

# Mexico

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## 1. Taxation

### 1.1 Inheritance

Mexico legislation does not recognize an inheritance tax. According to Mexican legislation, succession is the legal mean through which a person substitutes another on his or her rights and obligations due to the latter's absence. For Mexican tax purposes, a process must also be observed that goes in hand with the civil process, i.e., at the beginning of the testamentary succession to distribute the assets or wealth for which a notice must be filed with the Mexican tax authority (SAT).

According to the Civil Code of the Federal District (CCDF), a succession starts at the time of the decedent's death or when the death is presumed in the case of absences or disappearances. A testamentary succession or intestate is formed when an executor is named.

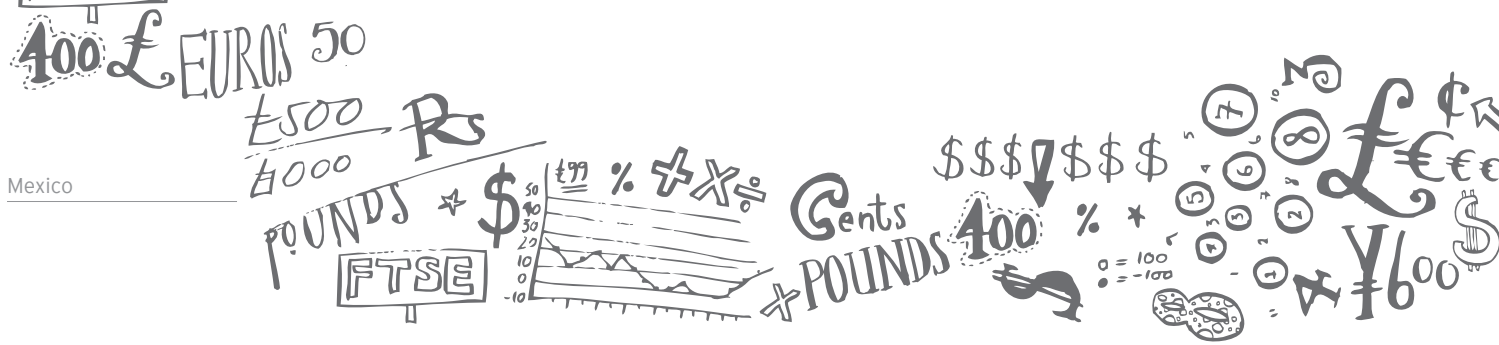


The succession is integrated in the four stages shown in the table below.

Stages	Activities
Succession	<ul style="list-style-type: none"> <li>▸ The testament or testimony at the Notary</li> <li>▸ Only the heirs who are listed on the will have the right to the inheritance.</li> <li>▸ Appointment and removal of executor and inspector, and recognition of hereditary rights.</li> <li>▸ Resolution on the validity of the testament, capacity to inherit and preference of rights.</li> </ul>
Inventory	<ul style="list-style-type: none"> <li>▸ Inventory of the inspector.</li> <li>▸ Inventory and estimate by the executor.</li> <li>▸ Respective incidents (if so). Sentential on inventory and estimate.</li> </ul>
Administration	<ul style="list-style-type: none"> <li>▸ All regarding administration.</li> <li>▸ The accounts, gloss and his calcification.</li> <li>▸ The verification of covered the fiscal tax.</li> </ul>
Participation	<ul style="list-style-type: none"> <li>▸ Project of distribution provisional.</li> <li>▸ Project of distribution.</li> <li>▸ Respective incidents (if so) and adjustments.</li> <li>▸ Resolutions regarding the application of the goods that form the inheritance.</li> </ul>

The executor is the representative of the succession against third parties and she or he will have the following obligations:

- To submit the testament.
- Securing of the goods of the inheritance.
- Forming of inventories.
- To manage the goods and surrendering of the accounts.
- Paying of the mortuary, hereditary and testamentary debts.
- Dividing and awarding of inheritance between the heirs and legatees.
- Judging and defending the validity of the inheritance testament.
- Representing the succession in all judgments promoting themselves in their name or any promotions against them.





