

FIELD RESOURCE

# Selling a Deceased Estate in Queensland

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*A practical guide for executors and beneficiaries*

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Selling a deceased estate is a legal process layered onto a personal one. The executor is doing a job: collect the assets, pay the debts, and distribute what remains in line with the will or the rules of intestacy. But the property at the centre of that job is often a family home of forty or fifty years, full of belongings, memory, and unfinished conversations. This guide walks through the steps in the order they actually happen in Queensland, from the grant of probate through to settlement and the two-year tax window. It is general information, not legal or tax advice. Engage a Queensland estate solicitor and a tax accountant early.

## Authority to sell: probate or letters of administration

Before a Queensland estate property can be sold, someone needs the legal authority to deal with it. That authority comes from a grant issued by the Supreme Court of Queensland.

- If there is a valid will naming an executor, the executor applies for a Grant of Probate from the Supreme Court of Queensland.

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- If there is no will, or the named executor cannot act, an eligible person applies for Letters of Administration. The administrator then performs the same role as an executor.

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- A grant is generally needed where the property was owned solely by the deceased, or as tenants in common. Property held as joint tenants passes automatically to the surviving owner and usually does not require a grant.

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- Queensland Courts publish the application process and forms on their website. Most executors engage a solicitor to lodge the application.

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- Straightforward applications are typically issued by the Probate Registry within a few weeks of filing, but timing varies with caveats, missing documents or contested matters.

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- A property can be marketed before the grant issues, but the contract should be conditional on the grant being received. Most Queensland solicitors include a special condition to that effect.

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- Before settlement, a Form 5 Transmission by Death is lodged with Titles Queensland so the title is held by the executor or administrator as personal representative of the estate.

## Getting valuations for the estate

A property valuation is one of the first practical jobs an executor does. It anchors the estate accounts, sets a defensible reserve or price guide later, and creates the cost base for any future capital gains calculation.

- The estate valuation is a date-of-death valuation. It reports what the property was worth on the day the deceased passed, not what it would sell for today.
- Engage a certified practising valuer with experience in deceased estates. The report should be retrospective, dated as at the date of death, and signed by the valuer.
- A separate market appraisal from a local agent is useful when you are closer to listing. The appraisal answers a different question: what will it sell for in the current market.
- Keep the valuation report on file with the will, the death certificate and the grant. The accountant will ask for it when the estate tax return and any later CGT calculation is prepared.
- If the property has unusual features, heritage overlays or development potential, the valuer should be told. Those factors can move the date-of-death value materially.

## Family communication and consensus

The legal authority sits with the executor, but the relationships sit with everyone. The sales that go smoothly are the ones where the family talks early and writes things down.

- Confirm in writing who the executor is and what the will provides. Send a copy of the will to all named beneficiaries once the grant has issued.

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- Have an early conversation about the property specifically. Is anyone in the family interested in buying it. Are there belongings anyone wants kept. Is there a preferred timing.

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- If a beneficiary wants to buy the property from the estate, that transaction must still be at market value and properly documented. Get independent advice for both sides.

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- Where the family is large or distant, a single point of contact for the agent helps. The executor or a nominated family member fields questions and feeds information back to the rest.

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- Write down any decisions that affect the sale: agreed reserve, agreed timing, whether furniture is included, who collects keys after settlement. Verbal agreements get remembered differently months later.

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- If consensus cannot be reached, the executor still has the authority and the duty to act in the interests of the estate as a whole. A solicitor can help frame that conversation.

## Preparing a long-occupied home

Most estate properties have been lived in for decades. Preparation is more involved than a typical listing because there is usually a household to clear before the property can even be presented.

- Start with documents. Locate the title deed, council rates, water bills, insurance policy and any building or pool compliance certificates. The solicitor will need these.
- Keep the home insured. Vacant property insurance is different to standard cover. Tell the insurer the property is unoccupied and ask what conditions apply.
- Sort belongings in stages. Personal items and photographs first, items earmarked in the will second, items the family wants to keep third, then the rest.
- A specialist deceased estate clearance service can handle bulk removal sensitively. They will separate items for charity, auction and disposal, and provide an itemised report for the estate file.
- Be cautious with anything potentially valuable: jewellery, art, watches, collectibles, antique furniture. A separate valuation may be warranted before disposal.
- On the property itself, focus on safety and presentation. Roof, gutters, smoke alarms, pool fencing, electrical safety switches, any obvious leaks. A pre-listing building and pest report often saves time later.
- Cosmetic preparation is a judgement call. A long-held home with original features can market well as is to renovators. A tired home in a renovator suburb sometimes lifts substantially with paint, floors and a garden tidy. Ask the agent which lane this property is in before spending money.

