



CWalsh

## **Estate planning for property in Israel**

### **Why make a Will?**

It is a common misconception that even if we do not make a Will, the law will ensure that those we love will inherit our assets. But that is not necessarily the case. In certain countries, such as the UK and the USA, if you do not have a Will there is a good chance that the state will claim more of your estate than you would wish through liability to Inheritance or Estate Tax. In Israel, although there is no inheritance tax, in the absence of a Will a spouse may be entitled to only part of the estate and there is no automatic right for your husband or wife to take your share of any joint property. So without a Will, you may find that your home or holiday apartment belongs jointly to your wife and children or even your parents.

Needless to say, a practical advantage of making a Will is that it is an opportunity to gather and organize information about your assets. Particularly in the case of property bought long ago or in another country, it may be that no one else is familiar with the exact details of your apartment or even your bank account. It is therefore important that alongside the Will, you leave details which will enable your executors or family to locate your property, such as bank account details or title information for any real estate. Although there are usually no original title deeds for property in Israel, ownership of registered property is identified by block and parcel numbers, while ownership of unregistered property is identified through production of your purchase agreement or confirmation of your rights from the appropriate recording body.

If you are not resident in Israel and have purchased any assets or opened bank accounts with a foreign passport, making a Will is a good time to check that your current passport numbers has been updated on the register or with the bank.

Other factors to take into consideration are that, in many situations, family members worldwide can benefit substantially if they inherit your property through a trust, which is something that you could provide for in a Will. In addition, you may wish to take into account is the rights of a wife under her Ketuba (Jewish marriage agreement) which exist independently of any Will. Another important point to note is that certain Israeli financial assets do not form part of your estate by law and will not pass under the provisions of your Will. Drafting a Will provides an opportunity to identify these assets and to take steps to ensure that the registered beneficiary is correct.

### **Do I need a separate Will for my property in Israel?**

If you already have a Will abroad, the question that usually arises is whether you need a separate Will to cover your property in Israel. The Israeli courts will recognize a valid foreign Will and so one option is to have a single Will for all your property worldwide. However, in most cases, we would advise that you draft a separate Will for your property in Israel. For example, an Israeli Will allows you to give specific instructions with regard to your Israeli estate and also to appoint executors resident in Israel to deal with property here. In addition, an original Will is required for probate here in Israel and the process of obtaining probate is greatly simplified if you have a short succinct Will for your property here.



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Your Will should be drafted in a language which you understand and so, unless you are a Hebrew speaker, the Will can be in English. The Israeli courts are permitted to accept Wills in English but if the provisions are complex as is the case with many foreign Wills, they may require a certified translation. This again is another reason why you may wish to make a separate Will dealing only with your property in Israel.

If you wish to draft a separate Will for your Israeli assets, it is important to take professional advice to ensure that the two Wills are complimentary and that one does not affect the validity of the other. In addition, as Israeli law does not recognize letters of wishes, codicils or other testamentary documents unless these are witnessed in the same way as a Will, you should ensure that all relevant instructions and dispositions concerning your Israeli property are included in the Will itself.

### **The Israeli Courts**

The Israeli courts have jurisdiction over an estate either if the deceased was resident in Israel or if the estate includes Israeli assets. Your executors or beneficiaries will be required to apply for a probate order from an Israeli court in order to deal with your property in Israel.

Even if the foreign courts have already validated a Will and issued a grant of probate, there is no automatic recognition of this grant in Israel. All Wills must be submitted to the Israeli Registrar for confirmation and, if the Will has been made by a foreign resident, a legal opinion from an expert on the relevant law must be submitted to confirm that the Will is valid. The courts will also require that the application is advertised publicly and that notices are sent to the beneficiaries to inform them of the proceedings. In most cases, the Israeli lawyer who is handling the application can be asked to deal with the court's requirements.

Unfortunately, the probate process is notoriously lengthy and it may not be possible to distribute or deal in the assets for several months. However, once the probate order has been issued, this will enable your executors or beneficiaries to collect and distribute the assets.

In conclusion, if you own property in Israel it is essential to recognize that Israeli law may apply to these assets. Whatever you own, whether it is a small amount in a bank account or a fully-equipped house will not necessarily be inherited by those you would choose if you have not made a Will. The only way to ensure that you decide what happens to your property is to make the appropriate arrangements at the earliest opportunity.

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