

Successions And Taxes For Irish In Germany



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Agenda

1 Which Law Is Applicable To Your Succession?

2 Basics About German-Irish Successions

3 Inheritance Tax (Irish CAT & German Erbschaftsteuer)

4 Some Practicalities

1. Which Law Is Applicable?

EU Successions Regulation

(Regulation (EU) No 650/2012 of the European Parliament and of the Council of 4 July 2012 on jurisdiction, applicable law, recognition and enforcement of decisions and acceptance and enforcement of authentic instruments in matters of succession and on the creation of a European Certificate of Succession)

Real Property in Ireland?

Bank account or investment fund shares held by Trustee in Ireland?

German Inheritance Tax — Irish Capital Acquisitions Tax — Both?

1. Which Law Is Applicable?

EU Successions Regulation

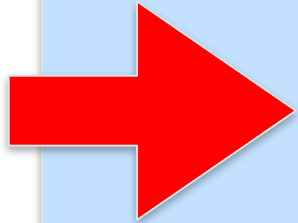
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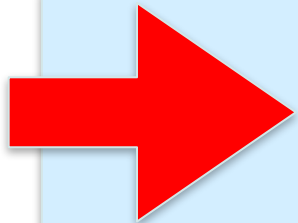
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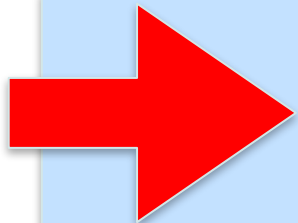
1. Which Law Is Applicable?



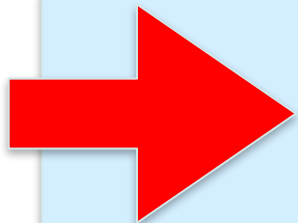
German approach: Habitual Residence, Choice of Law of Nationality possible.



Irish Approach (Partition of Estate):
Immovables in Ireland = Irish Law,
Movable Assets in Ireland maybe different.



Probate Proceedings \neq Inheritance Law !



Make a Will that matches all requirements
in all Jurisdictions involved.

2. Basics: Who Is What?

Legal Terms:

Heir = Erbe

Legatee = Vermächtnisnehmer

Executor ≠ Testamentsvollstrecker

Public Administrator // no such position in German Law

2. Basics: Form of a Will

German Law:

1. Holographic Will
2. Notariell beurkundet (more than notarised)
3. Joint Will (Spouses only)
4. Contract of Inheritance (notariell beurkundet)

Irish Law:

1. Witnessed Will (written on typewriter or computer)
2. Holographic Will

The Hague Form of Wills Convention:

A formally valid Will will be accepted by the other country as well

3. Gift & Inheritance Tax

Double Taxation

- Tax Value
- Aggregation of Gifts
- **CAT Groups** vs. Erbschaftsteuerklassen
- Thresholds
- Tax rates
- Privileges (e.g. Farmland, Art)

Other kinds of Taxes, e.g. Capital Gains, Income Tax, ...

3. Capital Acquisitions Tax

Irish CAT:

Aggregation of all taxable Gifts and Inheritances received since 5 December 1991.

Details for aggregation of Gifts received before 5 December 2001.

German ErbSt:

Aggregation of Gifts received within 10 years before next Gift / Inheritance.

3. Irish Capital Acquisitions Tax

CAT	Group A	Group B	Group C
Persons	Child of Disponer, deceased Child's minor Child, ...	Parent, Sibling, Niece / Nephew, ...	Others
Group Threshold on or after 2 Oct. 2024	€ 400,000	€ 40,000	€ 20,000
Tax Rate since 6 Dec. 2012	33%	33%	33%

3. German Gift/Inheritance Tax

<i>ErbSt</i>		<i>Steuerklasse I</i>	<i>Steuerklasse II</i>	<i>Steuerklasse III</i>
Persons		Spouse (+ Versorgungs-FB), Child, Stepchild, Descendants of Children, Parents (Inheritance only)	Eltern / Ancestors, Siblings, Niece / Nephew, Child-in-Law, Parent-in-Law	Others
Threshold		Spouse: € 500,000 Child: € 400,000 Grandchild: € 200,000 Others: € 100,000	€ 20,000	€ 20,000
Rate	≤ €75k	7%	15%	30%
	≤€300k	11%	20%	30%
	≤€600k	15%	25%	30%
	≤ €6m	19%	30%	30%
	≤ €13m	23%	35%	50%
	≤ €26m	27%	40%	50%
	> €26m	30%	43%	50%

3. Capital Acquisitions Tax

Example: Gift to Nephew residing in Germany is a Farm in Ireland, market value €495,000, fields leased out to farmer.

Irish CAT payable: €5,647.-

German Gift Tax:

- Farm value: 85% may be exempt from Gift Tax if operated by Donee or leased out to Farmer for <15 years,... (→ €73,402 Taxable Value).
- Additional Threshold up to €150,000.
- Lawyer Fee deducted.
- Irish CAT taken into account.
- Personal Threshold €20,000 deducted

→ German Gift Tax Due = €0.00

4. Some Practicalities

Translations? International Birth/Death Certificate.

Affidavit of Translator: Not needed for certified documents by a translator who was sworn in Germany.

Estate Planning / Drafting Wills: Expert who is in and out with international cases.

Affidavit of Foreign Law: Required whenever Foreign Law is applicable to a case dealt by an Irish Court.

Q & A



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