

Japanese Law Explained

Navigation of Inheritance law in Japan

If you get involved in Japanese inheritance, it can be complicated due to unique its legal system and the language barrier. To receive a fair result, you need to work with an experienced inheritance attorney.

Here is some guidance to start your smooth sailing.

Which country's inheritance law will govern?

When your loved one passed away and left a property in Japan, the first step is to clarify which country's law will govern. Japan has adopted the Act on General Rules for Application of Laws, which stipulated that "inheritance is governed by the national law of the decedent." This means that if a decedent is a Japanese national, the Japanese law will govern the whole process of inheritance. If, however, the decedent has foreign citizenship, the laws of the country/region of the decedent's nationality may be applied.

The following contents assume that Japanese inheritance law will govern.

Who can acquire properties as an heir?

If the decedent dies without a will, the surviving spouse always becomes the heir. The certain relatives (e.g. children, parents, siblings) also may be heirs, and Japanese inheritance law establishes the order of succession.

Please note that a partner without marriage and divorced ex-spouse are not included as heirs.

How is an inherited property divided between co-heirs?

When there are two or more heirs, the inherited property shall belong to those heirs in co-ownership. If the decedent determines by a will how much and which property each heir inherits, the property will be divided accordingly.

If there is no will or the will does not determine the share of the heirs, each heir's share

is designated by the inheritance law. For instance, if the spouse and two children are the co-heirs, 1/2 for the spouse and 1/4 for each child will be acquired.

Keep in mind that the heirs can determine their own proportion by agreement. The statutory proportion above will be applied only when the heirs are unable to reach the agreement.

Can I renounce the succession?

Yes. If you are an heir and don't want to success any assets, you can renounce the succession by submitting documents to the family court in Japan. An heir must either accept the succession unconditionally or with qualifications, or renounce it, within 3 months after the heir learns that succession has opened to that heir. This period may be extended by the family court at the request.

Can I withdraw or cash out financial assets in Japan?

This can be complicated. In general, a bank will freeze all transactions for a decedent's account once the succession opens, and any assets cannot be withdrawn or transferred even by family members until the inheritance process is completed.

To reactivate the account, you need to contact the bank and submit documents requested by the bank. The required documents may vary from bank to bank. If there are two or more heirs without will nor an agreement among co-heirs, typically you may be requested to submit a transcript of family register, a certificate of registered seal, and a bank book.

As for family register, it can be challenging for an heir with foreign nationality since in many cases the heir's country of origin does not have a family registration system. The same goes for a seal registration. In this case, we need to consider alternative documents, such as affidavit, to prove family relationship and its signature.

In which case is inheritance tax imposed?

If the total value of properties acquired by inheritance exceeded the amount of basic exemption*, inheritance tax may be imposed on the excess amount. In this case, a declaration and payment of inheritance tax is required within 10 months after the day following the day when the heir learns that succession has opened.

*The basic exemption is 30 million yen + 6 million yen x Number of statutory heirs. For instance, if the spouse and two children are the co-heirs, the basic exemption will be 48 million yen.

People with obligation to pay inheritance tax will be determined based on its

nationality and resident status in Japan.

Is making a will a good option?

Yes. The benefits of making a will include clarifying the distribution of assets, and therefore preventing family disputes. Additionally, a well-designed will can optimize taxes. If, however, a will is unclear, this can cause disputes among heirs. To avoid troubles, the support by a professional is highly recommended.

Why Miyake and Partners?

Our firm actively handles legal representation for inheritance matters. We have extensive experience and focus on helping individuals and families to resolve inheritance disputes. We provide sufficient legal support in English so that our client will feel comfortable to communicate.

End.

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