



Estate settlement

One of your relatives has just died



*Who inherits ?
In what proportion ?
At what cost ?*

**You notary is at your service to help you and assist you
in any formalities required to settle the estate.**



When the death occurs

What documents should I provide to the notary ?

Concerning the decedent

- The three original counterparts of the death certificate issued by the city hall or the funeral home
- his/her birth and marriage certificates to be requested from city hall
- original copy of the identity card, passport or residence permit
- original copy of the family book
- the civil status questionnaire given by the notary and duly completed
- copy of his/her marriage certificate or civil partnership agreement (PACS)
- copy of the certificate of change of matrimonial regime
- copy of the ruling for physical separation or divorce
- original copy of his/her will
- copy of the inter-spousal gift

Concerning each heir and the surviving spouse

- The three original counterparts of the death certificate issued by the city hall or the funeral home
- their birth and marriage certificates to be requested from the city hall
- original copy of the identity card, passport or residence permit
- original copy of the family book
- the civil status questionnaire given by the notary and duly completed
- copy of their marriage certificate or civil partnership agreement (PACS)
- copy of the certificate of change of matrimonial regime
- copy of the ruling for physical separation or divorce

Concerning the estate of the decedent and his/her spouse

> Real property :

Titles of ownership, in other words deeds signed by a notary certifying his/her title as an owner alone or with his/her spouse.

This could be :

- A purchase deed and prior titles
- A deed of allocation if the properties were initially purchased as shares in an allocation company
- A partition deed, the certificate of ownership for the asset received through inheritance or through an act of donation.
- An appraisal of each of the properties that will be used to establish the declaration of heirs

✦ Note

If you do not have any of these documents, your notary can obtain them for you for a fee.



Additional documents

- the name and address of the bank and the references of the loan obtained for the acquisition, even if the loan has been fully repaid
- a copy of property and residential tax notices

If an asset is jointly owned

- the names and addresses of the joint property manager or the representative of the housing estate
- the joint property rules or the specifications for the housing estate
- minutes of the last three general meetings held by the joint property or housing estate co-owners' association
- the last invoice for service charges
- As appropriate, the invitation to the next meeting of the joint property or housing estate co-owners' association.

If an asset is rented

- a copy of the tenancy agreement,
- the inventory of fixtures
- the amount of the last rent.
- the amount of the security deposit.

If one of the assets has been built, extended or altered

- a copy of the city planning permits obtained (building permit application and award or construction authorisation, statement of completion, certificate of compliance, voluntary statement of compliance, etc...)
- copies of construction liability insurance and ten-year building insurance subscribed for construction works with proof of the payment of insurance premiums
- copy of construction or upgrade work invoices.

> **Statements of bank and investment accounts**

- References of personnel and joint bank accounts, of the decedent and his or her spouse (in the event of joint spousal estate) as well as the latest bank statements
- References of the securities accounts held in a bank or with a forex agent (equities, bonds, trusts, mutual funds, etc.) and the latest bank statements
- References of savings accounts (regulated savings deposits, sustainable savings accounts, housing savings accounts and plans, etc.), the latest account statements
- References of the corporate savings plan and the latest account statements.

> **Motor vehicles**

- Car registration certificate
- Book value for used vehicles

> **Life insurance**

- Copy of the decedent and his/her spouse's policies
- Details of the insurance companies

> **Pension funds**

- The pension book and latest payment notice for the decedent

> **The employer**

- The last three pay slips
- The profit-sharing account statement

> **The shares of civil partnerships or business corporations held by the decedent (or his/her spouse)**

- The updated bylaws and if necessary deeds for the sale of shares Extract of the certificate of incorporation (K-bis)
- The last balance sheet
- The details of the chartered accountant to determine the value of shares

> **Assets of the business, craft or practice**

- The acquisition title
- The extract of the certificate of incorporation (K-bis)
- The registration in the business directory
- The details of the chartered accountant to determine the value of the assets

> **Shares in an SCPI (real estate investment civil partnership), GFA (agricultural land group), GFV (wine-growing land group), woods and forests and other multi-owned properties**

- The updated company memorandum and articles and if necessary, deeds for the sale of shares
- The certificate of shares



> **The other assets (non-exhaustive list)**

- Literary and artistic copyrights
- Recognition of debts and possible receivables especially on the heirs (family loans)
- Proof of any other asset which the decedent owned in whole or in part and especially the rights held in the estate of a relative...
- Copy of the declaration of heirs collected by the decedent or his/her spouse
- Inventory of the assets identified during the estate settlement of a relative.

Concerning the debts of the decedent and his/her spouse

> **Taxes**

- Copy of the last income tax notice
- Copy of the last wealth tax return filed

> **Other taxes**

- Copy of the last income tax notice
- Copy of the last wealth tax return filed

> **Recoverable social benefits**

- The old people solidarity fund (Fonds de Solidarité Vieillesse, formerly FNS),
- Social benefits for elderly people,
- Special benefit for elderly dependent people (Prestation Spécifique Dépendance, etc.)

