

Preparing My Last Will and Testament

Checklist for International Families and Expats who are resident or own Assets in Germany

If you own assets in more than one country, or if your beneficiaries are resident in another country than yourself, chances are that the beneficiaries need to obtain probate in more than one country. Furthermore, the estate may be subject to various inheritance tax regimes.

Therefore, international families and expats should draft their Wills in a way which ensures a smooth transfer of the assets. British or U.S. Wills often create uncertainty in Civil Law Jurisdictions like Germany, Austria, Spain or France. Vice versa, German or French style Wills are often difficult to interpret in regards to the issue of who has become “heir” (Erbe). Thus, in order to avoid legal uncertainties or even disputes between the beneficiaries and executors, the Will should address the probate requirement of all jurisdictions involved.

Also, the testator should keep in mind the very different inheritance tax regimes of various countries. English solicitors or U.S. lawyers sometimes forget that there may be additional inheritance tax due in the country where the foreign assets are situated or where an individual beneficiary is resident at the time of the bereavement. Professional tax and estate planning can often mitigate the overall inheritance tax quite considerably.

We will be glad to advise with succession and IHT planning and assist you in drawing up a Last Will that fully meets your individual requirements and goals. The more precisely we are informed about your personal situation and your clear objectives, the better we can create a tailor-made Last Will.

This checklist is intended to facilitate an effective and individual preparation for our meeting. Also, the questionnaire ensures that all important aspects are considered and addressed in the Will.

You are of course not obligated to fill in the form before the meeting. According to our experience as international succession and probate lawyers it has, however, often been proven that the meeting is considerably more structured where the clients have already thought through their specific objectives and wishes. We believe this checklist is a good tool for this. If certain points in the questionnaire are unclear, we will be pleased to personally discuss and clarify them with you in the meeting.

Of course, all information you provide to us is protected by the attorney-client privilege and will be treated strictly confidential.

Testator	
First name	
Surname	
Maiden name, if applicable	
Date and place of birth	
Birth Certificate Registration Number (if available)	
Main Place of Residence / Domicile	
Address	
Nationality / if more than one please list all	
Phone / fax	
E-Mail address	
Further places of residence in other countries (if applicable)	
Any place of residence abroad in the past? If so, where and until when?	

<p>Marital status</p>	<p><input type="checkbox"/> unmarried <input type="checkbox"/> divorced <input type="checkbox"/> widowed</p> <p><input type="checkbox"/> married. Please insert date of marriage and the place where the marriage took place / was registered.</p>
<p>Matrimonial property regime (if married)</p>	<p><input type="checkbox"/> married without marriage agreement / pre-nuptial</p> <p><input type="checkbox"/> married with marriage agreement / pre-nuptial. Please provide the date and a copy of the marital agreement.</p>
<p>Are you interested in drawing up a joint or mutual or mirror Will? Or do you wish to create a Trust?</p> <p>Note: The requirements for this are very different between Common Law and Civil Law Jurisdictions. Needs to be discussed in detail.</p>	<p>If yes, please give a brief description of your intended goals.</p>
<p>If applicable, information about previous marriage:</p> <p>Is prior spouse still alive?</p> <p>Are there any existing separation agreements?</p>	<p><input type="checkbox"/> no</p> <p><input type="checkbox"/> yes: Please provide a copy.</p>
<p>Is there already an existing Will / testamentary disposition?</p> <p>If applicable, is there any existing Last Will for assets abroad?</p>	<p><input type="checkbox"/> no</p> <p><input type="checkbox"/> yes: Please provide a copy.</p>
<p>Do you wish to entirely or partially repeal or revoke your previous Will(s)?</p>	
<p>Do you have future plans to relocate to another country / move abroad ?</p>	<p><input type="checkbox"/> no</p> <p><input type="checkbox"/> yes: Please describe.</p>

Do you have children born out of wedlock or children from a previous relationship / marriage?	<input type="checkbox"/> no <input type="checkbox"/> yes: please give details
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Children	Child 1	Child 2	Child 3
First name(s)			
Surname			
Maiden name, if applicable			
Date and place of birth			
Address			
Other parent			
Said other parent's date of birth and address			
Do you wish to make Guardianship Instructions (Vormundschaftsanordnung), i.e. arrange for who shall be allowed to care for the children in case the parent(s) pass away while the children are under-age?	<input type="checkbox"/> no <input type="checkbox"/> yes: Please provide details.		

