



NEWS, LATEST, CURRENT TOPICS

ADMINISTRATION OF AN ESTATE IN PORTUGAL

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What is the process when a person dies with assets in Portugal?

When someone dies leaving assets located in Portugal, the heirs must carry out a specific process so that they have access to the deceased's assets. This process involves two main phases:

- Obtaining the Deed of Entitlement of Heirs;
- Informing the Tax Department.

First Step - Deed of Entitlement of Heirs

The deed of entitlement of heirs is a notarial deed that indicates who the heirs of the deceased are.

After registration of the death by the doctor, it will be possible for the heirs to obtain a death certificate from a Civil Registry Office, Citizen's Store or an IRN Registration space.

Subsequently, it is necessary to confirm with the Central Registry Office whether the deceased left a will:

- If there is a will, it will be necessary to obtain a certified copy and this will indicate who the heirs are.
- If it does not exist, and provided the deceased had his last habitual residence in Portugal, Portuguese inheritance law will apply.

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To grant the deed of entitlement of heirs, which takes place at a Notary's Office or at the Institute of Registries and Notaries, the following documentation is required:

- the death certificate;
- documents proving the link to the deceased (marriage certificate, if the person who died was married, as well as the birth certificates of all heirs);
- will (if there is one);
- if there has been a choice of an international law, a certificate of law attesting to the formal and substantial validity of the will, under that law.

All documents issued abroad must be translated and legalized at the respective Portuguese Consulate, or duly apostilled.

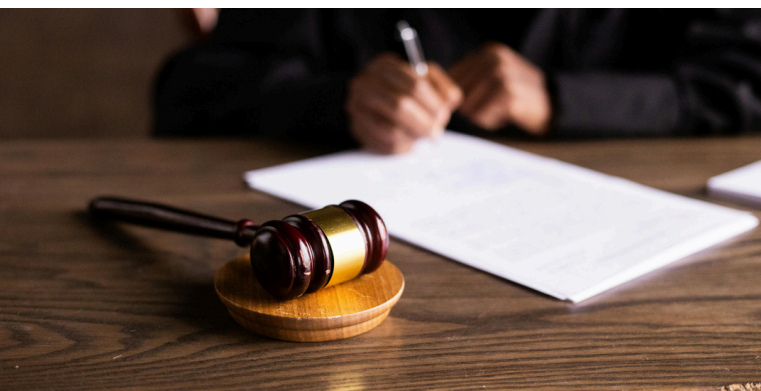
It is also important to note that heirs must always have a Portuguese tax identification number.

Who can administer the estate?

According to the Portuguese Civil Code, it is the "head of the household" who is responsible for administering the estate. The Civil Code grants the position of head of the household to the following classes of heirs:

1. Surviving spouse;
2. Executor;
3. Legal heirs;
4. Testamentary heirs.

Among the legal heirs, those of the closest degree take preference and among the heirs of the same degree of kinship, those who lived with the deceased for at least one year at the time of their death will take preference. As a last criteria, under equal circumstances, the eldest will take preference.



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Second Step – Submission of Stamp Duty (Model 1)

Whenever someone dies and there is a transfer of assets, it is mandatory to notify the Finance Department. This communication is the responsibility of the head of the household and must be made within the third month after the date of death. This information is provided by filling out a Model 1 form, with a tax identification number being assigned to the inheritance.

To complete the form, it is necessary to:

1. Identify the deceased, the date and place of death, heirs and the degree of kinship;
2. If there are immovable and movable assets subject to registration, you must also complete Annex I and II of the Model 1;
3. Identification document of the deceased;
4. Identification document of the person reporting the death;
5. Name and taxpayer number of the heirs.

Although there is no inheritance tax, stamp duty is charged at a rate of 10%, with exemptions for spouses/common law spouses, parents/grandparents, children and grandchildren.

We are therefore at the phase of an undivided inheritance, where the entire estate remains undivided and the right of each heir falls on the entire estate. To put an end to this situation, a division among heirs must be carried out.

If there is an understanding between the heirs, the division is made at the Notary or Registry.

When an agreement is not possible regarding the division of assets, it is necessary to commence legal proceedings to divide the estate.