

A Stealth Death Tax? The Lord Chancellor increases probate fees

The government ignored opposition and is going ahead with the proposed probate fee increase. For estates worth over £2 million the fee could now be £20,000.

What is probate?

Probate describes the legal and financial processes involved in dealing with the property, money and other assets of the deceased. This normally involves the appointment of an executor who will deal with the deceased's estate.

The government is to increase probate fees and thereby seeks to generate roughly £300m. The Joint Committee on Statutory Instruments raised concerns about the hike, in particular whether the proposed fees were proportionate. It questioned whether charging a fee for the administration of probate in excess of the cost of this service can really be termed a 'fee'. (See the report [here](#).)

More importantly, the fee increase can be seen as a further death tax by stealth, the introduction for which the Lord Chancellor has no powers. This is recognised in the report which sets out that "it is an important constitutional principle that there is no taxation without the consent of parliament, which must be embodied in statute and expressed in clear terms"

The proposed fee changes are as follows:

- £300 for estates worth more than £50,000 and up to £300,000
- £1,000 for estates worth more than £300,000 and up to £500,000
- £4,000 for estates worth more than £500,000 and up to £1 million
- £8,000 for estates worth more than £1m and up to £1.6 million
- £12,000 for estates worth more than £1.6m and up to £2 million
- £20,000 for estates worth more than £2 million

The current fees stand at £215 for individual applications, and £155 for those applying for probate through a solicitor. The rise will therefore amount to an increase between 40 per cent and 9,202 per cent. There is widespread disagreement with the fee increases. This is reflected in the results of the consultation, which received 853 responses of which 810 disagreed with the proposed fees. (See the Government's response to the consultation [here](#).)

The Ministry of Justice's response was that 'over half of estates [will] pay nothing and over 90 per cent pay less than £1,000'. The increase will take effect next month, though the precise date is yet to be announced.

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