ZURICH

Issue 2024

How to bequeath things

Thomas Steiger
Head of Sales, Member of Executive Management

Dear Customer

In everyday life, it is natural for us to talk about big and small wishes and to act accordingly. For example: to organize a nice party, give gifts, move house or do something for our health.

But when it comes to expressing our wishes for the time when we ourselves no longer can or are no longer there, we find it much more difficult. No one likes to think about things like that, which is natural. But when the times comes, it will be really important for your loved ones to know exactly what your wishes were.

This brochure, which I strongly encourage you to read, will help you with this. It will help you get started with the topics of inheritance, care agreements and living wills, but it will also provide you with important tips and advice if you have already engaged with them. Since these issues are very relevant to you and your loved ones, we are of course here for you when it comes to the details.

Best regards

Thomas Steiger
Head of Sales, Member of Executive Management

Contents

Introduction

Should you make your own will – yes or no? Most people don't. In Switzerland, the law clearly stipulates who will inherit. What most people don't know is that, with a last will and testament or a contract of inheritance, you can distribute at least part of your estate according to your own wishes. And since January 1, 2023, this free portion has been even larger.

In this chapter you will learn what provisions Swiss law has in place for when someone has not made any arrangements for their estate. We also show you what leeway you have when it comes to bequeathing and how to take advantage of it.

The law settles your estate if you don't

An impressive 90 billion Swiss francs is inherited in Switzerland every year. However, 71 percent of the Swiss population have not made any binding arrangements for their last will and testament, i.e. have not drawn up any provisions for their death. In these cases, Swiss inheritance law determines what happens to the estate. It governs the relationship between the legal heirs, their rights to the estate and who inherits how much.

What constitutes the estate

The term "estate" refers to all of the assets of a deceased person – referred to in this context as the "testator." This includes residential property, jewelry, bank deposits and securities, but also debts. Second- (pension fund) and third-pillar (pillar 3a and life insurance) assets are not included. Important: Pillar 3b is included as part of the estate. It often takes quite a while for everything to be inventoried and for it to be determined what actually belongs to the estate, especially when someone was married or lived in a registered partnership. Ultimately, what can actually be inherited is calculated from the active assets minus debts, mortgages, funeral and legal expenses, etc.

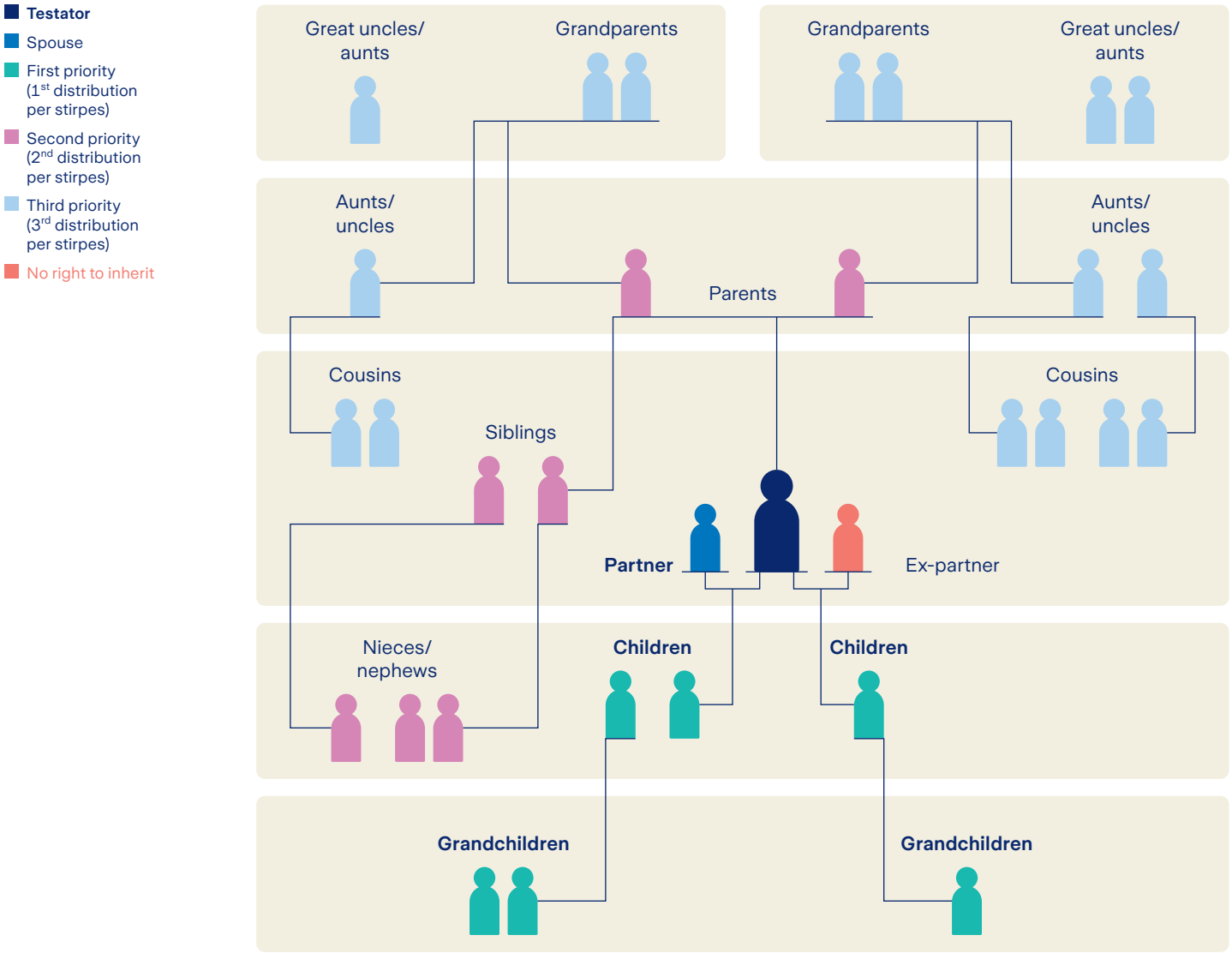
The legal order of inheritance

The legal heirs are the (registered) spouse, the family members in a defined order and – in their absence – the canton or commune of last residence. The closer the relationship with the deceased person was, the further forward someone is in the legal order of succession (system of succession per stirpes). This ensures that part of the inheritance always remains in the family.

Good to know

The Confederation does not levy taxes on inheritance, but the cantons – with the exception of Schwyz and Obwalden – do. The amount that the heirs pay varies from canton to canton. A certain amount is usually tax-free. In most cases, partners who are married or living in a registered partnership and their descendants are exempt from inheritance tax.

