



DIFC WILLS AND PROBATE “VERY POSITIVE” Expat

Response

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***A WILL IS THE ONLY DOCUMENT THAT ALLOWS YOU TO APPOINT
GUARDIANS TO PROTECT YOUR CHILDREN’S FUTURE.***

As per earlier practice in Dubai, Judges at the court of first instance would apply Sharia to non-Muslims in case of death, since courts did not recognize Wills from outside the country. When expatriates wanted to apply their home laws, they had to appeal at the court of appeals and court of cassation, which is a long and costly process even if you have a registered Will in Dubai Courts.

Dubai Law

Dubai Government – *“Since the UAE is a Muslim Country, all courts adhere to Sharia Laws in regard to inheritance in case of no wills, however as a result of the Personal Affairs Law (No. 28 of 2005) a Non- Muslim expatriate who is resident in the UAE can opt for the law of their Domicile Home Country to be applied to the distribution of their UAE Assets, provided they have a legally recognized will.”*

While **Article 17 (5)** states: *“The law of the United Arab Emirates shall apply to wills made by aliens disposing of their real property located in the State.”*

Furthermore the **Sharia Court of First Instance applies Article 2 of the UAE Civil Transactions Code**, which states: *“The rules and principles of Islamic jurisprudence shall be relied upon in the understanding, construction and interpretation of these provisions.”*



Understanding How Sharia Law Affects Expats in a glimpse

- Assets gets frozen until all liabilities have been discharged;
- The wife and children of Expats qualify for only 1/8 of the state;
- Any joint assets are frozen;
- **Appointing Guardians for children always has issues-**
 - If you have not prepared for this, and there are disputes, Local Authorities of your home country or the Dubai authorities will appoint Guardians
 - Expat's need to appoint both Interim & Permanent Guardians in the Will
 - Making a provision for the guardians to look after Expat's children is necessary

COMPARISON

a. What Happens If You Die Without A Will In The UAE?

- Bank Accounts are frozen (Sharia Law)
- Visa's are cancelled (UAE/GCC Law)
- Home Country is informed of your death (International Law)
- The Sharia Law will apply to the distribution of the estate.
- Life Policies can be passed onto your estate instead to your family
- Any other Investments can be frozen/delayed
- Family disagreements in relation to the Estate
- Ex Partners (husband/wife) can stake a claim in your estate
- Properties in your home country will be distributed according to the Laws of the Home Country
- Children from any previous relationships could receive nothing.
- Potential Tax implications for the Estate up to 40%
- Partners if not married will receive nothing

AND

b. What Happens If You Die With A Legalized Will Registered with DIFC In The UAE?

- Home Country Law can be applied.
- Speeds up the Process of distribution of your estate.
- Legalized Will shall offer you protection.



- Giving autonomy to select whom you wish to administer your Estate and for distribution of your Estate.
- Life Policies can be passed to the people of your choice.
- Any and all Investments can pass to the people of your choice.
- Set up Exclusion clauses for your Ex Partners.
- Make a provision for children from any previous marriages.
- Reduce your tax bill considerably.
- Make a gift of money to a family member.
- Choose your own Executors.
- Make a provision for a Charity.

The DIFC became the first jurisdiction in the region where a non-Muslim individual can register a will under the internationally recognized Common Law principles. Non-Muslims with properties and investments in Dubai, regardless of whether they have a residency permit or not, began registering their wills at the DIFC on May 4, when the DIFC launched its new Wills and Probate Registry. The registry allow them for the first time in the region to register a will in English under internationally recognized law, which allows them to transfer their assets as they wish upon their death. The new rule also allows parents to appoint a guardian for their children in case of their death.

OBJECTIVE OF THE DIFC WILLS AND PROBATE REGISTRY (DWPR)

It marks the introduction of a new set of rules relating to succession and inheritance matters for non-Muslim with assets in Dubai. It also provides a mechanism for non-Muslims who have assets in Dubai to pass on their estates according to their wishes and compliment existing UAE Laws on inheritance for non-Muslims, and provide them with the option and right to choose the way in which their estates are distributed.

The Will registered within the DIFC jurisdiction shall be enforced with the DIFC Courts for the production of grants and Court orders for the distribution of assets. DIFC Courts are the first jurisdiction in the MENA region where non-Muslims can register a Will under internationally recognized common law principles. Registering the Will with DIFC creates legal certainty for non-Muslim inheritance and will encourage capital investment in Dubai and support economic growth.