

The Estate Plan – The Book

Prepared for the Retirees of the  
Armed Services





# The Estate Plan

This book is a compendium of my concepts and thoughts on estate planning.

It can assist you in the development of your own Personal Estate Plan.

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Soldier for Life

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## **Introduction**

**General.** As I look at the demography, which is the statistical study of human populations, of our retired Soldier community, I see more widows than widowers. The welfare and support of retired Soldiers' widows constitute the primary mission of the Military Retiree Community. When we look at our years of marriage, we see that during our deployments and short tours our wives took care of business during our absences.

The ability of our wives to take on the double responsibility is truly legendary. They have earned our respect and admiration. Knowing that our wives were in charge at home and competently keeping the "home fires burning," permitted us to maintain a sharp focus on our military mission.

It is our sacred responsibility to assure that if our wives become our widows, they can survive our passing and live out the rest of their lives relatively free from personal and financial stress.

### **Principal Goal of Estate Planning**

To provide a plan that a retired Soldier's widow will personally use with or without assistance to accomplish the settlement of her soulmate's estate.

### **Estate Plan Defined**

First, let me say that this book, *The Estate Plan*, has nothing to do with the financial aspects of estate planning. By financial aspects I am referring to what one does to minimize the tax burden on the heirs.

The word "estate" is a legal term. A simple definition of an estate is the property and the financial assets owned by a person. In other words, whatever you own and its worth is your estate.

Why is it called an estate? Tracing back its historical footprints, the term 'estate' originated from the old French term 'estat', which was derived from the Latin word 'status' meaning condition or state. Over time, it assumed its current connotation related to wealth and property.

The German word for estate is *Nachlass*, what is left behind.

Everybody leaves an estate when they die. The size and makeup of the estate varies from person to person. After your death, someone will have to take various actions to settle the estate. Settling the estate means that after all actions have been taken in accordance with the provisions of your last will and testament, the estate will, from a legal point of view, no longer exist.

Who will settle your estate? This question must be answered early in the estate planning process. This aspect of the plan is covered in several chapters of the book. This person needs broad and in-depth knowledge of estate settlement processes and procedures.

### **Why I Wrote This Book**

Now that I have defined the term, estate, in both English and German, let me tell you why I wrote this book.

In 2014, I served for the first time as a casualty assistance officer (CAO) for the widow of an Army veteran and career civil servant who had served during World War II. Since that initial CAO task, I have performed the task of CAO six more times.

The primary CAO mission is to secure the US military and Veterans Affairs survivor benefits for the widow. Securing the Veterans Affairs survivor benefits for the widow may be beyond the scope and capability of a garrison CAO. Therefore, the widow must seek assistance outside the military garrison.

There are situations where the retired Soldier had a follow-on career as a civil servant. After the report of death is sent to the Office of Personnel Management (OPM), the widow receives a survivor benefits packet of forms to fill out and return to OPM to secure the survivor benefit. While some garrison casualty managers do provide assistance to the widow, this is not always the case and the widow must seek outside assistance.

Upon completion of the mission, the military CAO walks away and is never more involved with assisting the widow.

This is not the case with a retired Soldier who volunteers as a CAO. The follow-on assistance mission is open-ended and is completed when the volunteer or the widow dies.

Having been deeply involved with CAO type assistance for more than 10 years, I have gained considerable experience helping others. In the not too distant past, a friend who knew of my assistance efforts suggested that I document what I have learned over the years.

I needed a concept as to how to do it and came up the idea to write a series of Chapters for publication in the United States Army Garrison Rheinland-Pfalz monthly Military Retiree Newsletter. After preparing the first few Chapters, I decided to use the Chapters as chapters in this book.

There is one additional underlying reason why I wrote this book. During my efforts as a CAO, I had to frequently work as a detective to “investigate” the family’s personal administration to determine if all financial assets that were individually owned had a designated beneficiary. When a beneficiary is not designated there are delays faced by the survivor to get access to the asset.

This problem can be avoided with a good financial asset inventory, that concurrently identifies the beneficiary and the concurrent establishment of a net worth document that identifies each partner’s net worth. When beneficiaries are not designated, action must be taken to correct the situation.

The only constant in our lives is change. We live in an ever changing world and the information provided in this book, while current and relatively stable as of the completion of the manuscript, may change in the future. Therefore, when reading the book and using the information provided, it is important to verify that the information is still current.

## **My Writing Style**

I want to offer a few comments on the writing style that I have used throughout the book.

I use the term Soldier throughout the book, because I am a Soldier for Life. If you are a retired Airman, Sailor, Marine, Coastguardsman or Guardian, this book is also written for you.

With regard to gender, I always use “he” when talking about Soldiers. Do not take this to mean that I have forgotten that women are as an important part of the

armed forces as are the men. I find using he/she is a bit clumsy for me and I avoid that style. Similarly, any reference to "wife" or "widow" also applies to all spouses, such as husbands and widowers of female Service Members.

### **Focus of the Book**

The focus of the book is on the retired Soldier's estate plan; however, when the Soldier has gone to the last bivouac, his widow must establish her own estate plan, which is essentially the same as his estate plan. Therefore, logically, the widow can start with her Soldier's estate plan and make adjustments and changes to meet and support her personal needs.

I want to point out that this book is written for Retirees with a residence permit who are living in Germany. However, the book includes generic information that is useful anywhere in the world.

### **Repetition within the Book**

Each chapter in the book is designed to be a standalone entity. You will find similar information in various chapters. I use this technique to assure that the reader/user of the book has a complete picture of the intent and focus of the information provided in each chapter.

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## Chapter 1

### The Estate Plan – The Actions Required

**The Basic Concept.** When we are alive and we have assets (money, land, a house, etc.) we look at the value of our assets and this is our net worth. Our net worth is an active entity – it increases and it decreases. We hope that our net worth continues to increase over time.

When we die we no longer have a net worth. Our net worth becomes our estate, that is, as Germany calls it – our Nachlass – what we have left behind. On the date of our death, what we have left behind is of interest to the German tax office – Das Finanzamt.

**Financial Assets.** If we have financial assets in a German bank, the bank is required to report the value of our accounts to the German finance office when our personal representative presents a copy of our death certificate at the bank.

These financial assets, plus any other financial assets (US dollars, Japanese Yen, Mexican Pesos, South African Rand, etc., in other banks) the value of which on the day we die, are part of our estate.

**Non-Financial Assets.** The value of the financial assets is easily calculated. There is, however, a grey area that is not easily calculated. The value of this portion of the estate, the non-financial assets such as land, real estate, vehicles and jewelry, is difficult to calculate. The true value can only be determined when the non-financial assets are sold.

The total value of our estate is needed to complete and submit the Erbschaftssteuererklärung (inheritance tax return). After review and processing of this tax return, the tax office will issue an information paper (Bescheid) that details the amount of inheritance tax, if any, which must be paid for each heir.

**Survivor Benefits Planning.** As far back as I can remember, the retiree buzz words were “Survivor Benefits Planning.” All retirees, whose survivors included a spouse and possibly a mix of adult and minor children, were encouraged to have a survivor benefits plan.



The objective of the plan is to assure that the survivors, especially the Soldier's spouse, would receive all authorized government survivor benefits. The benefits could include annuities from the Social Security Administration, the Department of Veterans Affairs, the Defense Finance and Accounting Service (DFAS) and the Office of Personnel Management (OPM), as appropriate. In the case of DFAS and OPM, the retiree had to have insured all or part of the retired pay/pension.

Survivor Benefits Planning is a relatively simple and small part of the overall Estate Plan. Applying for survivor benefits is not rocket science. The various procedures are well-established and it is just a matter of time after submission of the paperwork until the monetary benefits, essentially the cash flow, begin to be paid.

**The Objective.** The principal objective of estate planning is to assure that the Soldier's wife can make the transition from wife to widow with minimum stress in the near-term and then be able to take care of "business" with or without assistance for the rest of her life. Based on my personal experience assisting widows, I can say without qualification that even for the best informed, competent and savvy widows, outside assistance is required from time to time.

As you read from chapter to chapter in the book, try to visualize whether or not your widow can master the various challenges with which she will be confronted.

**The Executor.** Who will execute the estate plan, that is, settle the estate? This is a very important question that must be answered early on and the answer must be well-documented, especially, in the essential documents.

**Essential Documents.** There are many documents that are required during the execution of the estate plan; however, the two most essential documents are our power of attorney and the last will and testament.

**Summary.** When we die we no longer have a net worth. Our net worth becomes our estate, that is, as Germany calls it – our Nachlass – what we have left behind. The estate must be settled in accordance with the last will and testament. The person who will settle the estate is the executor, in German, the Testamentsvollstrecker, who should be identified in the will.

## Chapter 2

### The Estate Plan – The Last Bivouac

**General.** Benjamin Franklin, in 1789, is quoted as having said: “Our new Constitution is now established, and has an appearance that promises permanency; but in this world nothing can be said to be certain, except death and taxes.”

For Soldiers, the last bivouac is in Heaven. To get there with the least amount of anguish and discomfort for those who will be involved with a Soldier’s last journey requires some good planning and precise execution of the plan.

**The Plan.** The essential elements of the plan include selecting the funeral home and the cemetery, the type of burial (cremains or full body), the type of funeral (full or just interment of the urn or casket), military participation and the reception.

**The Decision.** The decision concerning the type of journey to the last bivouac is truly a family affair. For some families discussing death and the follow-on actions can be very difficult, but it will be significantly easier for the survivors if the Soldier’s concept for the last journey is discussed and notes placed in the estate plan.

**Funeral Home and Cemetery.** Select a funeral home and the cemetery. If the cemetery is local, most will select a funeral home in the same community or a nearby community. Even though the death of the Soldier is not imminent, it makes sense to establish contact with the desired funeral home, discuss the details of the funeral and have the funeral home establish a file for future use.

My friend Bob did just that for his wife, who pre-deceased him. When he recognized that his end was nearing, he did the same thing for himself and wrote some notes for me as his trusted agent. I knew exactly what he wanted and I was able to advise the funeral home accordingly during my visit with them. I can’t over emphasize the importance of documenting the final wishes of the Soldier and his family.

Although the focus of this chapter is on interment in Germany there are other alternatives. These alternatives include, but are not limited to burial in the United States, at

Arlington National Cemetery, a state military cemetery, a public cemetery, etc.

**The Grave.** If the decision is made to use a marked grave (the alternative is to be buried anonymously), a gravestone and accompanying engraving must be arranged. If a columbarium or tree grave is used, only the markings on the niche or grave cover need to be arranged.

The funeral home can provide recommendations as to a company that can provide the gravestone with engraving or raised lettering. The funeral home can also offer advice on grave maintenance. There are cemetery gardeners who offer grave maintenance programs. Some families opt to take care of the grave themselves. If you do opt for grave maintenance, you pay up front for the service.

Every community has a statute that covers the minimum resting period and length of time the grave can be used. The family pays for this up front. Generally, if grave maintenance is selected, the time period usually corresponds to length of time the grave can be used. If, at the end of the period of grave rental an extension is not made, the grave will be abandoned and prepared for future use.

**The Funeral.** The type of funeral is also a family decision. While the deceased Soldier is the principal participant, what transpires during the funeral is only for the family and the other mourners. The Germans refer to this group as the Trauergemeinde. Deciding on the extent of the funeral up front before the Soldier dies and concurrently documenting what is to be done will make the funeral much easier and less stressful.

If the decision is for a traditional funeral with military honors, it is important to make this information known to the military community that will provide the honor guard, bugler and flag. The military community strives to meet this requirement. I organized a military funeral for a retired Soldier some years ago and the service was done jointly, in German by the priest and in English by the military chaplain. It was very nicely done.

Many families opt for recorded music during the funeral and select the songs to be used, vocals or just music. I attended the funeral for the wife of a German friend and three songs were used. One was a beautiful solo by a

woman who I assumed was a professional singer. Afterwards, I learned it was live and it was his daughter who sang.

In Germany, some families opt for the Trauerredner instead of a minister/priest. The Trauerredner leads the funeral service, but it is not necessarily a religious service, although it can be.

**The Interment.** The interment is the placing of the remains in the final resting place. This is usually part of the funeral; however, some families opt to do it with just the immediate family in attendance. Some families opt not to have a funeral. Rather, their desire is just to meet at the cemetery and walk behind the remains (urn or casket) that are carried or wheeled to the final resting place and interred.

This year, I participated in an interment ceremony for my friend Bob. We met outside the cemetery chapel. The representative from the funeral home opened the ceremony with a very short introduction and I did the eulogy. After the eulogy, we walked to the gravesite. The Trauergemeinde, to include two cemetery personnel, numbered 10 people. But this simple ceremony is exactly what Bob told me he wanted.

**Leichenschmaus (Communal Meal - Reception).** This reception, usually coffee and cake, can be a part of the total funeral. I have been to funerals where the family offered more than just coffee and cake. A family will offer a Leichenschmaus for a number of reasons. Some families want to meet with other family members and friends in a very relaxed atmosphere where more personal contact is possible and memories can be easily shared.

Every reception that I have attended was a very positive experience. You hear funny stories about the deceased person that you cannot help but smile and laugh about. Telling stories and anecdotes serves to refresh positive memories of the deceased person. This light atmosphere helps the mourning family get through the sad day with positive vibes that help ease the tension brought on by death and interment.

**Summary.** The type of journey to the last bivouac is a family decision, because the journey is primarily for the family. Document what is desired and inform all

concerned to include setting up a file at the funeral home that has been selected.

## Chapter 3

### The Estate Plan – The Essential Documents

**General.** There are two or three basic documents that are critical parts of the estate plan. I am referring to the German power of attorney, the last will and testament and possibly the Erbvertrag (inheritance contract).

In the case of the last two documents, in principle, it is possible to draw up a will despite the existence of an inheritance contract. However, you should make sure that the will does not contradict the contract. If the will contains provisions that contradict the contract, it is invalid. In most instances, it is a question of either contract or last will and testament.

Nearly all of you will opt for the last will and testament. I mention the inheritance contract, because it is an option. Like all contracts, once the inheritance contract is signed, it can only be changed when all signatories agree to the change. The maker of the last will and testament can change it at any time.

If you want to consider the use of the inheritance contract, you can find extensive information about it on the Internet or contact your local US Forces legal assistance office as most have a German attorney on the staff.

#### **Power of Attorney.**

There are several approaches to establishing a German power of attorney.

You can go on the Internet and download a file from the Bundesministerium der Justiz (Ministry of Justice) fill in the blanks and sign it as the grantor. The person (trusted agent) to whom you grant the powers must also sign the document. I don't recommend using this approach, because there are some limitations such as selling real estate or land and doing certain types of business. This type of power of attorney can remain in effect after the death of the grantor. I mention it here, because it is free.

The best approach is to obtain a power of attorney from a Notar (notary). This power of attorney should include three sections: Vorsorgevollmacht (general powers), a Patientenverfügung (the advanced directive) and a Betreuungsverfügung (guardianship). The Notar power of

attorney includes many provisions and powers. It is beyond the scope of this chapter to cover the various sections in detail, but I do want to mention a few points about each section.

***Vorsorgevollmacht.*** You, as the grantor, can authorize your trusted agent to conduct certain types of legal business on your behalf, such as paying bills, putting you in a hospital or senior care facility and authorizing various medical procedures. In the case of bank business, the various banking institutions want you to set up a bank power of attorney that covers in detail what actions the trusted agent can take on your behalf.