## Choosing the agent: sensitivity matters

An estate sale has different demands to a typical campaign. The agent is dealing with an executor under time pressure, beneficiaries who may live interstate, and a property where the seller is no longer there to make decisions.

- Interview at least two agents. Tell them upfront that this is a deceased estate so they can speak to it directly.
- Look for an agent who has handled estate sales before. Ask how they manage communication with multiple beneficiaries, how they handle inspections in a property that is being cleared, and how they price a home with no recent renovation history.
- Sensitivity is not softness. The agent still needs to run a structured campaign, set a defensible price guide, and manage buyers firmly. What matters is that the family is treated as the client and not as an audience.
- Clarify in the agency agreement who the agent reports to. Usually it is the executor. All written updates should go to that person, who then briefs the family.
- Discuss method of sale openly. Auction, private treaty and expressions of interest each suit different estate properties. The right method depends on the property type, the level of buyer demand and whether there is a hard deadline driven by the estate.
- Settle on inspection rules early. Some families prefer that an inspection only happens with a family member or executor present in the first week. Others prefer the agent runs the property independently from day one. Both are valid.

## Contract and signing logistics

Estate contracts have a few extra moving parts. None of them are difficult if the solicitor is engaged early and everyone knows who signs what.

- The seller on the contract is the executor or administrator named as personal representative of the estate, not the deceased and not the beneficiaries individually.

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- The contract is usually conditional on the grant being received and the Transmission by Death being registered. The solicitor drafts the special condition.

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- If there are co-executors, all of them generally need to sign. Co-executors who live in different states or overseas can sign electronically or by counterpart with the solicitor coordinating.

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- The deposit is held in the agent or solicitor trust account in the usual way. It is released to the estate at settlement, not before.

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- Settlement proceeds are paid to the estate, not directly to beneficiaries. The executor then pays debts, expenses and any tax owing before distributing the balance.

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- Allow more time than a standard sale. Probate timing, interstate signing and the Transmission by Death step all take days, sometimes weeks. A 60-day settlement is more realistic than 30 for an estate sale.

# The capital gains tax position

The Australian Taxation Office allows a window for inherited property to be sold without capital gains tax in defined circumstances. The rules are specific. This section is a general outline only and must be checked with the estate accountant against the actual facts.

- For property the deceased acquired on or after 20 September 1985, an inherited dwelling can be exempt from CGT if it is sold within two years of the date of death, provided the property was the deceased's main residence just before they died and was not being used to produce income at that time.
- The two-year period runs from the date of death, not the date of probate.
- During the two years the property can be left vacant or rented and the exemption can still apply. The use during the two-year window does not break the exemption on its own.
- If the sale settles outside the two-year window, the ATO can grant an extension where the delay was caused by exceptional circumstances outside the executor's control. There is also an automatic extension in defined situations. The estate accountant should assess whether either path is available.
- Where the property does not qualify for a full exemption, a partial exemption may apply. The calculation depends on how long the property was used as a main residence versus other use during the relevant ownership period.
- If the deceased acquired the property before 20 September 1985 (a pre-CGT asset), different rules apply. Get specific advice.
- Practically, this means the timing of the sale is a tax decision as well as an emotional one. Agree the target settlement date with the executor, the solicitor and the accountant together.

## Pacing the sale, emotionally and practically

There is no medal for selling fast. The estates that produce the best outcomes, financially and personally, are usually the ones that move at a steady pace with clear milestones.

- Build a simple timeline. Grant of probate, valuation, household clearance, agent appointment, campaign, contract, settlement. Put rough dates against each step and revise as you go.
- Front-load the steps that take time. Probate, insurance and valuation can all begin in parallel in the first weeks.
- Plan around the two-year CGT window if it applies. Working backwards from the window gives the campaign a soft deadline rather than a panic deadline.
- Take breaks. Clearing a parent's home is exhausting in a way that is hard to predict. The work will still be there next weekend.
- Keep the family informed in writing. A short update every two or three weeks heads off most of the questions before they become friction.
- Lean on the professionals you have engaged. The solicitor, accountant and agent are paid to absorb the parts of this that the family does not need to carry. Use them.

*A deceased estate sale is rarely just a transaction. Done well, it leaves the family with a fair financial outcome, a clean legal close, and the room to remember the person whose home it was. General information only. For your specific circumstances, get advice from a Queensland estate solicitor and a registered tax agent. Useful starting points: Queensland Courts ([courts.qld.gov.au](http://courts.qld.gov.au)), Public Trustee Queensland ([pt.qld.gov.au](http://pt.qld.gov.au)) and the Australian Taxation Office ([ato.gov.au](http://ato.gov.au)).*

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