Other wishes regarding the children?	
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Regarding the following information on your assets: Please note that you may, of course, also provide any other form of estate inventory. The below shall merely serve as a checklist.

Testator's Assets	
Real estate / immoveable property in Germany (Local court, land register of the local court, sheet, etc)	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Real estate / immoveable property in other countries (Lot, plat book, pages of the public records, etc)	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Significant share holdings, partnership interest etc	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Financial investments / shares	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details

Life insurance policies	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details <input type="checkbox"/> Is there a designated beneficiary? If yes, who?
Bank accounts / cash	<input type="checkbox"/> no <input type="checkbox"/> yes, where located?
Securities/ Pension plans/ Annuities	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Inheritance recently made or expected in the near future?	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Debts, such as Loans / Mortgages / Guarantees / Promissory notes etc	<input type="checkbox"/> no <input type="checkbox"/> yes, please provide details
Total value of estate (approximately). Also per country.	

Beneficiaries

How and to whom do you wish to distribute your Estate?

my spouse / life partner

my children listed below:

other persons and/ or institutions/ charity, namely:

Do you wish to impose certain restrictions, establish a Trust etc.?

Do you wish to make specific gifts to certain persons or institutions?

In case the beneficiaries do not survive you, who do you wish to designate as the alternative beneficiaries?

NOTE: Please note that under German Succession Law the surviving spouse and certain close relatives (children, grandchildren and parents) are entitled to an Elective Share / Compulsory Share (Pflichtteilsanspruch). Thus, if you want to disinherit your spouse, offspring or parents, we should discuss the implications.

Personal Representative / Executor

Who shall act as Executor? (Discuss differences Germany and Common Law Jurisdictions)

Has the designated person agreed to act as Executor?

Who shall be the substitute Executor(s)?

Other Arrangements / Living Trusts / LPA	
Are you the executor/ trustee of anyone's Last Will? For whom?	<input type="checkbox"/> no <input type="checkbox"/> yes: Please provide details
Have you set up or do you consider to set up a living trust? (avoid probate and provide privacy)	<input type="checkbox"/> no <input type="checkbox"/> yes: Please provide details

<p>Have you considered giving a Lasting Power of Attorney to someone over your affairs in certain situations (financial or health related)?</p>	<p><input type="checkbox"/> no <input type="checkbox"/> yes: Please give details</p>
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Inheritance Tax / Allowances / Donation	
<p>Tax situation in various jurisdictions / tax resident in various countries etc</p>	
<p>Have you made any significant lifetime gifts?</p>	<p><input type="checkbox"/> no <input type="checkbox"/> yes, please give details</p>
<p>Have you created any (Living) Trusts / arranged for payables on death etc?</p>	<p><input type="checkbox"/> no <input type="checkbox"/> yes, please give details</p>

Miscellaneous

Other concerns / remaining questions:

Draft to client	<input type="checkbox"/> by regular post <input type="checkbox"/> by telefax <input type="checkbox"/> by email <input type="checkbox"/> to be picked-up
Attorney fee	<input type="checkbox"/> Agreement on fees based on time is requested <input type="checkbox"/> Statutory fees pursuant to the Lawyers' Compensation Act (Rechtsanwaltsvergütungsgesetz)
Client's Signature	

Please complete the questionnaire and send it to this address:

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Thank you for your trust in our firm!
Graf & Partners LLP