The legally valid order of inheritance is shown here as a family tree:



The following applies:

- Although not related by blood, **spouses or registered partners** always inherit. In contrast to this, cohabiting partners have no legal claim to inheritance. Divorced spouses are also not taken into account.
- In addition to the spouse, the testator's **own children** have priority in the order of succession (1st distribution per stirpes). As long as the children are minors, the surviving parent administers their inheritance. The proceeds may be used for the maintenance, upbringing and education of the children.
- Second-priority relatives (2nd distribution per stirpes), such as **parents and siblings,** only inherit if there are neither children nor children's children. If one parent is already deceased, this part of the inheritance passes to the siblings. Without siblings, the remaining parent inherits everything.
- If there are no parents, siblings or descendants of these, **third-priority relatives** inherit (3rd distribution per stirpes), such as grandparents.
- If the deceased person was single, childless and no longer has any living relatives, the inheritance goes to the **canton or commune of last residence.**

How the estate is distributed

The law defines who among these heirs receives what share of the estate. If you are married or live in a registered partnership, property law always takes precedence over inheritance law in the event of your partner's death. You will learn more about this in the next chapter ("Married couples and couples in a registered partnership"). The so-called legal shares of the estate are calculated in fractions of the total estate:

- Spouses or registered partners receive at least **50 percent** of the estate. If there are children, the other half of the estate is divided among them or their descendants. Without children, **75 percent** goes to the partner, **25 percent** to relatives (parents, siblings, etc.).
- If the deceased person was not married and was not living in a registered partnership but has children, they or their descendants inherit **100 percent.** If the person had no children, the estate is divided in half between the deceased's parents. If they are deceased, any existing siblings will inherit, otherwise nieces and nephews, etc. If there are none of these, their share of the estate goes to the grandparents, etc.

In the next chapters you will find various situations explained in more detail with the help of figures.

Question:
Are my stepbrothers or stepsisters entitled to inherit by law?

No, stepbrothers/stepsisters are not part of the legal order of succession. However, they can be taken into account in a will or contract of inheritance.

Distribute according to your intentions – the law sets the framework

Around 30 percent of the Swiss population feel it is important not to leave everything to the legal preset. They use the available leeway and influence who inherits their estate with a last will and testament or contract of inheritance. Beyond the legal heirs, they can benefit additional persons and organizations or change the distribution of their estate among their heirs. But even with a last will and testament or contract of inheritance, not everything is permitted when bequeathing. This is because inheritance law stipulates certain binding rules on who receives how much as a minimum.

The legal portion

Inheritance law protects direct descendants as well as married couples and registered partners so that they get a certain share of the inheritance in any case. This legally protected part is called the legal portion.

In principle, you cannot exclude the following from inheritance – unless they waive their right to the legal portion themselves:

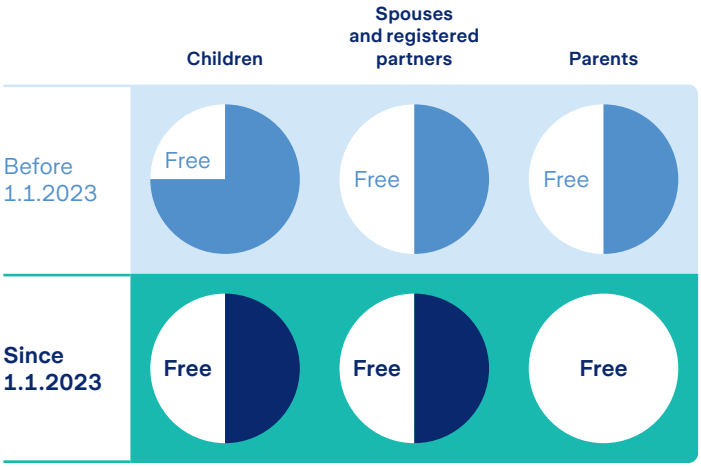
- Spouses or registered partners
- Children or, if they are no longer alive, their descendants

You can exclude other relatives, such as parents, siblings or cousins who are included in the legal order of succession, from inheriting by means of a last will and testament or contract of inheritance.

Amendments to legal portions since January 1, 2023

As of January 1, 2023, you have more leeway in the planning of your estate. In the revised Inheritance Law, the legal portions were reduced: Those of the children became smaller, and the parents' legal portions disappeared altogether. The advantage: A larger part of the estate can be distributed freely and, for example, used by unmarried couples to benefit each other.

The old and the new legal portion regulations in comparison:



Good to know

With a life insurance policy, you provide for your old age and can include benefits for disability and death. In the event of death, you have the option of financially considering one or more persons or an organization. With a written declaration in the insurance offer or a letter to the insurer, you can determine who is to receive the sum insured or parts of it. You can change this beneficiary at any time. Unlike the often lengthy process of determining and distributing a person's inheritance, insurance pays out the money immediately. This can be important, for example, when it comes to continuation of a business.

Last will and testament sorted before 2023? Check it now

If you made your last will and testament before 2023, you should review the arrangements. Do the arrangements still suit you, or would you like to distribute the shares of the estate differently? Your last will and testament or contract or inheritance is still valid, but under the new law there could be unintentional scope for interpretation – and this must be avoided due to the potential for conflict. After all, what does it mean if the children are to receive the legal portion according to the will? Does this mean the former or the new share, i. e. three quarters of the legal share or just half? Clarify such issues so that your last will and testament is implemented correctly according to your wishes.

Get some advice.

In this brochure we have summarized the most important basic information about inheritance law for you. However, especially in the case of complex family and asset relationships or corporate succession, we advise you to seek support from a specialist or a legal expert from a law firm or notary's office in your canton of residence.

In the next chapters you will find specific examples of what the distribution of an estate via a last will and testament or a contract of inheritance can look like.

Married couples and couples in registered partnerships

In a marriage or registered partnership, you are always entitled to inherit if the other person dies. How much you can inherit or bequeath depends on the marital property regime and other legal agreements.

The way in which you have legally organized your marriage or registered partnership has an influence on inheritance and bequests. Read below to see what differences there are. Following this, you will learn how the estate is divided up and how this looks, with specific examples.

Property law comes before inheritance law

Inheritance law favors married couples, whether same-sex or not, and couples living in a registered partnership. However, if your partner dies, inheritance law does not apply immediately. As in the case of a divorce or a change of marital property regime, the first step is the so-called marital property settlement. This clarifies what will be included in the estate. Depending on the marital property regime that applies to the marriage or that has been agreed upon, this will look different.

The three marital property regimes

"Marital property regimes" are a concept of marital property law in Swiss family law. They define what property – i. e. which items – belongs to whom and to what extent. During the course of a lifetime, various assets are usually accumulated. Even young people will have a bank account, furniture, clothes, jewelry, and maybe a car or a previous inheritance, etc. When couples get married, they bring these personal possessions into the marriage. In addition to this, they have what they earn and acquire together after marriage.

