

Vontobel

Estate planning

Good for everyone



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Summary

Respect and memories

Everything starts with a personal approach

Our philosophy of work is intimately aligned with achieving our clients' goals. Therefore, we put a lot of emphasis on our personal conversation, where we carefully listen and undertake to understand your current circumstances, needs, and expectations. Only then can we bring our experience to bear by providing personalized solutions to suit your goals.

Inheritance law has clear rules, but it also offers some options for making customized arrangements. That is why it is always worth taking time at an early stage to think about your own answers to some far-reaching questions.

For example, can you freely dispose of your estate? Who will inherit in the event of your death? What arrangements do you need to make to provide financial security for your spouse or partner? What will happen if you do not make any arrangements?

We have precise knowledge of the law and will be glad to explain to you whether the legal regulations are in line with your interests and the right thing for you. Estate planning provides you with the security of a good feeling and a life without conflict and worry for those you love the most.

The starting point of all estate planning is the analysis of the current situation. What would happen if you passed away today and had not made any estate arrangements? Who would inherit and how much would it be? In this case, the law specifies who will participate in your estate and to what extent. Based on these findings, the question arises as to whether the legal regulations are in line with your wishes. If not, it is important to work out a solution that is legally compliant and reflects your needs as much as possible.

Division of marital property for spouses¹

If a married person dies, a division of marital property must first be carried out in order to determine the estate of the deceased spouse. Subsequently, the estate is distributed to the heirs as part of the division of the estate.

In the division of marital property, the assets of the spouses are separated and allocated to each individual spouse. According to Swiss law, the spouses are subject to what is known as regime of participation in acquired properties unless otherwise provided for. A distinction is made between the individual property of both spouses and jointly acquired property. In addition to objects for individual use, individual property includes, in particular, all assets that the respective spouse had already brought into the marriage and those that he or she received as gifts or inherited during the marriage. Assets acquired during the marriage—primarily the income from work and all pension income—are included in the jointly acquired property. If one of the spouses dies, the surviving spouse receives his or her individual property as a result of the division of marital property and also half of the jointly acquired property of both spouses. The estate of the deceased spouse thus includes his or her individual property and the other half of the jointly acquired property. These estate assets must then be distributed among the heirs in a further step.

Did you know that, on January 1, 2023, a revised Swiss inheritance law came into force? The most important changes in brief:

- No longer any compulsory parts for parents
- Reduction of descendants' compulsory parts
- Under certain conditions, spouses are no longer entitled to a compulsory part in the event of pending divorce proceedings
- Gifting is prohibited after conclusion of an inheritance contract, so long as not otherwise agreed (this also applies for inheritance contracts which were concluded prior to January 1, 2023)

Distribution of the estate

When a person dies, his or her estate consists of all his or her assets. In the case of spouses, the estate includes all those assets that were allocated to the deceased on the basis of the division of the marital property. In the case that the deceased did not leave any dispositions under inheritance law (will or inheritance contract), this estate is distributed to the legal heirs. Apart from a spouse, if applicable, the descendants inherit first and foremost. If there are no descendants, the parents' line comes into play. If there are no heirs in the parents' line, the grandparents' line inherits.

Compulsory parts

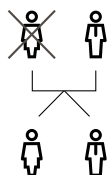
You have the option of deviating from the legal regulation and distributing your estate assets differently. However, there are limits to this that must be taken into account: Certain legal heirs enjoy compulsory part protection. This means that these heirs have a mandatory claim to a part of the estate assets. Heirs to the compulsory part are, in addition to a spouse if applicable, the descendants. Using a will or inheritance contract, you can set the heirs who are entitled to an inheritance share to the compulsory part and even exclude other legal heirs from the intestate succession. If heirs who are entitled to a compulsory part are involved, their compulsory part can even be withdrawn entirely by concluding an inheritance renunciation contract.

¹ Registered same-sex couples (called a registered partnership) are equal to married couples.

