've had my interests at heart."

Neil Baumber, Burrell client

"Burrell is one of only two companies that we recommend without hesitation, based on trust, integrity and quality service to us for over 26 years."

Bruce and Joss Duffell, Burrell clients

How holdings are held	Value of holdings *	Documents required
Joint holding	Not applicable	<ol style="list-style-type: none"> 1. Original certified copy of Death Certificate (certified by a Justice of the Peace). 2. Letter from surviving party requesting transfer of registration to their name.
Individual holding with a will	Holding<threshold*	<ol style="list-style-type: none"> 1. Original certified copy of Death Certificate. 2. Original copy of the Will. 3. Original certified copy of identification of executors/beneficiaries. 4. Small Estate Indemnity form (supplied by Burrell). 5. Transmission/ transfer request (letter of direction from the estate's executors/administrators).
	Holding>threshold*	<ol style="list-style-type: none"> 1. Original certified copy of Probate including Will. 2. Transmission/transfer request (letter of direction from the estate's executors/administrators). 3. Original certified copy of identification of executors/beneficiaries.

Individual holding with no will	Holding<threshold*	<ol style="list-style-type: none"> 1. Original certified copy of Letters of Administration. 2. Statutory declaration by next of kin. 3. Small Estate Indemnity form (supplied by Burrell). 4. Transmission/transfer request (letter of direction from the estate's executors/administrators). 5. Original certified copy of identification of next of kin and beneficiaries.
	Holding<threshold*	<ol style="list-style-type: none"> 1. Original certified copy of Letters of Administration. 2. Transmission/transfer request (letter of direction from the estate's administrator/s). 3. Original certified copy of identification of administrator/s and beneficiaries (ASIC Section 1071B Statement form, if required).

* Thresholds

'Broker Sponsored' shareholdings

Single holding < \$15,000 or combined market value < \$50,000, as at date of death or date of transfer, whichever is the greater.

'Issuer Sponsored' shareholdings

Single or combined holdings < \$15,000 - \$25,000

Share registry threshold examples: Link Market Services \$15,000; Computershare \$25,000

Table 1. Documents you need to attend to the deceased's shareholdings.

the most benefit from them.

Step 3. Considering the options- so much more than just broking

Once we have the necessary paperwork, Burrell can work with you to execute the deceased's wishes. Depending on the size and circumstances of the estate, it may only require a quick transfer or sale of shares. However, in many instances, there is more to be considered and more that can be done to maximise the estate and any bequests. Here's how we add value:

We read the deceased's will purely from a financial planning and investment point of view.

Our Estates team will bring a financial planning and investment viewpoint that cannot be matched by a lawyer, accountant or advisor not practised in estates. We give expert consideration to shareholdings and assets and how to draw

We properly review the share portfolio and assets.

In reviewing the deceased's portfolio, we help you determine how best to treat the shares from an investment point of view. We can provide comments as to income yield, index weighting, and provide recommendations. We determine economic holdings e.g. if there are four beneficiaries and a parcel of say \$2000 in a particular stock, the estate would generally sell such a small holding as a \$500 holding which is generally uneconomic.

We also consider beneficiaries' holdings, e.g. if the beneficiary of an estate has a large holding in say Suncorp, and the estate has the same holding, it may be that the beneficiary would prefer to sell some of the shares to broaden the portfolio. And these sales may be more tax efficient in the name of the estate rather than in the name of individual beneficiaries.

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As wealth managers and financial planners, we are also well placed to work with the executors and beneficiaries to consider other assets held by the deceased including managed products, fixed interest holdings, your home and property investments, family businesses, and other assets like boats, marina berths and cars.



Burrell's Estates team: L to R anti-clockwise: Karen Adams, Lynda Myers, Alicia Kendall, Mari Ashted and Chris Burrell.

We consider the position of the beneficiaries.

We consider the beneficiaries, separately and as a group, including their existing wealth or personal holdings, their individual personal circumstances, as well as their ability to manage their bequest. Decisions have to be made as to whether the shareholdings and assets are held under the estate or transmitted separately to the beneficiaries.

What might suit one beneficiary may not suit another, some may want shares sold, some may have implications where they don't want their shares sold. We aim to ensure beneficiaries are treated equitably and that the surviving spouse or beneficiaries understand the shares, which are owned, and are comfortable with the arrangements made to manage them.

The most common misconception with deceased estates is that there is going to be a huge tax bill once the executor or beneficiaries realises all the deceased's investments. Decease in itself does not attract Capital Gains Tax (CGT) liabilities, rather than the general principle is that the beneficiaries of the assets of the deceased inherit the cost base of the deceased.