In Switzerland, couples can choose between three legal forms: **community of acquisitions, matrimonial property** and **separation of property.** In the absence of a binding provision in the form of a pre- or postnuptial agreement, the "community of acquisitions" share automatically applies in legal terms. Only with a marriage contract does the couple establish matrimonial property or the separation of property. Clarifying ownership, while not romantic, is very important. After all, if the couple gets divorced or one of them dies, their own financial security depends on such agreements.

Important terms: Own property and acquired property

Everything that was already in your possession before the marriage is legally called "own property." Own property differs from "acquired property." This includes, among other things, professional income and investment income earned during the marriage and still available at the time of separation or death. However, the other person's debts are not included. The law defines precisely what falls into which category.

Own property includes (Art. 198 SCC):

- All assets that belonged to a person before the beginning of the marriage or before the change in the marital property regime
- Everything that the person received free of charge during the marriage, e. g. gifts, inheritances and debt cancellation
- Any assets purchased with funds from own property, e. g. purchase of photographic equipment with proceeds from the sale of an inherited collection of pictures
- Increase in value of own property, e. g. profits on property brought into the marriage
- Items for personal use, e. g. clothes, jewelry, sports and hobby equipment
- Claims for satisfaction as the victim of a crime

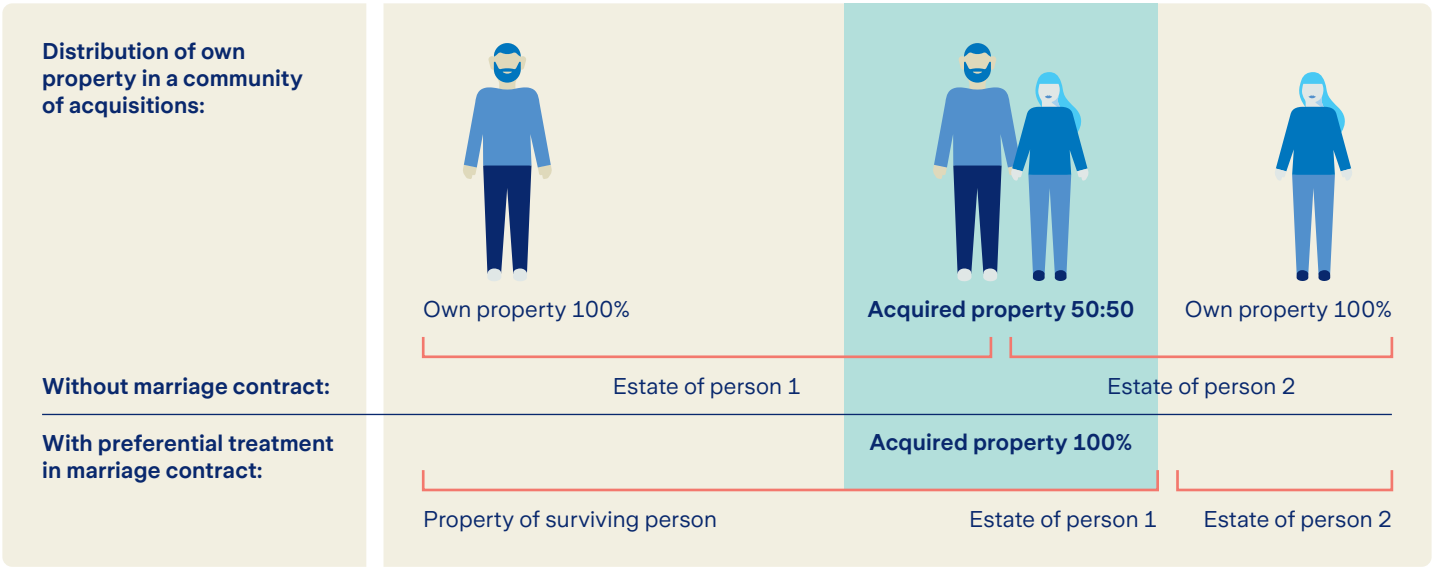
Acquired property includes (Art. 197 of the SCC):

- All assets acquired or earned for a consideration during the marriage, e. g. earned income
- All income from own property, e. g. interest from personal securities
- Compensation due to inability to work
- Increases in the value of acquired property
- All assets acquired from the acquired property
- Employee welfare benefits, social security benefits and social assistance benefits

Marital property regime 1: Community of acquisitions

Under the community of acquisitions, your own property remains in your possession. Even if you receive something as a gift or inherit something as a person who is already married, it belongs to you alone. What happens to marital assets in the event of death? **The acquired property is halved. The surviving spouse receives one half. The other half becomes part of the estate.** If you want to provide maximum protection for your spouse, you can do so with a marriage contract. By guaranteeing each other 100 percent of the acquired property in the event of death, only the deceased person's own property will later be part of the estate. Such a contract must be notarized in order to be legally valid.

In summary, the distribution looks like this:



Marital property regime 2: Matrimonial property

In the case of matrimonial property, no distinction is made between own property and acquired property. Regardless of when something was purchased or received as a gift, everything is basically common property, i. e. part of the "total property." It is owned by each of the spouses at a rate of 50 percent and is managed jointly. Only personal items such as clothing and jewelry are own property. In the event of a divorce, however, the provisions of the community of acquisitions are applied.

What happens if the partner dies? Half of the total property is divided among the heirs – unless contractually agreed otherwise.

Marital property regime 3: Separation of property

In the case of the separation of property, the property of both persons remains completely separate even in marriage, regardless of when something was acquired or given. Each person manages their own assets and property. In the event of divorce, common property such as household contents, apartments, cars or savings are divided. The separation of property can be agreed at any time during the marriage with a marriage contract, even at the time of actual separation.

And when it comes to inheritance? If the couple has always paid attention to the strict separation of property, it is already clear who owns what and what is part of the estate. The separation of marital property then ceases to apply.

Distribution of property under separation of property:

Own property 100%

Own property 100%

In the event of death:

Estate of person 1

Estate of person 2

Good to know

Couples in a registered partnership automatically have the marital property regime of separation of property. It is possible to switch to the community of acquisitions with the help of an asset agreement. Matrimonial property, on the other hand, cannot be agreed upon. If the registered partnership is legally converted into a marriage, the community of acquisitions applies automatically, as in the case of other married couples.

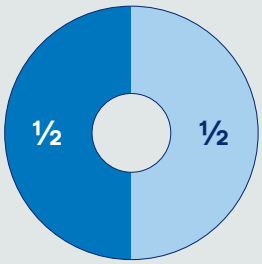
With or without a last will and testament: How the estate is distributed

Distribution of the estate is based on the legal order of succession described in the introduction. In the **absence of a last will and testament** or a contract of inheritance, the law provides for the following distribution.