If the acquisitions are listed in the documents, it is the purchaser's responsibility to calculate the tax and pay for it. The tax is calculated by applying the total value of the building based on tariffs as shown in the table below.

Rank	Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Percentage to be applied on the excess above the lower limit
A	0.12	90,489.20	200.00	0.01105
B	90,489.21	144,782.67	1,200.00	0.03315
C	144,782.68	217,173.80	3,000.00	0.05526
D	217,173.81	434,347.72	7,000.00	0.03684
E	434,347.73	1,085,869.29	15,000.00	0.0353
F	1,085,869.30	2,171,738.59	38,000.00	0.04328
G	2,171,738.59	4,183,661.31	85,000.00	0.04722
H	4,183,661.32	10,894,951.87	180,000.00	0.04768
I	10,894,951.87	20,091,830.65	500,000.00	0.04812
J	20,091,000.00	And above	900,000.00	0.04997

### 1.4 Endowment tax

There is no endowment tax in Mexico.

### 1.5 Transfer duty

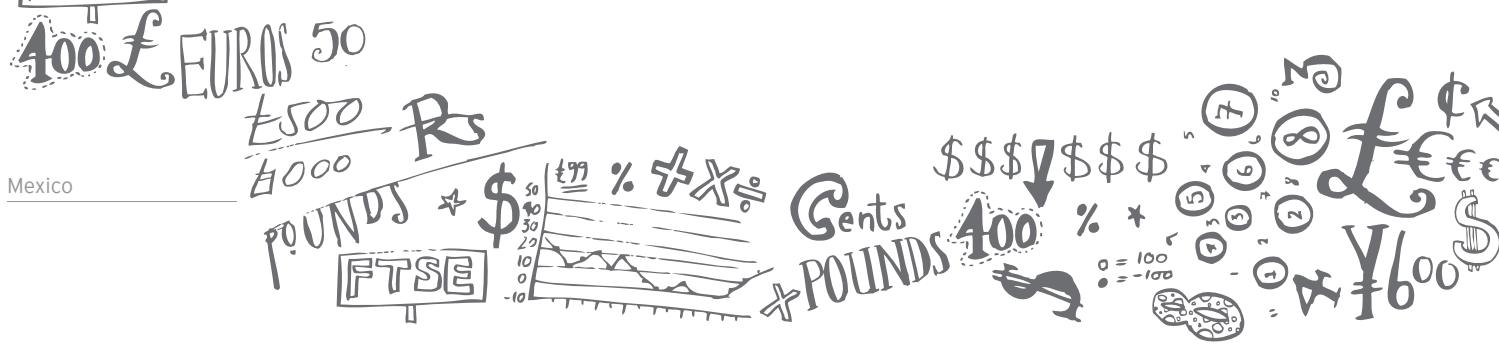
There is no specific transfer duty in Mexico.

### 1.6 Net wealth tax

There is no net wealth tax in Mexico.

## 2. Who is liable?

According to the Civil Code, a testamentary or intestamentary succession comes when the deceased has goods in his or her name for which an executor will be named realizing an act for effects to indicate to the designation and acceptance of the





Once the estate is liquidated, the legal representative, the heirs or legatees that did not make the election referred to in the preceding paragraph may file an amended return for the five years preceding the year in which the liquidation took place, when applicable, in order to include in gross income the portion of the estate's income that corresponded to them on those years, and credit the portion of the tax paid each year by the estate's legal representative. Payment carried out in this form will be definitive, unless the heirs or legatees choose to accumulate the respective income that corresponds to them, in which case will be able to credit the proportional part of the paid tax.