> **All borrowings, recognition of debts**

- References of the lending organisation

> **Other debts**

- Telephone, electricity, gas and other utility bills,
- Joint property charges,
- Insurance premiums,
- Other invoices owing to the death



The notary

What are the duties of a notary ?

- *arrange the devolution of the estate in other words answer the following questions :
Who inherits ? In what proportions ?*
- *accompany the heirs in fulfilling their tax obligations (declaration of heirs)*
- *ensure the transmission of the decedent's estate to his/her heirs (certificate, partition)...*

What instruments does he draft and at what cost ?

Affidavit

This is an authentic act which determines who are the heirs and the share each one must receive. The notary interrogates the Central File of Last Will and Testaments to check if there is a will or gift between spouses.

This instrument proves the status of a heir. Banks generally ask to see an affidavit before releasing the decedent's accounts. However, if the assets held do not exceed a certain amount, a devolution statement provided by the notary can be sufficient.

> **The document costs around €200**

Option instrument

In this instrument, if the decedent's children are the offspring of the two spouses, the surviving spouse indicates his or her choice between a life interest in the estate or a quarter in full ownership.

If the surviving spouse received an inter-spousal gift, he or she also indicates his or her option to the notary between a life interest in the entire estate or a quarter in full ownership and a life interest in three quarters of the estate or a portion only in full ownership of the estate depending on the number of children.

This instrument also contains the specific details on how to exercise the life entitlement to use and live in the main residence.

Note that the option can be indicated in this affidavit.

> **This document costs around €180.**

The inventory

It is prepared by the notary alone or with the help of an auctioneer.

It is mandatory in certain cases especially in the presence of an incapable heir - minor, vulnerable person... - or during an estate accepted up to the extent of the net asset or more commonly known as «under benefit of inventory».

It is useful for setting the value of the moveable properties to be declared to the tax authorities. Otherwise the moveable properties have to be estimated at 5% of the entire estate.

> **In addition to the auctioneer's possible estimate fees, the cost of an inventory is around €250.**

The certificate of ownership or conveyance certificate

This document is sometimes requested by certain organisations to allow the heir or legatee to obtain the transfer in his/her name of the proceeds from the decedent's savings, shares, bonds or car.

> **The cost is proportional to the value of the assets.**



Liquidation of the estate

This is the key step for determining the rights of each heir. This question is often complex, for example when there are several family estates, gifts or in the case of a reconstituted family.

Declaration of heirs

Mandatory tax formality through which the heirs declare what they receive, to the internal revenue office of the decedent's last place of residence, within six months of the death. It is used as a basis to calculate the inheritance tax.

> *the notary's emoluments are calculated on the amount of the estate (percentage excluding VAT.)*

Amount of the estate	Percentage
from €0 to €6,500	1,60 %
Between €6,500 and €17,000	0,88 %
Between €17,000 and €30,000	0,60 %
Above €30,000	0,44 %

You must add the costs of querying social security organisations, the costs of compiling creditors' statements, and the costs of copies which depend on the number of pages.

The real estate certificate or ownership certificate

This is a mandatory document which guarantees the transfer of ownership of the properties to the real estate file.

> *The notary's fees are calculated on the value of immovable properties (percentage excluding VAT).*

Amount of the value of immovable properties	Percentage
from €0 to €6,500	2 %
between €6,500 and €17,000	1,10 %
between €17,000 and €30,000	0,75 %
Above €30,000	0,55 %

One must add registration costs, fee for real estate official guarantee, the querying fees for mortgage, land registry information, notification to the joint property manager, etc.

The partition deed

After the estate is settled, the heirs may choose to terminate their undivided co-ownership, by signing a partition deed, which allocates certain assets to them. The services of the notary are usually required to reach an agreement between the heirs. If appropriate, within 10 months of the death, it replaces the real estate certificate if all property is shared.

> *This instrument leads to a tax of 2.50% calculated on the shared net asset, and notary fees.*



What other tasks can the notary perform on my behalf?

- pay the estate bills while the estate is being settled
- collect income and rents that depend on the estate
- estimate the assets
- file declarations with the tax and social administrations...

A mission statement shall be signed by the heirs in order to authorise the notary to carry out these formalities and will specify the related cost.



How long does it take to settle the estate?

The law provides for a single time frame: the declaration must be filed and the inheritance tax paid **within six months of the death**. Generally, in the event of agreement between the heirs, the estate is settled within that same time unless in special cases: presence of an underage child, search for the heir, ...

❖ Note

- The remuneration of notaries is set by the French State.
- It is identical throughout France.
- At the first appointment, your notary will give you an estimate of the fees tailored to the characteristics of your case.

Glossary

Abatement : sum deducted from the portion used as the basis for calculating the tax (here estate tax).

