



# Estate Planning with Foreign Property

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Estate planning is essential for everyone. For some, it can be complicated. However, if you own foreign property, your estate planning may be even more complicated. Generally, the laws of the United States that apply to your domestic estate do not apply to your foreign property and may not dictate how that property will be distributed to your heirs. Thus, careful planning and expert advice is essential.

## Before You Purchase.

Before you purchase foreign property, seek legal advice on the best way to structure the ownership of the property based on the laws of that foreign country, including the country's tax laws and laws relating to inheritance. For example, in the United States, many people use trusts to hold property that is owned in the state where the person lives, as well as in other states in the US. However, not all foreign countries recognize trusts and, thus, cannot be used to hold title to property located in that country. This can be especially problematic if your Will transfers all of your assets (which may include the foreign property) to a trust at your death.

## Multiple Wills.

Some foreign countries recognize Wills that are drafted in accordance with the laws of the United States, while others do not. If you own foreign property, it is recommended that you hire different lawyers, one from the United States and one from each foreign country in which you own property. It's possible that one Will can suffice or you may only need a separate codicil to your Will to deal with the foreign property. Or you may need more than one Will – one Will that applies to your domestic estate and another Will for each country in which you have foreign property. It is essential in all cases that your lawyers work together. Care must be taken to insure that there are no conflicting provisions in any of your documents and that no Will inadvertently cancels the other Will. Further, Wills that will be administered in a foreign country should be written in that country's language rather than in English.

## Intestacy Laws.



If your Will is not recognized by the foreign country in which the property is located, that property will pass pursuant to that country's intestacy laws. Those intestacy laws can cause your property to be distributed to persons who you did not intend to receive your property.

### Estate Taxes.

Citizens and residents of the United States are taxed on their worldwide assets for estate tax purposes, including their foreign property. Some foreign countries also levy a tax on the transfer of the property located in their country. The foreign taxes may be credited against the tax imposed by the United States, but your beneficiaries may get a tax bill that is higher than expected. There may be tax treaties that can lessen the tax burden. You may wish to seek advice on the estate tax implications associated with the foreign property and the existence of any tax treaties that may minimize the amount of taxes that may be imposed upon your death.

### Gifts.

Gifting foreign property to your family members during your life may be subject to international gift taxes. You should always seek expert tax advice before transferring any foreign property.

An experienced team of advisers is needed to structure your estate plan in a legal and tax efficient manner. For this reason, it is essential that you seek an experienced estate planning attorney who understands the implications of owning property in another country.

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