



Dealing with overseas assets in estate administration

How to overcome the pitfalls
and challenges



Title
Research

Introduction

When it comes to estate administration, there is usually a long list of tasks that need to be considered and completed before the process can be concluded, including gathering in all the assets. In some cases, this may involve dealing with assets held overseas.

Dealing with overseas assets can be complex as each country has different rules, forms and processes to navigate. Have you ever run into any difficulties when administering foreign shares or funds?

This guide will share how you can overcome the pitfalls and challenges when dealing with overseas assets. Read on to find out how you can administer foreign assets quickly and seamlessly.

In this guide, we'll cover:

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How UK residents become owners of overseas assets

Every life is a journey which can often take people all over the UK and overseas. UK-born citizens may start a life in another country, open a bank account abroad or invest in a non-UK company. So, when they pass away their assets could be located all over the world.

Additionally, even those that reside in the UK for their entire life could end up becoming the owner of overseas assets.

It can be common for UK residents to acquire foreign assets over their lifetime, especially US stock as UK companies are often acquired by US entities.

To put this into perspective, there were 173 acquisitions of UK companies by foreign entities for a total value of £60.1 billion in 2017. Whilst not all these acquisitions would have been for companies that had shareholders, each one of these acquisitions had the potential for millions of UK residents to become foreign shareholders.

An example of how assets can travel the world

John Smith was a retired Finance Manager who died in 2016. During his career, he worked for the American conglomerate 3M in their UK Head Office, as well as JPMorgan Chase & Co. in London. John accrued shares in both companies during his employment.

John was married to Jennifer, who was born and raised in Jersey before moving to the UK. Jennifer inherited property from her parents in Jersey and the couple visited frequently. As a result, John had opened a bank account in Jersey for convenience.

Additionally, John inherited GKN shares from his father who had passed away in 1996. John kept the shares and benefited from the 2001 GKN/Brambles demerger. His estate therefore included the GKN shares and the now Australian only listed Brambles shares.

The list below highlights the work involved to verify and sell the shares across multiple jurisdictions, as well as highlighting how one person can end up with assets all over the world:



1. **Sell the company shares John accrued during his employment with US conglomerate, 3M.**



2. **Retrieve the shares John obtained during his previous employment with JPMorgan, that had now escheated to the state of Delaware.**



3. **Resell the Grant in Australia and sell the Brambles shareholding.**



4. **Obtain a new Grant in Jersey and encash the Jersey bank account.**



5. **Sell the UK GKN shareholding.**

Pitfalls of overseas assets

It can be difficult to overcome the pitfalls and understand the paperwork required to navigate the red tape in any given country. If you get even the smallest detail wrong, your application can be rejected, costing you both time and money.

But firstly, what are the common problems when dealing with foreign assets?

1. Overseas Grant of Probate required (or reseal of an existing UK Grant of Probate)

A Grant of Probate or reseal of an existing UK Grant of Probate may be required depending on the jurisdiction. In jurisdictions such as Australia and Hong Kong, the Grant of Probate will need to be resealed to deal with the assets. In jurisdictions such as Jersey and Ireland, a new Grant will need to be issued.

2. Transferring or selling overseas assets

Institutions outside of the UK can be very hard to deal with, especially in the US and Canada. It can often slow down the estate administration process if you are not familiar with the process in the relevant overseas jurisdiction.

3. Closing bank accounts overseas

In some cases, it may be difficult to close a bank account and retrieve the funds. You may have to jump through hoops to comply with the bank's rules or there may be a language barrier.

4. Bankruptcy searches overseas

As best practice, it is wise to carry out bankruptcy searches against all beneficiaries before paying over any money to them. This is because there is a risk of Personal Representatives being held personally liable if they were to pay out inheritance to a bankrupt instead of their Trustee.

Bankruptcy searches vary between jurisdictions; some authorities offer free access to bankruptcy records (for example, New Zealand and Scotland), however, most jurisdictions require a specific court application to be made with certain information (this sometimes includes a release form signed by the beneficiary).

6. Attending court abroad

In some jurisdictions, including Thailand, Malaysia and Hong Kong, you may be required to attend the Court in person in order to obtain a Grant of Probate or reseal a Grant.

