Civil Code of the People's Republic of China — Book VI: Succession

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Chapter I — General Provisions

Article 1119 — This Book regulates the civil relations arising from succession.

Article 1120 — The right of succession shall be protected by the State.

Article 1121 — Succession commences upon the death of a decedent. Where two or more persons with mutual inheritance rights die in the same incident and the time of each death cannot be determined, the person without any other surviving heir is presumed to have died first. Where all such persons have other surviving heirs, the elder is presumed to have died first if they are of different generations, and they are presumed to have died simultaneously if they are of the same generation.

Article 1122 — An estate comprises all property lawfully owned by a natural person upon death. An estate does not include property that by its nature may not be inherited.

Article 1123 — Succession shall, after commencement, be processed as intestate succession where there is no testamentary succession, testamentary gift, or legacy-support agreement; be processed as testamentary succession or testamentary gift where there is a valid will; and be processed in accordance with the agreement where there is a legacy-support agreement.

Article 1124 — An heir who, after the commencement of succession, disclaims the succession shall manifest the disclaimer in writing before the estate is disposed of; in the absence of such a manifestation, the heir is deemed to have accepted the succession. A legatee shall, within 60 days of learning of the legacy, manifest acceptance or disclaimer of the legacy; in the absence of such a manifestation by the expiry of the period, the legatee is deemed to have disclaimed the legacy.

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Article 1125 — An heir shall be disinherited if the heir commits any of the following acts: (1) intentionally killing the decedent; (2) killing any other heir for the purpose of inheriting; (3) abandoning the decedent or maltreating the decedent under grave circumstances; (4) forging, tampering with, concealing, or destroying a will under grave circumstances; (5) using fraud or duress to compel or obstruct the decedent from making, amending, or revoking a will under grave circumstances. Where an heir who committed any of the acts in items (3) to (5) above shows genuine repentance, and the decedent has forgiven the heir or has subsequently designated the heir as an heir in the will, the heir shall not be disinherited. A legatee who commits any of the acts in paragraph 1 shall lose the right to receive the legacy.

Chapter II — Intestate Succession

Article 1126 — Men and women are equal in the right of succession.

Article 1127 — The estate of a decedent shall be inherited in the following order: First in order: the spouse, children, and parents. Second in order: brothers and sisters, paternal grandparents, and maternal grandparents. Succession shall commence with the first-order heirs and exclude the second-order heirs; where there is no first-order heir, the second-order heirs shall inherit. “Children” as used in this Book includes children born in wedlock, children born out of wedlock, adopted children, and stepchildren with a dependent relationship. “Parents” as used in this Book includes natural parents, adoptive parents, and stepparents with a dependent relationship. “Brothers and sisters” as used in this Book includes brothers and sisters of the same parents, half-brothers and half-sisters, adopted brothers and sisters, and stepbrothers and stepsisters with a dependent relationship.

Article 1128 — Where a child of the decedent dies before the decedent, the direct lineal descendants of the deceased child shall inherit by subrogation. Where a brother or sister of the decedent dies before the decedent, the children of the deceased brother or sister shall inherit by subrogation. An heir who inherits by subrogation generally may only take the share of the estate that the predecessor heir would have been entitled to.

Article 1129 — A widowed daughter-in-law or widowed son-in-law who has made predominant contributions to the support of the parents-in-law shall, in relation to the parents-in-law, be regarded as a first-order heir.

Article 1130 — The share of an estate allocated to an heir of the same order shall generally be equal. In distributing an estate, special consideration shall be given to an heir who has had special difficulties in life and lacks the ability to work. In distributing an estate, an heir who has made predominant contributions to the support of the decedent or who has lived with the decedent may be given a larger share. Where an heir who has the ability and the conditions to support the decedent fails to perform the duty of support, the heir shall be given no share or a reduced share of the estate. Heirs may, through consultation, agree to unequal shares.

Article 1131 — An appropriate share of the estate may be given to a person, other than an heir, who was dependent on the decedent for support, or to a person, other than an heir, who was largely responsible for supporting the decedent.

Article 1132 — Matters such as the share of an estate, the method of distribution, and the specific composition of shares shall be determined by the heirs through consultation. Where consultation fails, the people’s mediation committee may mediate or a people’s court may adjudicate.

Chapter III — Testamentary Succession and Testamentary Gift

Article 1133 — A natural person may, by making a will, dispose of his or her personal property in accordance with this Book and may appoint an executor. A natural person may, by making a will, designate one or more of the statutory heirs to inherit his or her personal property. A natural person may, by making a will, give his or her personal property to the State, a collective, or an organization or individual other than a statutory heir.

A natural person may create a testamentary trust in accordance with the law.

Article 1134 — A holographic will shall be entirely written and signed by the testator, with the year, month, and day of its making specified.

Article 1135 — A will written on behalf of the testator shall be witnessed by two or more witnesses; one of the witnesses shall write the will, and the will shall be signed by the writer, the other witness(es), and the testator, with the year, month, and day of its making specified.

Article 1136 — A will in printed form shall be witnessed by two or more witnesses. The testator and the witnesses shall sign each page of the will, with the year, month, and day of its making specified.

Article 1137 — A will made in the form of an audio or video recording shall be witnessed by two or more witnesses. The testator and the witnesses shall record their names or likenesses and the year, month, and day of its making in the audio or video recording.

Article 1138 — A testator may make an oral will in an emergency situation. An oral will shall be witnessed by two or more witnesses. Where, after the emergency situation is resolved, the testator is able to make a will in writing or in the form of an audio or video recording, the oral will shall become invalid.

Article 1139 — A notarized will shall be made by the testator through a notary public.