The income tax for fiscal year 2014 shall be calculated in accordance with the following schedule:

Tax rate schedule			
Lower limit (MXN)	Upper limit (MXN)	Fixed amount (MXN)	Percentage to be applied on the excess above the lower limit %
0.01	5,952.84	0.00	1.92
5,952.85	50,524.92	114.24	6.40
50,524.93	88,793.04	2,966.76	10.88
88,793.05	103,218.00	7,130.88	16.00
103,218.01	123,580.20	9,438.60	17.92
123,580.21	249,243.48	13,087.44	21.36
249,243.49	392,841.96	39,929.04	23.52
392,841.97	750,000.00	73,703.40	30.00
750,000.01	1,000,000.00	180,850.82	32.00
1,000,000.01	3,000,000.00	260,850.81	34.00
3,000,000.01	And above	940,850.81	35.00

## Date for payment of tax

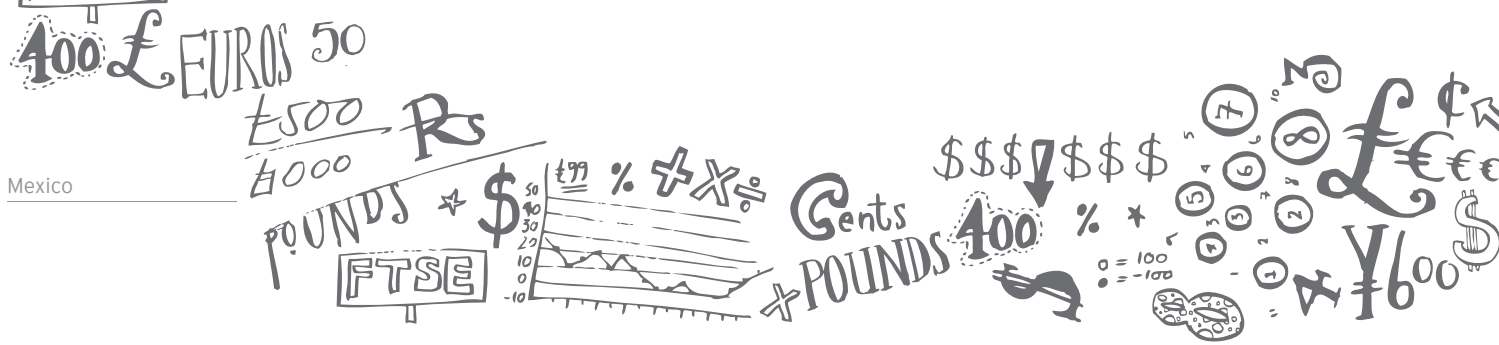
### Lifetime transfers

Taxpayers should include transfers in their annual tax returns, which must be filed on 30 April.

### Transfers on death

The representative should file a return including income earned by the deceased from 1 January of the year of death up to the moment of his or her death within 90 days after the designation.

When income accrued up to the moment of the person's death was not effectively received in life, it should be declared in the following year's annual tax return on 30 April.



## 4. Exemptions and reliefs

The following exemptions may be applied for each income received after the liquidation of the succession.

MITL establishes that there is no payment of taxes for retirement, pensions, retirement benefits, as annuities or other forms of retirement from the retirement insurance sub-account; the retirement, early retirement and old-age sub-account set forth in the Social Security Law; or the individual account of the Retirement Savings System set forth in the Law of the Government Workers' Social Security and Services Institute [*Ley del Instituto de Seguridad y Servicios Sociales de los Trabajadores del Estado*], in cases of disability, early retirement, old age, retirement or death, the provided daily amount does not exceed 15 times the annual general minimum wage (MXN383,797.50 in Mexico City in 2015) in effect in the taxpayer's geographic area. Income tax shall be paid on the excess amount. The transfer of these accounts to the heirs should also be considered as exempt income for income tax purposes.

Sale of home is tax free when the transferor demonstrates that he or she has not sold another home for which the exemption has been claimed during the five years immediately preceding the date of transfer, provided that the amount of the consideration received does not exceed 700,000 investment units (MXN3,689,000 approximately in 2015) and the transfer is executed before a person with notarial functions. Gains shall be determined on the basis of the excess. The annual tax and estimated payment shall be calculated upon such gain and considering the deductions in proportion to the ratio obtained by dividing the excess proceeds by the excess on the exemption. The person with notarial functions shall calculate and make payment of the estimated tax, in accordance with the regulations.

