



COMMITTEE REPORT: INTERNATIONAL PRACTICE

By **Ada K. Colomb**

German Probate and Inheritance Tax

Strategies for avoiding double taxation

In civil code countries, including Germany, a trust is a virtually unknown structure. But while no German property can be held in trust, Germany does recognize a U.S. irrevocable trust—to tax it.

The United States imposes an estate tax—a single tax on the entire estate before it’s distributed to the beneficiaries. Germany doesn’t have an estate tax. Germany has an inheritance tax, paid by each beneficiary, proportionate to their share of the inheritance. This may lead to double taxation in the United States and Germany.

Let’s look at the German probate and inheritance tax, how the U.S. and German practices interplay and some creative tax-favorable solutions for those with family or assets in both countries.

Applicable Law

The choice-of-law clause in a will or trust controls the asset distribution; for intestacy, the EU Succession Regulation¹ (ESR) would point to either U.S. or German law. But applicable tax will be determined by the Convention Between the United States and Germany for the Avoidance of Double Taxation with Respect to Taxes on Estates, Inheritance, and Gifts (U.S.-Germany treaty).

This treaty comes down to the following principle: If the decedent was fiscally domiciled in the United States, Germany may tax only real estate, business interests and partnerships and ships and aircraft located in Germany.² The same applies in reverse for a decedent domiciled in Germany with assets in

the United States. But if the decedent *and* their heirs reside in Germany, Germany can tax the decedent’s worldwide assets. If that decedent is also a U.S. citizen, both countries will tax the worldwide assets.

There are more ways to die intestate than simply neglecting to make a will. A typical U.S. or German will usually starts by revoking prior wills and codicils. Once revoked, a U.S. will can’t be revived. But things are exactly the opposite in Germany: Revocation of a revocation revives the prior will, at least the part that doesn’t contradict the most recent document.³ Practitioners should pay close attention when working with international clients and their foreign counsel to avoid inadvertently revoking a will in either country.

For intestacy, the ESR invokes the laws of the country where the decedent had their habitual residency at death, unless the decedent was more closely connected with another country.⁴ For example, if a U.S. citizen or green card holder dies intestate with domicile and real estate in Germany and no real estate in the United States, here’s what happens:

1. The ESR determines that German law controls the disposition of the decedent’s worldwide assets; however, because the United States isn’t governed by the ESR, any probate assets in the United States will be governed by U.S. law.
2. U.S. estate tax and German inheritance tax apply on the worldwide assets. Double taxation can be mitigated using the U.S.-Germany treaty, which allows credits for tax paid in a foreign country.

Example: Alan, a U.S. citizen and resident with assets in Boston, Berlin and Dubai, executes a separate will in each jurisdiction. Sometime later,



Ada K. Colomb is an associate at Vacovec, Mayotte & Singer in Newton, Mass.



Alan becomes Muslim, then dies. Here's how Alan's estate will be governed:

1. His U.S. assets will pass under his U.S. will. The U.S. estate tax applies to all assets in Boston, Berlin and Dubai.
2. His German assets will pass under his German will. Each beneficiary pays their inheritance tax. Any beneficiary who's also a beneficiary of the U.S. estate plan may claim the tax credit on their German tax return for their pro rata share of the U.S. estate tax based on the U.S.-Germany treaty.
3. For his Dubai assets, Alan is deemed intestate, and Sharia law governs the disposition.⁵ Heirs in Germany might use this to their advantage. German courts allow Sharia to override the German succession law (but not tax law) if all parties reside in Germany without German citizenship and if the outcome doesn't violate the basic principles of German law.⁶ If Alan's daughter wants an equal inheritance with Alan's son and they're both Muslim non-German citizens, Sharia law prevents the daughter from receiving an equal share because she's a woman. However, if only Alan is Muslim, the German will overrules Sharia for assets in Germany.