7. Business or charity beneficiaries located overseas

Similarly to closing bank accounts, you can run into issues when reaching out to overseas businesses or charities. You may have to follow certain business or charity procedures just to pay their inheritance. There may also be problems due to language barriers.

These problems can all be easily resolved when instructing Title Research. Read on to find out how...



Dealing with North American foreign shares and funds

In the US and Canada, it can be even more difficult to sell or transfer shareholdings and the process can even differ from state to state. In some cases, a Federal Transfer Certificate may be required to obtain tax clearance from the Internal Revenue Service (IRS), a Medallion Signature Guarantee might be needed for shares traded on the US or Canadian Stock Exchanges, or assets may have become dormant and therefore escheated to the state.

The same language does not mean the same service

Dealing with the same company and speaking the same language doesn't necessarily mean that you're going to receive the same service. Administering assets in the UK is completely different to dealing with US assets, even though many US Share Registrars have UK counterparts.

How the US process differs to the UK



UK

In the UK, Share Registrars will typically provide the date of death and present-day share balances. Additionally, they will accept a Court sealed Grant of Probate at any time. They can also reissue any uncashed cheques to the estate or a Solicitor.



US

Most US Share Registrars will not release any information without a Grant which can cause complications if you're dealing with a large UK estate and gathering evidence to prepare the IHT400 paperwork.

Additionally, US Share Registrars will only accept a Grant if it has been sealed and dated within the last 60 days.

Due to the US Securities and Exchange Commission's (SEC) reporting rules, cheques can only be reissued to the original payee. If you have cheques on an estate for a US asset that are made payable to the deceased and held in US dollars, it's unlikely that a bank will cash the cheques.

Dividends received on US assets are subject to a 30% Foreign Withholding Tax. There are steps you can take to reduce this tax down to 15% but generally, you must take into account that dividends owed to the estate will be worth 30% less than expected.

Fractional shares are common with US shareholdings and will continue to accrue during the estate administration. It can be a complicated process to work out what shares were held in the estate at the date of death and what shares have since been accrued.

Escheatment: What happens to dormant accounts?

All US states require brokerage firms and financial institutions to report unclaimed or abandoned accounts. Before the account can be considered unclaimed or abandoned, the brokerage firm or financial institution must make a diligent effort to locate the owner. If they are unsuccessful in their attempt, they must report it to the state where the account is held. The state then claims the account through the process of escheatment.

The escheatment process takes place when a US account becomes dormant for a period of time specified by state law, typically between three to five years. At that point, the 'personal property' is transferred to the appropriate State Comptroller's Office and usually liquidated. So a claim for escheated assets becomes a claim for cash monies, held by the state.

In our experience, the process of reclaiming escheated funds from a US state is often a lengthy and protracted process. Once the initial claims request form is submitted, we often find that it takes anywhere between 60-90 days for a Case Handler to respond with the second stage requirements.

Once the case has moved to this second stage of the process, we are required to submit the prescribed legal documentation. This task can vary in its timescales depending on what documents are required. After we have submitted all requested legal documents and the claim has been approved, we expect to receive notification that funds will be released within 90-120 days. This is often received by cheque to the estate.

On average, we have found that claims take approximately 18 months to two years for full completion, even with our extensive experience in dealing with escheated assets. We would predict that the process would take even longer for an Executor or Solicitor who is less familiar with escheatment.

How Title Research can administer overseas assets

Title Research are experts in repatriating assets and we use our extensive experience and global network of local professionals to deal with overseas assets quickly and seamlessly.

When assets such as funds or shares are located overseas, our experience translates into successful transactions. We understand the pitfalls and the processes, with on-the-ground experts to help sell or transfer the necessary assets in the quickest possible time.

Our longstanding experience means that we can quickly navigate the red tape in any given country and can help you:

- Transfer or sell overseas assets so that their value can be distributed to the beneficiaries.
- Deal with complicated North American assets, including obtaining tax clearance from the Internal Revenue Service and/or reclaiming escheated funds.
- Obtain a Grant of Probate or reseal an existing UK Grant of Probate.
- Close bank accounts in countries around the world as we have formed excellent relationships with local officials.
- Conduct global bankruptcy searches to protect Personal Representatives.
- Provide you with accurate date of death valuations (probate valuations) or add assurance that the shareholding still exists and forms part of the estate (probate valuation and verification).

