

Wills and Estate Administration

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Author: Zoe Christodoulou

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Inheritance and Succession Law in Cyprus

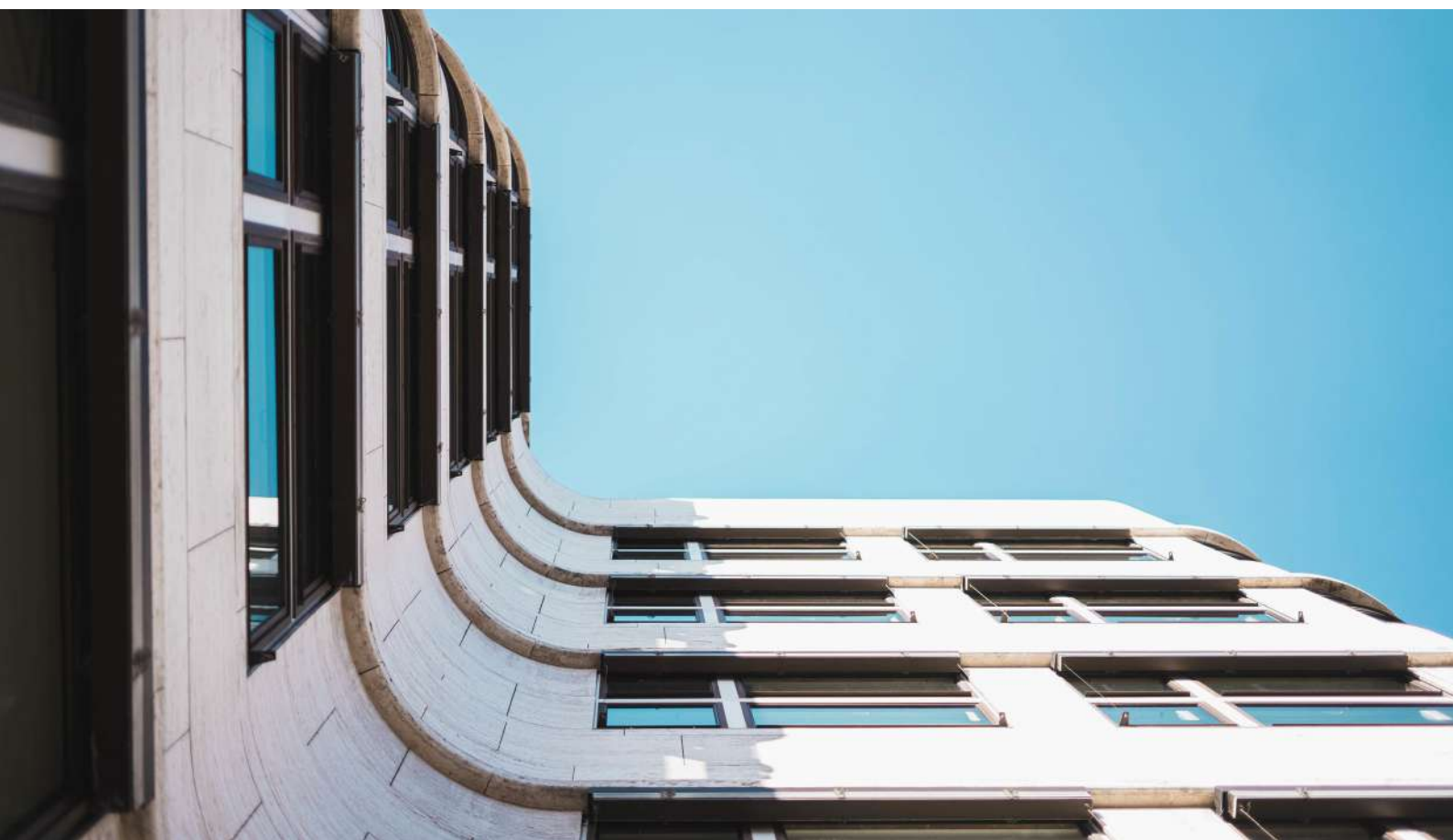
Cyprus inheritance and succession laws apply where the testator, at the time of his/her death, was domiciled in Cyprus, or where the testator has immovable property situated in Cyprus.

Types of Domiciles

Under the Wills and Succession Law Cap. 195, as amended (Cap. 195), domicile is a determining factor as to whether Cyprus succession laws shall regulate the estate of the testator.