Some years ago, as a trusted agent for a widow, I had to put her into a seniors care facility. The first document they wanted to see was the power of attorney she gave to me. Later, when I had to set up her funeral and interment, the funeral home asked to see my power of attorney. The bottom line is: without a power of attorney the person trying to accomplish business is essentially a ship without steam until the necessary powers are established by the German court.

***Patientenverfügung.*** The Patientenverfügung is an important part of any power of attorney and should be included in the document. As most of you already know the most important aspect of the Patientenverfügung is the medical care provided when your life is coming to an end and also whether or not you should be revived when your heart stops beating.

Last year, my friend Bob collapsed at home. The daily nursing care service found him on the floor and called me. I told them to call the Rettungsdienst (emergency medical team) and I would be there in 10 minutes. I met the Notarzt (emergency physician) at the entrance to the building and we went to Bob's apartment together. The Rettungsdienst team was already in the apartment trying to revive Bob.

The Notarzt asked if there was a Patientenverfügung and I showed him where it stated not to revive. The Notarzt instructed the Rettungsdienst team to stop trying to revive Bob, who was most likely clinically dead when he collapsed.

***Betreuungsverfügung.*** The Betreuungsverfügung should also be included in the power of attorney for both

couples and people living alone. We hope that as we age we will not need a guardian; however, the older we get the higher probability. There are essentially two possibilities. You can state in the *Betreuungsverfügung* that a German court appointed guardian is not desired, because the trusted agent will fulfill the task as guardian. Conversely, if the trusted agent is for some reason not able to perform the duties of guardianship, the *Betreuungsgericht* can be asked to provide a guardian. The court appointed guardian is able to perform the tasks, as limited by the court order, of the trusted agent.

I know of one instance where a Soldier's widow was not able to find a trusted agent and her medical condition was such that she could not take care of personal business. The medical facility recognized the situation and went to the *Betreuungsgericht* (German court responsible for guardianship) with a request that a professional guardian be appointed. This was accomplished and I have been assisting the German guardian with the completion of the U.S. actions for which she has no experience.

### ***Last Will and Testament.***

***Erbschein.*** The bottom line up front is that it is best not to die without a last will and testament. In Germany, there is, by law, an inheritance succession (*Erbfolge*) in the absence of a last will and testament. The consequence of no will is the need for an *Erbschein* (certificate of inheritance) for sure. Even with a handwritten will, you will generally need an *Erbschein*, particularly when there are several heirs involved. The application process is not complicated; however, the need to gather the required documentation can present a challenge.

***Testament.*** The last will and testament should be as simple as possible. In the case of married couples or registered partnerships, the document should be prepared by a Notar. Each person should have their own testament. In most instances, the retired Soldier leaves everything to his wife and the wife leaves everything to her Soldier. Many people assume that the heir designated in the testament will be able to submit the testament to the *Nachlassgericht* (probate court) for processing.

Some married couples opt for an American last will and testament, either drawn within the US state where the Soldier is registered or set up by a legal assistance attorney at the local office of the Judge Advocate General.



These wills generally identify the spouse as the personal representative. This term is synonymous with the term "executor." It is the job of the personal representative to settle the estate in accordance with the provisions of the will and the associated laws.

Any changes to the original will must conform to the signature requirements as specified in the American state where the testator is registered. If the original will required two witnesses to the testator's signature, the same holds true for any changes to the will.

If the American will is to be probated in Germany at the Nachlassgericht, the original will, with a certified German translation, is submitted.

This next point is very important. As people age, in this case I am referring to the designated personal representative, the less likely they may be able to submit the testament to the Nachlassgericht. It is possible with an American will to designate a contingency personal representative. With a German will, it makes sense to designate an executor (Testamentsvollstrecker) in the will. This could be the trusted agent, who already has the power of attorney.

The power of attorney must be an Ausfertigung, which is a copy of the official document made in a legally prescribed form as a replacement for the original document.

When a Testamentsvollstrecker is designated, after the testament is submitted to the Nachlassgericht, the Nachlassgericht will contact the Testamentsvollstrecker and request a confirmation that this person will accept the responsibility. If required, based on certain actions detailed in the testament, the Testamentsvollstrecker may need a Testamentsvollstrecker Annahmebescheinigung, which is the executor's acceptance certificate and/or a Testamentsvollstreckerzeugnis, which is the certificate of executorship.

In most cases, the power of attorney Ausfertigung is sufficient to take the actions specified and implied (for example, selling real estate and land) in the Testament.

If the Testamentsvollstrecker is one of the heirs designated in the testament, then generally, no fee for services is specified. Conversely, if the Testamentsvollstrecker is not an heir, a fee of up to 5% of

the value of the estate can be written into the testament and the billing schedule will also be designated. The fee is agreed upon between the maker of the testament and the Testamentsvollstrecker during discussions with the Notar. For example, the billing schedule could be 50% of the fee plus value added tax once the value of the estate has been estimated for submission of the Erbschaftssteuerverklärung to the Finanzamt (German tax office) with the second 50% payment being billed after the German tax office has issued its Bescheid (information document) stating the total value of the estate and the inheritance tax for each heir.

### **Location of the Original Documents.**

**Power of Attorney.** If the power of attorney was prepared by a Notar, the document with the original signatures is kept by the Notar. This document is used by the Notar to prepare the Abschrift and the Ausfertigung. Both are copies of the original document with different degrees of powers. The Abschrift can be used to take nearly all actions detailed by the grantor. The Ausfertigung is required to sell real estate and land.

**Last Will and Testament.** If the last will and testament was prepared by a Notar, it is generally stored at the expected and responsible Nachlassgericht (probate court). Only the will with the original signatures can be probated. The Notar provides the maker of the will with an Abschrift of the will and the Hinterlegungsschein, issued by the Nachlassgericht, which indicates where the original will is stored. It is also prudent to have the will registered for a small fee at the Zentrales Testamentsregister. This document also indicates the location of the will.

**Summary.** The power of attorney and the last will and testament are two very basic yet very important documents and are integral parts of the Soldier's estate plan. An estate plan without these documents is like a ship without steam – just drifting along waiting to go aground.

## Chapter 4

### Estate Plan – The World of the Executor of the Estate

**General.** The Soldier has died in Germany and his last will and testament is carefully stored away waiting for somebody to take some action. Who will take the action? If an executor is identified in the will this is the individual who will submit the will to the Nachlassgericht (probate court) that is responsible for the Soldier's last place of residence – the city where he was registered when he died.

If an executor is not specifically identified in the will, the task to probate the will must be accomplished by one of the individuals to whom the Soldier has given a power of attorney. In most instances when the Soldier is married or in a registered partnership, the Soldier gives the power of attorney to the spouse or partner. When doing so, it is important to recognize that the spouse or partner may reach a point in life – we all do get older - where the capability to take necessary action no longer exists. Therefore, a trusted agent must be included in the power of attorney.

In the case of couples having a power of attorney prepared by a Notar (notary), they grant power of attorney to each other and in the same document grant power of attorney to their trusted agent. In my own situation, my wife and I granted power of attorney to each other and to our daughter, who for all intents and purposes is our trusted agent. The key point here is that we age and we may lose the capability to take care of administrative matters. Therefore, a trusted agent must be designated and empowered.

**The Last Will and Testament.** If the last will and testament was executed at the legal assistance office of the Judge Advocate General (JAG), it must be translated to German and the translation is submitted with the will with the original signature.

If the last will and testament was executed by a Notar, the will is sealed in an envelope and sent to the Nachlassgericht where it will be processed. The Soldier will receive a copy of the will from the Notar and the Hinterlegungsschein from the Nachlassgericht. This document indicates where the original will is being stored.

The will is also registered for a small fee at the Zentrales Testamentsregister (Central Testaments Registry). The Notar takes this action and provides the Eintragsbestätigung (confirmation of the registration of the will) to the Soldier. This document also indicates where the original will is stored.

**The Executor.** The executor of the last will and testament, either designated in the will or empowered with a power of attorney, is responsible for myriad actions from submitting the will to the Nachlassgericht to taking all actions, specified and implied, detailed in the will. It is not necessary to go to a lawyer to have the will submitted to the Nachlassgericht. Here's how it's done.

### **Submission of will to Nachlassgericht.**

The executor prepares a short letter to the Nachlassgericht, that identifies who he is (trusted agent and/or executor) and attaches the below listed documents.

1. A copy of the Hinterlegungsschein
2. A copy of the Soldier's birth certificate
3. A copy of the Soldier's death certificate
4. A copy of the Soldier's Spouse (Partner) birth certificate
5. If the Spouse/Partner is deceased, a copy of the death certificate
6. If the Spouse/Partner is deceased, a copy of the marriage/partnership certificate
7. A copy of the last will testament from Notar or the Original JAG will with German translation
8. A copy of the Executor's power of attorney
9. A copy of the Soldier's passport

### **Action by the Nachlassgericht.**

If the Nachlassgericht finds everything in order, they will provide the Eröffnungsniederschrift (essentially the report of the opening of the will) in which they acknowledge the contents of the will and state that there are no irregularities. The Eröffnungsniederschrift is attached to the copy of the will and both documents are certified copies of the original documents. The JAG will or the Notar will should be perfect and have no irregularities. The will with the original signatures is retained by the Nachlassgericht.

## **Executor Follow-on Actions.**

Take all actions, specified and implied, required by the will as expeditiously as possible, with the exception of paying the heirs. The payment of the inheritance to the heirs can only occur after the Finanzamt (German finance office) has processed the Erbschaftsteuererklärung (inheritance tax declaration) and issued the Bescheid (information about payment of the inheritance tax and distribution of the inheritance to the heirs). I want to point out that the Finanzamt responsible for the Erbschaftsteuererklärung is not the same Finanzamt to which you submit your annual Einkommensteuererklärung (income tax return).

As mentioned in a previous chapter, the initial value of the estate is the value of the Soldier's net worth on the day the Soldier dies. There will be cash flows to and from the estate before the Erbschaftsteuererklärung can be submitted. Accordingly, the executor must set up a computer spreadsheet to record all cash flows to and from the estate.

Although the reports of the Soldier's death to the various agencies making payments (retired pay, social security, VA disability payments, etc.) are accomplished on an expedited basis, most of the payments will continue for at least another month, often several months. Any payments made for the month during which the Soldier died and any subsequent months have to be returned to the US Treasury. If the payments are made to the Soldier via direct bank deposit, the US Treasury will ultimately contact the bank and request the bank return the money electronically. If any payments are being made by paper check, the US Treasury will send a letter requesting the estate return the money.

## **Erbschaftsteuererklärung.**

A separate chapter will cover the how to prepare and submit the Erbschaftsteuererklärung. The tax forms to be used are not complicated. If the executor can read and understand German, he can complete the submission himself. If he feels overly challenged by the task, the Erbschaftsteuererklärung can be completed by a Steuerberater (tax accountant/advisor).

I want to underscore my previous comments about the computer spreadsheet. The bottom line on the

spreadsheet is the amount of money being declared as of the date the Erbschaftsteuererklärung is submitted.

The German finance office processing of the Erbschaftsteuererklärung is, at best, a slow moving train. Do not expect a quick turnaround. Depending on the finance office, two years is a good estimate of the wait time for the Bescheid. Therefore, once the cash flows in have stabilized and stopped, you can expect cash flows out. It's best to make a good estimate and show this as a lump sum in the spreadsheet as expected cash outflows along with the rationale for the estimate.

**Summary.** The executor has many tasks. Therefore, he is paid for his efforts. Maintaining accurate financial records for the estate is extremely important. These records are the basis for the Erbschaftsteuererklärung.

## Chapter 5

### The Estate Plan – US and German Taxes

**General.** As I mentioned in an earlier chapter there are two things that are certain in life – death and taxes. When the Soldier and his wife are alive, historically, the Soldier takes care of the business of filing the annual U.S. income tax return. If there was a requirement to file a German income tax return, this could be a shared responsibility between the German-born wife and the Soldier. But in most situations, the wife takes care of this business. When I started working for a German company in 1992, my knowledge of the German tax system was zero and we used a German Steuerberater (tax advisor/accountant) to do our German income tax return (Steuererklärung). My wife dutifully maintained the file of all the different documents needed by the Steuerberater.

Being intellectually curious, I wanted to learn the German income tax system so ultimately, I would be able to personally prepare and submit the annual Steuererklärung. I achieved this capability. Some years ago, Germany developed **ELSTER**, the **E**lectronic **S**teuer**ER**klärung, also referred to as the online Finanzamt. I started using ELSTER the first year it was available and I noticed that it was expanded and improved from year-to-year.

The focus of this chapter is to urge the Soldier to take action to learn about German taxes and also to school his wife on her responsibility to prepare and submit the U.S. income tax returns after his death. Assuming the Soldier and his wife have a trusted agent, this individual will be a key player in the submission of both the U.S. and German income tax returns.

**U.S. Taxes.** All American citizens, whose income is at or above the annual threshold for filing is required to submit an income tax return. It doesn't matter where in the world the American citizens reside. Many of you are married to Germans. Some wives are American citizens and some still have German citizenship. When the Soldier is alive at the end of the year, these couples can file a joint income tax return. However, when the Soldier dies and the wife is a German citizen, the income tax return for the year of the Soldier's death cannot be filed jointly. The filing status will be single; however, the standard deduction to be used is for two.

### ***Nonresident Aliens.***

German widows of American Soldiers residing outside the United States are considered nonresident aliens for tax purposes even if they might still have a “green card” (US residence permit). The U.S. tax law requires that nonresident aliens be taxed at a flat rate of 30% on all U.S. source income. The only exception to this withholding requirement is the Social Security benefit that is only taxed in Germany. Not every agency keys on this requirement and withholds the tax. The consequence is a tax payment covering the entire period of the benefit. When the application(s) for survivor benefits is submitted, the fact that the beneficiary is a nonresident alien needs to be included in the cover letter. The 30% tax withholding requirement should be stated in the cover letter.

If taxes are not being withheld, the widow must send a letter to the agency concerned requesting the 30% tax be withheld.

The income tax form to be used is the 1040-NR, U.S. Nonresident Alien Income Tax Return. A copy of this form with its two attachments is provided at the end of the chapter.

***U.S. Tax Problems.*** Occasionally, the U.S. Internal Revenue Service (IRS) will make mistakes when processing income tax returns. When this occurs, the tax payer will receive a letter from the IRS requesting payment of taxes that have already been withheld. Naturally, the tax payer will disagree with this finding. The letter from the IRS cannot be ignored. When answering the letter with documentation that shows that no taxes are due (often a refund of overpayment is due) always include IRS Form 9423, Collection Appeal Request. By submitting this form, the IRS must stop all requests for payment while the issue is being resolved.

When writing to the IRS, recognize that the agent who will react to your letter, has many taxpayer letters to read and answer. Therefore, it is important and beneficial to write in the active voice and use short sentences as much as possible. If a visual, such as a table, will help the agent understand your position, by all means include the visual as an attachment to your letter. To clarify, in a sentence written in the active voice, the subject of sentence performs the action. In a sentence written in the passive voice, the subject receives the action. Active: The



taxpayer correctly completed the income tax return to include all schedules and attachments. Passive: The income tax return with schedules and attachments was completed correctly by the taxpayer.

I am currently assisting on three separate cases where the Form 1099-R clearly shows that taxes were withheld, yet the IRS apparently didn't find this information in the taxpayer's data record and ignored the Form 1099-R attached to the income tax return.

