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Estate planning: charting your flight plan

As inheritance and lifetime gifting volumes reach record levels in Switzerland[1] and more than 50% of Swiss private wealth is now derived from such transfers[2], too few individuals are taking concrete steps to actively plan their estate.

Yet, in estate matters as in aviation, performing a proper briefing and filing a timely flight plan is a fundamental safety principle. In a context marked by increasingly diverse family structures and the growing internationalization of private wealth, taking appropriate measures in advance helps protect loved ones and reduces uncertainty at the time the estate is opened.

[1] M. Brühlart, A. Fuster, I. Z. Martinez, F. Moseka, Fortune privée et héritages en Suisse au XXIe siècle (2026), https://people.unil.ch/mariusbrulhart/files/2026/03/e4s-white-paper-wealth-and-inheritance-eng-full-final2-002.pdf

[2] M. Brühlart (2019), Les héritages en Suisse : évolution depuis 1911 et importance pour les impôts, in: *Social Change in Switzerland N° 20,* https://www.socialchangeswitzerland.ch/?p=1902

1. Why plan your estate ?

In the absence of testamentary provisions, the applicable legal rules may lead to outcomes that are contrary to the deceased's wishes. For example, many people are unaware that under Swiss law spouses involved in divorce proceedings remain legal heirs of one another until the divorce is pronounced. Without a will, the future former spouse is therefore not excluded from the estate. Similarly, it is often mistakenly believed that, in the absence of descendants, the entire estate passes to the surviving spouse. In reality, if the deceased's parents or their descendants are still alive and have not been excluded by testamentary provisions, the Swiss Civil Code provides that they are entitled to one quarter of the estate.

Furthermore, when assets are held abroad, it is crucial to determine which authorities have jurisdiction to deal with the estate and which law applies. Specific issues also arise when the international element results from the deceased's domicile or nationality.

Preventing conflicts, favoring a life partner or a third party, setting rules for the division of assets, or anticipating the share of a child who is permanently incapable of judgment are all, among many reasons, valid motives to organize one's estate.

2. How to plan your estate ?

For married couples or registered partners, the matrimonial property regime plays a decisive role in estate planning, as its liquidation determines the composition of the estate.

It is important to note that spouses who transfer their domicile in Switzerland are, in the absence of written provisions of the contrary or through a matrimonial agreement, subject to the Swiss statutory regime of participation in accrued gains (participation aux acquêts), with retroactive effect as of the date of marriage. An analysis from a matrimonial property law perspective is therefore essential when anticipating death and may lead to the recommendation to enter into a matrimonial agreement.

It should also be noted that in Switzerland, contrary to widespread belief, a matrimonial agreement is not limited to adopting separation of property regime. It also allows spouses to modify the default regime of participation in accrued gains to be tailored, either to favor the surviving spouse or, conversely, limit what that spouse will receive upon dissolution of the regime.

Established in one of the two principal forms recognized under Swiss law — either holographic[3] or notarized (authentic) form[4] — the will remains the most commonly used estate planning tool in Switzerland. It is a unilateral disposition made by the testator and that may be amended, supplemented or revoked at any time, provided that the testator has the necessary capacity to make a will.

Beyond complying with formal and substantive requirements, a will under Swiss law must take into account the system of reserved shares – the minimum portions of an estate that are legally guaranteed to certain heirs. In this respect, a major shift occurred with the reform of Swiss inheritance law that entered into force on 1 January 2023. The reform has significantly expanded testamentary freedom: the reserved share of descendants has been reduced, while parents have entirely lost their status of protected heirs. As a result,

[3] Entirely handwritten, dated and signed by the testator.

[4] A public will is established before a notary in the presence of two witnesses. Despite its designation, it is not subject to any publication; only its existence may be notified to the civil registry or recorded in the Swiss Register of Wills.

the disposable portion — that is, the share of the estate over which the testator may freely dispose — now amounts to half of the estate where, in particular, the deceased is survived only by descendants, as well as where the deceased is survived by a spouse or registered partner together with descendants.

Swiss law also allows the testator to enter into an inheritance agreement (pacte successoral). Executed before a notary in the presence of two witnesses, this agreement takes the form of a binding contract by which the testator, together with one or more parties — most commonly the spouse and/or descendants— determines the succession of all or part of his/her future estate.

One of the key advantages of the inheritance agreement is the possibility of obtaining an advance waiver from a protected heir of his/her reserved share. This waiver may be granted either gratuitously or in exchange for compensation, such as a lifetime gift or a bequest. This instrument is therefore particularly suitable, for example, in the context of blended families, the transfer of a family business, or complex estate planning structures, including those involving trusts.

