



Intestate Succession or Intestacy: How property passes if you do not have a will

Property you own in your sole name at the time of your death passes according to the terms of your will and is subject to the jurisdiction of the Probate Court (Surrogate's Court in New York). So-called probate property does not include jointly-owned property or property payable at death by contractual designation, such as an IRA account or life insurance (unless your estate is named the beneficiary).

If you fail to sign a valid will, your probate property will pass at your death in accordance with the laws created by your state of residence for persons who die without a will. (Real estate and tangible personal property you own in another state will pass according to the laws of that state.) These laws are known as the "laws of intestacy." In effect, if you do not have a valid will, your state legislature has provided one for you, determining who will receive your probate property at your death, regardless of your wishes.

Below are brief summaries of the laws of intestacy for Connecticut, Massachusetts and New York, outlining how your probate property would pass in each state after payment of debts, funeral expenses, estate settlement costs and death taxes, if you do not have a will (or if any part of the property you own is not effectively disposed of by your will or beneficiary designations).

Connecticut—Connecticut General Statutes §45a-437 through §45a-439

IF YOU ARE SURVIVED BY YOUR SPOUSE, he or she will inherit:

- 100% of the intestate estate if you have no living parent and no living issue (defined as "lineal descendants," e.g., children, grandchildren, great-grandchildren, etc.).
- the first \$100,000, plus 75% of the balance of the intestate estate if you have no living issue but are survived by parent(s), with 25% of the balance of the intestate estate passing to your surviving parent(s).
- the first \$100,000, plus 50% of the balance of the intestate estate if you are survived by issue, all of whom are also issue of your surviving spouse.
- 50% of the balance of the intestate estate, if any of your surviving issue are not also issue of your surviving spouse.

IF YOU ARE SURVIVED BY ISSUE, he, she or they will inherit (per stirpes or by right of representation):

- 100% of the intestate estate if you have no surviving spouse.

- 50% of the balance of the intestate estate, after distribution to your surviving spouse, per above.

IF YOU ARE NOT SURVIVED BY SPOUSE OR ISSUE, the following will inherit:

- 100% of the intestate estate to your surviving parent(s); or if none,
- 100% of the intestate estate to your surviving siblings (including half-brothers and half-sisters) and descendants of deceased siblings; or if none,
- 100% of the intestate estate to your next of kin in equal degree; or if none,
- 100% of the intestate estate to your surviving step-children and descendants of deceased step-children.

Massachusetts—Massachusetts General Laws Chapter 190, §1 et seq.

IF YOU ARE SURVIVED BY YOUR SPOUSE, he or she will inherit:

- 100% of the intestate estate if you have no living issue (defined as "lineal descendants," e.g., children,

grandchildren, great-grandchildren, etc.) and no living kindred (blood relatives).

- 50% of the intestate estate if you are survived by issue.
- 100% of the intestate estate if you are survived by kindred but not issue and the intestate estate does not exceed \$200,000 in value.
- the first \$200,000 in value and 50% of the remaining intestate estate if you are survived by kindred but not issue and the intestate estate exceeds \$200,000 in value.

IF YOU ARE SURVIVED BY ISSUE, he, she or they will inherit (per stirpes or by right of representation):

- 100% of the intestate estate if you have no surviving spouse.
- 50% of the intestate estate if you have a surviving spouse.

IF YOU ARE NOT SURVIVED BY A SPOUSE OR ISSUE, the following will inherit:

- 100% to your surviving parents equally or to the sole parent who survives you; or if none,
- 100% to your surviving siblings and issue of deceased siblings by right of representation; or if none,
- 100% to your next of kin in equal degree.

New York—New York Estates Trusts and Probate Law 4-1.1

IF YOU ARE SURVIVED BY YOUR SPOUSE, he or she will inherit:

- 100% of the intestate estate if you have no living issue (defined as “lineal descendants,” e.g., children, grandchildren, great-grandchildren, etc.).
- the first \$50,000 plus 50% of the balance of the intestate estate if you are survived by issue.

IF YOU ARE SURVIVED BY ISSUE, he, she or they will inherit (per stirpes or by right of representation):

- 100% of the intestate estate if you have no surviving spouse.
- 50% of the balance of the intestate estate, after distribution to your surviving spouse, per above.

IF YOU ARE NOT SURVIVED BY SPOUSE OR ISSUE, the following will inherit:

- 100% of the intestate estate to your surviving parent(s); or if none;
- 100% of the intestate estate to your surviving siblings (including half-brothers and half-sisters) and descendants of deceased siblings; or if none;
- 50% of the intestate estate to your surviving paternal grandparent(s), or if none, to their issue by right of representation (defined as children and grandchildren only), and the remaining 50% to your surviving maternal grandparent(s), or if none, to their issue by right of representation (again, defined as children and grandchildren only). If no paternal grandparent or any of their issue, as defined above, survives you, then 100% of the intestate estate passes to the maternal grandparent(s) or their issue by right of representation, as defined above, and vice-versa.
- If you are not survived by spouse, issue, parents or issue of parents, grandparents, children or grandchildren of grandparents, 50% of the intestate estate passes to the great-grandchildren of your paternal grandparents, per capita, and the remaining 50% of the intestate estate passes to the great-grandchildren of your maternal grandparents, per capita. If no great-grandchildren of your paternal grandparents survive you, then 100% of the intestate estate passes to the surviving great-grandchildren of your maternal grandparents, and vice-versa.

Summary

Without a valid will and properly completed beneficiary designations, your property could pass according to the intestacy laws of the state where you reside at the time of your death (or in accordance with the state laws where any out-of-state real estate or tangible personal property you own at your death is located). To avoid property passing at your death in accordance with your state’s intestacy laws, we recommend that you review your will and beneficiary designations to confirm that they are valid and up-to-date.



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