

How to disclaim an inheritance in Germany – can I inherit debts in Germany

Under German law heirs inherit both, decedent's assets and debts unless they disclaim the inheritance. Inheritance law in Germany provides that decedent's property and assets, as well as decedent's debts and obligations, are passed on at the time of death by operation of law. This is why you should disclaim an inheritance if the estate in Germany is indebted.

Strict rules apply to disclaimers of inheritance in Germany:

- Under German law an inheritance must be disclaimed explicitly and in writing
- Disclaimers of inheritance must be notarized, your signature alone is not sufficient.
- If you are in the United States and want to disclaim an inheritance in Germany you have to do so at a German Consulate.
- Acknowledgement by a US notary public is not sufficient. In Germany a notary ("Notar") is a lawyer, not just a professional witness.
- If you are not domiciled in Germany, or if you are abroad at the time of death, the inheritance can only be disclaimed within six months.
- The six month period starts once you have knowledge of both the passing and being an heir.
- It is your responsibility to file the disclaimer with the proper Probate Court in Germany within this period.

German law assumes acceptance of an inheritance unless it is disclaimed properly and timely. You will not be asked if you would like to accept the inheritance and you are not required to accept it explicitly. It is your responsibility to find out whether an inheritance is worth accepting it.

Please note that you may accept an inheritance in Germany unintentionally. Certain acts such as disposing of decedent's assets or accounts may imply acceptance even before the disclaimer period expires. Once an inheritance is accepted you can no longer disclaim it.

Under German law an inheritance may only be accepted or disclaimed in its entirety. You are not allowed to accept an inheritance in part and disclaim the remainder.

If you disclaim an inheritance in Germany the result is that the next in line will receive your share, unless decedent provided for an alternative distribution in his will. Usually your children will be next in line and will inherit your share of decedent's debts unless they also disclaim the inheritance.

In case of minor children both parents jointly, or one parent with full custody, must disclaim the inheritance on behalf of the minor.

There are no probate proceedings for purposes of settling an estate in Germany. German law does not recognize living trusts, or trusts in general. Consequently, no administrator, executor, or trustee will collect decedent's assets and settle decedent's debts.

Therefore, in general, heirs under German law are personally liable with their own assets for decedent's debts. There are ways to limit an heir's liability for decedent's debts other than a disclaimer, which may be of particular interest if you failed to timely disclaim the inheritance. However, these options are complicated and you must actively pursue them in Germany.