

# Cross-border succession

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# Cross-border succession

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- Rule of Domicile on Form of will: Probate procedure shall be governed by the Rule of Domicile of the deceased, with few exceptions, for example - when property is located in foreign country that applies the Lex Situs rule.
- The court has the discretion to deem a foreign will as valid even in case of a defect in the form of a will under the domicile law, provided it can be cured according to either - Israeli law, the law of the testator's residency/domicile/citizenship; the law where the will was made; or by the Lex Situs if it is real-estate.
- For example: a woman domiciled in Argentina has made a verbal will, bequeathing her Israeli property to her late husband's nieces. After she passed away the main dispute was the fact that the Argentinian Law doesn't recognize a verbal will.
- Although the Israeli Rule of Domicile applies the Argentinian law, the court decided to validate the deceased's will on the grounds that its form is valid under the Israeli law (as stated above), while applying the Argentinian law on the material substance of the will.

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## Probate and International Private Law in Israel

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- Competence: the court shall gain jurisdiction over the estate of any person whose domicile was in Israel at the time of death, or has left property in Israel.
- Domicile: person's center of life. The domicile of a minor, legally incompetent, or has an appointed legal guardian, shall be the domicile of his parents/legal guardian, as relevant.

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## Renovi

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- Israeli succession law practices partial Renvoi while adopting remission and declining transmission (single level referral).
- While a foreign law is in practice, due to Rule of Domicile for example, the court shall not adhere to another referral of that foreign law to a third-party foreign law, unless such foreign law is referring back to Israeli law.

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## Probate and Succession in Israel

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- In Israel, any person alive at the date of decedent's passing, or was born within 300 days thereafter, is eligible to inherit him/her.
- An entity / corporate is also eligible to inherit, given it is eligible to own assets at the time of death or within one (1) year following the issuance of the probate order.
- Israel does not apply forced heirship.
- Israel does not have inheritance tax, but it is important to note that the distribution process may carry tax implications.

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## Probate and Succession in Israel

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- A will can be made in different ways – 1. Verbally on a deathbed with witnesses 2. hand-written 3. typed in various forms.
- The law has a few fundamental conditions re the form of a will, but focuses mainly on the substance of it - reassuring the testator's free will.
- Alternate Heirship - in case the primary heir won't be eligible to inherit.
- Consecutive Heirship – “Heir after Heir” –appointing up to 2 consecutive heirs, where the secondary heir shall inherit the deceased at the time of death of the first heir, or when a certain condition specified in the will is met - whichever is earlier. (with the exception as to a living heir at the date when the will was done)
- Important emphasis – in both cases, the alternate / second heir in line, inherits directly from the testator.



**Thank you**

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