Personal property other than shares, ownership interest, securities and investments secured by the taxpayer, in one calendar year cannot exceed the difference between total sales and the verified acquisition cost of the assets sold and/or cannot be greater than three times the annual general minimum wage (MXN76,759.50 in Mexico City) in effect in the taxpayer's geographic area.



### Shares sold or listed on a stock exchange

The tax exemption on gains derived from the sales of shares on Mexico's stock exchange has been repealed. Such exemption was granted to shareholders that held, either directly or through a group of related parties less than 10% of the shares of the listed company, or even when they held greater amounts of stock or exercised control over the company they did not sell the related shares within a period of 24 months.

For 2014 and onwards, a 10% tax will be payable on the net gains derived from the sale of shares through Mexico's stock exchange. This Tax is not creditable against the taxpayer's final tax liability determined in its annual income tax return. This new tax is applicable on (i) shares or securities that represent shares issued by Mexican companies sold through Mexico's stock exchange, (ii) securities traded on the Mexican Derivatives Exchange and (iii) Shares or securities which represent shares of foreign entities trades though Mexico's Stock Exchange or the Mexican Derivatives Exchange.

- ▶ The gain or loss will be determined by the broker, by comparing the sales price (reduced by the commissions paid for the sale) with the average purchase price (added with the commissions paid for the purchase).
- ▶ The average purchase price and the losses incurred will be updated to reflect the inflation effects during the holding period.
- ▶ The 10% tax will be determined each tax year, adding the gains and subtracting the losses derived from the trading of each company's stock.
- ▶ In order to determine the purchase price of shares acquired before 1 January 2014, a transitional rule established that the taxpayer may opt to determined such price using the 22 closing prices listed during December 2013 or closing prices quoted during the previous six months in case the share are not regularly traded.

## 5. Filing procedures

Once the process of succession ends a notice of cancelation of Federal Taxpayer Identification Number or RFC (*Registro Federal de Contribuyentes*) by liquidation of the succession, it must be filed by the executor.

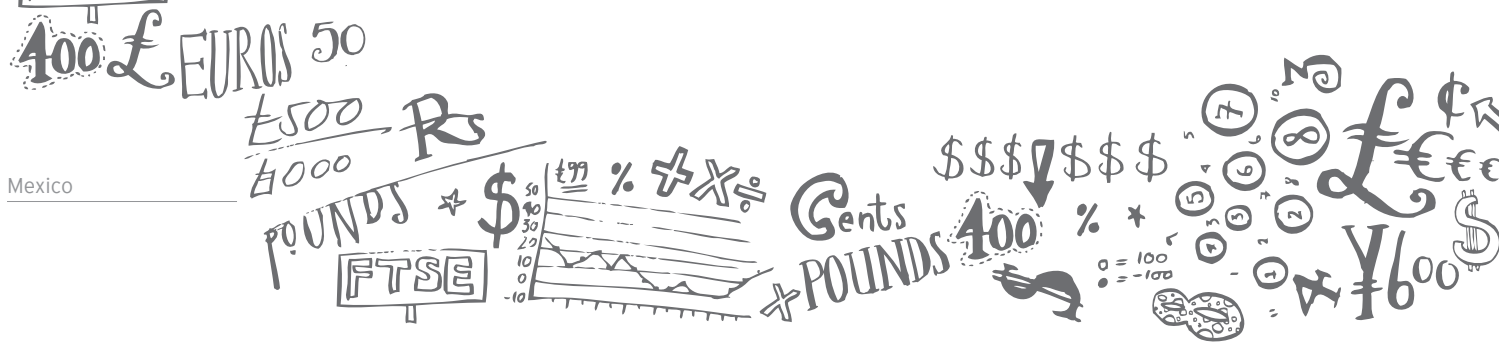
In cases of death of a person required to file an annual tax returns, the following shall apply:

1. Within 90 days following the date when the executor is appointed, he or she shall file a return for income earned by the deceased from 1 January of the year of death up to the moment of his death, in order to pay the relevant tax.
2. Income accrued up to the moment of the person's death that was not effectively received in life, shall be subject to the following rules:
  - a. Salary income and entrepreneurial income, as well as income from providing professional services, described, shall be exempt from payment of the tax for the heirs or legatees, since such income is considered tax exempt.