German Probate Basics

Similar to many countries, Germany follows the ancient Roman universal succession doctrine,⁷ in which property and liabilities pass as a whole to the heirs directly at the moment of death. The need for a fiduciary to handle the estate is largely eliminated. If a decedent dies intestate, the heirs typically decide among themselves who takes which property. If they can't mutually agree, each heir is entitled to claim for "division of inheritance" (Auseinandersetzung des Erbes).

Example: Mom and dad, citizens and residents of Germany, die intestate simultaneously leaving behind a house, bank account and three children, Anna, Berta and Carl. By law, each child is entitled to an equal share and bears one-third of the liabilities. From the moment of the parents' death to the moment the property is actually distributed, the estate automatically passes to the children as co-heirs. The children may choose to sign an

inheritance agreement to divide the assets among themselves. For example, Anna keeps the house (and the bank account, for easy accounting among siblings), but within five years, Anna must pay Berta and Carl a certain proportionate amount of cash in lieu of inheritance. To pay off her siblings, Anna is free to use her personal finances. If Anna defaults on payments, Berta and Carl can file a claim against her, in court, to enforce the inheritance agreement. Note that Berta and Carl don't have any claims against the estate or fiduciary. Also note that their claim is based on a contract, not on inheritance law.

There are several pathways to inherit in Germany: intestacy, will, inheritance contract (Erbvertrag), transfer-on-death designations or joint ownership and forced heirship (Pflichtteil). Also enforceable is mortis causa—a promise to make a (charitable) gift or pay off a debt if the donee survives the donor.⁸

The heirs bear joint and several liability for the decedent's debts⁹ until the estate is divided among them. If the court appointed an executor, creditors of the heir—but not of the estate—have no recourse against the estate to satisfy their claims.¹⁰

Germany can recognize and probate a U.S. will—and vice versa—based on the Hague Convention.

The German probate court issues two documents: (1) a certificate of inheritance (which identifies the heir and their share of the inheritance); and (2) a certificate of executorship (which identifies the executor). For real estate or other special property, both certificates will be needed to register the new ownership. Some custodians require one of these certificates to release the asset, although some assets can be released to the beneficiary based on the will only.

Similar to the U.S. transfer certificate, Germany has Unbedenklichkeitsbescheinigung. Both Unbedenklichkeitsbescheinigung and the transfer certificate certify that no tax is due in the respective



country by the reason of death, either because the tax is paid or none was due. Both documents are required to release assets to beneficiaries abroad. While the Internal Revenue Service now takes close to two years to issue the transfer certificate, which basically freezes the decedent's U.S. assets, Germany authorized local fiscal agencies to issue the Unbedenklichkeitsbescheinigung. Therefore, the cost (usually around €10) and duration vary from one federal state to another.

Valid will requirements. Germany can recognize and probate a U.S. will—and vice versa—based on the Hague Convention. Translation of the will might need to be notarized and apostilled. An executor appointed by the probate court in either country would have no power in another country without ancillary probate.

Although German law doesn't allow trusts, the testator can instruct their executor under the German will to fulfill certain tasks not to exceed 30 years.

In Germany, any competent person age 16 or older can execute a will without the consent of the minor's legal representative.¹¹ Germany recognizes holographic and notarized wills.¹² However, an adult testator may produce for notarization a will in a sealed envelope¹³ to conceal its contents. A married couple can make a joint will, even if only one spouse writes the holographic will and both spouses sign.¹⁴ The surviving spouse is bound by the joint will, unless they jointly renounce their inheritance under the joint will. Holographic joint wills aren't allowed. Non-married couples can have only a notarized joint will in form of an inheritance agreement. The same applies to agreements between parents and children: An inheritance agreement about, for example, the split of assets among the heirs, can be established by joint agreement between the parents and children via notarized agreement.¹⁵

Although German law doesn't allow trusts, the testator can instruct their executor under the German will to fulfill certain tasks not to exceed 30 years.¹⁶ This is similar to a U.S. testamentary trust with a shorter rule against perpetuities period. Thirty years are measured from the date of testator's death, unless the testator directs that the administration is to continue until: (1) the death of the heir; (2) the death of the executor; or (3) the occurrence of another event related to the heir or the executor.

