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Applying for a joint certificate of partial inheritance for prior or subsequent heirs with limited objectivity

Heruntergeladen am 06.07.2025

<https://fimportal.de/xzufi-services/393977338/L100008>

Modul	Sachverhalt
Leistungsschlüssel	99046068001013, 99046068001013
Leistungsbezeichnung I	Applying for a joint certificate of partial inheritance for prior or subsequent heirs with limited objectivity
Leistungsbezeichnung II	
Typisierung	2/3 - Bund: Regelung (2 oder 3), Land/Kommune: Vollzug
Quellredaktion	Sachsen-Anhalt
Freigabestatus Katalog	unbestimmter Freigabestatus
Freigabestatus Bibliothek	fachlich freigegeben (silber)
Begriffe im Kontext	
Leistungstyp	Leistungsobjekt mit Verrichtung
Leistungsgruppierung	Gerichtliche Leistungen (046)

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Verrichtungskennung	Erteilung (001)
SDG-Informationsbereich	Erbansprüche und -pflichten in einem anderen Mitgliedstaat, einschließlich Steuervorschriften
Lagen Portalverbund	Urkunden und Bescheinigungen (1070200), Erbschaft, Nachlass und Testament (1190200)
Einheitlicher Ansprechpartner	Nein
Fachlich freigegeben am	23.06.2021
Fachlich freigegeben durch	Lower Saxony Ministry of Justice
Handlungsgrundlage	https://www.gesetze-im-internet.de/famfg/__352b.html https://www.gesetze-im-internet.de/bgb/__2100.html https://www.gesetze-im-internet.de/famfg/__352b.html https://www.gesetze-im-internet.de/bgb/__2100.html
Teaser	<p>A joint certificate of inheritance can also be issued for several heirs; each co-heir can apply for one. If there is a prior and subsequent inheritance, the certificate of inheritance will indicate this. It can be restricted in terms of subject matter if parts of the estate are located abroad.</p>
Volltext	<p>When a testator dies, they usually leave behind not just one heir, but several. These become part of the so-called community of heirs upon inheritance. The estate is only divided among the individual heirs in accordance with the agreements made once the estate has been settled.</p> <p>In principle, each individual co-heir can apply for a certificate of inheritance with which they can identify themselves to third parties as the rightful heir. However, if the community of heirs wishes to act jointly and deal with banks, insurers and the land registry, a joint certificate of inheritance is often required.</p> <p>The joint certificate of inheritance is issued for the inheritance rights of several but not all co-heirs at the request of a co-heir if, for example, a co-heir has emigrated and therefore cannot be contacted.</p>

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The order and duration of use of the estate is determined by the arrangement of a prior and subsequent inheritance in the will. The testator appoints a person as a prior heir who can use the inheritance for a certain period of time. The subsequent heir only becomes the testator's heir when the prior inheritance ends.

The certificate of inheritance issued to the prior heirs must state that a subsequent succession has been ordered, the conditions under which it occurs and who the subsequent heir is.

A certificate of inheritance limited to the deceased's assets located in Germany (estate) can be issued by the probate court upon application if the estate also includes items located abroad. A restricted certificate of inheritance should be applied for if it speeds up the procedure for issuing the certificate of inheritance (e.g. because no foreign inheritance law needs to be determined), or because the certificate of inheritance is not required abroad and the restriction can save costs.

https://www.gesetze-im-internet.de/famfg/_352c.html

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Erforderliche Unterlagen

- Your identity card or passport,
- the death certificate of the deceased person (testator),
- the family register to document the relationship,
- Information on whether there is a lawsuit concerning your inheritance rights,
- Names and addresses of the co-heirs,
- Proof of the reason why certain persons who would actually inherit are no longer heirs, e.g. their death certificates, declarations of inheritance or waivers of inheritance,
- wills or inheritance contracts, if applicable,
- the matrimonial property regime (in the case of married couples) or the asset status (in the case of registered civil partnerships),
- Proof that the estate is located abroad.

Voraussetzungen

There are co-heirs and they would like to apply for a joint certificate of inheritance and the testator has

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	stipulated a prior and subsequent inheritance in a last will and testament and estate items are located both in Germany and abroad. However, not all co-heirs are available to apply.
Kosten	<ul style="list-style-type: none"> • The fees for a certificate of inheritance are regulated in the German Court and Notary Fees Act (GNotKG) and are based on the estate value after deduction of debts. • In addition to the fee for issuing a certificate of inheritance, there may be costs for declarations in lieu of an oath and notary fees - plus statutory VAT.
Verfahrensablauf	After you have applied for the certificate of inheritance, the local court will check your entitlement and issue the certificate of inheritance.
Bearbeitungsdauer	The processing time depends on the complexity of the inheritance case.
Frist	none
weiterführende Informationen	https://www.bmj.de/SharedDocs/Publikationen/DE/Broschueren/Erben_Vererben.html https://www.bmj.de/SharedDocs/Publikationen/DE/Broschueren/Erben_Vererben.html
Hinweise	
Rechtsbehelf	<p>Appeal</p> <p>If there are conflicting interests in the certificate of inheritance proceedings before the probate court, the probate court may not issue the certificate of inheritance immediately. The local court issues an order in which it states that it considers the facts required to justify the application for a certificate of inheritance to have been established.</p> <p>Pursuant to Sections 58 and 63 FamFG, the parties involved then have the opportunity to lodge an appeal against this decision within a period of one month.</p> <p>The certificate of inheritance is only issued if no one has lodged an appeal against the probate court's decision after the one-month period has expired and</p>

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the decision has thus become legally binding.

In addition, pursuant to Section 59 FamFG, a person who was unable to convince the probate court with their arguments in the certificate of inheritance proceedings and whose rights have been impaired as a result can lodge an appeal.

Contestation

By applying for a certificate of inheritance, the inheritance is automatically deemed to have been accepted - it is then no longer possible to contest the inheritance.

Heirs can then only avoid the inheritance by contesting the certificate of inheritance. However, a reason for contesting must be proven. In principle, only the person who would benefit from a contestation may contest a certificate of inheritance. It is recommended that you seek legal advice from a lawyer.

Sole heir certificates: These can only be contested by sole heirs.

Partial certificates of inheritance and joint certificates of inheritance: Every heir within the community of heirs is entitled to contest the certificate.

https://www.gesetze-im-internet.de/famfg/_58.html

https://www.gesetze-im-internet.de/famfg/_59.html

https://www.gesetze-im-internet.de/famfg/_63.html

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https://www.gesetze-im-internet.de/famfg/_63.html

Kurztext

- The will stipulates a prior and subsequent inheritance.
- If there are co-heirs, they can apply to the probate court for a joint certificate of inheritance
- If this is not requested for all of them, it is only a joint certificate of inheritance
- The certificate of inheritance is an official certificate issued by the probate court that provides information about the inheritance rights of certain persons
- Parts of the estate are located abroad

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Ansprechpunkt	This is either the local court in whose district the deceased had his/her last habitual residence or the local court in whose district the deceased has his/her habitual residence.
Zuständige Stelle	
Formulare	Forms are not required.
Ursprungsportal	Applying for a joint certificate of partial inheritance for prior or subsequent heirs with limited objectivity, Gemeinschaftlicher Teilerbschein Vor- bzw. Nacherbe gegenständlich beschränkt beantragen