Deceased person leaves behind:

- Spouse
- Children

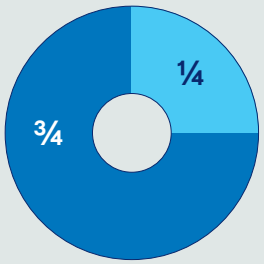
Estate goes to:



Deceased person leaves behind:

- Spouse
- Parents (if already deceased: siblings etc.)

Estate goes to:

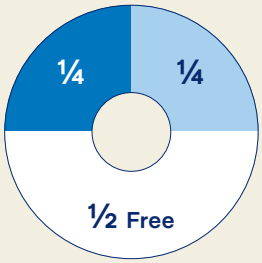


With a last will and testament or a contract of inheritance, legal and free portions are distributed as follows.

Deceased person leaves behind:

- Spouse
- Children

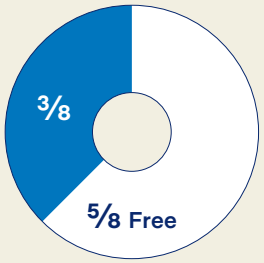
Estate goes to:



Deceased person leaves behind:

- Spouse
- Parents (if already deceased: siblings etc.)

Estate goes to:



You can give the free portion of the estate to stepchildren, godchildren, charitable institutions, etc. Especially in the case of blended families, this provides more opportunities to distribute the estate among loved ones, even if they are not related by blood.

Same-sex couples: What applies?

As of July 1, 2022, same-sex couples can marry in a civil ceremony. Legally, this means that the rules for married couples apply, including with regard to inheritance. Registered partnerships may be converted into a civil marriage or retained as they are. However, they can no longer be registered.

Inheritance stories

To illustrate how legal and personal arrangements for inheritance affect the estate and other persons, here are three examples.

Sarah and Konrad: family with small children

Sarah and Konrad have been married for almost 20 years and live with their twins in a spacious, rented house near Bern.

When Konrad's best friend has an accident on his bike, it comes as a shock. He survives, but Konrad and Sarah are preoccupied with the same thought: What if this had happened to one of them, and they had been less fortunate?

With the help of a specialist, they set about making plans for their estate. Sarah and Konrad married shortly after completing their education and brought 40,000 and 20,000 Swiss francs respectively into the marriage:

	Sarah	Konrad
Property and assets before marriage	CHF 40,000	CHF 20,000
Assets that have been acquired since then	CHF 400,000	CHF 220,000
Matrimonial property settlement with community of acquisitions	400,000 + 220,000 = 620,000 : 2 **= CHF 310,000**	

In the absence of a marriage contract or a last will and testament, the statutory provisions apply. The estate is divided up between the children and the surviving parent:

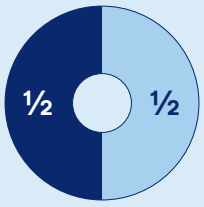
	Sarah	Konrad
Estate	310,000 + 40,000 **= CHF 350,000**	310,000 + 20,000 **= CHF 330,000**

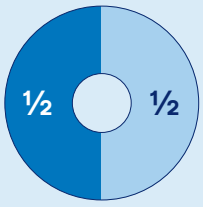
If Sarah dies, Konrad will receive half of the common property plus half of what Sarah already owned before the marriage, i. e. 175,000 francs. If Konrad dies, Sarah receives 165,000 francs because Konrad owned less than her before the marriage. The twins each receive a quarter of the estate of the deceased parent.

Sarah and Konrad want the twins, who are still minors, to be able to grow up in the house in any case. So they each make a last will and testament in which the children each receive the legal portion (one eighth of the estate per child). Their own legal share is also one quarter, so half of the estate can be distributed freely. They decide that the surviving parent should receive three quarters of the estate.

Without a last will and testament:

- Konrad CHF 175,000
- Children CHF 175,000

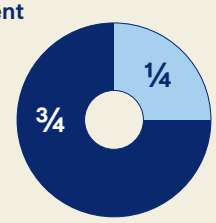


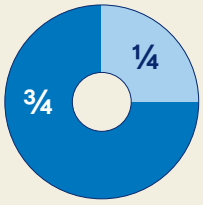


- Sarah CHF 165,000
- Children CHF 165,000

With a last will and testament and marriage contract:

- Konrad CHF 30,000
- Children CHF 10,000





- Sarah CHF 15,000
- Children CHF 5,000

They also expand their financial leeway even further: They conclude a marriage contract in which they benefit each other to the maximum extent with their total acquired property. This means that only what was there before the marriage goes into the estate. By having more money available and not blocked as their children's inheritance, they are better able to pay for family expenses, even without a partner.

Sarah, therefore, receives 15,000 Swiss francs from the estate and keeps the proposed 620,000 Swiss francs. In Konrad's case, he also has the proposed amount and three quarters of Sarah's own property at his disposal, i. e. 30,000 Swiss francs.

Inheritance stories

Tobias and Ramon: an organized start to the next phase of life

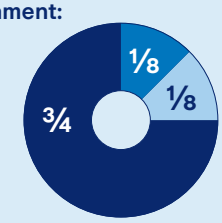
Tobias and Ramon have been a couple for five years and married recently. Tobias is the older of the two at just under 60. He would like to retire as early as possible to have more time for private projects.

Tobias starts reviewing his financial situation and also makes arrangements for his estate at the same time. Because Ramon and Tobias have agreed on the separation of property, almost all of Tobias' possessions form part of the estate. With the apartment, his car and his extensive watch collection, his assets amount to a value of around 2 million Swiss francs at the current time. Without a last will and testament, three quarters of it – i.e. 1.5 million francs – will go to Ramon, and one quarter – i.e. 0.5 million francs – to his parents. As his father has already died, his half – 250,000 Swiss francs – goes to Tobias' sister.

But with a last will and testament, Tobias can distribute his estate differently. He gives Ramon the legal portion of ⅜, leaving him 750,000 Swiss francs, plus what will come from the term life insurance, where he is also a beneficiary. Because his parents do not have a legal portion, Tobias now has ⅝ of his estate – i.e. 1.25 million Swiss francs – to dispose of freely.

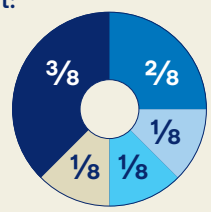
Without a last will and testament:

- Ramon CHF 1,5 Mio.
- Mother CHF 250,000
- Sister CHF 250,000



With a last will and testament:

- Ramon CHF 750,000
- Sister CHF 500,000
- Nieces CHF 250,000
- Museum CHF 250,000
- Organizations CHF 250,000



Tobias decides on the following distribution for the free portion:

- In addition to the legal portion, he wants to leave Ramon certain things, including a beloved ring, a watch and some pictures. He records all of this in his last will and testament.
- Tobias leaves 0.5 million Swiss francs to his sister, with the condition that she also uses this money to pay for everything his elderly mother needs until she dies.
- His two nieces will each receive 250,000 Swiss francs.
- With the remainder, Tobias benefits two non-profit organizations as well as the local museum.