Taxpayers who in the fiscal year have obtained total income in excess of MXN500,000, including income on which income tax is not required to be paid and on which the definitive tax was paid, must declare all of their income in their annual tax return. Inheritance should be reported in the Mexican annual tax return for informative purposes only.

- b. Additional income (sale of goods, interest income, dividends, as well as income from entrepreneurial activities, excepting income prizes) may be considered income received by the deceased person and declared under the preceding section or when the heirs or legatees elect to include such income in their income tax return and pay the corresponding tax.







- ▶ It can be formalized while still living or until the death of the author of the inheritance via testament.
- ▶ It can be saved to guarantee that the goods are safe until the established term.
- ▶ It avoids conflicts between the heirs, and it is perfectly stipulated to whom the inheritance belongs.
- ▶ It grants legal security to legatees and executors.

The fiduciary will determine the result or the tax loss of these activities in each exercise and will fulfill on behalf of the assembly of the trustees the tax obligations. Cash or assets from the trust delivered by the trustee to the trust beneficiaries will be considered reimbursements of capital contributed until said capital has been recovered. In addition, these deliveries will decrease the balance of each of the individual capital contribution accounts maintained by the trustee for each beneficiary until the balance of each account has been exhausted.

### Non-Mexican settlements

Trusts incorporated under the Mexican legislation are subject to the Mexican legislation regardless of the residence of the settlor or the time of their creation or the situs of the assets held.

When a trust beneficiary is an individual who is a Mexican resident, the portion of the taxable income or tax profit stemming from the entrepreneurial activities conducted through the trust and corresponding to the individual in accordance with the agreement will be considered income from entrepreneurial activities.

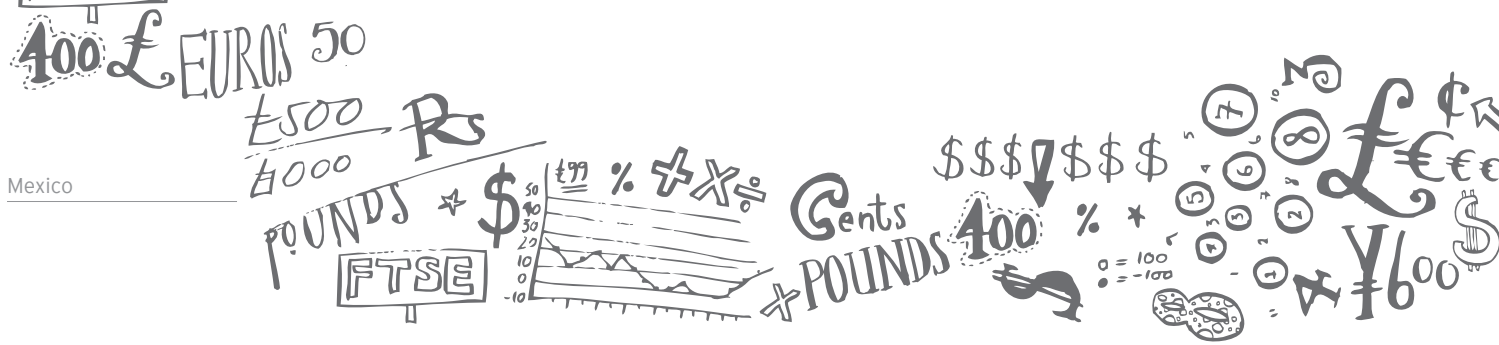
Foreign resident trust beneficiaries are considered to have a permanent establishment in Mexico because of the entrepreneurial activities conducted in the country through the trust. These permanent establishments must file annual income tax returns for the portion of the taxable income or tax profit derived from said activities corresponding to them for the fiscal year.