Because it may only be amended with the consent of all parties involved, the inheritance agreement provides a high level of legal certainty and helps prevent disputes at the time of the estate.

Estate planning must also take into account pension and retirement arrangements, whether occupational pension schemes or tied individual pension plans (so-called pillar 3a). Although benefits derived from such arrangements do not form part of the estate, the rights of protected heirs must still be considered particularly in relation to pillar 3a assets. In addition, particular attention must be paid to the tax treatment of the various insurance products offered in this context, both for income tax purposes and inheritance and gift taxes.

3. How to effectively favor your spouse ?

Many individuals primarily wish to ensure the financial security of their spouse after death. In this regard, the matrimonial property regime and the adjustments that may be made to it play a key role under Swiss law.

Through a matrimonial agreement, spouses may modify the default regime of participation in accrued gains so that the surviving spouse receives the entire accrued gains upon liquidation of the regime, rather than only half, as under the default rules. In such a configuration, the estate of the first deceased spouse will be limited to his or her separate property. Where most of the couple's wealth mainly consists of accrued gains, this arrangement can significantly benefit the surviving spouse. While particularly well suited to the traditional family model, it cannot apply where there are non-common children, whose reserved portions must be respected.

The community of property regime may also strengthen the position of the surviving spouse, as the category of personal assets is much more limited than under the participation in accrued gains regime.

Furthermore, spouses may, either by each executing their own will5, or by entering into an inheritance agreement — jointly or separately — allocate to the surviving spouse beyond their reserved share, the entire disposable portion (quotité disponible). Where there are descendants, they would then receive only their reserved share, namely one quarter of the estate. It should be recalled that under Swiss law, disinheritance — that is, depriving a protected heir of their minimum share — is permitted only in exceptional circumstances, strictly defined by law.

[5] Swiss law prohibits joint wills.

It is also possible to grant the surviving spouse a usufruct over the share allocated to the common descendants. Non-common children, however, retain their reserved share, unless they expressly waive it through an inheritance agreement.

Moreover, where the children are willing to be involved in the estate planning process, Swiss law offers even greater flexibility. Through an inheritance agreement, descendants may agree to waive their reserved shares, allowing the surviving spouse to receive the entire estate in full ownership. In such a case, however, such arrangements require careful foresight – particularly in the event of remarriage ; descendants could ultimately be disadvantaged if their parent were to predecease the new spouse.

4. What about lifetime gifts ?

Increasing life expectancy means that inheritances are received at an ever more advanced age. As a result, a growing number of individuals opt to make lifetime gifts to their children.

In Switzerland, both inheritance and gift taxes are levied at cantonal level. In many cantons, the tax treatment of gifts and inheritances is governed by similar rules. However, an early transfer may at times be appropriate, for example in light of rules governing the deduction of liabilities or the availability of periodic tax exemption. Periodic tax allowances provided for in certain cantons, such as the canton of Vaud, may also encourage staggered gifts.

From a civil law perspective, it is essential to consider how lifetime gifts will be treated upon death to ensure equal treatment among heirs. Under Swiss law, gifts made to descendants are, in principle, to be brought into hotchpot – meaning they must be taken into account in the division of the estate, either in kind or by offsetting against the beneficiary's inheritance share – unless the donor has expressly waived this requirement. It is therefore crucial to properly document all gifts made (with the exception of customary gifts and ordinary education or maintenance expenses) and to specify, for each gift, whether the gift is subject to hotchpot or not. Such clarification may be included in the deed of gift itself or in a testamentary provision.

In any event, even a gift exempt from hotchpot cannot infringe the rights of forced heirs. If such rights are violated, these heirs may bring a claim in abatement under the conditions set out in the Swiss Civil Code.

5. What if the future estate crosses borders ?

Single or multiple wills: what about assets located abroad ?

In Switzerland and in countries bound by the European Succession Regulation, the applicable principle is that of unity of the succession. This principle implies, on the one hand, that a single authority has jurisdiction over the entire estate, regardless of the location and nature—movable or immovable—of the estate assets, and, on the other hand, that a single law applies to the entire succession.

However, this principle is not absolute. In certain jurisdictions — including a number of common law systems — local courts may assert exclusive jurisdiction over assets situated within their territory, in particular real estate. In such cases, executing a local will may be required to ensure effective compliance with the applicable legal framework.

However, the coexistence of multiple wills is not without risks. It may give rise to interpretation difficulties or even lead to the unintended revocation of a previously executed will in another jurisdiction. In this context, careful coordination of testamentary dispositions, combined with legal advice in each relevant country, is essential.

What is the benefit of choosing the law of one's nationality ?

