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Wills and Inheritance Law in Germany — Erbfolge, Pflichtteil, and Taxes

Statutory succession, Pflichtteil (compulsory share), handwritten wills, and inheritance tax exemptions (€500,000 for spouse, €400,000 for children).

Deutsche Begriffe: Testament | Erbrecht | Erbfolge | Pflichtteil | Erbschaftsteuer | Freibetrag | Nachlassgericht | Erbschein

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Statutory Succession — Erbfolge — Who inherits without a will?

If someone dies **without a will**, the statutory Erbfolge under German civil law applies:

Order of heirs

Order	Who inherits?	Share (alongside spouse)
1st order	Children (and their descendants)	50%
2nd order	Parents, siblings	Only if no 1st order
3rd order	Grandparents, aunts/uncles	Only if no 2nd order

Spouse's inheritance share

The spouse inherits **alongside** relatives:

- Alongside children (1st order): **1/4** (in community of accrued gains + 1/4 gain = **1/2**)
- Alongside parents/siblings (2nd order): **1/2**
- Alone (no relatives of 1st or 2nd order): **everything**

Unmarried partners inherit nothing — only a will protects the partner!

Will (Testament) — How to create one

Handwritten will

The simplest and valid form:

- **Entirely handwritten** — no computer, no printing
- **Date** (day, month, year)
- **Signature** with full first and last name
- **Storage:** At home or with the **Nachlassgericht** (official deposit: €75)

Notarial will

- Created and notarized by a **notary**
- Costs depend on estate value (e.g., €400–800 for €200,000)
- **Advantage:** No Erbschein needed — the notarial will suffices for banks and land registry
- Automatically stored with the Nachlassgericht

Berlin Will (for married couples)

- Spouses appoint each other as **sole heirs**
- Children inherit only after the second spouse's death (**Schlusserben**)
- **Caution:** Children still have a claim to the **Pflichtteil**

Pflichtteil — Compulsory share of close relatives

Even if you disinherit someone in the will, they have a right to the **Pflichtteil**:

- **Entitled parties:** Children, spouse, parents (if no children)
- **Amount:** 50% of the statutory share (in cash, not in kind)
- **Example:** Child is disinherited, statutory share would be 1/4 → Pflichtteil = 1/8 of estate
- **Expiration:** 3 years from knowledge of the succession

Exception: The Pflichtteil can only be revoked in **extreme cases** (e.g., attempted murder of the testator).

Inheritance tax — Freibetrag (exemptions)

Inheritances and gifts are taxed in Germany. However, there are **generous exemptions**:

Degree of relation	Exemption	Tax rate above
Spouse/registered partner	**€500,000**	7–30%
Children	**€400,000**	7–30%
Grandchildren	€200,000	7–30%
Parents/Grandparents (inheritance)	€100,000	7–30%
Siblings, nieces, nephews	€20,000	15–43%
Unrelated persons	€20,000	30–50%

Important: Exemptions apply **per person and per 10 years** — also for lifetime gifts.

Filing for Erbschein

- With the **Nachlassgericht** at the deceased's last place of residence
- Required: Death certificate, ID card, family documents
- Costs: Depend on estate value (approximately €400 for €100,000)
- **Not needed** if a notarial will exists

Tip for foreigners

Inheritance law is generally governed by the law of the **country where the deceased last lived** (EU Succession Regulation). However, you can choose the law of your **nationality** in the will.