## 8. Grants

With regard to estate taxes, there are no specific rules in Mexico.

## 9. Life insurance

Income tax will not be paid on amounts paid by insurance companies to the insured or beneficiaries for life insurance contracts when the premium be paid directly by the employer on behalf of its employees, when the benefits of the said policies are only paid in the event of death, disablement, organ loss or disability of the employee, preventing him or her from performing a dependent service, in accordance with the social security laws. When a policy covers the death of the policyholder, the beneficiaries must be the spouse, the common-law spouse, and his or her lineal ascendants or descendants in order to be exempt on the payment. No exemption will apply to amounts paid by insurance companies as dividends derived from the insurance policy.





Any person of any age, individual or collective, can be designated as an heir, unless their legal capacity is lost by any of the causes mentioned in the law: lack of legal personality, having being sentenced for the commission of a crime, presuming alterations or influence on the free will of the testator, among others.

The testator can dispose of his or her goods in full (universal disposal) or in part (particular disposal). People who inherit the total rights and obligations of the testator are designated inheritor. Inheritors or heirs are expected to respond for any credits that the inheritance has due. For example, if the inheritor succeeds the testator by becoming the legal owner of all the properties of the latter but one of them is under a mortgage, the inheritor must pay for such obligation using the rest of the properties until the debt is covered or until the value of the received properties can cover.

Legatees may inherit parts of the testator's rights and obligations. For example, the legatee can inherit a set of paintings or works of art and nothing else.

Testaments can be classified as ordinary and special. Ordinary testaments are granted under normal circumstances and are divided into open or public testament, simplified testament or handwritten.

Special testaments are granted in times and places where it is unusual or extraordinary to do so. They include private testament, military testament, maritime testament which can be granted in another country.

Each case's applicable conditions are subject to the local valid legislation of the state where the testament is executed.

### 10.3 Legitimate or intestate succession

In the event of a person dying without leaving will or if there are assets that were not referred into, the Civil Codes of each state contain the rules in accordance to which such assets shall be distributed. However, there are some general rules to follow:

The following persons possess the right to inherit:

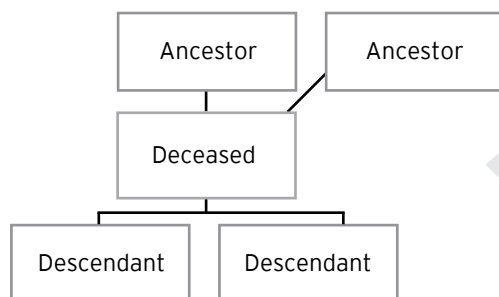
- ▶ Descendants, spouses or domestic partners.
- ▶ Ancestors, in the absence of descendants, spouses or domestic partners.
- ▶ In absence of all the aforementioned, collateral relatives up to fourth degree, with preference placed on brothers or, in the absence of these, relatives in increasing degree.
- ▶ In absence of these, public welfare.

The specific rules bound by the criteria applicable to succession are noted in the charts below:



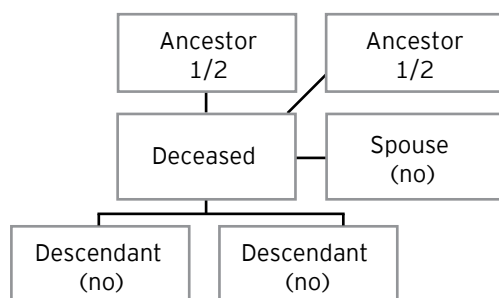


#### 4. If first-degree descendants concur with ancestors

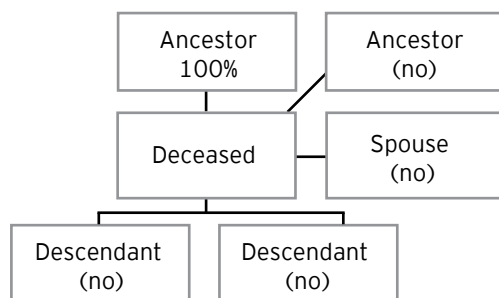


If ancestors and descendants concur, the ancestors are entitled to a fraction of the compensation not larger than one of the descendants.