Sergio and Anita: the blended family

Sergio and Anita are married (the second marriage for both) and have one child together.

Anita also has two children from her first marriage. Sergio's son from his first marriage also lives with them. In addition to this, he supports his disabled sister. Sergio and Anita are thinking about how to settle their estate so that everyone is covered in case something happens to one of them.

They agreed on matrimonial property in a marriage contract, so that Sergio's large estate will be included in the total estate upon his death and Anita will receive more.

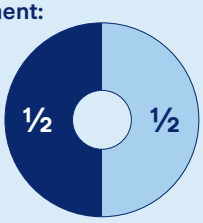
	Sergio	Anita
Property and assets before marriage	CHF 900,000	CHF 30,000
Property acquired during the marriage	CHF 200,000	CHF 10,000
Marital property settlement with matrimonial property	1,100,000 + 40,000 = 1,140,000 : 2 **= CHF 570,000**	

Without a last will and testament, the legal rules are applied. The estate – 570,000 Swiss francs in each case – is divided up between the children and the surviving parent. If Sergio dies, Anita will receive 285,000 Swiss francs, and his two children 142,500 Swiss francs each. If Anita dies, Sergio receives 285,000 Swiss francs, and her three children each receive 95,000 Swiss francs. This arrangement is okay for her. She does not make a last will and testament.

Sergio, on the other hand, is worried about his sister, who is left empty-handed in the legal order of succession. In his last will and testament, he leaves half of his estate, i. e. 285,000 Swiss francs, to Anita – as is the case if the legal rules are followed. For the other half of his estate, he wants to leave his children 71,250 Swiss francs each and his sister (no legal portion) one quarter, i. e. 142,500 Swiss francs.

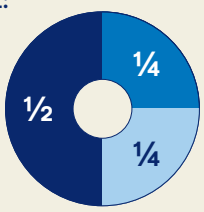
Without a last will and testament:

- Anita CHF 285,000
- Children CHF 285,000



With a last will and testament:

- Anita CHF 285,000
- Children CHF 142,500
- Sister CHF 142,500



Cohabiting couples and single people

Do you live with your partner without a marriage certificate, or are you single?

If so, you have a lot of leeway when it comes to inheritance.
This makes it all the more important to put your own wishes in writing.

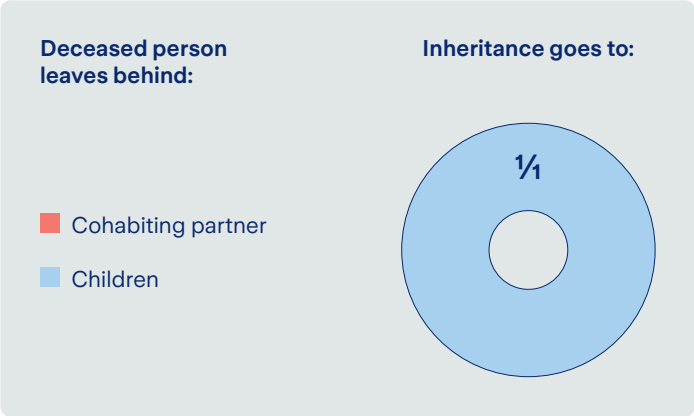
Good to know

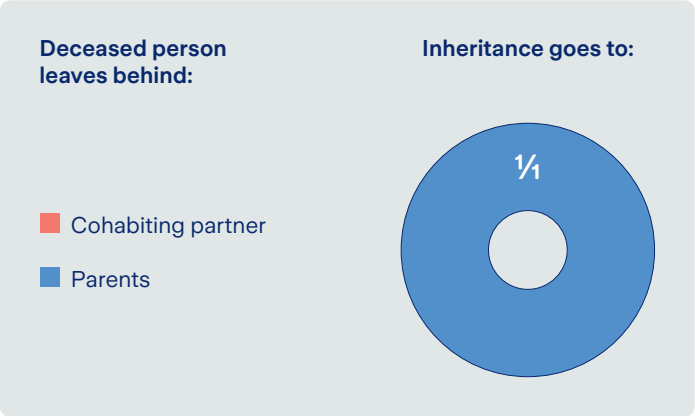
A cohabitation agreement can be used to settle many important issues that could lead to disputes at a later date: For example, the distribution of household expenses, who owns what, what to do with the apartment and common property in the event of separation, whether someone pays compensation to the other persons for household management, etc. If there are joint children, residential property or even a joint business, such a contract is definitely recommended.

No protection under inheritance law: Cohabitation

More and more people are living together without a marriage certificate. But despite the revision of inheritance law, unmarried couples or couples not living in a registered partnership still have no legal right to inherit and no protected legal portion. If one of the partners dies, the other will not receive any inheritance.

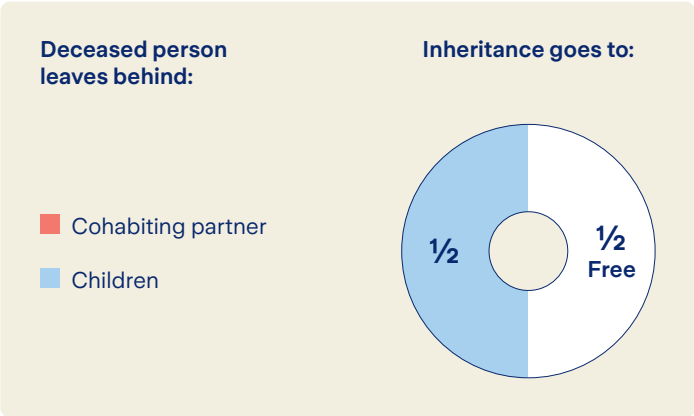
In the absence of a last will and testament or a contract of inheritance, the law provides for the following distribution

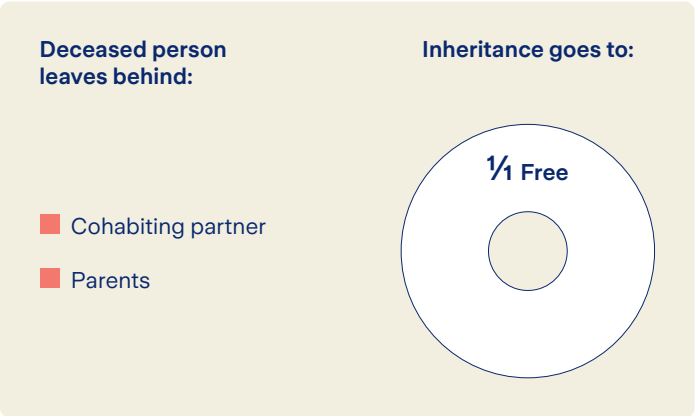




If the person's parents are deceased, siblings etc. receive their portion, as provided for in the legal order of succession. The good news: In the new inheritance law, the legal portions of children are reduced and those of parents are removed altogether. The free parts become larger.