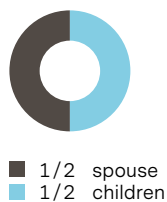
The inheritance shares and compulsory parts are as follows for married people:

HEIRS ARE

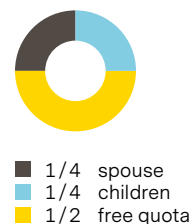
Spouse and descendants



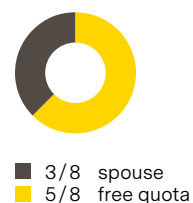
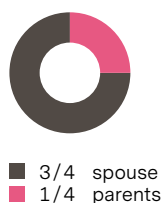
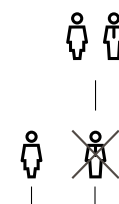
INHERITANCE SHARES



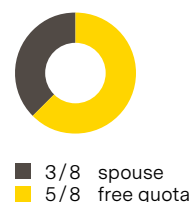
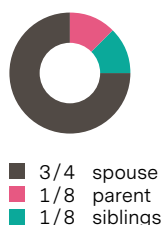
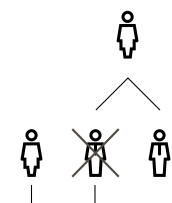
COMPULSORY PARTS



Spouse and both parents



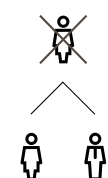
Spouse, parent, and siblings



The inheritance shares and compulsory parts are as follows for unmarried / single people:

HEIRS ARE

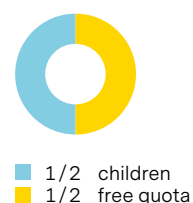
Descendants



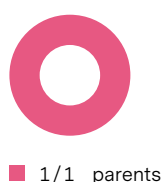
INHERITANCE SHARES



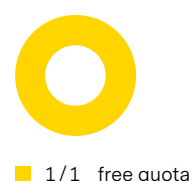
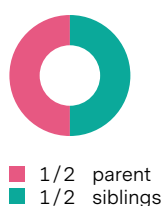
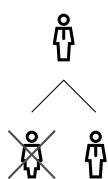
COMPULSORY PARTS



both parents



Parent and siblings



Instruments for estate planning

The law provides for two forms of expressing one's final wishes: a will (also called a testamentary disposition) and an inheritance contract. A will is a unilateral arrangement by the testator, that can be amended or revoked by him at any time. The inheritance contract has at least two parties and is a binding arrangement of what should happen after death. The inheritance contract can only be subsequently amended or revoked by all the parties involved. Unlike a will, it has a binding effect.

Securing the spouse

The wish is often expressed that the surviving spouse should be given the maximum benefit at the expense of the other heirs. The law provides for various possibilities depending on the situation. In addition to inheritance law solutions, often provisions can already be made at the level of marital property law (by means of a marriage contract), that have the effect of favoring the surviving spouse. This should be examined as part of individual estate planning.

Form

A will can be handwritten, provided with a place / date, and signed. A marriage and / or inheritance contract requires public certification, and two witnesses must also be present in the case of an inheritance contract. If you are unable or do not want to write the will yourself, it is possible to have it publicly notarized according to the formal requirements of the inheritance contract, also with the involvement of two witnesses.

Settlement of the estate / execution of the will

When a person dies, his or her assets pass to the heirs by law. The heirs form a mandatory community of heirs. Until the estate is distributed among the individual heirs, they are the joint owners of the estate. All assets belong to them jointly and all debts of the deceased pass to all heirs. For the liabilities, there is joint liability among the heirs by law. As part of the settlement of the estate, the debts must be paid off and the assets transferred to the heirs.

In complex circumstances, or in the case of heirs who cannot agree due to different interests, it is helpful if the settlement of the estate is carried out by a neutral executor. This person must represent the will of the deceased and is charged with administering the estate, paying the debts of the deceased, and carrying out the division in accordance with the instructions given by the deceased.

An executor must be appointed by the deceased person during his or her lifetime as part of a testamentary disposition. If the deceased has not appointed an executor, the heirs may appoint a representative. This representative administers the estate and assists the heirs in the settlement of the estate.

Advance care directive and living will (patient decree)

With an advance care directive, you can appoint one or several natural or legal persons to take care of your personal affairs (personal care, asset management, and representation in legal transactions) in the event of your incapacity of judgement. If there is no such arrangement, the Child and Adult Protection Authority (KESB) will establish a deputyship.

In a living will (patient decree), you can also specify which medical actions you agree or disagree with in the event of your incapacity to make decisions.

For further information, please consult our leaflet “Advance Care Directive and Living Will (Patient Decree).”

Summary

It is highly advisable to deal with your own estate situation in a timely manner. In particular, if the legal provision does not match your expectations, it is important to find and set up a solution that suits you best.

Our experts are at your disposal for individual advisory consultations and will assist you with topics such as:

- analysis of your current situation
- identification of possible desired scenarios
- support with preparing wills, marriage contracts, and/or inheritance contracts
- review of your existing inheritance arrangements in particular with regard to the revised inheritance law
- support with settling your estate (execution of wills/representation of heirs)

Legal notice
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