

## **Inheritance and Probate in Germany**

German inheritance law provides that decedent's property passes directly to the heirs at the time of death. Under German law the same rule applies to decedent's obligations. Consequently, besides assets you may also inherit debts in Germany. But it is possible to disclaim an inheritance in Germany.

There is no US-style probate in Germany and, generally, there is no court supervised administration of decedent's estate in Germany. Under German law a will may name an executor and provide for subsequent estate administration, but most wills in Germany do not.

There are no living trusts under German law. Germany is a civil law jurisdiction which does not recognize trusts. There will be no trustee taking title to decedent's assets in Germany.

If you are an heir under German law depends on whether decedent left a will. If there is no will you may be an heir at law under German law of intestate succession. If there is a will, in most cases, you will only be an heir if decedent named you explicitly, or implicitly. If you are not an heir under the will, German law provides that you may still be entitled to a forced share of the inheritance, even if decedent intended to exclude you.

How do you find out that you may have made an inheritance in Germany? Anyone who is in possession or control of a will is required to submit it to the Court where decedent was domiciled. The Court will notify you if you are an heir under the will, or an heir at law. Even if there is no will heirs frequently have to apply for letters of inheritance which are necessary to transfer title to inherited property in Germany, and usually required to settle bank accounts and claims in Germany. Once the Court receives an application it will notify the heirs at law. If the identity of the heirs is not clear the Court may use investigators to find and contact possible heirs.

Once you have knowledge that you have become an heir at law, or under decedent's will, you have six weeks to disclaim the inheritance, if you have not already accepted it. Heirs who live abroad, or are abroad at the time of death, benefit from an extended period. If you live in the US you have six months to disclaim an inheritance in Germany. Please note that certain acts may imply acceptance of an inheritance under German law. If you accept an inheritance in Germany you may be personally liable for decedent's debts with your own assets.

Most likely, you will face inheritance tax liability in Germany. Germany, unlike the US, does not tax the estate. Each heir and each beneficiary is taxed individually. Tax rates and exemptions vary. They depend on the degree of kinship and the amount inherited. You will have to file an inheritance tax return in Germany.