There are two different types of domiciles: “domicile of origin” and “domicile of choice”. The domicile of origin refers to the place where the testator was born, while the domicile of choice is the country where the testator moves to and wishes to live in permanently (prior to his/her death). In this respect, when a person wishes to make Cyprus his/her domicile of choice, he must establish physical presence and demonstrate sufficient intention of making Cyprus his/her permanent place of residence. Notwithstanding the above, the domicile of origin prevails and is retained until a domicile of choice is in fact acquired.

Note: Domicile of origin and domicile of choice are different to the tax domicile, although establishing a tax domicile in a country other than the country of origin shall be a contributing factor to establishing a domicile of choice.



Disposable and Statutory Portion of Estate

Cap. 195 imposes restrictions on a testator's ability to freely dispose of his/her whole estate and divides the estate into the "disposable portion" and the "statutory portion" (Forced Heirship Rules). The statutory portion must be reserved for close relatives who are living at the time of the testator's death and include the testator's spouse and descendants.

The statutory portion of the net estate is calculated as follows:

- (a) In the case of a living child or a descendant of a child: the statutory portion is 75% of the estate's net value.
- (b) In the case of a living spouse or a parent, but not any children or their descendants: the statutory portion is 50% of the estate's net value.
- (c) In the case of no surviving spouse, parent, child or descendant of a child: the statutory portion is reduced to nil and all the estate can be disposed of by will.



The remaining amount of the net estate (disposable portion) can be disposed of freely. A will that purports to dispose more than the disposable portion of the testator's estate shall still be valid, however, the disposition will be reduced proportionally so that it is limited by the disposable portion.

Tip: Cyprus law does not enforce the Forced Heirship Rules against assets held under an international trust. This is because according to the International Trusts Law 1992 (as amended), no international trust and no disposition of property under such trust shall be invalid, voidable, set aside or be subject to any implied term due to rights of inheritance.

Requirements of a Valid Will

- (a) The will must be made in writing.
- (b) The testator must sign the will at the bottom of the last page and put his/her initials on each page.
- (c) The testator must sign in the presence of at least two witnesses who will also sign the will in the presence of each other and the testator.
- (d) The testator must be over 18 years of age and of sound mind.

Deposit, Discovery, And Production Of Wills

A will may be deposited for safe custody with a probate registrar of the Court upon payment of a prescribed fee. Once deposited, the will may not be opened without the consent of the testator and the presence of the probate registrar.

Note: A will may be challenged if the original will is lost and/or if only a copy exists.

Immovable Property

Cap.195 regulates immovable property located in Cyprus, irrespective of the country of domicile of the testator.

Tip: It is strongly advisable for an owner of immovable property in Cyprus, to draft a separate will governed by Cyprus law for such immovable property, if he/she also has immovable property located elsewhere. We note that there is a new form of probate, a European Certificate of Succession, which provides authoritative reference for the recognition of heirs in cross-border successions. This avoids multiple probates and grants authority across the EU to persons dealing with the estate such as heirs, executors and administrators.

Movable Property

The law of the domicile of the testator at the time of his/her death governs the disposal of movable property.

Hence, if for example a testator was a shareholder in a Cyprus company, Cap.195 would govern the distribution of the shares only if the testator was domiciled in Cyprus. Along the same lines, if a testator held shares in a Cyprus company, but was not domiciled in Cyprus, then Cap.195 provisions will not apply. Instead, the laws of the testator's country of domicile would apply.

Tax Considerations

The Estate Duty (Amending) Law of 2000 abolished any form of succession tax on deaths of persons who were domiciled in Cyprus, and which occurred on or after 1 January 2000. Hence, nationals of countries which apply high inheritance taxes will find themselves in a significantly advantaged position by establishing Cypriot domicile. However, it must be noted, that such nationals may still have to bear the inheritance tax which apply on their immovable assets in their country of original domicile.

Other Tax Considerations

In order to establish a title and gather assets, a statement of assets and liabilities of the testator must be submitted by the legal representative or heirs of the testator's will to the tax authorities, within six months from the date of the testator's death. Once a court order is issued and an administrator is appointed, the administrator can transfer the estate to the legal heirs, provided that there is no tax due. In circumstances where there is tax due, it must be settled in order for a tax clearance certificate to be obtained.



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Contact



Berengaria 25, 4th Floor
25 Spyrou Araouzou
3036 Limassol, Cyprus



+357 25040404 / +357 25050600



info@royalpine.com



www.royalpine.com