Authentic act : instrument drafted by the notary in his capacity as a public officer. It has the same force as a ruling. It cannot be contested, especially with respect to its date, the identity of the signatories and their agreement.

Ab intestato : estate without a valid will.

Acceptance to the extent of the net asset : right for the heir to accept an inheritance without being held personally liable for the debts of the estate (formerly known as «acceptance under benefit of inventory»).

Acquets : assets acquired during the marriage for valuable consideration (common assets) with the gains from the professional activity of the spouses as well as the savings made on the revenue of their own assets.

Gratuitous act : act through which a person disposes of a right with a liberal intent meaning in return for no consideration (e.g.: gift, bequest). By opposition, a sale is an act for valuable consideration .

Affidavit : instrument intended to certify a known and constant fact issued by the notary. It is used to compile the list of heirs known as «devolution of estate».

Net assets of the estate : estimate of the estate, namely all the assets (financial, real estate, etc.) after deducting the debts on the day of death. It is the basis for establishing the estate duties.

Devolution certificate : certificate issued by the notary stating the devolution of the estate by identifying the heirs.

«Real estate certificate» : authentic act established by the notary to allow the registration in the real estate file of the assets in the estate in the name of the heirs.

Matrimonial advantage : clause in the marriage contract that allows one spouse to benefit from an advantage with respect to what he or she could obtain by the sole application of the law.

Beneficiary : person designated by the decedent in his/her insurance policies, entitled to receive a capital or annuity in the event of death.

Codicil : subsequent instrument added to a will to amend or supplement it.

Community : all the properties (assets and liabilities) belonging to the married spouses without a contract or with a community contract.

De cujus : the decedent, the deceased.

Inter-spousal gift or give «to the last alive» : authentic act drawn up by the notary allowing the share of the spouse to be increased with respect to what is awarded by law.

Gift-partition : authentic act drawn up by the notary which entails dividing up one's properties among one's children while one is still alive.

Conveyance taxes : inheritance taxes payable to the French Treasury

Right of use and residence : right for a person to stay in a real estate property without having the right to rent or sell it.

Liquidative status : estimate of the assets and liabilities of an estate for the purpose of partitioning the properties.

Co-ownership : state of a property that belongs to several people.

Inventory : authentic act drawn up by the notary, with details and estimated of what comprises the assets and liabilities of an estate.

Enjoyment : right to use a property.

Bequest : property transmitted by will.

Legatee : beneficiary of a will.

Direct line : all the ascendants and descendants of a person.

Collateral line : all the people with a common ascendant.

Paternal line : all the relatives on the side of one's father.

Maternal line : all the relatives on the side of one's mother.

Minutes : original of the authentic act drawn up by the notary who is responsible for keeping it.

Bare-ownership : property for which one has neither the use nor the income which are devolved to the person with the life interest.

Full ownership : ownership that can be enjoyed and sold.

Partition : authentic act drawn up by the notary which terminates the co-ownership and allocates to each heir their share (can be done in court in case of disagreement).

Inalienable portion or reserve (part réservataire or réserve) : Refers to the portion of the inheritance which the law grants to certain heirs and which cannot be taken away. They are the descendants and in the absence of descendants, the surviving spouse.

Own : property acquired by a spouse prior to his/her marriage or received as a gift or inheritance during the marriage (also known as «own properties» by opposition to the common properties acquired during the marriage).

Disposable portion : Refers to the fraction of the estate which a person can freely dispose of without breaching the rights of the inalienable heirs (héritiers réservataires). It varies according to the composition of the decedent's family. It is half if the decedent had one child,

one third in case of two children and one quarter if there are three or more children.

Ratio : reintegration in principle in value, sometimes in kind, of the properties that were given by the decedent in order to reconstitute his estate as it would have been if there hadn't been gifts. It allows the calculation of the amount of the reserve and the disposable portion. The purpose is to ensure equality between the heirs who received a gift and those who received none prior to the death.

Reward : technique allowing the reimbursement of the sums due by one of the spouses to the community, or inversely the sums collected by the community which must be reimbursed to one of the spouses.

Reduction : decrease of a gift to preserve equality between the heirs.

Recovery : transaction that entails during the liquidation of a matrimonial regime for one of the spouses to take back his/her own properties that still exist.

Inalienable heir (Résevataire) : a heir benefitting from the inalienable estate or reserve, descendant or spouse (see below).

Reserve : refers to the portion of the inheritance which the law grants to certain heirs and which cannot be taken away. They are the descendants and in the absence of descendants, the surviving spouse.

Will : instrument through which a person known as the testator expresses his/her last wishes and proceeds to the partition of his/her properties.

Life interest : the person with the life interest is entitled to enjoy and use the property but does not own it. He/she can neither sell nor give it away; he/she can only use it and collect the income and revenue arising therefrom.

Matching payment : sum paid by the heirs among themselves in a partition to restore balance



**You notary is at your service to help you and assist you
in any formalities required to
settle the estate**

