The Cross-Border Will Handbook

Situs, domicile, forced heirship and the choice-of-law election - explained without jargon, for families with assets in more than one country and for the advisers who act for them.

For families and advisers · September 2026 · England & Wales

About this guide. iProbate provides will-writing, estate-planning and estate-administration services. We are not a firm of solicitors and do not carry out reserved legal activities under the Legal Services Act 2007. This guide is general information about the law of England and Wales as at September 2026, not advice on your circumstances. Succession and tax law differ by jurisdiction and change over time. Take advice before you act.

1. The distinction that decides everything

English conflict-of-laws rules split an estate in two. Movable property - cash, bank accounts, shares, cars, jewellery, and on the better view crypto-tokens - passes under the law of the deceased's domicile. Immovable property - land, buildings, and interests treated locally as land - passes under the lex situs, the law of the place where it physically sits.

So an English will can validly leave a Portuguese apartment to a friend, and Portuguese law can reserve a share of it for the testator's children anyway. Nothing about the will is defective. It is simply overridden as to the reserved portion, and the family finds out during the administration.

Four questions for every asset

Question	Why it decides the outcome
Where is it, legally?	Situs is not always intuitive. A share register, a bank branch, a nominee account and an exchange can each sit somewhere other than where you live.
Movable or immovable?	This decides whether domicile or situs governs. Timeshares, leaseholds and shares in property-owning companies sit awkwardly between and must be characterised.

Does forced heirship apply?	If so, can it be disapplied by a nationality election, structured around, or must it simply be planned for honestly?
Which revenue authorities will claim it?	The UK taxes on domicile and situs; others on situs, residence, or the heir's location. Treaties reduce overlap but rarely remove it.

2. Forced heirship, in outline

System	Broad approach	Effect on a British owner
France, Spain, Italy, Portugal, Belgium	A reserved portion for descendants; the free portion shrinks as children increase	The commonest surprise. A nationality election is usually the answer.
Germany, Austria	A compulsory-portion money claim against the estate rather than a share of the asset	Less disruptive to ownership, but a real cash liability.
UAE and much of the Gulf	Shariah succession by default; DIFC and ADGM registered wills available to non-Muslims for UAE assets	Registering in the right regime, in advance, is the whole game.
United States	No forced heirship in most states, but spousal elective shares and state-by-state probate	Ancillary probate in the situs state; a revocable trust often avoids it.
India, Pakistan, Bangladesh	Personal law by religion, plus separate rules for agricultural land	Local succession certificates matter more than the English will.

Indicative only, simplified, and current as at September 2026. Every one of these systems has exceptions that matter on real facts. Take jurisdiction-specific advice before relying on any line of this table.

3. The choice-of-law election

The EU Succession Regulation (650/2012), often called Brussels IV, lets a person choose the law of their nationality to govern succession to their estate. For a British national owning a house in France or Spain, that election frequently converts a reserved-share problem into free disposition, because English law has no forced heirship to apply.

- The election normally has to be expressed in the will, not inferred from conduct.
- It governs succession only. Local inheritance tax continues to apply on its own terms, and the tax is often the larger number.
- The UK's non-participation is irrelevant. The election is given effect by the courts of the member state where the asset sits.

How many wills?

As few as will do the job, because every additional will adds revocation risk. The standard structure is a primary English will covering worldwide assets except those in named jurisdictions, plus a limited local will in each named jurisdiction, every one containing an express clause confirming it revokes nothing else.

> The classic accident: a Spanish will is made for the Spanish flat. Years later an English will is made covering “all my estate” with a standard general revocation clause. The English will silently revokes the Spanish one, and the flat passes under a document drafted with no Spanish advice - frequently into Spanish intestacy.
>
> The single most common failure in cross-border estate planning.

4. Domicile, which is not residence

Because movables follow domicile, and because UK inheritance tax turns on it, domicile deserves analysis rather than assumption. It is not nationality and it is not tax residence. A domicile of origin acquired at birth persists until a domicile of choice is established by both residence and settled intention, and it revives if that intention lapses.

Anyone who has moved country, or whose parents did, should have domicile examined and evidenced while they are alive to explain it. After death it is argued from documents by people who were not there.

Evidence worth keeping

- Property purchases and disposals, with dates and stated intention
- Long-term visa or residence status, and applications for it
- Where the family home, the family and the children's schooling are
- Burial or cremation wishes and where they are to be carried out
- Membership of clubs, places of worship and professional bodies
- A signed declaration of domicile, kept with the will and reviewed

5. The executor pack

This is the document families most often wish had existed. It is not a will and disposes of nothing; it tells the people doing the work where to start.

Section	What goes in it
Asset map	Every asset, its country, the governing law and the institution
Order of operations	Which jurisdiction must be dealt with first, and why
Professionals	Named contacts in each country, with reference numbers
Documents	Where originals are held - wills, deeds, certificates, translations

Digital schedule	What exists and who to approach. Never credentials
Domicile note	A short statement of the position and the evidence for it

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