On one case, I am the executor of the estate and before the IRS agent will talk to me, I had to provide a copy of my acceptance of the duties as the executor. There are two alternatives to prove that I am the executor. Based on my request, the Nachlassgericht provided me with an Annahmebescheinigung stating that I have accepted the appointment as Testamentsvollstrecker as detailed in the will. I had this one-page document officially translated to English and provide it along with the US Consulate General report of death to the IRS. If the Soldier had not designated me as Testamentsvollstrecker in his will, I would have had to have the power of attorney translated to English at a much greater expense.

**German Taxes.** If the Soldier has an Aufenthaltstitel he is a registered resident of Germany and is required to file an annual Steuererklärung (income tax return) if his directly taxable income reaches the filing threshold. This also includes capital gains from sales of stocks, dividends from shares of stock held, bank interest, etc. Capital gains above the annual tax-free amount are taxed at a flat 25%. There is a separate attachment to the Steuererklärung for capital gains.

There are many expenses that can be written off on the German tax return. It is important to document these expenses in a file, like the German Ordner (two ringed notebook). If you use a Steuerberater this individual will be very happy when you hand over your well-organized documentation or if you do your German taxes yourself, your Ordner will make your life a lot easier at tax time.

Some of the items that you can write off include Medicare Part B payments, private health insurance contributions, contributions to charitable organizations, medical expenses, German health insurance contributions, part of the labor charges for work done in your home, liability insurance for home and automobile, etc.

If you are earning money, for example as a consultant, working from your home office, there are a number of office-related expenses that can be deducted from these freelance earnings. These office-related expenses include, but are not limited to, such items as office supplies, a percentage of the monthly telephone bills for the landline and the mobile phone, depreciation on computer equipment and furniture, heating and cleaning the office, etc. Since 2023, home office dwellers can write off a lump sum of 1,260 € for the office, which is 6.00 € per day for 210 days. It's worthwhile to consult with a Steuerberater to determine if it's best to use the lump sum or to itemize the costs for the home office.

If you do opt to use a Steuerberater, this expert can advise you on your total tax picture as to what can be written off and what you should document. It is best to do this at the beginning of a tax year rather than wait until the end of the year to start scrambling to get the documentation together.

**Summary.** This part of the overall estate plan will remain after the Soldier dies. There can be significant changes in the payment of both the U.S. and German income taxes. If the survivor, usually the wife, is an American citizen, there are no significant changes. However, if the survivor is a nonresident alien, the U.S. taxes and the income tax return form are considerably changed. For the German taxes there will definitely be some changes if while the Soldier was alive, the filing was done jointly. It is important that all concerned, especially the trusted agent, knows what to do when taxes must be paid.

Description of the attachments to this chapter that are provided below:

The US Income Tax Return for a nonresident alien is the IRS Form 1040-NR with two additional forms, IRS Form Schedule NEC and IRS Form Schedule OI.

Form <b>1040-NR</b>	Department of the Treasury—Internal Revenue Service	<b>U.S. Nonresident Alien Income Tax Return</b>	<b>2024</b>	OMB No. 1545-0074	IRS Use Only—Do not write or staple in this space.
For the year Jan. 1–Dec. 31, 2024, or other tax year beginning _____, 2024, ending _____, 20____				See separate instructions.	
Your first name and middle initial		Last name		Your identifying number (see instructions)	
Home address (number and street). If you have a P.O. box, see instructions.					Apt. no.
City, town, or post office. If you have a foreign address, also complete spaces below.				State	ZIP code
Foreign country name		Foreign province/state/county		Foreign postal code	
<b>Filing Status</b> Check only one box.	<input type="checkbox"/> Single <input type="checkbox"/> Married filing separately (MFS) <input type="checkbox"/> Qualifying surviving spouse (QSS) <input type="checkbox"/> Estate <input type="checkbox"/> Trust If you checked the QSS box, enter the child's name if the qualifying person is a child but not your dependent: _____				
<b>Digital Assets</b>	At any time during 2024, did you: (a) receive (as a reward, award, or payment for property or services); or (b) sell, exchange, or otherwise dispose of a digital asset (or a financial interest in a digital asset)? (See instructions.) <input type="checkbox"/> Yes <input type="checkbox"/> No				
<b>Dependents</b> (see instructions):	(1) First name	Last name	(2) Dependent's identifying number	(3) Relationship to you	(4) Check the box if qualifies for (see inst.): Child tax credit    Credit for other dependents
If more than four dependents, see instructions and check here <input type="checkbox"/>					<input type="checkbox"/> <input type="checkbox"/>
					<input type="checkbox"/> <input type="checkbox"/>
					<input type="checkbox"/> <input type="checkbox"/>
					<input type="checkbox"/> <input type="checkbox"/>
<b>Income Effectively Connected With U.S. Trade or Business</b>  <b>Attach Form(s) W-2, 1042-S, SSA-1042-S, RRB-1042-S, and 8288-A here. Also attach Form(s) 1099-R if tax was withheld.</b>  If you did not get a Form W-2, see instructions.	<b>1a</b> Total amount from Form(s) W-2, box 1 (see instructions) . . . . .				<b>1a</b>
	<b>b</b> Household employee wages not reported on Form(s) W-2 . . . . .				<b>1b</b>
	<b>c</b> Tip income not reported on line 1a (see instructions) . . . . .				<b>1c</b>
	<b>d</b> Medicaid waiver payments not reported on Form(s) W-2 (see instructions) . . . . .				<b>1d</b>
	<b>e</b> Taxable dependent care benefits from Form 2441, line 26 . . . . .				<b>1e</b>
	<b>f</b> Employer-provided adoption benefits from Form 8839, line 29 . . . . .				<b>1f</b>
	<b>g</b> Wages from Form 8919, line 6 . . . . .				<b>1g</b>
	<b>h</b> Other earned income (see instructions) . . . . .				<b>1h</b>
	<b>i</b> Reserved for future use . . . . . <b>1i</b>				
	<b>j</b> Reserved for future use . . . . . <b>1j</b>				
	<b>k</b> Total income exempt by a treaty from Schedule OI (Form 1040-NR), item L, line 1(e) . . . . . <b>1k</b>				
	<b>z</b> Add lines 1a through 1h . . . . .				<b>1z</b>
	<b>2a</b> Tax-exempt interest . . . . . <b>2a</b>		<b>b</b> Taxable interest . . . . . <b>2b</b>		
	<b>3a</b> Qualified dividends . . . . . <b>3a</b>		<b>b</b> Ordinary dividends . . . . . <b>3b</b>		
	<b>4a</b> IRA distributions . . . . . <b>4a</b>		<b>b</b> Taxable amount . . . . . <b>4b</b>		
<b>5a</b> Pensions and annuities . . . . . <b>5a</b>		<b>b</b> Taxable amount . . . . . <b>5b</b>			
<b>6</b> Reserved for future use . . . . . <b>6</b>					
<b>7</b> Capital gain or (loss). Attach Schedule D (Form 1040) if required. If not required, check here . . . . . <input type="checkbox"/> <b>7</b>					
<b>8</b> Additional income from Schedule 1 (Form 1040), line 10 . . . . . <b>8</b>					
<b>9</b> Add lines 1z, 2b, 3b, 4b, 5b, 7, and 8. This is your <b>total effectively connected income</b> . . . . . <b>9</b>					
<b>10</b> Adjustments to income from Schedule 1 (Form 1040), line 26. These are your <b>total adjustments to income</b> . . . . . <b>10</b>					
<b>11</b> Subtract line 10 from line 9. This is your <b>adjusted gross income</b> . . . . . <b>11</b>					
<b>12</b> <b>Itemized deductions</b> (from Schedule A (Form 1040-NR)) or, for certain residents of India, standard deduction (see instructions) . . . . . <b>12</b>					
<b>13a</b> Qualified business income deduction from Form 8995 or Form 8995-A . . . . . <b>13a</b>		<b>b</b> Exemptions for estates and trusts only (see instructions) . . . . . <b>13b</b>			
<b>c</b> Add lines 13a and 13b . . . . . <b>13c</b>					
<b>14</b> Add lines 12 and 13c . . . . . <b>14</b>					
<b>15</b> Subtract line 14 from line 11. If zero or less, enter -0-. This is your <b>taxable income</b> . . . . . <b>15</b>					

<b>Tax and Credits</b>	<b>16</b>	<b>Tax</b> (see instructions). Check if any from Form(s): <b>1</b> <input type="checkbox"/> 8814 <b>2</b> <input type="checkbox"/> 4972 <b>3</b> <input type="checkbox"/>	<b>16</b>	
	<b>17</b>	Amount from Schedule 2 (Form 1040), line 3	<b>17</b>	
	<b>18</b>	Add lines 16 and 17	<b>18</b>	
	<b>19</b>	Child tax credit or credit for other dependents from Schedule 8812 (Form 1040)	<b>19</b>	
	<b>20</b>	Amount from Schedule 3 (Form 1040), line 8	<b>20</b>	
	<b>21</b>	Add lines 19 and 20	<b>21</b>	
	<b>22</b>	Subtract line 21 from line 18. If zero or less, enter -0-	<b>22</b>	
	<b>23a</b>	Tax on income not effectively connected with a U.S. trade or business from Schedule NEC (Form 1040-NR), line 15	<b>23a</b>	
	<b>b</b>	Other taxes, including self-employment tax, from Schedule 2 (Form 1040), line 21	<b>23b</b>	
	<b>c</b>	Transportation tax (see instructions)	<b>23c</b>	
	<b>d</b>	Add lines 23a through 23c	<b>23d</b>	
	<b>24</b>	Add lines 22 and 23d. This is your <b>total tax</b>	<b>24</b>	
<b>Payments</b>	<b>25</b>	Federal income tax withheld from:		
	<b>a</b>	Form(s) W-2	<b>25a</b>	
	<b>b</b>	Form(s) 1099	<b>25b</b>	
	<b>c</b>	Other forms (see instructions)	<b>25c</b>	
	<b>d</b>	Add lines 25a through 25c	<b>25d</b>	
	<b>e</b>	Form(s) 8805	<b>25e</b>	
	<b>f</b>	Form(s) 8288-A	<b>25f</b>	
	<b>g</b>	Form(s) 1042-S	<b>25g</b>	
	<b>26</b>	2024 estimated tax payments and amount applied from 2023 return	<b>26</b>	
	<b>27</b>	Reserved for future use	<b>27</b>	
<b>28</b>	Additional child tax credit from Schedule 8812 (Form 1040)	<b>28</b>		
<b>29</b>	Credit for amount paid with Form 1040-C	<b>29</b>		
<b>30</b>	Reserved for future use	<b>30</b>		
<b>31</b>	Amount from Schedule 3 (Form 1040), line 15	<b>31</b>		
	<b>32</b>	Add lines 28, 29, and 31. These are your <b>total other payments and refundable credits</b>	<b>32</b>	
	<b>33</b>	Add lines 25d, 25e, 25f, 25g, 26, and 32. These are your <b>total payments</b>	<b>33</b>	
<b>Refund</b>	<b>34</b>	If line 33 is more than line 24, subtract line 24 from line 33. This is the amount you <b>overpaid</b>	<b>34</b>	
	<b>35a</b>	Amount of line 34 you want <b>refunded to you</b> . If Form 8888 is attached, check here <input type="checkbox"/>	<b>35a</b>	
	<b>b</b>	Routing number	<b>c</b> Type: <input type="checkbox"/> Checking <input type="checkbox"/> Savings	
	<b>d</b>	Account number		
	<b>e</b>	If you want your refund check mailed to an address outside the United States not shown on page 1, enter it here.		
	<b>36</b>	Amount of line 34 you want <b>applied to your 2025 estimated tax</b>	<b>36</b>	
<b>Amount You Owe</b>	<b>37</b>	Subtract line 33 from line 24. This is the <b>amount you owe</b> . For details on how to pay, go to <a href="http://www.irs.gov/Payments">www.irs.gov/Payments</a> or see instructions.	<b>37</b>	
	<b>38</b>	Estimated tax penalty (see instructions)	<b>38</b>	
<b>Third Party Designee</b>	Do you want to allow another person to discuss this return with the IRS? See instructions. <input type="checkbox"/> <b>Yes</b> . Complete below. <input type="checkbox"/> <b>No</b>			
	Designee's name	Phone no.	Personal identification number (PIN)	
<b>Sign Here</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.			
	Your signature	Date	Your occupation	If the IRS sent you an Identity Protection PIN, enter it here (see inst.)
	Phone no.	Email address		
<b>Paid Preparer Use Only</b>	Preparer's name	Preparer's signature	Date	PTIN
	Firm's name			Check if: <input type="checkbox"/> Self-employed
	Firm's address			Phone no.
			Firm's EIN	

Department of the Treasury  
Internal Revenue Service  
Name shown on Form 1040-NR

**Attach to Form 1040-NR.**

Go to [www.irs.gov/Form1040NR](http://www.irs.gov/Form1040NR) for instructions and the latest information.

OMB No. 1545-0074

**2024**  
Attachment  
Sequence No. **7B**

	Sequence No.
Your identifying number	

Enter **amount of income** under the appropriate rate of tax. See instructions.

Nature of Income		(a) 10%	(b) 15%	(c) 30%	(d) Other (specify)	
					%	%
1	Dividends and dividend equivalents:					
a	Dividends paid by U.S. corporations	1a				
b	Dividends paid by foreign corporations	1b				
c	Dividend equivalent payments received with respect to section 871(m) transactions	1c				
2	Interest:					
a	Mortgage	2a				
b	Paid by foreign corporations	2b				
c	Other	2c				
3	Industrial royalties (patents, trademarks, etc.)	3				
4	Motion picture or TV copyright royalties	4				
5	Other royalties (copyrights, recording, publishing, etc.)	5				
6	Real property income and natural resources royalties	6				
7	Pensions and annuities	7				
8	Social security benefits	8				
9	Capital gain from line 18 below	9				
10	Gambling—Residents of Canada only. Enter net income in column (c). If zero or less, enter -0-					
a	Winnings					
b	Losses	10c				
11	Gambling—Residents of countries other than Canada. Note: Enter winnings only. Losses aren't allowed	11				
12	Other (specify):					
		12				
13	Add lines 1a through 12 in columns (a) through (d)	13				
14	Multiply line 13 by rate of tax at top of each column	14				
15	Tax on income not effectively connected with a U.S. trade or business. Add columns (a) through (d) of line 14. Enter the total here and on Form 1040-NR, line 23a	15				

**Capital Gains and Losses From Sales or Exchanges of Property**

Enter only the capital gains and losses from sales or exchanges of property		(a) Kind of property and description (if necessary, attach statement of descriptive details not shown below)	(b) Date acquired mm/dd/yyyy	(c) Date sold mm/dd/yyyy	(d) Sales price	(e) Cost or other basis	(f) LOSS If (e) is more than (d), subtract (e) from (d).	(g) GAIN If (d) is more than (e), subtract (e) from (d).
16	Report property sales or exchanges that are effectively connected with a U.S. business. Do not include a gain or loss on disposing of a U.S. real property interest; report these gains and losses on Schedule D (Form 1040).							
	Report property sales or exchanges that are effectively connected with a U.S. business on Schedule D (Form 1040), Form 4797, or both.							
17	Add columns (f) and (g) of line 16						17	
18	Capital gain. Combine columns (f) and (g) of line 17. Enter the net gain here and on line 9 above. If a loss, enter -0-							18

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see the Instructions for Form 1040-NR.