If a last will and **testament or contract of inheritance** is drawn up, legal and free portions are distributed as follows.





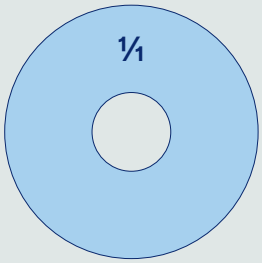
Those who have no children of their own may bequeath all their assets and property freely and may benefit persons or organizations according to their own wishes. But be careful: Cohabiting couples are treated differently to married couples not only in terms of inheritance law but also for tax purposes. Depending on the canton, the inheritance of the cohabiting partner is subject to inheritance tax of up to 50 percent, while the tax is usually waived for married couples.

Single people: Significant freedom

Under inheritance law, the same rules apply to single people as to cohabiting couples.
The **legal rules** are as follows.

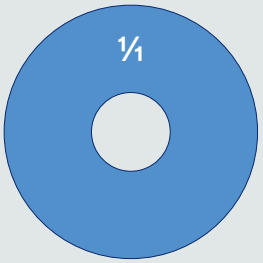
Deceased person leaves behind: Children

Inheritance goes to:



Deceased person leaves behind: Parents

Inheritance goes to:

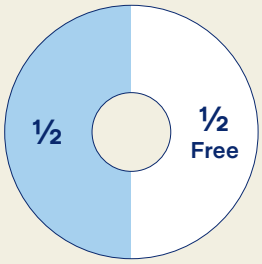


Remember: The legal order of succession determines who inherits. For example, if your parents are already deceased, your siblings or their descendants will inherit.

This is how the **legal and free portions** are distributed in the case of single people.

Deceased person leaves behind: Children

Inheritance goes to:



Deceased person leaves behind: Parents

Inheritance goes to:

If you have children, you can freely distribute half of your assets and property. Without children, you enjoy the greatest leeway when it comes to inheritance. With a last will and testament or a contract of inheritance, you have the opportunity to benefit whoever you wish: friends, god-children, charitable institutions, etc.

Inheritance stories

Esther and Günther: new-found happiness

Some years ago Esther lost her husband, who was sixty years old, to cancer. She has had a new partner for two years now, whom she met while traveling. They do not want to marry, but she has moved in with him. They change their wills in line with the new circumstances.

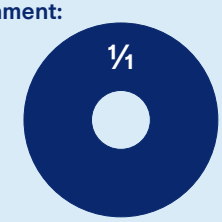
Esther has two grown-up sons and three teenage granddaughters. Günther has no children. His parents and older sister are already deceased. His younger brother lives abroad. Two nieces, the children of his sister, have regular contact with their uncle.

In her last will and testament, Esther sets out how she would like to bequeath her assets of 400,000 Swiss francs:

- Her two sons receive three quarters of her estate. What's more, they are registered as beneficiaries in her life insurance policy.
- She also wants to leave something to her three granddaughters: She determines a certain amount that they will receive once they have completed their training and education.
- What remains will be given to Cancer Support in memory of her late husband.
- She wants to leave Günther some personal items that mean a lot to her.

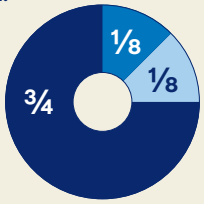
Without a last will and testament:

- Children CHF 400,000



With a last will and testament:

- Children CHF 300,000
- Granddaughters CHF 50,000
- Cancer Support CHF 50,000

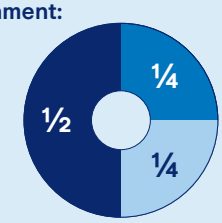


With Günther, the situation is different. Because his parents have already died, according to the law his brother inherits half of his fortune and his two nieces – instead of his deceased sister – share the other half. But that is not what Günther wants. Thanks to inheritances, he has accumulated a fortune of three million Swiss francs. In his last will and testament, he stipulates the following:

- Esther receives a quarter of his inheritance, or 750,000 Swiss francs.
- He divides a quarter between his brother and his nieces. All will receive 250,000 Swiss francs.
- 1.5 million Swiss francs are to go to a foundation that will manage the money and use it to support social and cultural projects.

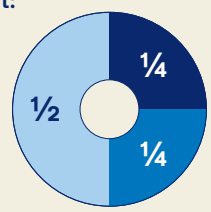
Without a last will and testament:

- Brother CHF 1,5 Mio.
- Niece CHF 0,75 Mio.
- Niece CHF 0,75 Mio.



With a last will and testament:

- Esther CHF 0,75 Mio.
- Brother/nieces CHF 0,75 Mio.
- Foundation CHF 1,5 Mio.



Inheritance stories

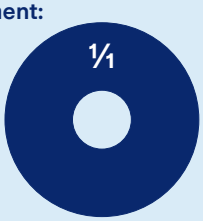
Elmar: the animal lover

Elmar remained single after his separation. His parents are deceased, he has no siblings, and he has little contact with the rest of his family.

He is thinking about what to do with his estate – which includes a small apartment and securities worth around one million Swiss francs. A keen amateur ornithologist, he decides that his property should be sold and go to animal welfare organizations. Part of the money – 125,000 francs – is left to his best friend. In his last will and testament, he names an executor to be sure that everything is carried out according to his wishes after his death.

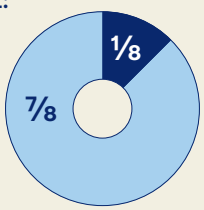
Without a last will and testament:

- Aunts/uncles CHF 1,000,000



With a last will and testament:

- Friend CHF 125,000
- Animal welfare CHF 875,000



How to communicate your wishes

An accident, a stroke or illness – slowly or all of a sudden, you may no longer be able to express your wishes. You should, therefore, record them in writing. It is also very important to tell those closest to you where these documents are located. After all, sometimes things have to move quickly.

Every person who is of age and of full legal capacity can make decisions relating to themselves and their assets and property. In the event that this is no longer possible, a number of documents are available that are intended for precisely this purpose. These include last will and testaments, care agreements and living wills. This way, your loved ones will know exactly what you want for yourself after an accident, in the event of illness or after your death. Marriage contracts and life insurance policies also have an impact on your estate and should, therefore, be stored securely, but always ready to hand.

Last will and testament or contract of inheritance

If you want to influence the legal distribution of your estate and decide for yourself what happens to it, there is no way around a last will and testament or a contract of inheritance. In this, if you wish, you can determine that your legal heirs receive the legal portion and distribute the free amount according to your wishes.

