

INHERITANCE

Using Estate Before Division Among Heirs

Is it permissible to make use of the estate before division among the heirs?

Before dividing the estate among the heirs, it is impermissible to use any part of the estate without the unanimous permission of all the sane, adult heirs.

Permissible Deductible Expenses From Estate Before Division

What are the expenses permissible to deduct from the estate before its division among the heirs?

Before calculating the market value of the entire estate, expenses are taken out obligatorily in the following order:

1. Burial: The material, labor and related (e.g. transportation) costs associated with preparing and burying the body should be taken from the deceased's estate; it is impermissible to use any of the deceased's estate to give charity (even if given with an intention to benefit the deceased) or to pay for funeral expenses unrelated to burial (e.g. feeding and accommodating mourners);
2. Zakat: Unpaid zakat should be paid from the deceased's estate, when it is known that the deceased did not pay for any year he was obligated to pay; zakat is not paid for the current year because at least an entire lunar year must pass over the property for zakat to be obligatory, and death before the passing of an entire year removes the obligation thereby;
3. Collateral: Property that currently serves as collateral for an existing transaction must be removed from the estate in order to maintain the contractual obligation to which it is attached;
4. Property: Any property that is not owned by the deceased, whether due to renting, borrowing, non-payment, or the like, should be taken from the deceased's estate; if the property is lost, damaged, stolen or diminished in a way to undermine its usefulness, it is paid for at its market equivalent price;
5. Estate Taxes: Any estate taxes payable in relation to the division of the deceased's estates should be taken from the deceased's estate;
6. Debts: All financial debts (e.g. marriage payment, personal loans, unpaid bills, etc.) other than those mentioned above should be taken from the deceased's estate;
7. Bequests: Bequests are allowable up to one-third of the estate, though with the unanimous consent of the sane, adult estate heirs, as much as the entire estate (i.e. the combination of the one-third allotted to bequests and the remaining two-thirds allotted to the estate heirs) is bequeathable;
8. Pilgrimage: If an individual obligated to perform the pilgrimage dies before fulfilling the obligation, it becomes obligatory to pay someone to perform a posthumous makeup on

behalf of the deceased by deducting money from the deceased's estate if one-third of the estate covers the cost of the pilgrimage; if it does not, it is permissible for the inheritors to leave the deceased's obligation unfulfilled; it is also permissible for the inheritors to fulfill the deceased's obligation from the remaining inheritance (of the sane, adult inheritors) if all the sane, adult inheritors so agree.

After deducting expenses from the deceased's estate for the categories above, the estate is divided among the heirs.

Giving Or Taking Stolen Property In Estate Division

Is it permissible to give or take stolen property in an estate division?

It is impermissible to give or take stolen property in an estate division when one is certain that the property is stolen; if there is doubt then it is permissible to give or take the property, though it is always superior to avoid the doubtful.

Prohibitiveness Of Forgoing Share In Inheritance

Is it permissible for a person to forgo his share of inheritance to benefit his siblings?

It is not permissible for a person to forgo a share in inheritance to benefit his siblings. On the other hand, he may receive his share and then later gift it to them in a desired proportion.