

# Wills, probate and inheritance

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## Succession rules

### Intestacy

### Governing law

### Formalities

### Validity and amendment

### Estate administration

### Planning considerations

This article addresses the rules and procedures governing wills, probate and inheritance in Liechtenstein. [\(1\)](#)

## Succession rules

In Liechtenstein, a distinction is made between testate and intestate succession. The rules on intestate succession apply when a person dies without leaving a will. Testate succession is determined based on a will to which Liechtenstein applies the right to a compulsory portion. By drawing up a will, the testator can change the statutory right of succession and may thus benefit (charitable) institutions or third persons that do not belong to their family. However, children are entitled to a compulsory portion; if the deceased has no children, this entitlement passes to their parents and spouse.

## Intestacy

The Liechtenstein rules on intestacy provide for the following parentelic system of succession:

- The first line comprises the children whereby the law does not distinguish between legitimate and illegitimate or adopted children. The children inherit on a per-capita basis. However, with a view to the right to inherit, no kinship is created between an adopted child and their descendants and the other relatives of the adopting person.
- In case there are no descendants, the second line comprises the parents of the deceased and their remoter issue. Parents inherit in equal shares. If one parent is predeceased, their descendants inherit; if a parent dies without descendants, the remaining parent inherits in full.
- In the third line, grandparents and their remoter issue inherit after the deceased whereby the same rules apply as in the second line.
- The fourth line comprises the great-grandparents, but without consideration of their remoter issue. If no heirs can be ascertained, the estate falls to the state.

In addition to these lines, spouses and registered partners have a legal right to inherit. Their share depends on the presence of other legal heirs – for example, spouses or registered partners receive:

- half of the estate if they inherit with the children of the deceased; or
- two-thirds of the estate if they inherit together with the parents of the deceased and their descendants.

If the deceased has no parents, siblings or grandparents, spouses or registered partners inherit the entire estate.

## Governing law

If Liechtenstein courts handle estate proceedings and the will contains no provisions to the contrary, Liechtenstein law applies.

Regarding foreign wills, the capacity to testate and the will's validity is given if the criteria of one of the following laws are met:

- the law of the state in which the deceased was a national;

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- the law of the state in which the deceased had their last habitual abode; or
- Liechtenstein law, if Liechtenstein courts are dealing with the estate proceedings.

## **Formalities**

The person wishing to testate must have testamentary capacity. Minors under 14 years of age have no testamentary capacity. Minors up to 18 years of age may make a will only before the court. In addition, the will must clearly evidence the testator's intention to make a will.

Further, a will must be drawn up free of essential error, coercion or fraud. Wills can be made inside or outside a court and may be holographic or written by another person. In all cases, strict formalities must be observed. Holographic wills must be signed by the testator and wills written by another person must be attested by three capable witnesses, two of which must be present. Witnesses need not be aware of the contents of the will, but they must sign the document stating their capacity as witnesses. Wills are not public documents; however, they must be handed to the relevant municipal organs upon a testator's death.

## **Validity and amendment**

As unilateral statements which need not be accepted, wills are contestable. However, a will may also include a provision under which it cannot be contested lest the heir contesting it inherit only the compulsory portion. Besides coercion or fraud, wills are commonly contested because of the non-recognition of compulsory shares. Wills may be contested only after its testator dies.

A testator may amend their will at any point during their lifetime. If they destroy the latest version of their will but leave a previous version intact, the earlier version regains validity. An essential error invalidates a will.

A will's validity is determined by the observance of the formal provisions as well as the testamentary capacity of the testator (eg, their age, soundness of mind and will to testate, guardianship and lack of essential error).

A foreign testator may by last will determine that the succession into their estate shall underlie the law of the state of which they are a national or the law of the state of their last habitual abode. A Liechtenstein testator living abroad may determine by last will that the succession into their estate will underlie the law of the state of their nationality or the law of the state of their last habitual abode.

## **Estate administration**

### ***Appointment of estate administrators***

A testator may appoint an estate administrator in their will. It is the task of the estate administrator to ensure that:

- any conditions or wishes stated in a will are implemented; and
- legacies are handed over.

Estate administrators have different roles in Anglo-Saxon countries, as the devolution of the estate is dealt with by the courts.

### ***Consolidation and administration of estate***

Section 810 of the Civil Code stipulates the right of the identified heirs to:

- use the assets containing the estate;
- administer the estate; and
- represent the estate as long as the court does not decree otherwise.

Therefore, heirs may administer the estate and represent it before third parties without obtaining prior approval from a court.

### ***Distribution of estate to heirs***

In general, estates are distributed by a court-issued certificate of devolution. A legatee is not an heir but has a claim against the estate; once the estate has devolved, the legatee also has a claim against the heir. A testator may also appoint an estate administrator, who must ensure that any legacies are handed over.

### ***Settlement of decedent's debts and payment of taxes and fees***

At the moment of devolution the debts of a deceased pass over to their heirs. Their liability is unlimited if they have accepted the inheritance without any conditions; however, if they have accepted the estate on a conditional basis, their liability is limited to the sufficient availability of assets contained in the estate.

Liechtenstein has abolished any tax duties and inheritance taxes.

### **Planning considerations**

As in any civil law jurisdiction, individuals should consider forced heirship rights and matrimonial property rights during succession planning.

*For further information on this topic please contact [Johanna Niegel](#) at Allgemeines Treuunternehmen (ATU) by telephone (+423 237 34 34) or email ([office.frick@atu.li](mailto:office.frick@atu.li)). The Allgemeines Treuunternehmen (ATU) website can be accessed at [www.atu.li](http://www.atu.li).*

### **Endnotes**

(1) This article is part of a series that examines recent developments in the provision of private client services in Liechtenstein. For the other articles in the series, please see:

- "[Recent developments and tax considerations for private clients](#)";
- "[Private trusts, foundations and charities](#)"; and
- "[Compliance issues](#)".

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