

A deed of variation, sometimes called a deed of family arrangement, allows beneficiaries to make changes to their entitlement from a Will after the person has died.

You might want to do this if you don't need all your inheritance and would like it to go to someone else. It can also help minimise inheritance tax.

Beneficiaries can only amend their own share of the estate. Sometimes other people, such as executors or other beneficiaries, also need to agree if they're affected by the change. Here we've answered some of the common questions people have about what you can and can't do with a deed of variation.

What Is A Deed Of Variation?

While you can't rewrite someone's Will after they've died, the law does let you change what you're entitled to from the estate. This is to allow flexibility in case circumstances have changed since the Will was written.

You can do this with a document called a deed of variation, alternatively known as a deed of family arrangement or deed of disclaimer.

This deed of variation details exactly how you want your part of the estate to be distributed instead. You only have the power to change your own share of the estate. If other people's shares of the estate will be affected, they need to agree the changes as well. Other people like executors, or charities, might need to be involved too.

You can also use a deed of variation when someone has died without leaving a Will.

Why Would I Need To Change A Will After Death?

Everyone's circumstances are different, but some of the main reasons you might want to change a Will include:

- You don't need all of your share and want it to benefit someone else
- You'd like your inheritance, or part of it, to go to charity
- The Will doesn't include children or grandchildren who were born after it was written
- As a family you'd like to even things out for all beneficiaries - for example, if one child has been left a smaller part than the others
- There's a more tax-efficient way to distribute the estate.

This is not an exhaustive list, and the particular reasons will be unique to you and your family.

What Changes Can I Make?

You are only allowed to make changes to your own share of the inheritance - the exact terms can be tailored to be as simple or complex as you need them to be. You might want to:

- Redirect specific assets to different people
- Give away your whole entitlement
- Set up a trust.

The person you give your entitlement to doesn't have to be named in the Will already.

Although you can only change your own entitlement, deeds of variation are often used to change the distribution of an estate to benefit everyone. This means all the beneficiaries might decide between themselves how each other's shares should be altered.

What Changes Can't I Make?

A deed of variation can't be used to:

- Change other people's inheritance without their consent
- Give yourself a larger share of the estate (unless it's being gifted by another beneficiary who agrees to it)
- Change executors or guardians named in the Will.

What Do I Need To Consider When Making A Deed Of Variation?

When putting together a deed of variation it's important to consider the effect on the estate as a whole. Reducing your share, for example, may mean the executors become liable for more inheritance tax, so they would need to agree too.

Before making any changes, it's essential that everyone understands the potential consequences and, where necessary, agrees to everything that is proposed. Potential problems could arise if one of the beneficiaries either doesn't consent or isn't legally able to - for example if they are still a minor.

Is There A Deadline?

You can make changes either before or after the executor gets the grant of probate to start administering the estate. For tax reasons, however, any changes must be made within two years of the person's death.

What If There Isn't A Will?

If someone dies without a valid Will, they are said to be intestate, and the rules of intestacy will apply to their estate. These rules are quite rigid about who can inherit and how much they receive, and don't necessarily reflect the complexity of most family circumstances.

You can also use a deed of variation to change how the estate has been divided up under the rules of intestacy, just as you would with a Will. The beneficiaries may choose to alter their entitlement in order to:

- Provide for someone not covered by the rules, such as unmarried partners
- Distribute the estate more evenly between them
- Mitigate inheritance tax

Can I Use A Deed Of Variation To Change Executors?

No, you can only use a deed of variation to change how the estate is distributed. You can't use it to remove or replace an executor.

Can A Deed Of Variation Help Minimise Inheritance Tax?

While deeds of variation are useful for many different reasons, they can often be an effective way of reducing both inheritance tax and capital gains tax liability.

You can adjust the distribution of someone's estate to make it more tax-efficient. For example, by:

- Making the best use of available reliefs and exemptions
- Spreading large amounts out more evenly between beneficiaries
- Passing your inheritance straight to your children so that they receive the full benefit
- Donating to charity

A deed of variation does not mean you avoid tax, but it can be a way for the loved ones of the deceased to take advantage of tax reliefs and make the most of their estate.

Any changes made in the deed of variation can be treated as if the deceased had written them into the original Will. In order to elect for Inheritance Tax and/or Capital Gains Tax treatment to apply, the deed has to specifically mention this.

The executor will need to provide a copy of the deed to HMRC so that the estate can be taxed correctly.

If you want to use a deed of variation to help reduce tax, it's essential to get expert legal advice to make sure you're doing what's best for the estate.