Forced heirship. Despite the testamentary freedom proclaimed in the German Civil Code (BGB), even if testator specifically disinherits their spouse or child in the will, the forced heirship doctrine allows these relatives to claim up to one-half of their would-be intestate share. If the decedent left no living descendants, then their parents gain forced heirship rights.¹⁷ These are the only heirs entitled to a forced share, and they're only entitled to it if they've been specifically excluded or limited in the will. This concept, called "Pflichtteil," is translated into English as either "forced share" or "compulsory share." An excluded heir can bring a legal claim against co-heirs to enforce their rights. However, things don't necessarily start off in court—an excluded heir can first demand an estate inventory and date-of-death values from co-heirs. This allows the excluded heir to determine the size of their compulsory share.

Forced share doesn't mean that an heir has rights to a specific piece of property. It simply means that the heir has rights to a certain amount of money equivalent to the value of the estate, which may well be satisfied in kind by mutual agreement of co-heirs.

Example: A German decedent leaves everything to their child, Anna, and specifically disinherits their child, Berta. Had there been no will at all, Anna and Berta would be entitled to 50% per intestacy. As an excluded heir, Berta now has a claim against Anna for 25% of the estate; Anna can only keep 75%, despite what the will says. If Berta dies, Berta's children and other heirs would inherit Berta's right to 25% of the estate.

To undermine deathbed gifts that dilute forced shares, German law pulls back into the estate any gift made in the 10-year window prior to death. The value of the gift is reduced by one-tenth each year that's passed between the year of the gift and the year of



death.¹⁸ This allows the forced heir to augment their forced share (that's otherwise calculated based on the estate value as of date of death). If the decedent retained economic interest in the property when "gifting" it, such economic interest is part of the estate and thereby included in the calculation of the forced share. The annual reduction doesn't apply for determining the inheritance tax. The value of the gift is included and counted against such beneficiary's share without appreciation, that is, the value of the gift at the time the gift was made is counted towards the total inheritance to determine the net tax base.¹⁹

Example: If a parent gifts a house to their child and then dies 10 years later, only the gift value (as of 10 years ago) counts for purposes of the inheritance tax, but one-tenth of the house counts against that child's forced heirship share. The same applies for distributions from irrevocable trusts to the beneficiary within 10 years prior to the final distribution. Distributions from a revocable trust are disregarded and attributable to the grantor directly.

If the child is a beneficiary of a life insurance or other asset with beneficiary designation, or receives a lifetime gift, such gift won't be counted against the child's forced share and may cause unequal shares.²⁰

An heir may contractually waive their inheritance during the life of the testator.²¹ When doing estate planning with more than one individual entitled to a forced share, it's more advantageous if the grantor/testator and heir sign a contract in which the heir waives their forced heirship rights, rather than asking the heir to waive their future inheritance unilaterally.

Anybody alive at the grantor's death is eligible to inherit. Interestingly, a conceived but unborn child at the moment of the grantor's death is deemed to have been born and is considered an heir.²² Children of the predeceased child can inherit by right of representation.²³

Forced heirship rights are inheritable and transferable to anyone.²⁴ An heir can also sell their inheritance rights after the testator's death, but such sale needs a notarial recording²⁵ similar to the registry of deeds in the United States.