With us as your single point of contact for the whole asset repatriation process, you'll save time and money. Many estates are formed in part by shareholdings and selling these quickly and efficiently can be an effective way of releasing funds into the estate in order to settle debts and other expenses.

At Title Research, we also deal with assets at home as well as overseas. Our UK share sales fast track service allows us to remit funds into your client account within nine working days of receipt of the fully completed paperwork from you.



Case studies

We recreate some of the most intriguing personal journeys, in order to bring their assets home for distribution to their loved ones in complex estate administration cases. The following stories highlight some of the fascinating cases we've handled around the globe.

Case study one

The challenging case of John Smith: Verifying and selling shares across multiple jurisdictions

On page 3, we shared how John Smith's estate covers multiple jurisdictions and how complicated asset repatriation work was required.

Whilst his solicitor had been able to handle the bulk of his UK estate, they were finding it difficult to deal with his shareholdings and overseas assets, so made the decision to instruct Title Research as experts in overseas asset repatriation. This case study highlights how we verified and sold shares across multiple jurisdictions:



Step 1: Selling the 3M shares

As part of John's employment, he participated in 3M's sharesave scheme. As of his date of death, John had accrued 359,234 shares in 3M. However, John's widow Jennifer also provided a recent statement showing 363,478 shares held in Employee Share Purchase Plan (ESPP) format.

The increase in the number of shares from the date of death to the present day suggests that there was a Dividend Reinvestment Plan. Whilst the Dividend Reinvestment Plan was still active, the number of shares would continue to increase. As dividends are reinvested back into the company, they accrue fractions of shares, rather than being paid as a cash dividend.

This has resulted in the shareholding being made up of whole (363) and fractional (0.478) shares. Fractional shares cannot be sold on the open market, and so to sell the shares, we needed to split the sale into two parts; whole share sale and fractional share sale.

In addition to the shareholding being made up of whole and fractional shares, the shares were also held in ESPP format. Shares held in ESPP format cannot be sold on the open market. Instead, they must first be converted into Direct Registration System (DRS) shares which can be sold on the open market.

Our first step was to cancel the Dividend Reinvestment Plan. Once we received confirmation of this, we converted the ESPP shares to DRS format. After the conversion, a new statement was issued. It's important to keep in mind that we can only sell shares once we receive an up-to-date DRS statement. When the DRS statement had been received, we were able to sell the whole shares. Upon receipt of the contract note for the whole sales, we liquidated the remaining fractional shares.



Step 2: Retrieving the escheated JPMorgan shares

John had accrued JP Morgan shares from his previous employment but these shares had escheated to the state of Delaware.

An account that has seen no 'activity' (responding to correspondence, cashing dividend cheques, buying or selling shares) is deemed to be dormant. Accounts that have been dormant for 3 - 5 years are at risk of escheatment. Escheatment is the act of an account being closed down by share registrars and transferred to the state in which the shareholding company was incorporated in. Shares that are transferred to the state are then liquidated and the sales proceeds are included in their public expenditure budget.

Whilst the escheated shareholding often cannot be restored, the monetary value of the escheated shares can always be retrieved. The state usually advises a timeframe of 90 days to restore escheated assets. However, for non-US shareholders, this can often take 18-24 months.

In order to retrieve John's escheated assets, we first obtained a claim number from the state office. Once we received the claim number, we prepared and submitted the claim form and all accompanying paperwork to the state office. They then reviewed the claim and sent through details of additional documents that they required. The claim followed a cycle of documents being submitted, reviewed, and additional documents requested. Once the claim was accepted, a cheque was issued for the value of the escheated shares.



Step 3: Resealing the Grant in Australia and selling the Brambles shareholding

As a Commonwealth country, Australia will reseal England & Wales Grants. Given the difficulties both in terms of distance and time-zones, Title Research have a localised agent who liaises with the Australian Courts and institutions.

The primary documents that we need to prepare is a Power of Attorney to give our Australian agent the authority to obtain a resealed Grant. The Power of Attorney also gives our agent the authority to sell the shareholdings once we have the resealed Grant, with little additional involvement from the client.

