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## **1.1.2023: Entry into force of the reform of the Swiss Civil Code with respect to Succession**

As of January 1, 2023, the reform of the Swiss Federal Civil Code in relation to succession has entered into force. Substantial changes include the following:

### **1. Modification of the forced heirship quota**

- The forced heirship quota of descendants is reduced from  $\frac{3}{4}$  to  $\frac{1}{2}$  of the legal share of the inheritance and the forced heirship quota of ascendants (previously  $\frac{1}{2}$  of the legal share of the inheritance) is completely eliminated. The forced heirship quota of the surviving spouse or registered partner remains at  $\frac{1}{2}$  of the legal share of the estate.

- As a consequence of these changes, the deceased who leaves as heirs the spouse and descendants, can now freely dispose of  $\frac{1}{2}$  of his estate (previously only  $\frac{3}{8}$ ).

### **2. Loss of inheritance rights during pending divorce proceedings and separation.**

Until the end of 2022, the right of succession was lost only when a divorce proceeding had been concluded. Consequently, if one party died during the divorce proceedings, the other party still retained his or her forced heirship quota and therefore inherited from the deceased. With the new Law, the right to the forced heirship quota is lost if

the spouses initiate a divorce proceeding or a divorce proceeding proceeds by mutual consent or if the spouses live apart for a period of more than 2 years.

### **3. Possibility of extension of the surviving spouse's usufructuary share**

Until the end of 2022 spouses with common descendants had the option of assigning a maximum of  $\frac{1}{4}$  of the estate to the surviving spouse as property and  $\frac{3}{4}$  of the estate (intended for the common descendants) as usufruct. The new Law now allows the deceased to assign to the surviving spouse half of the estate as property and the second half as usufruct, leaving the descendants with the nude property over their hereditary share of  $\frac{1}{2}$ .

### **4. Restriction of donations after the execution of a succession agreement.**

Previously, it was possible to make donations to third parties despite having a succession agreement regulating the inheritance, provided that the intention of the donor was not to infringe the rights of the other party to the succession agreement. With the new Law, the possibility of making donations to third parties after the execution of a succession agreement is substantially restricted, since it is understood that donations usually violate the succession agreement, unless the agreement explicitly reserves the right of the parties to make donations to third parties. The drafting of the inheritance agreement is therefore essential and it is advisable to review all inheritance agreements already concluded in the past, if there is an intention to make donations to third parties.

If you have any queries, please do not hesitate to contact us

Best regards

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