Article 1140 — The following persons may not act as witnesses to a will: (1) persons with no capacity for civil acts or with limited capacity for civil acts, and persons who are unable to witness a will or understand its content; (2) heirs and legatees; (3) persons who have an interest in the heirs or legatees.

Article 1141 — A will shall reserve a necessary share of the estate for an heir who has neither the ability to work nor a source of income.

Article 1142 — A testator may revoke or amend a will he or she has made. After a will is made, where the testator performs a civil legal act contrary to the content of the will, the will is deemed to be revoked to the extent of the contradiction. Where several wills have been made and their contents are inconsistent, the last will shall prevail.

Article 1143 — A will made by a person with no capacity for civil acts or with limited capacity for civil acts is void. A will shall manifest the genuine intention of the testator; a will made under fraud or duress is void. A forged will is void. Where a will has been tampered with, the tampered portion is void.

Article 1144 — A testamentary gift shall be subject to the obligations attached to it. Where the obligations can be performed and the legatee fails to perform them without just cause, the people’s court may, upon the request of an interested party or a relevant organization, revoke the legatee’s right to receive the legacy and order the legatee to perform the obligations.

Chapter IV — Disposition of an Estate

Article 1145 — Upon commencement of succession, the executor of the will shall be the administrator of the estate; where no executor is designated in the will, the heirs shall promptly elect an administrator; where the heirs fail to elect one, all heirs shall jointly act as the administrator; where there are no heirs or all heirs disclaim the succession, the civil affairs authority of the place where the decedent was domiciled or the villagers’ committee shall act as the administrator.

Article 1146 — Where a dispute arises over the designation of an estate administrator, the interested parties may apply to the people’s court for the designation of an administrator.

Article 1147 — The estate administrator shall perform the following duties: (1) to inventory the estate and prepare an estate inventory; (2) to report the status of the estate to the heirs; (3) to take necessary measures to prevent damage to or loss of the estate; (4) to settle the decedent’s claims and debts; (5) to distribute the

estate in accordance with the will or the law; (6) to perform other acts necessary for the administration of the estate.

Article 1148 — The estate administrator shall perform the duties in accordance with the law, and shall bear civil liability where any heir, legatee, or creditor suffers damage as a result of the administrator's intentional act or gross negligence.

Article 1149 — The estate administrator may receive remuneration in accordance with the law or the agreement of the parties.

Article 1150 — After the commencement of succession, an heir who knows of the death of the decedent shall promptly notify the other heirs and the executor of the will. Where no one among the heirs knows of the death of the decedent or knows of the death but is unable to notify others, the unit to which the decedent belonged at the time of death or the urban residents' committee or villagers' committee of the place where the decedent was domiciled shall be responsible for notification.

Article 1151 — A person who holds property of the decedent shall properly keep the property, and no organization or individual may misappropriate or dispose of the property without authorization.

Article 1152 — Where, after the commencement of succession, an heir dies before the estate is distributed and has not disclaimed the succession, the share of the estate that the heir is entitled to shall pass to the heir's own heirs, unless otherwise provided in the will.

Article 1153 — When dividing the estate upon divorce, one half of the community property acquired by the husband and wife during the marriage shall be distributed to the surviving spouse as his or her own property, and the remainder shall be the estate of the decedent. Where the estate is part of the undivided family property, the portion belonging to the other family members shall first be separated at the time of distributing the estate.

Article 1154 — Under any of the following circumstances, the relevant portion of the estate shall be treated as intestate succession: (1) where the heir designated in a will or a legatee disclaims the succession or legacy; (2) where the heir designated in a will loses the right of succession or a legatee loses the right to the legacy; (3) where the heir designated in a will or a legatee dies before or simultaneously with the testator; (4) where the portion of the estate covered by a will that is void or invalid; (5) where the portion of the estate covered by a will that has not been disposed of.

Article 1155 — When dividing an estate, a share shall be reserved for a fetus. Where the fetus is stillborn, the reserved share shall be dealt with as intestate succession.

Article 1156 — The division of an estate shall be conducive to the need for production and livelihood and shall not impair the utility of the estate. Where an estate is not suitable for physical division, it may be disposed of by means such as conversion into monetary value, offset, or compensation.

Article 1157 — Where, after the death of one spouse, the surviving spouse remarries, the spouse has the right to dispose of the property he or she has inherited, and no one may interfere with that right.

Article 1158 — A natural person may enter into a legacy-support agreement with an organization or individual other than an heir. In accordance with the agreement, the organization or individual shall assume the obligation to support the natural person during his or her lifetime and attend to the funeral arrangements after death, and in return shall be entitled to receive a legacy.

Article 1159 — In distributing an estate, the taxes and debts payable by the decedent in accordance with the law shall be settled first. A necessary share of the estate shall, however, be reserved for an heir who has neither the ability to work nor a source of income.

Article 1160 — An estate with no heir or with all heirs disclaiming the succession, and with no legatee, shall be escheated to the State and used for public welfare undertakings. Where the decedent was a member of a

collective organization at the time of death, the estate shall be escheated to the collective organization.

Article 1161 — An heir shall settle the taxes and debts payable by the decedent in accordance with the law to the extent of the actual value of the estate he or she inherits. The part exceeding the actual value of the estate need not be settled by the heir, except where the heir voluntarily settles the same. Where an heir disclaims the succession, the heir shall not bear liability for the taxes and debts payable by the decedent in accordance with the law.

Article 1162 — The execution of a testamentary gift shall not impair the settlement of the taxes and debts payable by the decedent in accordance with the law.

Article 1163 — Where there is both intestate succession and testamentary succession or testamentary gift, the taxes and debts payable by the decedent in accordance with the law shall be settled first with the intestate estate; where the intestate estate is insufficient, the taxes and debts shall be settled with the testamentary estate or legacy.

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