

Must-know facts about the inheritance of bank accounts and/or real estate owned by foreign nationals in Hungary, as well as about Hungarian probate proceedings and the legitime.



**Dr. Szász István • Tel: 84/314-640
Web: www.drszasz.hu
E-mail: info@drszasz.hu**

Must-know facts about the inheritance of bank accounts and/or real estate owned by foreign nationals in Hungary, as well as about Hungarian probate proceedings and the legitime.

Enforcement of claims for inheritance or legitime:

If a foreign national **leaves an estate of property** consisting of money or real estate in Hungary, the estate will be distributed by a civil law notary, however, according to the inheritance laws of the country of nationality (national laws) of the deceased foreign national, regardless of the country they deceased in and whether or not probate proceedings have been initiated in that country. For example, if a foreign national owns a holiday home and a bank account in the city of Siófok, a civil law notary working in Siófok will then distribute the estate among the beneficiaries according to the inheritance laws of the nationality of the deceased.

Probate proceedings may be initiated by any heir by presenting proof of death (a certificate of death) at the competent Mayor's Office in Hungary. During the probate proceedings, heirs have the possibility to request the application of Hungarian inheritance laws, in case this would enable to conduct the probate proceedings, from their point of view, better or faster. Under "faster proceedings" should also be understood that in case of application of Hungarian laws, the civil law notary does not have to conduct the time-consuming process with the International Affairs Department of the Ministry of Public Administration and Justice with the purpose of receiving information on the rules governing distribution of the estate according to the inheritance laws of the country of nationality of the foreign deceased. Instead, they can apply Hungarian laws, which is simpler and faster.

Also due to this, it is important that foreign heirs should engage a Hungarian lawyer for the probate proceedings, since these lawyers are familiar with Hungarian inheritance laws and are able to choose the most appropriate method for the transfer of the inheritance to the heirs.

By granting a power of attorney to the lawyer, heirs do not have to travel to Hungary and participate in the probate proceedings. The Hungarian lawyer authorised to represent them will arrange everything starting from initiation of the probate proceedings to registration of title of the heir(s) at the Land Registry Office. They do not even need to travel to Hungary for signature of the power attorney as it may be signed before a foreign civil law notary as well.

The same is also valid for representation of people entitled to the **legitime** (*legitima portio* or forced share). It is important to know that Hungarian civil law notaries must summon, together with the heirs of the estate, the foreign national(s) entitled to the legitime to the probate proceedings and require them to issue a declaration on whether or not they wish to present a claim for the forced portion of a decedent's estate.

The civil law notary shall establish the person(s) entitled to the legitime and the share thereof under the national laws of the foreign decedent. If the data of the person(s) entitled to the legitime specified in the probate proceeding are incomplete, for example, their address is unknown, the civil law notary shall publish a notice of summons. This means that they must

have a notice of summons published and posted, for 30 days, on the website of the Hungarian Chamber of Civil Law Notaries and at the Mayor's Office of the local government competent based on the notary's place of notarisation.

If within 30 days, or at the probate hearing the latest, the person(s) entitled to the legitime do(es) not show up or present a claim for the forced portion of a decedent's estate through their authorised representative, the civil law notary shall transfer the estate to the heirs (e.g. testamentary legatees or natural heirs) without distribution of the legitime.

When the probate decision becomes final, the probate proceedings are terminated. This is followed by a 30-day land registry procedure in which the title of the heir(s) is registered in the Land Register by the competent Land Registry Office.

It is important to know that if a person fails to present a claim for the legitime in the probate proceedings, they may not require ancillary probate administration. The claim for and right to the legitime shall lapse in 5 years; that is, the person(s) entitled to the legitime have 5 years from the date of transfer of the estate to enforce their legitime against the heir(s). This may only be done before a Hungarian court of law.

In case only the address of the person(s) entitled to the legitime is incomplete (i.e. their personal details are available, but for example, the return receipt that came back from the given address indicated that they had moved home or the letter was unclaimed) the notary shall appoint a trustee. The trustee shall be a Hungarian lawyer, who shall act on behalf of the person(s) entitled to the legitime and therefore they may present a claim for the legitime, too. Usually the legitime is redeemed in cash. If this is not possible, the Hungarian civil law notary shall transfer a certain ownership interest to the property affected by the legitime. The person(s) entitled to the legitime may also engage a Hungarian lawyer in the probate proceedings and at the same time, in the power of attorney, state that they waive their right to the legitime. This will speed up the probate proceedings as then the estate will be distributed in a single hearing. At this hearing, the lawyer is also entitled to waive the right to appeal and thus the transfer of estate can become final immediately. In possession of a final decision, foreign heirs are entitled to, by way of example, take over their inheritance from the bank concerned, in case money held in a bank account is also part of an inheritance. This may only be done personally. Banks can only release money held on a bank account and close the account of the decedent in presence of the heir(s).



**Dr. Szász István • Tel: 84/314-640
Web: www.drszasz.hu
E-mail: info@drszasz.hu**