Surviving spouse's share. Generally, the surviving spouse enjoys the forced share rights plus a claim to the marital property that's determined by which of the three German matrimonial property

regimes the couple is governed: (1) community property (Guetergemeinschaft); (2) separate property (Guetertrennung); or (3) accrued gains (Zugewinnngemeinschaft).²⁶

If spouses were married under the accrued gains matrimonial regime (which is the default unless spouses have chosen one of the two other regimes), and the surviving spouse was disinherited by the will, the surviving spouse is entitled to one-eighth of the estate plus "equalization of gains," which is another one-eighth, in total one-fourth, if there are surviving children or one-half of the estate if there are only more remote heirs. If there are no other heirs at all, the surviving spouse takes the entire estate by intestacy.²⁷ If the spouse wasn't completely excluded but received less than one-fourth of the estate, the spouse can claim the difference.²⁸

Disclaimer is a powerful tool under both U.S. and German laws that can bring significant tax reduction.

From a tax planning perspective, the surviving spouse may choose to disclaim the one-fourth, which would flow to the children and instead take the one-eighth plus equalization of gains; however, this may not be the best outcome if the decedent is subject to U.S. estate tax and might want the benefit of the unlimited marital deduction.

If the decedent had filed for divorce/annulment and the surviving spouse was served with the divorce papers before the decedent's death, the forced share doctrine doesn't apply, and the surviving spouse is only entitled to some maintenance rights.²⁹

Unmarried same-sex life partners are treated the same as married couples³⁰ if they meet the requirements under the Law on Life Partnerships (Lebenspartnerschaftsgesetz) for couples residing in Germany or under the local law where the same-sex couple resides.

Disclaimer. Disclaimer is a powerful tool under both U.S. and German laws that can bring significant tax reduction.



Individuals wishing to disclaim their German inheritance—to pass it to grandchildren, avoid (tax) obligations that come with the inheritance or for creditor protection—have a window to disclaim of only six weeks, starting from when they learn of the death and inheritance. If an individual has no reason to expect an inheritance (for example, a non-heir of the decedent), the time to disclaim starts when they receive notice of the inheritance.³¹ This extremely short time window grows to six months if the decedent or heir resided outside of Germany when the right to disclaim commenced.³² The time window to disclaim can be waived due to extreme circumstances³³ or incapacity.³⁴

Acceptance can be implied from the heir's actions, which is why the beneficiary needs to be extremely careful in any kind of statements or actions to the court or heirs.

The probate court or a notary must record the disclaimer.³⁵ If a beneficiary resides in the United States and doesn't wish to travel, keeping up with the deadline to disclaim becomes a difficult task. While the law allows a beneficiary to disclaim by signing the declaration in front of a German notary, for heirs living abroad, a more realistic option becomes signing the disclaimer in front of a local German Consul. Since COVID-19, notarial appointments have become harder to book. In addition, while a German notary can notify the German probate court of the disclaimer, the Consul can't. This means that the disclaimant needs to obtain the notarial seal for the disclaimer and provide everything to the court—all within the allotted deadline. In practical terms, the fastest way is to notarize the disclaimer with the closest U.S. notary, supplement the disclaimer with an apostille and provide both to the probate court in Germany.

A disclaimer isn't allowed if the heir didn't make it within the required time limit (six weeks or six

months if living abroad) or if the heir has already "accepted."³⁶ Acceptance isn't necessarily manifested by proclaiming "I accept." It can be implied from the heir's actions, which is why the beneficiary needs to be extremely careful in any kind of statements or actions to the court or heirs. A disclaimer is ineffective if it's subject to a condition or a stipulation as to time.³⁷ Partial acceptance is possible in very limited circumstances.³⁸

The effect of the disclaimer is the same as in the United States: The individual who disclaimed is considered predeceased.

For example: Anna's will benefited Beatrix. Being of advanced age, Beatrix decided to make the inheritance flow directly to her children by disclaiming it. Beatrix's children became Anna's legatees as of the date of disclaimer—not as of the date of Anna's death—and inheritance tax is attributed to that date.³⁹ Beatrix accomplished significant tax savings: she (1) avoided inheritance tax; (2) avoided increasing her own taxable estate; (3) limited the inheritance tax paid by each of her children so that their total tax is less than her own tax liability would have been (see example with Joan, p. 45, for tax savings calculation).

