

Dangers for beneficiaries of Estates involving France – A cautionary tale!

We have seen several cases recently where the Estate of an English national living in France is left on their death to an unrelated person or a distant relative, often living in England and unable to speak French.

Unfortunately, in this type of situation, the beneficiary can find himself or herself involved in a complex legal and tax conundrum with potential costly consequences. In some cases the ensuing chaos can take literally years to resolve.

Our advice to any such person on finding that they are beneficiaries under a Will or intestacy of a person who was living in France before they died is to STOP, take advice and proceed only with caution!

Do nothing until you are fully informed. This includes something as apparently insignificant as paying the bills to stop the property being cut off – once the bill is paid, then the beneficiary is considered as having accepted the succession in French law.

And why does this matter? Because in doing so the beneficiary accepts the assets to which he or she is entitled and with them comes an unlimited liability for all the deceased's debts even if these are presently unknown.

Added to this is the fact that it is the beneficiary of an Estate, who taxable to Inheritance tax in France (and not the Estate). If he or she is not related to the deceased, tax in France on the legacy or other rights under the Will will be payable at the rate of 60%. When combined with interest and penalties for late tax over a period of years (which can often arise when dealing with an international succession) this can mean that the tax alone could potentially outweigh the value of the asset received.

A beneficiary will also need to look at the terms of the Will in detail. For instance as if they are named as “universal beneficiary” they may be required to discharge particular legacies out of the total Estate. In this case the legacies could potentially consume all or most of the Estate. Special care should be taken in this type of Will as there is also the added risk that the investments on which tax is paid by the beneficiaries may have a certain valuation at death but when the time comes to realise the investment, the value is significantly lower. In the current economic climate this could have serious repercussions for the main beneficiary.

What to do?

1. Remember, bizarre as this may seem at the outset, if you are named in a French Will you may not wish to accept the gift. Further enquiries may be necessary.
2. Any concerned parties should ensure that they do not accept a succession in France before it is clear that they will obtain a benefit in doing so. This is not immediately obvious as attention has to be given not only due to the tax charge but also the debts of the deceased.

3. Remember a person is not required to accept a succession in France but once they have done so they are liable for **all** the debts of the Estate. This may be the case even where there are other beneficiaries as the liability may be joint and several.
4. The complexity of dealing with the inheritance and the succession should not be overlooked and in order to avoid costly delays and unwise decisions specialist advice should be obtained at an early stage.
5. Like it or not the estate of an English national dying in France or with French assets will have cross border issues determined by the rules of Private International Law. It is important that the advisers on both sides of the channel are familiar with the issues and aware of the expectations and standard procedures in the other country.
6. Lastly, the potential for confusion arising out of "Lost in translation" should never be underestimated in any international succession.
7. Motto: If in doubt, ask first, act (maybe) second!

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