Cat. No. 727528

Schedule NEC (Form 1040-NR) 2024

**SCHEDULE OI**  
**(Form 1040-NR)**

Department of the Treasury  
Internal Revenue Service

Name shown on Form 1040-NR

**Other Information**

Attach to Form 1040-NR.

Go to [www.irs.gov/Form1040NR](http://www.irs.gov/Form1040NR) for instructions and the latest information.

Answer all questions.

OMB No. 1545-0074

**2024**  
Attachment  
Sequence No. **7C**

Your identifying number

**A** Of what country or countries were you a citizen or national during the tax year? \_\_\_\_\_

**B** In what country did you claim residence for tax purposes during the tax year? \_\_\_\_\_

**C** Have you ever applied to be a green card holder (lawful permanent resident) of the United States? ☐ Yes ☐ No

**D** Were you ever:

1. A U.S. citizen? ☐ Yes ☐ No

2. A green card holder (lawful permanent resident) of the United States? ☐ Yes ☐ No

If you answer "Yes" to (1) or (2), see Pub. 519, chapter 4, for expatriation rules that apply to you.

**E** If you had a visa on the last day of the tax year, enter your visa type. If you didn't have a visa, enter your U.S. immigration status on the last day of the tax year. \_\_\_\_\_

**F** Have you ever changed your visa type (nonimmigrant status) or U.S. immigration status? ☐ Yes ☐ No

If you answered "Yes," indicate the date and nature of the change: \_\_\_\_\_

**G** List all dates you entered and left the United States during 2024. See instructions.

**Note:** If you're a resident of Canada or Mexico **AND** commute to work in the United States at frequent intervals, **check the box for Canada or Mexico** and skip to item H. ☐ Canada ☐ Mexico

Date entered United States mm/dd/yy	Date departed United States mm/dd/yy	Date entered United States mm/dd/yy	Date departed United States mm/dd/yy

**H** Give number of days (including vacation, nonworkdays, and partial days) you were present in the United States during:  
2022 \_\_\_\_\_, 2023 \_\_\_\_\_, and 2024 \_\_\_\_\_

**I** Did you file a U.S. income tax return for any prior year? ☐ Yes ☐ No

If "Yes," give the latest year and form number you filed: \_\_\_\_\_

**J** Are you filing a return for a trust? ☐ Yes ☐ No

If "Yes," did the trust have a U.S. or foreign owner under the grantor trust rules, make a distribution or loan to a U.S. person, or receive a contribution from a U.S. person? ☐ Yes ☐ No

**K** Did you receive total compensation of \$250,000 or more during the tax year? ☐ Yes ☐ No

If "Yes," did you use an alternative method to determine the source of this compensation? ☐ Yes ☐ No

**L** Income Exempt From Tax—If you are claiming exemption from income tax under a U.S. income tax treaty with a foreign country, complete (1) through (3) below. See Pub. 901 for more information on tax treaties.

1. Enter the name of the country, the applicable tax treaty article, the number of months in prior years you claimed the treaty benefit, and the amount of exempt income in the columns below. Attach Form 8833 if required. See instructions.

(a) Country	(b) Tax treaty article	(c) Number of months claimed in prior tax years	(d) Amount of exempt income in current tax year

**(e) Total.** Enter this amount on Form 1040-NR, line 1k. Do not enter it anywhere else on line 1 \_\_\_\_\_

2. Were you subject to tax in a foreign country on any of the income shown in 1(d) above? ☐ Yes ☐ No

3. Are you claiming treaty benefits pursuant to a Competent Authority determination? ☐ Yes ☐ No

If "Yes," attach a copy of the Competent Authority determination letter to your return.

**M** Check the applicable box if:

1. This is the first year you are making an election to treat income from real property located in the United States as effectively connected with a U.S. trade or business under section 871(d). See instructions. ☐

2. You have made an election in a previous year that has not been revoked, to treat income from real property located in the United States as effectively connected with a U.S. trade or business under section 871(d). See instructions. ☐

For Disclosure, Privacy Act, and Paperwork Reduction Act Notice, see the Instructions for Form 1040-NR. Cat. No. 72756T Schedule OI (Form 1040-NR) 2024

## Chapter 6

### The Estate Plan – How to Determine Your Net Worth

**General.** In the first chapter of this book, I wrote that on the day the Soldier dies in Germany his net worth becomes his Nachlass (estate). I also stated that the net worth is active, it increases and decreases over time. This is also true for the estate. During the months after the Soldier's death, there will be cash flows to and from his estate. The basic concept is to maintain visibility over the net worth while the Soldier is alive. The easiest way to do this is with spreadsheets using an appropriate computer application. I use Microsoft Excel. After the Soldier dies, his financial accounts remain active and the financial activity of the accounts must be precisely documented.

**Asset Inventory.** Determining your net worth starts with an inventory of the assets, both singly and jointly owned. The asset inventory consists of all finances (bank accounts, all types of investments), life insurance policies, real estate and land owned, items of jewelry, automobiles and anything else to which a value can be attached. You need to recognize that the only way to determine the true value of the non-financial assets is to sell them. Therefore, when you attach values to non-financial assets the concept is to be conservative, that is, never inflate the value of your non-financial assets.

There are some non-financial assets that your heir(s) will not immediately sell. Jointly owned real estate is a good example of a non-financial asset that will not be immediately sold.

I assisted a widower with the Erbschaftsteuererklärung (inheritance tax return) for his wife. When they purchased their condominium 50 years before her death, they believed because of their age difference, he would die first. Therefore, when I did the Erbschaftsteuererklärung, her estate included the full value of the condominium. He died a year later and now the full value of the condominium will be declared a second time. With joint ownership, the full value of the condominium would only be declared on his Erbschaftsteuererklärung.

**The Net Worth.** When the asset inventory is complete, copy it in its entirety to a second spreadsheet. This new spreadsheet is the net worth. Then link each value cell in the net worth to the corresponding value cell in the asset

inventory. Therefore, when the value of an asset is changed, for example, the amount of money in a bank account, the change is automatically made in the net worth spreadsheet.

The last arrangement of the net worth spreadsheet is to set up one or more columns to show the values of the individual and shared assets. In my own situation, my wife and I have joint bank accounts and joint ownership of our house. We also have separately owned assets. Therefore, we have values in two columns. Accordingly, the net worth shows what is shared and what is separately owned.

There is one more aspect of the net worth that must be mentioned – indebtedness. If there is indebtedness, this must be included as an entry on the net worth spreadsheet. The most common forms of indebtedness include a mortgage on the home, credit card debt balances that are not paid off each month (debt carried forward) and back taxes owed. This indebtedness is a part of the estate and is entered on the Erbschaftsteuererklärung.

**Financial Activity.** After your death, your financial accounts remain active, because cash will continue to flow into and out of the estate's accounts. Therefore, the person who will ultimately complete and submit the Erbschaftsteuererklärung to the Finanzamt (German finance office) will want to determine as closely as possible the total value of the estate. The best approach is to use a spreadsheet to track the financial activity. This spreadsheet will be submitted as an attachment to the Erbschaftsteuererklärung.

A good example of cash flows to the estate is the government benefits. Your benefits include such things as retired pay, Social Security payments, disability payments, etc. A good example of cash flows from the estate is the payment for the funeral and the cemetery. In the case of the latter, there are costs for opening and closing the final resting place and the rental of the grave, which includes the minimum number of years the remains must rest in peace (Mindestruhezeit).

It is not possible to immediately stop these benefits even though the report of death is made within hours of your actual death. Benefits paid for the month of your death and any of the following months must be paid back to



various agencies. I know of instances where the paying agency, the Social Security Administration, continued making payments for five months after his death. The Defense Finance and Accounting Service was much more efficient. This agency stopped the payment for the month immediately after his death. Because he had international direct deposit for all government benefits, the government agencies responsible for reclaiming these benefits contacted the German bank with a request for repayment and the bank complied with the request. Depending on the requirements in the last will and testament that will have an impact on the cash flows, it could be many months before the executor of the will can submit the Erbschaftsteuererklärung. To the greatest extent possible, it is advisable to sell the non-financial assets to come as close as possible to the total value of the estate.

**Summary.** Determining your net worth begins with an accurate asset inventory. Usually, the financial assets are the greater part of the net worth. A good asset inventory is the basis for determining the net worth. The net worth become the estate upon your death and it is the start point to begin tracking financial activity leading up to completion and submission of the inheritance tax return.

Description of the attachments to this chapter that are provided below:

A sample asset inventory  
A sample net worth calculation

# Sample Asset Inventory

## Robert and Heidi Mustermann

Date 30.09.2025

Exchange Rate                      \$1.00 =              0,915 €

### Sparkasse Accounts

		Total €	Total \$
DE00 0000 0000 0000 0000 01	Joint Giro	150.000,00 €	
DE00 0000 0000 0000 0000 02	Joint Sparkonto	350.000,00 €	

### Bank Shares

DE000000000041 (Robert)	10 shares at 350 € each	3.500,00 €	
DE000000000042 (Heidi)	10 shares at 350 € each	3.500,00 €	

### Stocks

	Year	Shares	Share Price		
Daimler	01.05.20	1.000,00	210,00 €	210.000,00 €	
VW	01.07.15	500,00	350,00 €	175.000,00 €	

### **Total Euro Finances**

**892.000,00 €**

### Credit Union

Joint Checking 2500000-66	\$110.000,00	\$110.000,00
Joint Savings 2500000-77	\$200.000,00	\$200.000,00
Savings (Heidi) 25000	\$10.000,00	\$10.000,00

### Semper Fi Investments

Traditional IRA (RR135692)	\$300.000,00	\$300.000,00
Roth IRA (PD15082025)	\$150.000,00	\$150.000,00

### US Government

Thrift Savings Plan (USA 177689)	\$250.000,00	\$250.000,00
----------------------------------	--------------	--------------

### **Total Dollar Finances**

**\$1.020.000,00**

**\$1.020.000,00**

### Real Estate

House in Germany Joint		450.000,00 €	
House in California Joint	\$500.000,00		\$500.000,00

### Totals

### **Dollars**

**\$1.520.000,00**

### **Euro**

**1.342.000,00 €**

## Sample Net Worth Calculation

### Robert and Heidi Mustermann

Date 30.09.2025				Heidi		Robert
Exchange Rate		\$1.00 =	0,915 €			
<u>Sparkasse Accounts</u>						
DE00 0000 0000 0000 0000 01		Joint Giro	150.000,00 €	75.000,00 €	75.000,00 €	
DE00 0000 0000 0000 0000 02		Joint Sparkonto	350.000,00 €	175.000,00 €	175.000,00 €	
<u>Bank Shares</u>						
DE000000000041 (Robert)		10 shares at 350 € each	3.500,00 €	3.500,00 €		
DE000000000042 (Heidi)		10 shares at 350 € each	3.500,00 €		3.500,00 €	
<u>Stocks</u>		Year	Shares	Share Price		
Daimler		01.05.20	1.000,00	210,00 €	210.000,00 €	105.000,00 €
VW		01.07.15	500,00	350,00 €	175.000,00 €	175.000,00 €
Total Euro				892.000,00 €	358.500,00 €	533.500,00 €
<u>Credit Union</u>						
Joint Checking 2500000-66			\$110.000,00	\$55.000,00	\$55.000,00	
Joint Savings 2500000-77			\$200.000,00	\$100.000,00	\$100.000,00	
Savings (Heidi) 25000			\$10.000,00	\$10.000,00		
<u>Semper Fi Investments</u>						
Traditional IRA (RR135692)			\$300.000,00	\$150.000,00	\$150.000,00	
Roth IRA (PD15082025)			\$150.000,00		\$150.000,00	
<u>US Government</u>						
Thrift Savings Plan (USA 177689)			\$250.000,00		\$250.000,00	
Total Dollars			1.020.000,00	315.000,00	705.000,00	
<u>Real Estate</u>						
House in Germany Joint			450.000,00 €	225.000,00 €	225.000,00 €	
House in California Joint		500.000,00		250.000,00	250.000,00	
<u>Totals</u>						
Dollars			1.520.000,00	565.000,00	955.000,00	
Euro			1.342.000,00 €	583.500,00 €	758.500,00 €	

## Chapter 7

### The Estate Plan – The German Inheritance Tax Return

**General.** The German inheritance tax return or Erbschaftsteuererklärung must be submitted to the Finanzamt (German Finance office) responsible for the collection of the inheritance tax when the expected inheritance is above the Freibetrag (the tax free amount). The closer the heirs' relationship is to the testator (the maker of the last will and testament) the higher the tax free amount. See the table below:

Relationship to Testator	Tax Free Amount in Euro
Spouse or Registered Partner	500,000
Child	400,000
Grandchild whose parents are deceased	400,000
Grandchild whose parents are alive	200,000
Great-grandchild, parents, grandparents	100,000
Siblings, nieces, nephews	20,000
Step-parents, in-law children, in-law parents	20,000
All others	20,000

The inheritance tax on real estate is specially treated for the heirs. If the total value of the estate is less 500,000 Euro, the spouse, in most cases the spouse is the widow, does not have to pay inheritance tax. If the value exceeds the tax free portion, the tax is paid on the amount above the tax free portion. However, the spouse, the children or anyone else who inherits real estate, must adhere to the ten-year rule that states they must live in the house or condominium for ten years to avoid paying the inheritance tax.

**The Tax Forms.** Two tax forms are always required, the basic form is titled, Erbschaftsteuererklärung and includes four pages – a coversheet and three additional pages that describe in detail the assets of the estate, any existing debts against the estate, the cost of the death (funeral, grave rental, etc.), any gifts made while the testator was alive, and a block for comments.

The second form, Anlage Erwerber zur Erbschaftsteuererklärung, is used to identify each heir with their address, telephone number, tax identification number, banking institute, etc. The completed form(s) is (are) attached to the Erbschaftsteuererklärung.

In the case of married couples, when real estate is a part of the estate and the surviving spouse will inherit part or all of the real estate depending on ownership, the Erbschaftsteuererklärung should also include the Anlage Steuerbefreiung Familienheim. This form is used to identify the value of the real estate that is inherited. The result is that this value is subtracted from the total value of the estate when the Finanzamt determines the inheritance tax.

As covered in the first chapter, the net worth becomes the estate on the day the testator dies. During the time period between the date of the testator's death and the date the inheritance tax declaration is submitted, there will be cash flow to and from the estate. Therefore, the record of cash flows to and from the estate is attached to the inheritance tax declaration.

To make life easier for the person at the Finanzamt who will process the Erbschaftsteuererklärung, it makes sense to include a simple balance sheet that summarizes the cash flows, any expected expenses to be incurred or incomes to be realized between the time of submission and the completion of processing.

As mentioned in the chapter on determining net worth, the record of cash flows is best depicted using a computer program, such as Microsoft Excel, to develop the required spreadsheet. The balance sheet mentioned above is easily prepared with a spreadsheet program.

**Preparation of the Erbschaftsteuererklärung.** The Testamentsvollstrecker (Executor) is responsible for the preparation of the Erbschaftsteuererklärung. He can do it himself or seek the assistance of a Steuerberater (tax advisor). When there is just one heir, the spouse or registered partner, passing the financial and non-financial assets to the single heir is simple and uncomplicated. However, when there are two or more heirs, the best approach is to sell the non-financial assets if at all possible.