A 'cost base' is the price paid for the shares as opposed to the current market value. When shares are sold, tax has to be paid on the capital gain. If the shares are sold in the estate, the estate pays tax, but if the shares are sold by beneficiaries, each beneficiary pays tax.

Hence, the estate may be helpful to provide some measure of tax relief while further consideration given to the disposition of an estate's assets.

We ease the paperwork and create efficiencies with portfolio support.

The deceased may have had the foresight to have the details of their shareholdings captured in a portfolio service. If they have, it will make management of the estate a whole lot easier. If they haven't, then it is worth considering having the shareholdings captured in a portfolio services as soon as possible. Why?

- For accounting, taxation and broking purposes, beneficiaries will need to know what the cost bases are i.e. the price the deceased paid for the shareholdings. If the deceased is a Burrell client, we will have the contract notes and it won't be too hard of an exercise to capture the history. We generally don't charge any load-up fee for this service. Alternatively, it may be a time-consuming exercise of gathering the deceased's records and capturing the information in one place. Subject to the number and value of shares held, the portfolio service is a perfect solution.
- If the shareholdings are captured early enough, we can at least try to go back to the date of decease. The estate's accountant will have to lodge a 'date of decease' tax return. If this information is captured in a portfolio service, then the estate's accountant can simply print and lodge that information, saving time and money.
- The estate's executor will have to open a bank account to capture income derived from the shares. The portfolio service efficiently captures that income which is necessary for accounting.
- The deceased, executor or beneficiaries wish to maintain the shares in the estate's name, a portfolio service will very capably do the hard work for you. Similarly, the portfolio service is valuable if the beneficiaries have inherited an amount of shares and they have neither the time nor the expertise to track, review and manage them.

If it helps, we can provide ongoing advice and management.

One of our objectives with deceased estates is to ensure that the surviving spouse and/or beneficiaries both understand the shares, which are owned and are comfortable with the arrangements made to manage them.

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In some instances, under our Individually Managed Portfolio (IMP) service, Burrell manages portfolios on behalf of the surviving spouse or beneficiary should they not have the time, interest or expertise to manage the share portfolio day-to-day. Ask us for details if you want to know more.

Working with brokers, financial planners, lawyers and accountants – who does what?

As executor of the estate, you will want to make sure all aspects are covered properly, but without any double up by advisors or unnecessary cost.

From our experience, Burrell's broking and wealth management expertise complements the services provided by estate lawyers and accountants. As well as bringing a financial planning and investment perspective to the deceased's will, our immediate access to the CHESS Subregister as well as our Premium Portfolio Service also delivers great cost efficiencies. Repetition and tedious legwork, and therefore unnecessary cost, is eradicated.

For example, your lawyer/solicitor can help you apply for a Grant of Probate or Letters of Administration. However, lawyers are not able to deal with registries if stock is on CHESS. Alternatively, the lodgement of those grant papers with Burrell, and consequently on CHESS, is deemed to be lodged with every registry in Australia. The savings in time, cost and efficiency is clear.

Similarly, as an estate is a separate trust, it requires separate accounting. Like all accounting matters, costs are generally minimised if the accounting for the estate is established properly at its commencement. A key issue in respect of accounting is the maintenance or creation of records, which show the cost base for all investments and other material assets.

Where the deceased has only advised his/her accountant in respect of realised gains and losses, there is a task to complete a current investment ledger showing cost bases and indexed cost bases for purposes of capital gains calculations.

If such an investment ledger or a portfolio service has not been maintained by the deceased, the cost of recreating such records by the estate's accountants can create a paperwork nightmare and cost thousands of dollars in fees. It is undoubtedly more efficient to have this information captured on our Premium Portfolio Service: as well as the long-term benefits, the financials are automatically calculated and your accountant can rely on this information to lodge their returns.

Get started

You don't need to go it alone. Burrell is expert in the financial aspects of deceased estates, and our Estates team can bring clarity and direction to what can be a confusing and time-consuming process. Importantly:

- We are not just stockbrokers. Burrell's wealth management expertise delivers real value by providing a holistic view to the financial affairs and tax implications of a deceased estate.
- Because we are an ASX CHESS participant, there is no duplication or unnecessary cost in communicating with share registries. And because we are one of only two Queensland stockbroking firms who maintain their own in house stock clearing and settlement operations, there are no third party clearing houses, no delay, low cost, and a Burrell expert all the way through.
- Our Premium Portfolio Service makes it so much easier to track, maintain and manage the estate. It means less work for the estate's accountant and bring transparency and peace of mind to the executor/s and beneficiaries.
- Burrell can manage portfolios on behalf of the surviving spouse or beneficiaries should they not have the time, interest or expertise to manage the share portfolio day-to-day.
- Burrell is known for its integrity, personal approach and high level of client care.

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