For example, you have the option of

- Taking loved ones into consideration, such as a cohabiting partner, stepchildren or godchildren, who are not provided for in the legal order of succession, or institutions such as a singing club or an animal welfare organization;
- Bequeathing special objects such as jewelry or collections, as well as assets such as money and real estate, to specific persons or institutions – this is known as a bequest or legacy;
- Formulating conditions attached to the inheritance. For example, any inheritance in excess of the legal portion is not paid out until initial training and education has been completed.
- Determining initial and substitute heirs. This allows you to control not only who receives an inheritance, but also what happens to it after that person dies. For example, if the remaining inheritance after the death of the life partner (initial heir) is to go only to common children (substitute heirs) instead of also to their children from a previous relationship.

The last will and testament and contract of inheritance should both be formulated as clearly and simply as possible – the less room for interpretation, the better. However, they differ in terms of the formal requirements that must be complied with in order to be valid. It is worth talking to a notary, for example. This ensures that all legal rules and formal requirements are met.

A personal, handwritten last will and testament

- Can be created alone;
- Must be handwritten by yourself from A to Z;
- Must contain a date and signature;
- Can be changed at any time and without consulting anyone;
- Can – but does not have to – be publicly notarized to confirm its authenticity;
- Should be easily accessible for relatives or deposited with the competent authorities at the place of residence.

If someone is unable to make a personal, handwritten will and testament, there are two other accepted forms: a public last will and testament and an oral one.

In a **public will,** people who cannot or can no longer read or write communicate their last will and testament. The document is drawn up by a notary public and confirmed by two independent witnesses.

An **oral or emergency will** and testament is used when someone is in danger of dying, for example, due to an accident or war. In this case, the last will and testament can be communicated to two independent persons who will immediately have these words recorded at the nearest court. If the person concerned is subsequently able to make a personal, handwritten or public will, the oral will loses its validity 14 days later. Oral will and testaments can be tricky. A notary should, therefore, be used whenever possible.

Another way of formulating a last will and testament is the more strictly regulated contract of inheritance:

A contract of inheritance

- Is a contract concluded between you and at least one other person;
- Must be signed by the contracting parties in the presence of two witnesses and then be notarized;
- Can only be updated or canceled if all parties to the contract agree.

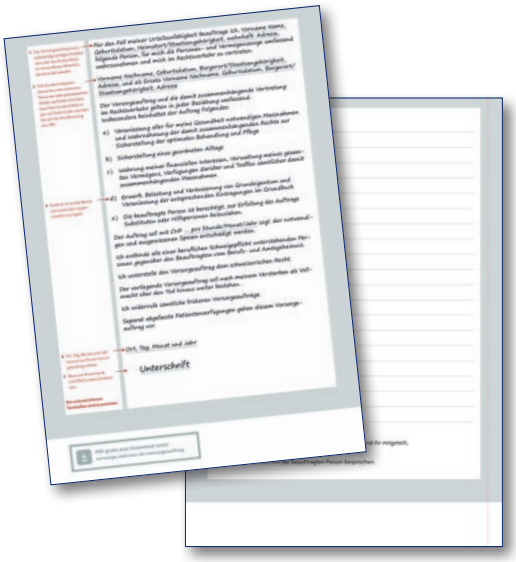
To create transparency, you should record any inheritance payments made in advance in the contract of inheritance. Heirs can also use it to state that they waive their legal portion. This can make sense if, for example, a family business is to be continued and one of the heirs needs a lot of capital quickly for this purpose.

Good to know

Unlike before 2023, once you have signed a contract of inheritance, you may no longer make gifts unless they are expressly permitted in the contract. Occasional gifts, which do not exceed the value of 5,000 Swiss francs, are still possible, for example at Christmas, on birthdays, for weddings, etc.

Do I need to appoint someone as the executor of my will?

If you fear that a dispute will break out within the community of heirs, or if family members live in different countries, an additional neutral person can help. In your will, you must designate someone for this purpose, for example, the person responsible for inheritance matters at your place of residence or a notary's office. Such an executor has the task of administering your estate, distributing it in accordance with your and the law's requirements, and settling any debts. After your death, this person will be informed of their appointment. They may reject the mandate within a period of 14 days. If they do not do anything, this is considered as consent.



Care agreement

If you are no longer able to act rationally, i. e. you have become incapacitated, you will need the help of others. This can happen after an accident, in the event of a serious illness or in old age. Even married couples, or couples in a registered partnership living in the same household, do not have the full right to represent the other person in such a situation. In the case of extraordinary investments, such as the purchase of a house, the consent of the child and adult protection authority will be needed (CAPA). In the case of unmarried persons, the CAPA automatically takes over representation if no care agreement has been organized.

With a care agreement you determine

- Who will help you with personal and property matters, for example housing, opening mail, asset management, etc.;
- Who legally represents you, for example with tax returns;
- Who makes medical decisions for you.

A care agreement, like a last will and testament, must be written entirely by hand and include the date and your signature. Or you can have the document publicly notarized by a notary public. Because this document is so important, you can register at the civil registry office of your place of residence, where it will be deposited for safe storage. Legal experts from law firms, notary's offices or legal consultancies can answer any questions you may have on care agreements.

Good to know

Powers of attorney, for example for a bank account, expire as soon as the owner dies. This protects the inheritance. The signature of all members of a community of heirs is needed to dispose of the money. If a person has been appointed as executor, they will have the sole right of disposal.

Living will

In a living will, you record which medical measures and treatments you wish to have or wish to refuse, if you are no longer able to express your wishes. You can also appoint a trusted person to talk to doctors on your behalf and to make decisions for you to the best of their knowledge and belief.

You can find a template for a living will, for example, on the website of the Swiss Medical Association FMH (www.fmh.ch). In any case, it is best to discuss any questions you have with a healthcare professional. Do not forget the date and signature. Approximately every two years, living wills should be renewed again with the date and signed. Where you keep such documents – with a doctor, with a trusted person or at home – is up to you. The important thing is that it can be found at the crucial moment. On the health insurance card of your health insurance company, the existence and location of your living will can be stored digitally.

Instructions in the event of death

In addition to formal documents, there is other information that will make upcoming tasks easier for your loved one. Write a list of people and institutions that should be notified after you have passed away. Leave details of insurance, bank accounts, subscriptions, social media profiles/passwords, etc. Perhaps you have wishes for your funeral? Then write these out as well.

Good to know

Instructions in the event of death are not a last will and testament and cannot replace one. A last will and testament governs your estate and must fulfill formal requirements. You can write down arrangements in the event of your death on a piece of paper without any specific requirements. Templates are available for this online.

Keep documents safe – but not too safe

Tell those closest to you where you keep such important documents. In addition to your last will and testament, care agreement, living will and instructions in the event of your death, this also includes documents such as cohabitation agreements, marriage contracts, life insurance policies, etc. Keep them safe but not too safe, so that they are available quickly when needed. For example, if you want to deposit your last will and testament at a bank, it should not be in a safe deposit box for valuables.