My friend Bob, a widower, left his estate to four heirs, one with 40% and the other three, 20% each. Recognizing the difficulty of splitting his condominium among four heirs, he inserted a clause in his will that the condominium was to be sold.

There is another interesting point with the registration of the deed to the condominium before its sale. Because a deceased person cannot own anything, the registrar of deeds (Grundbuchamt) changed the registration (ownership) of the condominium from Bob to the four heirs. This action did not affect my task of selling the condominium, because that requirement is stated in the will. In end effect, when I sold the condominium in the presence of the Notar (notary) I was representing the four heirs as well as myself as the Executor.

**Submission to the Finanzamt.** The Testamentsvollstrecker must sign the cover sheet and also identify anyone (possibly a Steuerberater) that was involved in the preparation of the Erbschaftsteuererklärung.

A short cover letter addressed to the Finanzamt to which the entire package is attached should be used.

**Finanzamt Inheritance Tax Determination.** After the Finanzamt has processed the Erbschaftsteuererklärung, it will issue a Bescheid (information document) stating the results of the review and indicating the amount of inheritance tax for each heir. The Testamentsvollstrecker must pay the inheritance tax for each heir and concurrently make the distribution of the inheritance to the heirs. Only the heirs living in Germany will have inheritance tax assessed. Any heirs living outside of Germany would be taxed under laws of the country where they live.

**Summary.** The inheritance tax declaration is an important part of the estate plan. It is prepared and submitted to the responsible Finanzamt when the tax free portion for each of the heirs is above the respective tax free amount. Maintaining a precise record of all cash flows is an absolute requirement.

Description of the attachments to this chapter that are provided below:

The forms to be submitted to the Finanzamt are provided below.

The Erbschaftsteuererklärung is a four-page form.

The Anlage Erwerber is submitted for each heir of the estate.

The Anlage Steuerbefreiung Familienheim is submitted when the surviving spouse will continue to live in the house or condominium after the death of the Erblasser (the maker of the last will and testament).

An das Finanzamt		Aktenzeichen		Eingangsstempel	
FA 11	Steuernummer	UFA 71	Zeitraum		

### Erbschaftsteuererklärung

Zelle	Todestag	Tag	Monat	Jahr	beurkundet vom Standesamt	Todestag
1						
2	Erblasser	Name, Vorname				Geburtsdatum
3						99 11
4	letzter Wohnsitz: Straße, Hausnummer					
5	Postleitzahl	Ort			Staatsangehörigkeit	
6	letztes zuständiges Finanzamt		Steuer-Identifikationsnummer		Steuernummer	
7	Familienstand am Todestag: <input type="checkbox"/> ledig <input type="checkbox"/> geschieden/eingetragene LP aufgehoben					
8	verheiratet/eingetragene Lebenspartnerschaft seit: <input type="checkbox"/> verwitwet seit/eingetragener Lebenspartner verstorben am: <input type="checkbox"/> Sterbeort: <input type="checkbox"/>					
9	In welchem Güterstand lebte der Erblasser? (Bei vertraglichem Güterstand bitte Vertrag einreichen.) <input type="checkbox"/> vertraglicher Güterstand					
10	<input type="checkbox"/> gesetzlicher Güterstand (Zugewinnngemeinschaft) <input type="checkbox"/> gesetzlicher Güterstand nach § 13 FGB (DDR) <input type="checkbox"/> Güterstand nach ausländischem Recht					
11	Ist ein Testament/Erbvertrag vorhanden? <input type="checkbox"/> nein <input type="checkbox"/> ja Name, Aktenzeichen des Gerichts/Urkundenrollen-Nummer des Notars:					
12	Ist ein <input type="checkbox"/> Testamentsvollstrecker <input type="checkbox"/> Nachlasspfleger <input type="checkbox"/> Nachlassverwalter bestimmt?					
13	Name, Anschrift, Telefonnummer:					
14	Ist ein Erbschein beantragt worden? <input type="checkbox"/> nein <input type="checkbox"/> ja Name, Aktenzeichen des Gerichts/Urkundenrollen-Nummer des Notars:					
15	War der Erblasser bei seinem Tod beteiligt an <input type="checkbox"/> Erbengemeinschaft <input type="checkbox"/> fortgesetzter Gütergemeinschaft?					
16	Name, Sterbetag und letzter Wohnsitz des vorverstorbenen Erblassers; Erbschaftsteuer-Finanzamt und ggf. Steuernummer:					
17	War der Erblasser bei seinem Tod <input type="checkbox"/> Vorerbe <input type="checkbox"/> Vorvermächtnisnehmer?					
18	Name, Sterbetag und letzter Wohnsitz des vorverstorbenen Erblassers; Erbschaftsteuer-Finanzamt und ggf. Steuernummer:					
19	Unterhielt der Erblasser ein Schließfach? <input type="checkbox"/> nein <input type="checkbox"/> ja Name und Anschrift des Geldinstituts:					
20	Welche Gegenstände/Werte befanden sich in dem Schließfach, wo sind diese in der Erklärung aufgeführt? Bitte ggf. gesondertes Blatt beifügen.					
21	Beteiligte Falls die Zeilen der Erklärung nicht ausreichen, bitte gesondertes Blatt beifügen.					
22	Name, Vorname		Ikd. Nr. der Anlage „Erwerber“		Name, Vorname	
23					Ikd. Nr. der Anlage „Erwerber“	
24	Name, Vorname		Ikd. Nr. der Anlage „Erwerber“		Name, Vorname	
25					Ikd. Nr. der Anlage „Erwerber“	
26	Name, Vorname		Ikd. Nr. der Anlage „Erwerber“		Name, Vorname	
27					Ikd. Nr. der Anlage „Erwerber“	
28	Name, Vorname		Ikd. Nr. der Anlage „Erwerber“		Name, Vorname	
29					Ikd. Nr. der Anlage „Erwerber“	

**Unterschrift(en)** Die mit der Steuererklärung angeforderten Daten werden aufgrund der §§ 149 ff. AO und des § 31 ErbStG erhoben. Die Angabe der Telefonnummer ist freiwillig.

Steuererklärungen ohne Unterschrift gelten als nicht abgegeben.

Bei der Anfertigung dieser Steuererklärung und der Anlagen hat mitgewirkt:

Datum, Unterschrift(en)



Zeile 30	<b>Hinterlassene Vermögenswerte</b>			<b>99</b>	<b>41</b>
31	<b>Land- und forstwirtschaftliches Vermögen</b>				
32	Gehört zum Nachlass land- und forstwirtschaftliches Vermögen im Inland oder in EU-/EWR-Staaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			inl. u. EU-/EWR luf Vermögen	
	<input type="checkbox"/> ja <input type="checkbox"/> Anzahl der wirtschaftlichen Einheiten	Gesamtwert:		15	
33	Gehört zum Nachlass land- und forstwirtschaftliches Vermögen in Drittstaaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			ausl. luf Vermögen	
34	Lage:	Gesamtwert:		16	
35	<b>Grundvermögen</b>				
36	Gehört zum Nachlass Grundvermögen im Inland oder in EU-/EWR-Staaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			inl. u. EU-/EWR Grundstücke	
	<input type="checkbox"/> ja <input type="checkbox"/> Anzahl der Grundstücke	Gesamtwert:		23	
37	Gehört zum Nachlass Grundvermögen in Drittstaaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			ausl. Grundstücke	
38	Lage:	Gesamtwert:		24	
39	<b>Betriebsvermögen</b>				
40	Gehört zum Nachlass Betriebsvermögen im Inland oder in EU-/EWR-Staaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			inl. u. EU-/EWR Betriebsvermögen	
	<input type="checkbox"/> ja <input type="checkbox"/> Anzahl der Betriebe	Gesamtwert:		35	
41	Gehört zum Nachlass Betriebsvermögen in Drittstaaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			ausl. Betriebsvermögen	
42	Firma:	Gesamtwert:		36	
43	<b>Übriges Vermögen</b>				
44	Gehören zum Nachlass nicht notierte Anteile an Kapitalgesellschaften im Inland oder in EU-/EWR-Staaten? <input type="checkbox"/> ja <input type="checkbox"/> nein			Anteile an KapGes.	
	<input type="checkbox"/> ja <input type="checkbox"/> Anzahl der Beteiligungen	Gesamtwert:		46	
45	Gehören zum Nachlass nicht notierte Anteile an Kapitalgesellschaften in Drittstaaten? <input type="checkbox"/> ja <input type="checkbox"/> nein				
46	<input type="checkbox"/> ja <input type="checkbox"/> Anzahl der Beteiligungen	Gesamtwert:			
47	Gehören zum Nachlass andere Anteile, Wertpapiere und dergleichen? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert (einschl. Stückzinsen)	
	Bezeichnung	ggf. Name des verwahrenden Geldinstituts/BIC/Depot-Nr.			
48					
49					
50					
51	Summe: 50			50	Wertpapiere u.Ä.
52	Gehören zum Nachlass Guthaben bei Geldinstituten? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert (einschl. Zinsen)	
	IBAN	Name des Geldinstituts/BIC			
53					
54					
55					
56	Summe: 51			51	Bankguthaben
57	Gehören zum Nachlass Bausparguthaben? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert (einschl. Zinsen)	
	Bausparnummer	Name der Bausparkasse			
58				52	Bausparguthaben
59	Gehören zum Nachlass Steuererstattungsansprüche? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert	
	Bezeichnung	Name des Finanzamtes, Steuernummer			
60				53	Steuererstattungsanspr.
61	Gehören zum Nachlass andere Kapitalforderungen? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert (einschl. Zinsen)	
	Bezeichnung	Name des Schuldners, Nennbetrag, Zinssatz			
62				54	Sonst. KapForderungen
63	Gehören zum Nachlass sonstige Forderungen? <input type="checkbox"/> ja <input type="checkbox"/> nein			Wert	
	Bezeichnung	Name des Schuldners			
64			49	49	Sonst. Forderungen



Zeile 65	<b>noch: Übriges Vermögen</b>			<b>99</b>	<b>41</b>
66	Gehören zum Nachlass Zinsansprüche (soweit in Zeile 51, 56, 58 und 62 nicht enthalten)? <input type="checkbox"/> ja <input type="checkbox"/> nein				
67	Name des Schuldners	Wert		55	Zinsen
68	Gehören zum Nachlass Versicherungen, Sterbegelder, Abfindungen? <input type="checkbox"/> ja <input type="checkbox"/> nein				
69	ggf. Vers.-Nr.	Name des Schuldners	Wert	48	Kap.Ford. (personell)
70					
71	Summe: 56			56	Vers., Sterbegelder, Abf.
72	Gehören zum Nachlass Renten oder andere wiederkehrende Bezüge? <input type="checkbox"/> ja <input type="checkbox"/> nein				
73	Bezeichnung	Name des Schuldners, Laufzeit bis	Jahreswert		
74				57	Renten u.Ä.
75	Gehören zum Nachlass: <input type="checkbox"/> ja <input type="checkbox"/> nein				
76	- in- und ausländische Zahlungsmittel, Bargeld? Wert: 58			58	Zahlungsmittel
77	- Münzen, unverarbeitete Edelmetalle, Edelsteine, Perlen? Wert: 59			59	Edelmetalle u.Ä.
78	- Hausrat? <input type="checkbox"/> ja <input type="checkbox"/> nein	Wert: 60		60	Hausrat
79	- andere bewegliche körperliche Gegenstände (z.B. Kraftfahrzeuge, Boote, Kunstgegenstände, Schmuck)? <input type="checkbox"/> ja <input type="checkbox"/> nein	Wert: 61		61	And. Bew. Gegenstände
80	- sonstige Rechte (Urheberrechte, Erfindungen, Patente u.ä.)? <input type="checkbox"/> ja <input type="checkbox"/> nein	Wert: 62		62	Sonstige Rechte
81	Welche Vermögenswerte sind von Dritten außerhalb des Nachlasses unmittelbar erworben worden?				
82	Anspruchsberechtigter	Art des Anspruchs	Wert		
83					
84	<b>Nachlassverbindlichkeiten</b>			<b>99</b>	<b>42</b>
85	<b>Schulden des Erblassers</b> Bitte fügen Sie entsprechende Unterlagen oder Belege bei.				
86	Hatte der Erblasser Darlehensschulden? <input type="checkbox"/> ja <input type="checkbox"/> nein				
87	Name, Anschrift des Gläubigers, Nennbetrag, Zinssatz	Wert			
88					
89	Summe: 10			10	Darlehensschulden
90	Hatte der Erblasser Steuerschulden? <input type="checkbox"/> ja <input type="checkbox"/> nein				
91	Name des Finanzamtes, Steuernummer	Wert			
92				12	Steuerschulden
93	Hatte der Erblasser sonstige Verbindlichkeiten? <input type="checkbox"/> ja <input type="checkbox"/> nein				
94	Bezeichnung, Name und Anschrift des Gläubigers, Nennbetrag, Zinssatz	Wert			
95					
96					
97	Summe: 14			14	Sonst. Verbindlichkeiten



Zelle 98	<b>Erbfallkosten</b> Nur auszufüllen, wenn insgesamt mehr als 10.300 EUR (Pauschbetrag) geltend gemacht werden. Bitte fügen Sie entsprechende Unterlagen/Belege bei.			<b>99</b>	<b>42</b>
99	Kosten der Bestattung des Erblassers	20		20	Bestattungskosten
100	Kosten für ein angemessenes Grabdenkmal	22		22	Grabdenkmalkosten
101	Kosten für die übliche Grabpflege (Jahreswert der durchschnittlich anfallenden Kosten)	25		25	Grabpflege
102	Kosten der Nachlassregelung	26		26	Nachlassreg.-Kosten
103	abzüglich Kostenersatz (Sterbegeld u.ä.)	28		28	Ersatz Erbfallkosten
104	<b>Vermächtnisse, Auflagen, Pflichtteilsansprüche</b>				
105	Hatte der Erblasser Vermächtnisse oder Auflagen angeordnet? <input type="checkbox"/> ja <input type="checkbox"/> nein				
	Name, Anschrift des Berechtigten	Art des Anspruchs	Wert		
106					
107					
108					
109					
110	Summe: 30			30	Vermächtnisse u. Ä.
111	Sind Pflichtteilsansprüche geltend gemacht worden? <input type="checkbox"/> ja <input type="checkbox"/> nein				
	Name und Anschrift des Berechtigten; wann geltend gemacht?		Wert		
112					
113					
114	Summe: 32			32	Pflichtteil
115	<b>Schenkungen</b>				
116	Hatte der Erblasser zu seinen Lebzeiten Schenkungen bzw. andere Zuwendungen gemacht, bei denen der Wert der Leistung des Schenkers den Wert der Gegenleistung übersteigt? <input type="checkbox"/> ja <input type="checkbox"/> nein				
117	Name, Anschrift des Beschenkten/Art, Wert und Zeitpunkt der Zuwendung	veranlagt beim Finanzamt/Steuernummer			
118					
119					
120					
121					
122					
123					
124	<b>Bemerkungen</b>				
125					
126					
127					
128					
129					
130					