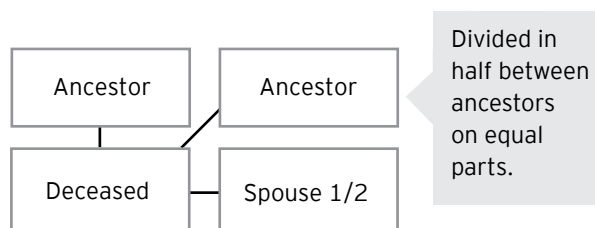
#### 5. If only ancestors



#### 6. If only ancestor



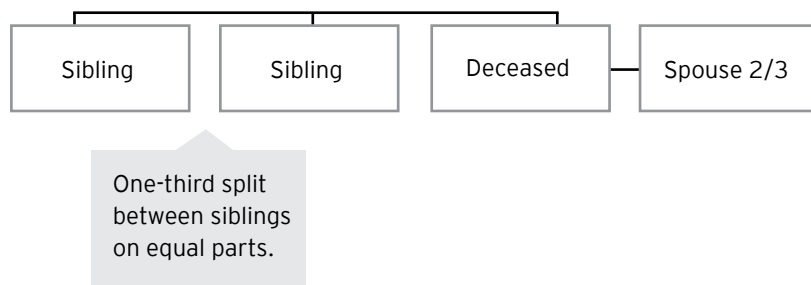
#### 7. If ancestors concur with spouse



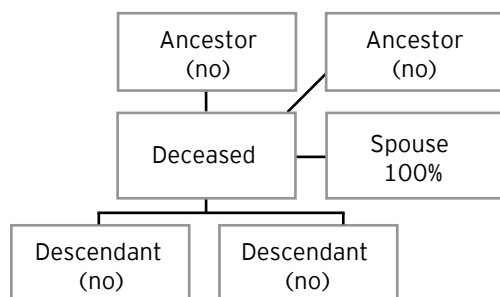
Divided in half between ancestors on equal parts.



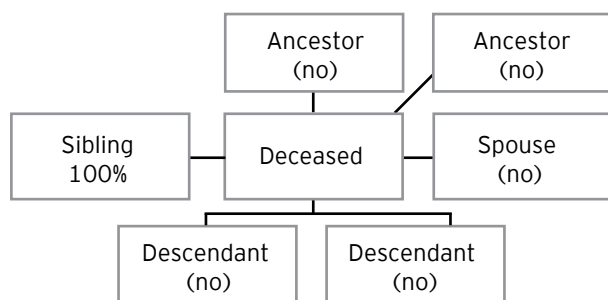
## 8. If spouse concur with siblings



## 9. If only spouse



## 10. If only siblings





### 11.1 Unilateral rules

## 11.2 Double-taxation treaties

Fiscal Code of Federal District



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## 1. Types of tax

Based upon the Succession Code 1956 (the Code), two types of tax are levied:

- Gift tax
- Inheritance tax

Before 1 January 2010, transfer duty was levied from the person who acquired Dutch *situs* property by way of gift or bequest in case the donor or the deceased was not (deemed) resident in the Netherlands at the time of the gift or at the time of the bequest. The transfer tax (gift/inheritance tax regarding Dutch *situs* property) was abolished in 2009.

Technically neither tax is considered an estate tax because the tax is not levied on the estate as such, but each tax is levied from the person who acquires property by way of gift or bequest. Some *inter vivos* transactions may also be liable to inheritance tax. This applies to *inter vivos* transactions that actually take effect upon death (e.g., life insurance contracts and third-party contracts). This will be explained a little further below.