Inheritance and Gift Tax

Germany is a federation of 16 states and three cities with special status, similar to Washington, D.C.: Berlin, Hamburg and Bremen. Unlike the United States, Germany imposes inheritance tax only on the federal level. There's no state tax.

German inheritance tax rate ranges from 7% to 50%, depending on the: (1) degree of kinship between the heir and decedent, and (2) size of the inheritance share. The beneficiary may also receive a credit for any U.S. estate tax under the U.S.-Germany treaty. Tax-free exemptions lower the inheritance tax or may even eliminate the inheritance tax for the beneficiary altogether.

"Tax-Free Exemptions," p. 45, illustrates which tax class (I-III) is assigned to each heir. The applicable inheritance tax rate is then determined by the euro value of the inheritance, called "tax base." Tax base equals the inheritance share minus pro rata (if there are other beneficiaries) debts of the decedent, funeral and administration expenses and allowances under



Tax-Free Exemptions

These can lower or eliminate what the beneficiaries have to pay

Relationship	Tax class*	Tax-free exemption**
Surviving spouse or life partner	I	€500,000
Child, stepchild or grandchild of a predeceased child	I	€400,000
Grandchild if child is still living	I	€200,000
Parent and grandparent	I	€100,000
Sibling, descendant of sibling in 1st degree, stepparent, parent-in-law, child-in-law, former spouse or former life partner	II	€20,000
All others, including legal entities	III	€20,000

*As determined by Article 15 of the German Inheritance and Gift Tax Law (Erbschaftssteuer-und Schenkungsgesetz (ErbStG))

**As determined by Article 16 of ErbStG

—Ada A. Colomb

Article 13, Tax Exemptions, of the German Inheritance and Gift Tax Law. For example, allowances include:

1. German pension plans. This is a very powerful tool for tax planning. Because pensions are exempt from German inheritance tax, contributing larger amounts to the pension may reduce tax liability for the heirs. Even though paying premiums to the pension plan is subject to gift tax, this strategy may still be advantageous because only gifts within a 10-year period add up to determine the tax rate and the tax-free amount; hence, spreading gifts over a long period of time lowers the tax burden;
2. Tangible personal property up to €41,000 for tax class I or up to €12,000 for other persons;
3. Certain business assets;
4. Charitable and religious deductions, political contributions, etc.

Once the beneficiary’s tax base is determined, you can determine the applicable tax rates (see “Tax Rates,” p. 46).⁴⁰

Because Germany has no generation-skipping transfer tax, there are planning opportunities for U.S. individuals with grandchildren (and further descendants) in Germany.

Example: Joan, a U.S. citizen, leaves €2.4 million to her daughter Beth, residing in Germany and her three grandchildren, Anna, Bertha and Carl. This gift is taxable on Joan’s estate tax return. If Beth accepts her inheritance: (1) the first €400,000 is tax-free due to the exemption (see “Tax-Free Exemptions,” this page); (2) the balance of €2 million is taxed at 19% because Beth is in tax

German tax laws see an irrevocable trust as an independent tax entity.

class I (see “Tax Rates,” p. 46); (3) Beth’s total inheritance tax is €380,000, less any credit Beth might claim from paying the U.S. estate tax, if any. When Beth dies, her own estate is increased by €2.02 million (€2.4 million less inheritance tax) so Anna, Bertha and Carl will also pay the inheritance tax on the €2.02 million plus potentially higher tax rate on Beth’s other assets. If instead, Beth disclaims €2.4 million from Joan, it will pass to Joan’s



Tax Rates

They increase with the base amount

Net tax base	Tax class I	Tax class II	Tax class III
Up to and including €75,000	7%	15%	30%
€75,001 up to and including €300,000	11%	20%	30%
€300,001 up to and including €600,000	15%	25%	30%
€600,001 up to and including €6,000,000	19%	30%	30%
€6,000,001 up to and including €13,000,000	23%	35%	50%
€13,000,001 up to and including €26,000,000	27%	40%	50%
€26,000,001 and over	30%	43%	50%