Finanzamt		<b>Anlage Erwerber</b>				Ifd. Nr. der Anlage	
Aktenzeichen		<b>zur Erbschaftsteuererklärung</b>					
FA	Steuernummer	UFA	Zeitraum	Vorgang	99	36	10
11		71		1			
Identifikationsmerkmal des Erbfalls							
Zeile	<b>Erwerber</b>						99 11
1	<b>Allgemeine Angaben zur Person</b>						
2	Steuer-Identifikationsnummer						
3	Name, Vorname						
4	Geburtsdatum						
5	Straße, Hausnummer						
6	Postleitzahl						
7	Wohnort						
8	Wohnsitzfinanzamt						
9	Bankverbindung (für Erstattungen)						
10	IBAN						
11	Geldinstitut und Ort						
12	Verwandtschaftsverhältnis zum Erblasser						99 13
13	Nur bei Ehegatten, eingetragenen Lebenspartnern bzw. Kindern bis zur Vollendung des 27. Lebensjahres:						
14	Bestehen Ansprüche als Hinterbliebener des Erblassers auf gesetzliche/vertraglich vereinbarte Versorgungsbezüge (z.B. Witwen-/Witwerrente, Waisenrente, Pension)? <input type="checkbox"/> ja <input type="checkbox"/> nein						
15	Name des Zahlungsverpflichteten						
16	Jahresbetrag der Bruttobezüge						
17	Einmalbetrag der Bruttobezüge						
18	Nur bei Ehegatten bzw. eingetragenen Lebenspartnern im Güterstand der Zugewinnngemeinschaft:						
19	Wert der Ausgleichsforderung nach § 5 Abs. 1 ErbStG						
20	Wurde die Zugewinnngemeinschaft vertraglich vereinbart? <input type="checkbox"/> ja (Bitte Vertrag beifügen.) <input type="checkbox"/> nein						
21	Anrechenbare gezahlte ausländische Erbschaftsteuer						
22	Erwerb durch Erbanfall						
23	Erbanteil (z.B. 1/2)						
24	Gesondert zu tragende Schulden; ggf. Anteil daran						
25	Art						
26	Wert						
27	Gesondert zu tragende Erbfallkosten; ggf. Anteil daran						
28	Art						
29	Wert						
30	Gesondert zu tragende Vermächnisse, Auflagen; ggf. Anteil daran						
31	Art						
	Wert						



Zelle	<b>Sonstige Erwerbe</b>			<b>99</b>	<b>44</b>
32	Wert				
33	Erwerb durch Vermächtnis	10		10	Vermächtnis
34	Erwerb aufgrund eines Vertrages zugunsten Dritter	11		11	Vertrag zugunst. Dritter
35	Erwerb aufgrund eines geltend gemachten Pflichtteilsanspruchs Wann geltend gemacht?	12		12	Pflichtteil
36	Anderer sonstiger Erwerb	19		19	sonstiger Erwerb
37	Wert				
38	Schulden in Zusammenhang mit dem sonstigen Erwerb	20		20	Schulden
39	Verbindlichkeiten aus Vermächtnissen/Auflagen, soweit sie den sonstigen Erwerb belasten	30		30	Vermächtnis / Auflagen
40	Gesondert zu tragende Erbfallkosten, soweit sie den sonstigen Erwerb belasten	40		40	Erbfallkosten
41	Im sonstigen Erwerb enthaltener Hausrat	51		51	Hausrat
42	Im sonstigen Erwerb enthaltene andere bewegl. körperl. Gegenstände	52		52	bewegl. körperl. Gegenst.
43	<b>Nacherbschaft/Nachvermächtnis</b> Bitte beachten Sie die Erläuterungen in der Anleitung.				
44	Wert des Erwerbs: Bitte ggf. Einzelaufstellung der Vermögensgegenstände beifügen.				
45	Verwandtschaftsverhältnis zum vorverstorbenen Erblasser:				
46	Wird die Besteuerung nach dem Verwandtschaftsverhältnis zum Vorverstorbenen beantragt?			<input type="checkbox"/> ja <input type="checkbox"/> nein	
47	<b>Schenkungen</b>			<b>99</b>	<b>46</b>
48	Haben Sie vom Erblasser zu seinen Lebzeiten Schenkungen oder andere Zuwendungen erhalten, bei denen der Wert der Leistung des Schenkers den Wert der Gegenleistung übersteigt?			<input type="checkbox"/> ja <input type="checkbox"/> nein	
49	Art, Wert und Zeitpunkt der Zuwendung	Finanzamt	veranlagt beim Steuernummer		Gesamtwert Vorerwerbe
50				10	
51				12	Wert § 19a
52					Für Vorerwerbe bereits verbrauchter Freibetrag
53				19	
54	<b>Bekanntgabe</b> Der Bescheid soll nicht mir bekannt gegeben werden, sondern (bitte Vollmacht beifügen):				Steuer Vorerwerbe
55	Name, Vorname			20	Steuer Vorerwerbe (pers.)
56	Straße, Hausnummer	Postleitzahl	Postfach	22	
57	Postleitzahl	Wohnort	Telefonisch erreichbar unter	24	Entl. betr. § 19 a
58	<b>Bemerkungen/Anträge/sonstige Befreiungen oder Vergünstigungen</b>			60	Hausrat
59				61	Bew. körp. Gegenstände
60					
61					
62					
63					
64					
65					



Finanzamt		Anlage Steuerbefreiung Familienheim (§ 13 Abs. 1 Nr. 4b oder 4c ErbStG) zur Erbschaftsteuererklärung		zur lfd. Nr. der Anlage Erwerber	
AktENZEICHEN					
FA	Steuernummer	UFA	Zeitraum	Vorgang	
11		71		1	

  

Zeile	Name, Vorname		99	45
1	<b>Erwerber</b>			
2	Lage des Grundstücks:			
3	Wohn- u. Nutzfläche des <b>gesamten</b> Objekts:	m <sup>2</sup> Wohnfläche der <b>bisher vom Erblasser zu eigenen Wohnzwecken</b> genutzten Wohnung m <sup>2</sup>		
4	Wurde die Wohnung vom Erblasser bis zum Tode zu eigenen Wohnzwecken genutzt? <input type="checkbox"/> ja			
5	<input type="checkbox"/> nein Eine Selbstnutzung durch den Erblasser war aus den folgenden objektiv zwingenden Gründen nicht möglich:			
6				
7				
8				
9	Für eigene Wohnzwecke werden von der bisherigen Wohnung des Erblassers jetzt selbst genutzt:	m <sup>2</sup> Wohnfläche		
10	Seit wann wird die Wohnung zu eigenen Wohnzwecken selbst genutzt?	Datum		
11	Eine Selbstnutzung ist/war aus den folgenden objektiv zwingenden Gründen nicht möglich:			
12				
13				
14				
15				
16	Grundbesitzwert		Steuerbefreiung	
17	Nur bei Erwerb durch Erbanfall zu beantworten: Haben Sie im Rahmen der Nachlasseteilung einen über Ihren Erbanteil hinausgehenden Anteil am begünstigten Vermögen erhalten und hierfür an andere Miterben einen Anteil an anderen in den Nachlass fallenden Vermögensgegenständen hingegeben?		25	
18	<input type="checkbox"/> ja <input type="checkbox"/> nein			
19	Wert des erhaltenen Anteils			
20	Welche Vermögensgegenstände aus dem Nachlass wurden hingegeben? Bitte ggf. auf gesondertem Blatt erläutern.			
21	Art			
22	Wert			
23	Mit dem Grundstück zusammenhängende Schulden und Lasten Bitte ggf. auf gesondertem Blatt erläutern.			
24	Bezeichnung		n.abz Sch/Last Nachl 45	
25	Wert		n.abz Sch/Last s.Erw 47	

**Anlage Steuerbefreiung Familienheim** zur Erbschaftsteuererklärung

## Chapter 8

### The Estate Plan - The Trusted Agent

**General.** People who live alone should consider having a personal trusted agent. Similarly, it is also sensible for an older couple to have a personal trusted agent. The obvious question: what is a personal trusted agent, hereafter referred to as the agent? An agent is a person who has made a commitment to assist another person or persons when the latter is unable to take care of his, her or their personal affairs. The agent should be someone who can be trusted with personal affairs, finances, and valuable items. An agent is, for the most part, not bonded, that is, not insured. A trusted agent should be someone with the physical and mental ability to manage someone's affairs, including making difficult decisions and negotiating through complex legal and financial affairs.

The relationship between the person (collective if a couple is involved) and the agent is informal; however, the controlling factors are based on the formal legal documents that are executed when the relationship is established.

An agent is often a close family member - son, daughter, niece, nephew or sibling. However, in the absence of a close family member, the person seeking an agent can select a person based on a history of mutual friendship and trust.

When identifying an agent, the person doing the selection should be careful to manage expectations of all involved, including extended family members, who do not reside near the person and the agent. The agent should be someone reasonably available in time of need. The agent is expected to act in the person's best interests, maintain a focus on the welfare of the person, and stay in close contact with the person.

There is no general rule on close contact. The agent maintains sufficient close contact to assure the agent's duties and tasks are properly and correctly accomplished.

The agent will normally be a trusted friend conversant with all relevant aspects of the person's life.

An agent is not normally conversant in every aspect of the agent's mission. When situations arise that the agent

cannot master, the agent must seek competent assistance.

**American and German Planning Considerations.** The principal focus of this chapter is that the agent is assisting the person in Germany and most of the assets, financial and other, are in Germany. The assets, if any, that are in the United States of America (USA) need to be considered when establishing the relationship.

Generally, banks in the USA do not recognize the determination by a German probate court as to the disposition of financial assets. There is no bi-lateral treaty or agreement concerning inheritance. Therefore, if the person with financial assets in an American bank does not have the agent as a joint owner of the account, access to the financial assets is blocked after the person dies. The credit unions with operating branch offices in Germany are essentially American banks. Therefore, establishing the joint ownership with the trusted agent must be accomplished if access is required after the person's death.

For bank accounts in the USA, the person and the agent must appear at the bank to establish the person-agent joint ownership. In nearly all cases, this is not feasible. Accordingly, the bank accounts in the USA should be closed. Any US Government payments (Social Security, SBP, etc.) can be set up as international direct deposits to the German bank.

There may be other payments in the form of annuities (life insurance, individual retirement accounts, etc.) that are being sent to the American bank. If the company paying the annuity cannot make an international direct deposit to the German bank, this presents a problem that must be worked out with the companies concerned.

In addition to naming pay-on-death beneficiaries for financial accounts, U.S. citizens residing outside the U.S. should consider naming contingency beneficiaries to receive the residual annuity assets (stream of payments or lump sum) after the owner dies. These arrangements are beyond the scope of this paper, but are mentioned here because they must be made.

**Establishing the Relationship.** The first step is for the agent to become familiar with the person's personal affairs. These include general state of health, business



relationships, financial assets, non-financial assets, close friends, and lastly, funeral and burial desires. It is necessary to execute legal documents to manage your affairs during your life or an extended illness or period of incapacitation, and after your death.

There are five basic documents that must be executed. It is possible as well as desirable to include the first three documents described below in single document, the general power of attorney.

***The General Power of Attorney in Germany.*** The German general power of attorney is prepared by a notary public and can be set up to remain in force after the grantor's death. This is very important, because many actions must be accomplished after the grantor's death. The American power of attorney, usually made by the Judge Advocate General within the US Army garrisons, becomes null and void upon the death of the grantor. A full German power of attorney should include three distinct powers as detailed below.

***Vorsorgevollmacht.*** This is the basic and durable power of attorney that is a subset of the general power of attorney. The Vorsorgevollmacht provides the agent, on behalf of the grantor, with the authority to take all legal and administrative actions permitted by law. This includes such actions as medical treatment decisions and placing the grantor in an institution.

***The Patientenverfügung (Advanced Directive/Living Will).*** In the event the person becomes terminally ill, this document states the person's desires and wishes concerning the types of medical treatment, continued or discontinued, until death occurs.

***Betreuungsverfügung (Guardianship Order).*** The agent becomes the guardian of the grantor when the grantor is unable to articulate personal decisions and needs. Two good situational examples demonstrate the need for guardianship: the grantor survives a stroke and is handicapped or has advanced dementia.

***The German Bank Power of Attorney or Joint Ownership.*** The grantor grants the agent total access to all bank accounts. This power of attorney may or may not remain in effect after the grantor's death depending on the national laws and the policy of the individual banks. Note that naming someone as a joint owner rather than as a

beneficiary includes the risk that creditors (if any) of the agent could attach the assets if the agent has non-performing debts, that is, not paid up-to-date.

***The Last Will and Testament.*** This document, like the power of attorney, is absolutely required and will identify the agent as the executor of the estate. The last will and testament must clearly state the specific actions that the agent must take. All other actions not specified are considered implied actions.

### **General Duties and Specific Tasks.**

***General Duties.*** When the grantor is unable to take care of personal affairs, the agent will be expected to take all required administrative actions which include paying bills, monitoring all bank transactions, maintaining contact with the attending physician(s), reading incoming mail and taking all actions required, and, most important, keeping the grantor informed of the agent's accomplishments.

***Specific Tasks.*** The following list of specific tasks is not exhaustive, in no special order and will vary from person to person based on the individual situations.

Maintain contact with the person's distant family members.

Upon the grantor's death, notify the German and American governments of the death. The extent of the notification depends on place of residency (where registered), citizenship, the receipt of Social Security, survivor benefits plan, dependency and indemnity compensation, German Social Security annuities and any other annuities.

Notify the bank(s) and any credit and debit card issuers

Notify friends and relatives.

Notify the health insurer, as appropriate.

Obtain necessary death certificates.

Arrange for the funeral and interment.

**Last Will and Testament.** If it's an American will from US legal assistance and the deceased is a resident of Germany, it must be probated locally, that is, in Germany. Prior to submitting the will to the German probate court, an official translation is required. If it's a German will, notify

the lawyers who drew the last will and testament to start the probate process. If the agent is able to write a cover letter in German, the lawyer's fee can be avoided when submitting the will to the German probate court. The probate of a will in Germany does not require the involvement of lawyer.

Close out the house or apartment (telephone, electricity, water, heat, trash pick-up, etc.) or nursing home/senior residence, as appropriate.

Dispose of personal property.

Submit income tax returns, both American and German. Unless the agent is a certified tax preparer, use a certified company that can prepare the American tax return. In the case of the German income tax return, use a German tax adviser (Steuerberater).

After the probate of the will, take all actions specified in the will. In Germany, some of the actions specified in the will can be taken as soon as the will is submitted to the probate court.

Wills that are stored at a probate court are sealed. The probate court will examine the will and look for abnormalities. Finding none, the probate court will send a report to the agent (executor of the estate) so stating or if there are abnormalities, listing the abnormalities. If there are abnormalities, the agent must respond to the probate court. The report also includes the opening of the will protocol.

The transfer of assets (funds, property, etc.) to the heirs specified in the will can only be accomplished after probate court issues its report (discussed above) as to the validity and correctness of the will. If the bequeaths in the will are clear, that is, all of the heirs are properly identified and there is no chance of a dispute, a certificate of inheritance is not required. The cost for the certificate of inheritance is based on the size of the estate and can be significant. It is best to avoid this expense.

The agent is also responsible for submitting the inheritance tax return to the responsible German finance office (Finanzamt) and paying any inheritance taxes required after the finance office has completed its processing and issued the payment request.

When all financial actions have been completed, the agent closes out the bank accounts.