Estate planning: The sooner, the better

It is often difficult to plan for one's own death. Daniel Spühler, Head of Finance and Retirement Strategy Planning for the German-speaking region of Switzerland at Zurich, understands this well. Nevertheless, you should not wait too long, no matter how simple or complicated your family circumstances and assets are.

Daniel Spühler
Head of Finance and Retirement Strategy Planning German-speaking Switzerland

"I want to determine what I bequeath and to whom."

Daniel Spühler, have you already made a last will and testament?

Yes, I have. Personally, it is very important to me to settle such things early so that everything is the way I want it, when the time arrives.

Over 70 percent of the Swiss population has no "last will and testament." Why?

Death and dying are emotionally difficult topics that can be stressful. That's why we prefer to ignore such things. What's more, many trust that the legislator has already settled everything correctly. However, they are often unaware that there is a great deal of leeway. For example, I can take a charitable foundation or my godchild into consideration with a certain amount. Or leave a special object, such as a watch, to a specific person.

We are getting older all the time. When does it make sense to deal with the issue of heirs?

As early as possible! You can do this from as early as 18 years of age. You should – and we recommend this – update your last will and testament at least whenever something important changes in your life. For example, after marriage, after the birth of a child or after the purchase of residential property.

"There's a lot of leeway when bequeathing."

Why can't I take my time with this?

All of a sudden, a situation may arise in which we die as a result of a sport or traffic accident or an illness, or in which we become legally incapable of judgment. The most important points in the event of an incapacity to judge and act rationally can be addressed with a care agreement and a living will. What's more: No asset or family situation

is the same. For example, you may own a property financed with an early withdrawal from a pension fund. Or you may have a blended family with underage children. Perhaps you have made arrangements with a business partner. Only you know about certain aspects of your life. With simple measures you can ensure that your estate is passed on optimally and, as far as legally possible, in accordance with your wishes.

Are there often disputes regarding inheritance?

There are communities of heirs where everything goes smoothly, and others who cannot agree for a lengthy period of time. Inheritance is associated with many emotions, expectations and wishes. In the case of liquidity and securities, inheritance is relatively simple. But when it comes to valuable pictures or a holiday home in the mountains that several people are claiming for themselves, things usually get complicated. Such things are difficult to divide up, and the current value is often also difficult to determine. A tip in this regard: Record gifts or inheritance payments made in advance in writing so that everyone knows about them. Otherwise, this may lead to arguments later on.

The larger the estate, the greater the potential for arguments?

That is not always the case. I have heard of a case where the heirs argued over a refrigerator. One challenge is certainly the size and complexity of a community of heirs, especially in blended families. After all, at the end of the day, everyone has to agree. If there have been a lot of conflicts in the family in the past or if there are complicated asset issues, there is a lot of potential for disputes.

What should you do if the situation escalates?

I would then recommend using a neutral specialist, such as a distribution representative or a mediator with in-depth background knowledge of inheritance law, who can then provide assistance in standoffs. Someone who is not emotionally involved and who can highlight what a good solution looks like based on vast experience.

How should I proceed if I want to plan for my estate?

First I need to know: Whom do I want to receive protection and benefits? Perhaps a cohabiting partner or a non-profit organization. Once I know that, the second question arises: Is what I want actually possible? Clarify whether and how your inheritance wishes can be aligned with the legal order of succession. Married couples must take property law into account. This already governs whether a certain asset or item is included in a person's estate in full or only in part, or whether it goes directly to the spouse. Formal requirements must also be observed, for example with a contract of inheritance. For such contracts it is essential to involve a notary public.

What costs should I expect?

Costs can differ greatly. As a rule, professionals work on an hourly basis and charge for the time spent advising and drafting documents.

A lot of work! Why is it nevertheless worthwhile?

First of all, in this way you can determine for yourself how your assets will be distributed. Second, a precise arrangement also helps your loved ones in a situation that takes a lot of strength anyway. If the deceased person has made timely arrangements, it is a little easier for those left behind to handle all that needs to be dealt with.

> "For the surviving dependents, it is all a lot easier."

My parents made arrangements for their estate before 2023. Their last will and testament still applies in spite of changes to the law of succession, right?

Yes, the last will and testament is still valid. But when there is talk of legal portions, the new law automatically applies. That is why I recommend checking existing regulations to see if they still meet your own requirements. They should be formulated as precisely and simply as possible. They should be looked at with a professional.

Last will and testament done, so everything's okay, right?

Not entirely. In relation to retirement provision, which is not subject to the law of succession – in particular, pillar 3a and the pension fund – you can also enter specific beneficiaries, for example a cohabiting partner. That is why you should look at these things separately. Care agreements and living wills are also among the important arrangements to be made. Among other things, you use these to determine who makes decisions for you when you can no longer do this for yourself. And your closest surviving dependents obviously also need to know where to find all of the important documents and information if something happens. Sometimes things have to move quickly.

Appendix

Glossary

Technical jargon regarding the law of succession explained simply

Marriage for all

Since July 1, 2022, same-sex couples in Switzerland have been able to marry in a civil service or convert their registered partnership into a marriage. Since then, all couples have had the same rights.

Testator

A living person who is planning for their estate, or a deceased person whose estate is being distributed.

Succession

The time when a person's property becomes part of an estate, i. e. when the person has died.

Distributive share

Share in the estate that was either specified by law or defined in the last will and testament.

Marital property settlement

Process by which the respective property of the spouse is determined. This occurs in the case of separation, divorce or death, depending on the three marital property regimes: community of acquisitions, separation of property, or matrimonial property.

Legacy

Gift to a person or an organization.

Testamentary disposition

Last will in the form of a last will and testament or a contract of inheritance.

System of succession per stirpes

Legal order in which the relatives of a deceased person are taken into account for inheritance purposes.

Legal portion

Legally protected share in an estate. By putting a person who is entitled to inherit on the legal portion list, he or she will not be assigned more than the legal minimum.

Initial heir/substitute heir

Opportunity to determine in the last will and testament who will receive the remaining inheritance after the death of the initial heir.

Useful addresses and links

In the event that you are no longer able to express your will and wishes, you can find further information as well as sample templates and forms at the following institutions, among others. Special online services are subject to charges and sometimes offer additional services.

Swiss Red Cross – www.srk.ch

Pro Senectute – www.prosenectute.ch

Pro Infirmis – www.proinfirmis.ch

FMH, Swiss Medical Association (living wills) – www.fmh.ch

Regional KESB office

Competent authority at your place of residence

Notary offices, trustees and legal counsels

LegacyNotes – www.legacynotes.ch

Zurich Insurance Company Ltd
Hagenholzstrasse 60, 8050 Zurich
Telephone 0800 80 80 80, www.zurich.ch

ZH46228e-2409

ZURICH