— Article 19 of the German Inheritance and Gift Tax Law

grandchildren directly. Anna, Bertha and Carl would each pay the German inheritance tax: the first €200,000 tax-free due to the exemption; the remaining €600,000 will be taxed at 15%; the inheritance tax is only €90,000 each, or €270,000 total; this results in €110,000 tax savings. The disclaimer also avoids increasing Beth's own taxable estate.

Revocable trusts are simply disregarded for German tax purposes.

Taxation of U.S. Trusts

While Germany doesn't recognize trusts for purposes of placing German assets into one, it takes a different approach when it comes to taxing a distribution from a trust. Under Article 12 of the U.S.-Germany treaty, Germany reserved to itself the right to apply its domestic tax rules as to what's considered a taxable transfer for gift or inheritance purposes.

German tax laws see an irrevocable trust as an independent tax entity. Transfers into or distributions

from an irrevocable U.S. trust qualify as a taxable transfer under German law⁴¹ if it has enough nexus to Germany.

Revocable trusts are simply disregarded for German tax purposes. Specifically, if the grantor has any of the following powers over the trust, the transfer into the trust won't be taxable under the German law: (1) amend the trust; (2) revoke the trust; or (3) instruct the trustee regarding management of the trust assets. But once the grantor of the revocable trust dies, the trust might become taxable for German inheritance and gift tax purposes.⁴²

Example: Lisa, a U.S. citizen, creates and funds an irrevocable U.S. trust for the benefit of her child Greta in Germany and her child Ursula in the United States. There's no tax so far in Germany. But once the trustee distributes to Greta, she must report the gift on her German income tax return and pay applicable tax.

The nexus to Germany that triggers the German gift and inheritance law can be reached if either: (1) the grantor or trustee resides in Germany at the time the irrevocable trust is funded; or (2) the beneficiary resides in Germany at the time of receiving the distribution.

A typical provision in a U.S. trust calls for the



income to be distributed to the beneficiary at least annually to avoid trust income tax. But if the trust has nexus to Germany, such distributed income becomes subject to German income tax.⁴³ There's no such income tax requirement for the distributions of principal to the beneficiary in Germany.⁴⁴ Therefore, tax-wise, an ideal trust set up is a fully discretionary trust with the German beneficiary receiving only distributions of principal (which triggers gift tax but no income tax in Germany) and the U.S. beneficiary receiving the income (which avoids U.S. trust income tax).

Choice of trustee. The IRS sees a trust with a non-U.S. person trustee as a foreign trust. A foreign trust is subject to much more stringent income tax reporting than a domestic U.S. trust.⁴⁵ Therefore, it's preferable that only a U.S. person (for example, citizen, green card holder or U.S. corporation) serves as trustee.

If a foreign person does need to serve as trustee, the foreign trust status can be avoided if the foreign trustee has very limited powers—advisory capacity mostly—while a U.S. person serves as trustee with full powers.

How Germans Do It

There are two pathways for a U.S. executor to administer assets in Germany. One is for the U.S. executor to apply for certificate of executorship (meaning file for probate) in Germany. The German court would only appoint an individual named in the will, who may not be the same individual as the U.S. executor. If there's no will or all individuals named in the will aren't available, then the co-heirs will administer the estate in Germany. A trustee of an inter vivos trust wouldn't qualify as executor in Germany because the trust agreement is executed without formalities of a will. But if the trust is already funded, then the trustee might qualify as an heir and can petition for the German certificate of heirship to obtain legal authority. Another way to obtain authority over assets in Germany is through a power of attorney signed by German co-heirs.