**Agent Compensation.** There are various expenditures associated with the agent's duties and tasks before and after the person's death. Agent compensation or lack thereof while the person is alive is generally agreed upon at the time the relationship is established. The person and the agent should formalize the relationship in the form of a contract or other written document that may result in taxable events (i.e., payment for services).

Subsequent to the death of the person, the agent may bill the estate at a fair-market rate for the hours worked and any associated expenses. Often, the hourly rate includes routine expenses (telephone, automobile use, etc.).

If the agent is identified in the will as the executor of the estate and not one of the heirs, when the will is drawn the agent's fee for accomplishing the settlement of the estate can be specified as a percentage of the value of the estate generally up to 5%. The agent generally bills the estate 50% plus value added tax of the expected fee based on the estimated value of the estate. When the settlement is complete, the agent bills for the remaining 50%.

The final value of the estate is determined by the German tax office that is responsible for assessing the inheritance tax. This determination is in the form of an information document that establishes the amount of the estate. This amount is the basis for the agent to determine the agent's final fee.

The agent must distribute the funds to the heirs and pay the inheritance tax.

After the grantor's death, the agent, who is now the executor of the estate, must maintain meticulous records of all expenses incurred, that is, bills paid, transfer of financial bequeaths and agent compensation.

**Summary.** The duties and specific tasks performed by the agent are a great responsibility. At the time the relationship is established, the agent is committed until such time as the grantor terminates the relationship by cancelling the power of attorney and changing the last will and testament. After the grantor's death, the trusted agent

remains committed until all actions related to the grantor's estate have been completed.

There may be difficult times during the relationship. Often, the agent must exhibit the patience of Job.

The agent's commitment is truly sacred and must be fulfilled.

## Chapter 9

### The Estate Plan - The Widow's Survivor Benefits

**General.** The number of survivor benefits will vary from family to family. Each available survivor benefit is the result of both the Soldier's personal planning and the planning done by his wife and their joint planning, as well. The concept when planning for survivor benefits is to assure that the future widow can be financially secure.

We tend to believe that our widows will be able to fend for themselves and will ultimately die at home, in a hospital or in a hospice. This is the ideal death. However, there could be other circumstances that will result in our widows becoming a resident in a senior citizens' care facility, often referred to as a nursing home. Being able to afford this type of care is a survivor benefits planning consideration.

**Military Survivor Benefits Plan (SBP).** The SBP annuity is determined by the base amount the Soldier elects. The base amount may range from a minimum of \$300 up to a maximum of the full retired pay. The benefit is 55% of the base amount. Therefore, 55% of \$300 is \$165. Once the widow starts receiving the SBP annuity, it will increase each year that there is a cost of living adjustment (COLA). Historically, there has been a COLA as far back as I can remember.

If the Soldier selects a base amount less than the full retired pay, his wife must sign this declaration. The wife must also agree to the decision to not opt for the SBP benefit.

The SBP decision is a joint decision and a part of the calculation of the survivor's source of income.

If the wife pre-deceases her Soldier, the SBP monthly contributions are not refundable. However, if the Soldier should remarry, he must re-start SBP within one year after he remarries. If the SBP is not restated within the year after remarriage, the opportunity is lost. There are no exceptions to this policy.

**Office of Personnel Management Survivor Benefits Plan.** Some retired Soldiers opt for a second career as a civil servant. Generally, to qualify for a civil service pension, the civil servant must have five years of creditable service and be 62 years old, although

provisions exist for earlier retirement with longer service or at reduced pension. Having met this requirement, the retired Soldier can elect a full survivor benefit, a partial survivor benefit or no benefit at all. If the Soldier is married at retirement, his wife must consent to an election of less than a maximum survivor annuity benefit. This is very similar to the military SBP requirement.

**Social Security.** The Social Security survivor benefit is probably the simplest and most straight-forward of all survivor benefits. There are several situations.

The Soldier's wife has never paid into Social Security; however, when the Soldier is alive and both are eligible for the Social Security benefit, the wife's benefit is 50% of the Soldier's benefit.

If both the Soldier and his wife qualify for the Social Security benefit based on their individual work records, each will receive their individual benefits. However, if the wife's benefit is less than 50% of the Soldier's benefit, she will receive the higher benefit.

If the Soldier dies first, the widow will get the survivor benefit based on her Soldier's work record. If her benefit, based on her own work record, is less than the Soldier's benefit, she will receive the full amount of her Soldier's benefit plus her own benefit. In the case of her own benefits, there are rules covering how much of her own benefit she can receive while receiving the survivor benefit from her Soldier.

No matter what the situation may be, the widow will receive whatever her Soldier was receiving.

**Department of Veterans Affairs.** There is one main survivor benefit for the widow. This benefit is the Dependency and Indemnity Compensation (DIC). If the Soldier dies on active duty, the widow will receive DIC. If the retired Soldier is disabled and dies, based on the cause of death, injury or illness, the widow could qualify for DIC. It is prudent to look at the possibility of the DIC benefit while the retired Soldier is alive. If the chances of DIC are good, now is the time to review the documentation requirements.

If the primary care manager (PCM) is at a military treatment facility, then this PCM should be well-informed about the retired Soldier's state of health and can advise

the Soldier and his wife about the possibility of the wife receiving the DIC benefit.

In addition to DIC, if the deceased Soldier was receiving VA compensation or pension, the surviving family may be eligible for a burial allowance to provide reimbursement for a fixed amount to cover some burial costs.

**Life Insurance.** As we age, the need for life insurance changes. Depending on the type of insurance, the annual premiums can increase as our age increases. A life insurance expected death benefit is an integral part of the retired Soldier's survivor benefit planning. If the retired Soldier does still have life insurance, the decision on the payout as a lump sum or an annuity is usually made shortly after the Soldier's death depending on immediate and long-term financial requirements.

**Investments.** There are many different types of investments. The most common are stocks, bonds, mutual funds, precious metals (e.g. gold and silver), individual retirement accounts, annuities, etc. Where possible investments should be in both names. This is very common with stocks, bonds and mutual funds. Upon the death of one of the joint owners, in this case the retired Soldier, the value of the joint investment evolves to the widow.

Conversely, individual retirement accounts, Thrift Saving Plan, and annuities that are individually owned have a designated beneficiary. If the beneficiary is the future widow, this money is a survivor benefit.

All investments are components of a Soldier's net worth and as mentioned above are survivor benefits.

**Bank Accounts.** Where possible bank accounts should be joint accounts. This is easily accomplished at German and American banks, because we are considered depositors. Credit unions are different. We are members and each member has their own account. The survivor beneficiaries of a credit union account are the joint owners of the account. Having members rather than depositors at a credit union is based on a set of rules established for credit unions. Anybody can be a bank depositor; however, not everyone can be a member of a credit union. If you continue to use a U.S. credit union with offices on bases in Europe, generally it is only possible to add membership for a spouse while still under SOFA. This allows the transfer



of the Soldier's assets to widow's accounts on his death. If the widow is not a credit union member, the Soldier-held accounts must be closed and transferred. Essentially, credit unions are chartered to serve a specific group of people while banks serve the general population.

**Others.** This category includes any other financial survivor benefit not covered above. Cold cash can be squirreled away in a safe deposit box at a bank, hidden at home in a house safe or tucked into your mattress. The most important aspect is for the surviving widow to know where this cash is located.

**Summary.** The extent of the widow's survivor benefits must be a well-documented part of the Soldier's estate plan. The survivor benefits are the basis for the next chapter which will cover financial management for the widow. The extent of the survivor benefits will determine the expected financial well-being of the Soldier's widow.

## Chapter 10

### The Estate Plan – Financial Management for the Widow

**General.** Financial management for the Soldier's widow is essentially the same as financial management when both partners are alive. The focus of financial management is simply matching financial needs to actual or expected income. Retired married couples, have for the most part, a fixed income. The cash flows can include retired pay from various sources, social security benefits, VA disability payments, income from private retirement accounts, investments, etc. Most of us enjoy a level of income that provides for a good quality of life and a good standard of living. When the Soldier goes to the last bivouac, logically, the income is reduced to the level of the expected survivor benefits.

**Planning Considerations.** One person living alone obviously needs less monthly income than two people living together. The basic financial management objective is to have the standard of living as a single be as close as possible to that standard previously enjoyed as a married couple. As mentioned above, the level of income for the widow will be reduced. Depending on the actual loss of income, some downsizing may be required. Before I get into the nuts and bolts of financial management, I want to offer a few downsizing considerations.

Let's start with the homestead, which, for example, is a house with more than enough space for two people. Living alone in a big house with the corresponding annual costs for taxes and upkeep may not fit the widow's reduced income. Therefore, a downsizing decision is required. Some possible actions could include: sell the house and buy a condominium or sell the house and rent an apartment, or rent an apartment and get rental income from the house.

Living style is another consideration. Obviously, married couples enjoy a living style based on a certain level of income. The reduced income will impact the living style for the widow. The living style includes such things as vacations and eating out, the type of automobile, forms of entertainment, etc.

Each couples' situation is unique and both partners need to realistically look at how it is going to be after the retired

Soldier is no longer alive. I think that a frank discussion about the widow's future is an important consideration. In my own situation, because my wife is in a senior citizens care facility, I know her precise financial needs and I have set up a financial management plan to assure there is enough monthly income to meet her needs if I would die first. Our local daughter is our trusted agent and knows the financial requirements.

Some married couples have jointly and individually owned financial instruments such a life insurance policy, certificates of deposit, individual retirement accounts, thrift savings plan, etc. Generally, for singularly owned financial instruments, the surviving spouse is the beneficiary. How to handle the financial instruments is a planning consideration and beyond the scope of this chapter. However, a significant decision concerns when to take a lump sum payout and when to stream monthly payments. My advice here is to look at the entire financial situation and if the couple is not able to do the analysis themselves, seek assistance from a subject matter expert.

There is one more planning consideration. Getting all of the expected cash flows started could require three or more months after the Soldier's death. Accordingly, it makes sense to have a bridge fund to cover expenses that will be incurred between the date of the Soldier's death and the date when all cash flows are in place and active. The bridge fund needs to include the costs of burial and the funeral.

**Financial Management Plan.** Financial management begins with a plan. The plan is essentially a comparison of known annual financial outlays against expected income. The objective is not to balance the expenditures and income, but rather to have the income be more than the expenditures to provide a build-up of financial resources for emergencies. Over time both the expenditures and the income will change.

***Annual Expenditures.*** How much income is needed each year? Because the widow's income is relatively fixed, a contingency fund must be established to cover unplanned and unforeseen expenditures.

- Home to include related costs (utilities, insurance, repairs and upkeep)
- Health Insurance (TRICARE, German Krankenkasse, Private Plans, Federal Employee

Dental and Vision Insurance Program (FEDVIP) or Foreign Service Benefit Plan (FSBP), etc.)

- Medicine
- Clothing
- Discretionary outlays (food, entertainment, vacations, gifts, etc.)
- Inflationary increases
- Contingency fund (while not an expenditure this fund is required)

***Sources and Amount of Income.*** What are the possible sources of income?

- Social Security
- Survivor Benefit Plan (Military and possibly civil service)
- Widow's German Rente plus possible survivor benefit from Soldier's Rente
- Investments
- Retirement accounts (IRA, 401(k), Thrift Savings Plan, Annuities)
- Rental Income from home
- Bank Accounts (Credit Union and German bank interest)

***Comparison of Annual Expenditures to Expected Income.***

- Make a table that shows expenditures on the left and income on the right.
- Usually, most of the entries on the income side are fixed. Government annuities are generally adjusted annually for inflation. The adjustment is based on the Bureau of Labor Statistics consumer price index.
- If expected expenditures exceed expected income, generally expenditures must be reduced or find more income.

***Organization.***

The focus of organization is to set up the cash flows, in and out, so that widow does not run out of money before she runs out of life. Here is where an expert may be required. This expert can be a family member or a certified fee only financial planner.

Some of the considerations include the following:

- Interest rates
- Income Tax liability
- Liquidity (immediately available cash)
- Savings program
- New investments

### ***Execution.***

When talking about execution, we are talking about the implementation of the plan. That is, getting the cash flowing and keeping the cash flowing.

### **Control.**

The plan that the widow or trusted agent will implement after the Soldier's death may need to be changed in two or three years because of a change in needs, tax laws and interest rates, etc.

It is reasonable to look at the financial management plan on an annual basis because changes may be required. The larger the estate, the more closely the widow or trusted agent should look at the overall financial management.

### **Summary.**

The financial management plan detailed above is an absolute necessity, because after the Soldier's death the financial situation will change. It is important that the widow has sufficient cash flow to cover expenses and to build up a contingency fund and lastly, enjoy a good standard of living.

Description of the attachment to this chapter that is provided below:

A sample financial management plan spreadsheet

**Sample Financial Management for the Widow Heidi Mustermann  
a Nonresident German Alien**

Annual Income Needs		Sources and Amounts of Income before Taxes		Difference Income and Needs
		Exchange rate US Dollar to Euro 0,915		
			<u>Dollars</u>	<u>Euro</u>
Home	18.000,00 €	Social Security	\$25.000,00	22.875,00 €
Automobile	2.000,00 €	SBP	\$20.000,00	18.300,00 €
Health insurance	3.000,00 €	Rente		10.000,00 €
Medicine	500,00 €	Annuity	\$12.000,00	10.980,00 €
Food	4.500,00 €			
Clothing	1.000,00 €			
Other Spending	2.000,00 €			
Inflation	800,00 €			
Income taxes	8.000,00 €			
	<u><b>39.800,00 €</b></u>		<u><b>\$57.000,00</b></u>	<u><b>62.155,00 €</b></u>
				<b>22.355,00 €</b>

## Chapter 11

### The Estate Plan - The Pflegeheim

**General.** When I started this project to write a book about estate planning, I did not consider a chapter on the Pflegeheim, referred to in English as the senior citizen resident care facility. My focus at that time was on the processes and procedures to settle an estate as well as what follows for the survivor(s) after the estate is settled. I think you will agree that this chapter fits well to estate planning.

**Background.** Because of the advancements in medical science coupled with a healthy style of living, we are living a lot longer than the generations before us. If you look at the current tables depicting life expectancy in Germany, many of us find that we have passed our statistical life expectancy. The current projection in Germany for girls born in 2024 is an average life expectancy of 83.5 years. For the boys born in 2024 they can expect to live for 78.5 years.

Looking back at the birth year 1950 in Germany, the life expectancy at that time for girls and boys, 68.5 and 64.6, respectively. This life expectancy doesn't vary much from the similar statistics for the USA. Therefore, those of us who were born before 1950 are doing quite well in our 70s and 80s. The downside of these statistics is that the longer we live, the more apt we become to having to deal with various illnesses that affect our ability to continue to live out our golden years in our own home.

The costs associated with residence in a Pflegeheim are significant and while most of us will never need Pflegeheim care, it must be considered in the overall estate plan.

**Care Alternatives in Old Age.** The spectrum of care alternatives varies from continuing to live at home with a caregiver to becoming a permanent resident in a Pflegeheim. I want to focus this chapter on the Pflegeheim alternative. This is the extreme alternative, because by moving into a Pflegeheim we have reached the point of no return to living in our home.

**The Level of Care.** The Pflegekasse (long-term care insurance fund) determines the level of care required after obtaining an assessment from the Medizinischer Dienst

(medical service) for those with German statutory insurance (gesetzliche Krankenkasse) or Medicproof (for those with private insurance (private Krankenkasse). These assessors visit the person in need of care on-site to determine the level of care required based on established criteria. This system works effectively with people who have German health insurance that by law includes long-term care insurance.