Foreign nationals domiciled in Switzerland and, subject to certain limitations, Swiss nationals holding dual or multiple citizenships may elect to have their succession governed by the law of one of their countries of nationality. Such an election, referred to as a professio juris, allows them to derogate from Swiss law, which would otherwise apply as the law of the deceased's last domicile.

In cross-border situations, choosing the law of one's nationality may help anticipate difficulties linked to the application of multiple legal systems and ensure, where appropriate, coherence between the law governing the matrimonial property regime and that governing the succession. A professio juris may also offer greater flexibility, in particular where the chosen law does not recognize forced heirship rules.

However, this freedom is subject to limits. For Swiss nationals with multiple citizenships, selecting a foreign law does not allow them to circumvent Swiss forced heirship rules. Moreover, any chosen foreign law remains subject to Swiss public policy, and such a choice has no impact on the tax treatment of the estate.

6. What about taxation ?

Successful estate planning also requires careful alignment of both civil law and tax aspects and ensuring their proper coordination, particularly in cases where several cantons or jurisdictions are involved or where trusts are used.

In Switzerland, as noted above, inheritance taxation currently falls within cantonal jurisdiction. The estate is assessed by the canton of the deceased's last domicile, with the exception of real estate, which is taxed in the canton where the property is located. As tax rates vary significantly from one canton to another - and some cantons do not levy inheritance tax at all - the choice of domicile canton may have a substantial impact. It should nevertheless be borne in mind that, in most cantons, inheritance and gift taxes between spouses and between parents and children are either non-existent or very low. By contrast, tax rates generally increase with the remoteness of the familial relationship and may reach 50% or more. As a result, the tax treatment of unmarried partners also varies considerably between cantons: while some cantons grant exemptions or preferential treatment, others treat them as unrelated persons and thus subject them to higher taxation.

It should also be noted that Switzerland is currently bound by only a limited number of double taxation treaties in inheritance matters—around ten in total. In particular, since 2015, Switzerland and France have no longer been bound by such an agreement, a situation which, despite the frequency of Franco-Swiss estates, may lead to particularly problematic situations of double taxation.

Therefore, in this context, estate planning cannot be limited to purely civil law analysis.

Conclusion

A proper and careful flight cannot be improvised, nor can a succession. Anticipating the transfer of one's assets makes it possible to take into account family and patrimonial situations that are often complex and to avoid the applicable rules producing outcomes contrary to the testator's intentions.

Thoughtful advance planning, addressing both civil-law and tax considerations — particularly where the situation has an inter-cantonal or international dimension — reduces uncertainty and the risk of disputes. By defining a clear and coherent plan, the testator ensures a controlled transfer of assets and as smooth a landing as possible for those left behind.

Amadeus's experience :

Having been entrusted for many years, as part of our Private Office activities, with supporting our clients in matters of estate planning, we can only fully endorse the recommendations set out in this article by Mrs Ariane Michellod Berney and Mrs Aurore Jeanneret, of the law firm ObersonAbels S.A.

The information contained therein is of great value and should serve as a guiding principle for any rigorous estate planning, as well as for the comprehensive and detailed drafting of the required documents (wills, inheritance agreements, advance directives, etc.). Vague testamentary provisions, and even more so their absence, are a recurring source of conflict between heirs. These disputes, the impact of which can be felt across several generations, often lead to lengthy and costly proceedings, with devastating consequences for families and particularly detrimental effects on their assets.

To ensure a smooth transition between our deceased clients and their heirs, we frequently act as executors or co-executors of wills, trustees, or members of foundation boards. In these roles, we guarantee the strictest adherence to the wishes they have expressed to us.

Prior to this execution phase, we carry out in-depth preparatory work with our clients, in close collaboration with their solicitors and notaries. For them, our main added value lies primarily in our ability to understand complex financial assets, to ensure their valuation (businesses, financial assets, etc.), and to mobilise an extensive network for other asset categories, particularly real estate, and movable property (such as art).

Our in-depth knowledge of our clients enables us, beyond simply conveying a vision and a philosophy of wealth transfer, to contribute effectively to estate planning, by:

– identifying and cataloguing all assets held, which are often numerous, varied and spread across different jurisdictions.
– drawing up clear, precise, and comprehensive consolidation statements.
– by gathering our clients' intentions, particularly regarding complex financial assets that we have managed for them or alongside them.

This aspect relating to intentions is, in our view, absolutely central: it guarantees sound governance for heirs and future generations. Added to this are the significant differences between clients who have built their own wealth and those belonging to the first or second generation of heirs, which call for a tailored and personalised approach.

Creating substance, content, meaning, conveying, so many subjects in which we support our clients