After liaising with our Australian agent, we prepared the Power of Attorney and sent it to the client to sign and return along with any supporting documents. These documents were then couriered to Australia and submitted to the Australian Probate Registry. After the Grant was resealed, our Australian agent registered the resealed Grant with the share registrar and facilitated the sale of the shares. The funds were remitted directly to the client, who also received a contract note and the original resealed Grant.



Step 4: Obtaining a new Grant in Jersey and encashing the Jersey bank account

Jersey is not British territory; it is a Crown dependency. As such an England & Wales Grant will not be accepted by Jersey institutions, and Jersey Courts are unable to reseal an England & Wales Grant. Instead, an application must be made to the Probate Registry for a Jersey Grant.

As John died domiciled in the UK and has a Will that does not specifically exclude the Jersey asset, a Fast Track application could be made. In order to obtain the Jersey Grant, an Oath was prepared and sent to the client to return with supporting documents. After all of the supporting documents had been collated, our Jersey agent submitted these to the Jersey Probate Registry. Once the Grant was issued, it was sent to the relevant institution to register. At this stage, the account closure forms were submitted and funds were remitted to the client.



Step 5: Selling the UK GKN shareholding

The final task was to sell the UK GKN Shareholding and due to our relationship with Equiniti share registrars, we have access to Equiniti's London share dealing team in order to sell any UK certificated shareholding – regardless of share registrar.

Our first step was registering the Grant with the share registrar. At this stage, if any missing share certificates are identified, Title Research will work with the share registrar and the client to arrange for the indemnity fee to be paid and the share certificate to be reissued. In this case, once the Grant had been registered and all share certificates were accounted for, the GKN shares were sold.

The challenging case of John Smith has highlighted how Title Research are able to assist our solicitor clients to deliver an accelerated estate administration service, regardless of the complexity due to our extensive expertise in dealing with numerous jurisdictions. If you'd like to find out more about our asset repatriation services, call our Client Services Team on **0345 87 27 600**.

Case study two

Dealing with North American assets

Read about how we sold Canadian shares in just nine months after our solicitor client had been trying to sell them for eight years...

Title Research were instructed to sell two Canadian shareholdings, on behalf of our solicitor client who was on the verge of retiring. The solicitor had been trying to sell the Canadian shares for eight years and hoped to do so before she retired.

The Canadian shareholdings were held in the joint names of three individuals, however two of these individuals had already died. Each deceased individual had appointed four Executors, additionally all of the share certificates were also missing.

Title Research worked closely with the client to explain the whole process and ensure instructions were included with all of the paperwork.

We provided updates every two weeks whilst the client worked with the nine individuals who needed to sign the paperwork. Once the paperwork had been signed, the missing share certificates were reissued and the shares were sold.

Our solicitor client had been trying to sell the Canadian shareholdings for eight years and Title Research managed to complete the work in just nine months. The client was incredibly complimentary and grateful. She could also retire with peace of mind that the estate was now closed.

This case highlights how Title Research can navigate the often complex process of dealing with North American assets for you. If you'd like to discuss how Title Research can help you administer foreign shares or funds, call our Client Services Team on **0345 87 27 600** or email **info@titleresearch.com**.



About Title Research

Ensuring accuracy, eliminating risk

At Title Research, we provide trusted genealogical research and asset repatriation services for legal professionals. Everything we do is designed to streamline estate administration, to take the effort out of locating the correct people or assets, and to mitigate against the risk of future disputes or complications. We can help you at every stage of your clients' estate administration process.

Our commitment to clarity runs through everything we do at Title Research and helps us provide you with the best possible service. While the areas in which we operate may be complex, our fees are transparent, our processes straightforward and our reporting unambiguous.

The expertise and experience we've gained over five decades means that we know where to find the people you need to trace and how to navigate even the most complex international processes. We believe it's our task to remove uncertainty so that you can complete your job with confidence.

Above all, we take pride in our work by providing an effective, comprehensive service that our clients can count on. Turn to us when you're looking for help with the estate you're handling.



Quick response time



Proven solution



Trusted & ethical processes



Fixed fee solutions available



Over 50 years' experience



International reach

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Our proven expertise can help you
with any estate administration challenge,
at home or overseas.

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