Inheritance flowing from a non-U.S. individual residing in Germany to the U.S. beneficiary is subject to the German inheritance tax but free of the U.S. estate tax, regardless of its size. However, any foreign-sourced inheritance—or distribution from the durable 30-year German estate that's similar to the U.S. testamentary trust—that exceeds \$100,000 must be reported to the IRS on Form 3520, due with the beneficiary's personal income tax return, including extensions. Failure to file Form 3520 comes with very severe penalties. 

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Endnotes

1. The EU Succession Regulation (ESR), Reg. 650/2012, effective Aug. 16, 2015. It unified which jurisdiction applies among all 27 EU member states—or points to a non-member's jurisdiction, such as United States. Its scope is the "succession to the estate of a deceased person and covers all forms of transfer of assets, rights and obligations by reason of death, whether by way of a voluntary transfer under a disposition of property upon death or a transfer through intestate succession." Its basic principle is to look for the closest connection state.
2. See Articles 5-9 of the U.S.-German Taxation Treaty (the Treaty).
3. *Ibid.*
4. See ESR Article 21.
5. A Dubai will typically has an automatic revocation provision in case the testator later becomes a Muslim.
6. See Article 6 of the Introductory Law to the German Civil Code (Einführungsgesetz BGB).
7. See German Civil Code (BGB) Section 1922, Universal Succession.
8. See BGB Section 2301, Promise of Donation mortis causa.
9. See BGB Sections 2058-2059.
10. See BGB Section 2214.
11. See BGB Section 2229.
12. Like many civil code countries, Germany allows other forms of a will in critical circumstances. For example, if testator is in an imminent grave danger, a will can be made in the form of an oral declaration to three witnesses.



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13. See BGB Section 2232.
14. See BGB Sections 2265-2268.
15. See BGB Section 1941.
16. See BGB Sections 2209-2210.
17. See BGB Section 2303, Person entitled to a compulsory share.
18. See BGB Section 2325(3).
19. See Section 14(1) of the German Inheritance and Gift Law.
20. See BGB Section 2315.
21. See BGB Section 2310(2).
22. See BGB Section 1923 (2), Capacity to inherit.
23. See BGB Section 1924 (3), Heirs on intestacy of the first degree.
24. See BGB Section 2317(2), Creation and transferability of the claim to a compulsory share.
25. See BGB Sections 2371-2385.
26. See BGB Section 1363.
27. See BGB Section 1931, Right of intestate succession of the spouse.
28. See BGB Section 1371.
29. See BGB Section 1933, Exclusion of the right of succession of the spouse.
30. See Article 5 of the German Inheritance and Gift Tax Law (Erbschaftssteuer- und Schenkungsgesetz).
31. See BGB Section 1944(2) of, Period for disclaimer.
32. See BGB Section 1944 of, Period for disclaimer.
33. See BGB Section 206 of, Suspension of the Statute of Limitations.
34. See BGB Section 210, Suspension of the Statute of Limitations in case of Incapacity.
35. Notaries in Germany are quite different from notaries in the United States. To become a German notary, an individual needs to get a full law degree, pass a state exam and have two to three years of experience as an attorney or an assistant to a notary. Notaries are subject to very strict regulation under the Federal Notarial Act (Bundesnotarordnung).
36. See BGB Section 1943, Acceptance and Disclaimer of the Inheritance.
37. See BGB Section 2180, Acceptance and Disclaimer [by Legatee].
38. See BGB Section 1950, Partial Acceptance; Partial Disclaimer.
39. See BGB Section 1953(2), Effect of Disclaimer.
40. See BGB Section 19.
41. See BGB Section 7(1)8.
42. BGB Section 3(2)2.
43. See BGB Section 20(1) No. 9
44. Jan-Handrik Frank, WF Frank & Partner Rechtsanwälte, Berlin, STEP presentation in Boston (June 14, 2022).
45. A trust becomes a foreign trust if it fails either the “court test” or “control test,” but this is outside of the scope of this article.