There are five levels of care (1 to 5) that can be assigned following the Medizinischer Dienst or Medicproof assessment. Each level is based on the person's degree of independence related to being able to take care of personal needs like dressing, personal hygiene, eating, using the toilet, etc.

To determine the level of care for individuals without health insurance, an application for the determination of care needed is submitted to the local Sozialamt (social welfare office) at the Rathaus (city hall). The social welfare office is responsible for assessing and determining the level of care needed by those who do not have long-term care insurance. The social welfare office then checks the financial eligibility for care assistance in accordance with Book XII of the German Social Code (SGB XII).

I want to point out that most Pflegeheime do not offer traditional nursing care procedures, that is, the type you get in a hospital or clinic. The care offered is extensive, but does not include such treatment as starting an intravenous (IV) infusion, drawing blood for testing, suturing deep cuts, etc. If a Pflegeheim resident requires care above what is authorized to be provided, the standard procedure is for the Pflegeheim to call for the Rettungsdienst and Notarzt (emergency medical technicians and emergency doctor). This team can provide treatment on site or take the injured or ill resident to a hospital for medical care.

**Determining the Need for a Pflegeheim.** There are essentially two basic reasons for placing a person in a Pflegeheim or deciding to go there yourself. Caring for the person at home is no longer an option. The second reason is that a person, especially an elderly person living alone, is in a high risk situation due to physical infirmity or general weakness.

I was the trusted agent for Soldier's widow, well over 90 years old, who had a general physical weakness. She fell



in her apartment and was not able to get up and reach her telephone. Fortunately, her unofficial guardian and confidant found her during a routine health and welfare check and located a nearby Pflegeheim that just happened to have an available room for her. Because, I held her power of attorney, I had to sign the Pflegeheim admittance forms.

As a side note, this widow was very unhappy in the Pflegeheim, because she had always been a very independent person. Being very determined, she regained her strength, trained like she was going to the “walker” Olympics and after 10 months in the Pflegeheim she was able to return to her apartment, where she lived out the rest of her life.

**Finding a Pflegeheim.** There are various approaches to finding a Pflegeheim. Recommendations from family or friends is a good place to start. Absent such recommendations, you can conduct an Internet search with a focus on meeting the person’s immediate needs for care and security. It is also beneficial to look for facilities near you so that travel time is minimized.

The various care facilities offer an online form that you can fill in and state the person’s needs. Most care facilities usually have full occupancy when you need a bed and you can expect a waiting period before a bed becomes available.

After submitting your online form, you can expect replies that the specific care requirements are either immediately available or the waiting period is expected to exceed your needs. On the other hand, you can be invited for a personal interview.

**The Personal Interview.** The personal interview is wide-ranging. The key points discussed include, but are not limited to, the future resident’s medical history, the immediate care needs, the power of attorney granted to the trusted agent or family member, German health insurance that includes long-term care, the existence of a Patientenverfügung (advanced directive) and the ability to pay the monthly costs.

Everybody, to include those who can make their own decision about becoming a Pflegeheim resident, wants to know the spectrum of care that can be expected. During the interview, the Pflegeheim will provide a document that covers the services the facility will provide and what you

must provide in the way of support for the future resident. An integral part of the interview is a tour of the Pflegeheim, especially the station where the future resident will be housed.

Generally, at the end of the interview and the exchange of ideas, you will be expected to make a decision as to accept or reject the offer made by the facility. If you have interviews scheduled at other facilities, you must state up front that this is the case and that you want to compare the other offer(s) before making a commitment. Based on my personal experience, you have to be very fortunate to have more than one choice of a facility at the time you need it.

**Moving in.** This is a life-changing event for both the new resident and the family member or trusted agent. In most cases, the family member has the lead. Everybody handles this situation differently. A big plus is how the Pflegeheim welcomes the new resident. I can say from personal experience that the Pflegeheim personnel have the greater role in facilitating the transition to the new “home.” They demonstrate great caring and understanding. This tends to lessen the stress on the family member(s) who are taking part in the moving in.

**Court Orders.** I want to offer one last, yet very important point. If new residents have the tendency to wander away from the Pflegeheim, they are housed on a station where their freedom to leave the facility alone is essentially withdrawn. Under German law, this withdrawal of freedom must be approved by the Betreuungsgesicht (guardianship court). The family member or trusted agent makes this application with the advice and support from the family practice physician.

The court provides a list of questions to be answered by the family practice physician. The family member or trusted agent must also provide grounds for the withdrawal of freedom of movement in and out of the Pflegeheim. After the court has reviewed the application, the judge will schedule an in-person visit to the facility and will meet with the new resident. After the judge is convinced of the need to withdraw the freedom of movement, the court will issue the approval document. The court’s decision is valid for two years. This decision can be extended, two years at a time, with a request for extension by the family member or trusted agent.

**Summary.** The decision to place a family member or yourself in a Pflegeheim is not a simple matter. It is made primarily with the advice from the family practice physician, who is familiar with the existing situation and the associated dynamics. It is important for all concerned to be realistic, especially when the need is clearly recognized and action is required.

## Chapter 12

### The Estate Plan – Settling the Estate

**General.** The Soldier has completed his journey to the last bivouac, the applications for the various survivor benefits have been submitted and are being processed and the executor identified in the last will and testament is finalizing the planning for the settlement of the estate.

In standard wills drawn up by a military judge advocate general (JAG) or by a lawyer within the various states in the USA, a personal representative, usually the future widow, is identified in the will.

If the will was prepared by a German Notar (notary), a personal representative may not be identified as such. When this is the case, the person who will settle the will must have a durable German power of attorney. German wills drawn up in the recent past usually have a Testamentsvollstrecker (executor) designated. While this individual can accomplish many settlement tasks, there are some tasks where a durable power of attorney must be presented. When the German will is drawn and the executor is designated, if not already accomplished, a power of attorney should be granted to the executor at that time.

As I have written in previous chapters, when designating a personal representative, an important consideration is whether or not this individual will be able to fulfill the overall task of settling the estate. As we get older, often the personal representative is unable to settle the estate. Case in point, a widow in her mid to late 80s may no longer be able to accomplish the task.

When this is the current situation, the will must be modified with a codicil. The codicil must follow specific rules for such changes to the will. If a US will is drawn up by a JAG attorney or an attorney in the USA, the signature and witness requirements for the basic will must be fulfilled when executing a codicil. If the will was drawn up by a German Notar, this person will accomplish the necessary action to make a change to the will.

## **Death without a Will.**

If the Soldier died intestate, that is, without a will, obviously, there is no executor identified. Therefore, hopefully, the Soldier had granted a power of attorney to a trusted agent. The trusted agent must then gather the necessary documents to apply for an Erbschein (certificate of inheritance) either at the responsible Nachlassgericht (probate court) or through a Notar. I have included this paragraph to alert the Soldier to get a last will and testament and appoint an executor. Do not die intestate.

If there is no will and a trusted agent has not been appointed, any family member can apply for an Erbschein from the Nachlassgericht, often through the local community, which serves as the contact person. The local community can assist in the preparation of the application for the Erbschein and can also forward the application, or the application can be submitted by the family member directly to the Nachlassgericht.

A Notar is not required to apply for the Erbschein. However, a Notar can handle the application for the heirs and help them gather all the necessary documents, submit the affidavit, and correctly submit the application to the Nachlassgericht, which can be helpful in more complex cases.

The Erbschein identifies the Erbengemeinschaft (the community of heirs). If there is only one heir, for example the widow, she is responsible for settling the estate. If there are multiple heirs, for example the widow and children, they must agree among themselves, who will accomplish the various tasks, such as selling real estate and the preparation and submission of the Erbschaftsteuererklärung (Inheritance Tax Return).

The many details associated with an Erbengemeinschaft are beyond the scope of this chapter and depending on the complexity of the Nachlass, the services of a lawyer specializing in inheritance law might be needed. Once again, I want to emphasize that this settlement process is something to be avoided. Do not die intestate.

**The Planning Process.** The planning process begins before the Soldier goes to the last bivouac and this process is continuous. The executor of the estate must be well-informed about the entire estate from the establishment of the asset inventory and related net worth

to the tasks specified in the will as well as the implied tasks. Implied tasks are those actions to be taken throughout the settlement process to close out the estate. A good example of an implied task is canceling memberships in organizations, especially, when the annual membership dues are automatically paid by the bank. Another good example of an implied task is the action to remove the deceased Soldier's name from jointly owned real estate (house or condominium) at the Grundbuchamt (registry of deeds).

**The Settlement Plan.** Based on my personal experience settling estates here in Germany, I cannot overemphasize the need for a good plan. The plan starts with listing all of the tasks, specified and implied, that must be accomplished. The priority for accomplishment must be assigned to each task. This is where the executor's judgement as to the relative importance of each task is a key factor. What must be done in the near-term, that is, now and what can be accomplished later. Once the settlement process has begun, the executor will likely recognize additional tasks that must be added to the plan and accomplished.

### **Plan Execution.**

The first settlement task is to get the will to the Nachlassgericht (probate court). The procedure is well-defined and was covered in a previous chapter. The will includes various specified tasks that can only be started after the Nachlassgericht has issued the opening protocol. If the will was drawn up by a Notar, it is stored in a sealed envelope at a location, a Nachlassgericht, which was agreed to when the will was finalized.

While the will is being processed by the Nachlassgericht, the executor must review the asset inventory and the associated net worth. If neither exists, the executor must do what the Soldier failed to do – create an asset inventory and a statement of net worth. I explained this procedure in a previous chapter. To reiterate, the Finanzamt (German Finance Office) is only interested in the Soldier's net worth as of the date the Soldier passed away. If the Soldier had indebtedness, the indebtedness will be shown on the statement of net worth.

The executor is required to settle the legal debts. Although the possibility of one or more creditors making claims against the estate always exists, the executor is

responsible for evaluating the claims and determining if the debts identified are legal debts and paying those that are legal.

As previously mentioned, any financial activity that occurs after the Soldier's passing has no effect on the value of the estate at the point in time the Soldier passed. Therefore, although the value of the estate will change over time, its worth at any point in time is of interest only to the heirs.

The Finanzamt that will process the Erbschaftsteuererklärung (if required based on the size of the estate) is only interested in the net worth at the time the Soldier passed when determining the Erbschaftsteuer (inheritance tax). Any cash flows, to and from the estate, affect the amount of inheritance that will be distributed to the heirs. There is one exception – the cost of the funeral and burial. If these costs exceed 10,300.00 Euros, they are entered in Erbschaftsteuererklärung with the backup documentation provided. If this threshold is not reached, during the review, the Finanzamt will deduct 10,300.00 Euros from the net value of the estate.

While the will and later the Erbschaftsteuererklärung are being processed by the responsible agencies, the executor will accomplish all actions except those that require the results of the processing by the Nachlassgericht and the Finanzamt.

**End of Estate Settlement.** The estate is considered to be fully settled when all of the liabilities (debts) have been cleared, the inheritance taxes and the heirs have been paid and the bank account has been closed.

**Summary.** Settling an estate is, generally, not a complicated or complex process. Good planning and precise execution of the plan are absolutely essential. A competent executor is required and his involvement to become familiar with the estate starts long before the Soldier passes and the actual settlement process begins. If the Soldier dies without a will, the heirs must obtain an Erbschein. This can be fraught with estate settlement problems and challenges and it is definitely not the way to go. Do not die intestate.

## **Chapter 13**

### **The Estate Plan – Caring for Widows**

The previous chapters in this book have structure that provides for the logical flow of the individual concepts and the associated processes and procedures. This chapter, the last in the book, is without structure. It provides my personal philosophy and thoughts on caring for widows. It is based on my personal experiences helping widows and it is truly written from my heart.

In most military marriages, the Soldier leads and takes on most of the administrative responsibilities when he is not deployed. When deployed, the spouse, more often than not, a wife, takes care of business in addition to the household tasks to include raising the children. This overall responsibility can result in varying degrees of stress. When the Soldier returns from deployment, he takes back the administrative tasks and his wife is happy to be relieved of the added responsibility.

After the Soldier retires, he continues to take care of the administrative responsibilities. The negative aspect of this arrangement is that when the Soldier dies, the surviving wife is often not able to assume the administrative responsibilities she so aptly and competently fulfilled during her Soldier's deployments.

The task for the widow to deal with the administrative responsibilities becomes more difficult if she becomes a widow while in her late 70s or in her 80s. It's not easy for the widow to start from the beginning when she is in the twilight of her own life. In the case of the German widow, trying to understand the American administrative requirements presents a significant challenge.

The phenomenon that causes this challenging situation is that the Soldier took care of business and his wife was happy to be relieved of the responsibility. Although the widow is German born, what she may have learned in school many years before is no longer current and she may not be up-to-date on the changes. Accordingly, from time-to-time widows will need assistance.

I recognized this need many years ago while serving as a volunteer casualty assistance officer. Taking care of obtaining the US Government provided survivor benefits is well-defined and a very small aspect of caring for the



widow. It's what happens after the aforementioned benefits have been established and running. Some widows know where to start and can accomplish many of the planned and documented estate actions as well as other random tasks. Others have a problem getting started and this is the first aspect of caring.

Within our retiree community, our primary principal focus is on taking care of the widows. We also assist couples, who, from time-to-time, need advice and assistance on myriad issues related to estate planning.

I personally enjoy helping others. I get an emotional high when I can help solve a problem and the widow or the couple are satisfied and happy that the problem is behind them.

My basic advice to widows and couples is to not sit on a problem. It doesn't get better with age. Often it gets worse when timely action is not taken. There are subject matter experts just waiting for a challenging problem to solve. Seek out these experts.

Often the solution is nothing more than writing a letter, filling in a form, making a few telephone calls, providing advice and emotional comfort or a combination of two or more of these actions.

When in the caring mode, there are personal aspects that are very important. The most important aspect is assuring the person(s) that the problem can and will be solved. This goes a long way in the establishment of a feeling of trust in the person providing assistance and building a high level of confidence that things can be worked out.

We refer to a doctor's bedside manner as a very important professional trait in assuring their patients will recover. A similar trait is important when helping a widow. I have held widows' hands, given them a hug and talked softly in effort to create a calming atmosphere.

As I mentioned in the chapter on the trusted agent, patience is important when interacting with a widow and assistance offered and accepted by the widow becomes a sacred trust.

## About the Author

Lieutenant Colonel, US Army (retired) Lawrence “Larry” Applebaum was born in Boston, Massachusetts. He earned a Baccalaureate degree in Electrical Engineering at Northeastern University, Boston and was commissioned a second lieutenant in the Regular Army in 1962 through the Reserve Officer Training Corps Program. During his military career, which spanned twenty-three and one half years, he earned a Master of Science degree in Business Administration from Boston University Overseas Program.

Following his military career, he worked twenty years in the private sector for two different defense contractors, initially for an American firm and later for a German firm from which he retired at the end of 2005.

He became a member of the Heidelberg Retired Soldier Council in 1988 and later served as its president and later co-chairman for more than thirty years.

His principal interests focus on helping members of the retired military community with myriad administrative issues and problems. He recognized early on that widows of retired Soldiers needed assistance now and again and he promoted this aspect as an important mission of the Heidelberg Retired Soldier Council.

The broad and in-depth experience he gained over the years is the basis for this book, *The Estate Plan*.

