How Germany Taxes an Inheritance from the United States: Probate Estates, Transfer-on-Death and Payable-on-Death Assets, Joint Accounts, and Revocable Trusts Passing to a Beneficiary in Germany

An Adviser's Guide for U.S. estate planners, executors, trustees, and CPAs whose client leaves assets to a beneficiary who lives in Germany: why German inheritance tax is a tax on the acquirer that the beneficiary's own residence brings into force, and why the estate tax treaty confirms rather than removes that charge; the tax classes, allowances, and rates; valuation, the absence of a basis step-up, and the three-month notice; the treaty credit of Article 11(3)(b) and its domestic counterpart in § 21 ErbStG, and why both are worth nothing where the U.S. estate tax is nil; the four channels through which U.S. wealth reaches a German beneficiary and what each changes; the revocable trust that terminates and the trust that continues; and the practice points for the U.S. side

Let's consider the following: A widow in Fairfax, Virginia dies with a will, a brokerage account in the District of Columbia registered transfer-on-death to her daughter, a savings account payable on death to the same daughter, a condominium in the District held under a transfer-on-death deed, and a joint account with the man she lived with for the last twelve years. The daughter, a U.S. citizen, has lived in Hamburg for twenty years; the companion has moved to Munich. The estate is well under the federal exclusion, and the Virginia attorney tells the family, correctly, that no U.S. estate tax is due and that most of the assets will pass without probate. Nothing in that advice is wrong, and nothing in it matters to the German tax office. Germany taxes the person who receives, not the estate that gives; the daughter's residence in Hamburg is all the connection Germany needs; the companion in Munich will be taxed on his half of the joint account at rates that begin at 30 percent; and the probate avoidance that the transfer-on-death registrations achieve in Washington has no counterpart in Germany, where each of those assets is an acquisition on death like any other.

The mistake this article exists to prevent is the assumption that the German tax on a U.S. inheritance is the estate's problem, or the decedent's, or a problem only where the decedent had some connection to Germany. It is the beneficiary's problem, it arises from the beneficiary's residence alone, and it reaches the beneficiary's entire acquisition wherever the assets lie. German inheritance and gift tax (Erbschaft- und Schenkungsteuer) is levied on the acquirer, measured by what that person receives, at a rate and with an allowance that depend on the relationship to the decedent, and unlimited liability, which reaches the worldwide acquisition, arises under § 2(1) No. 1 ErbStG whenever either the decedent or the acquirer is a German resident at the relevant time. A German-resident child of a Virginia decedent who never set foot in Germany is taxed by Germany on the whole of what she inherits, U.S. assets included; the U.S. exclusion, the U.S. probate rules, and the form in which the asset passes have no bearing on that result.

For this readership the estate tax treaty is the rule, and on this point it confirms the German charge rather than lifting it. Article 9 allocates the taxation of a U.S. domiciliary's property to the United States, but Article 11(1)(b) reserves Germany's right to tax an acquisition by a beneficiary domiciled in Germany, and the Bundesfinanzhof held in 2022 that the treaty's ten-year rule for U.S. citizens newly domiciled in Germany protects the decedent and the members of his household, not a beneficiary living in her own household in Germany. What the treaty does give is the credit: under Article 11(3)(b) Germany credits the U.S. federal estate tax attributable to the beneficiary's share against the German tax on everything except German situs property, and § 21 ErbStG supplies the domestic counterpart where the treaty does not apply. The candid sentence for the client is that the credit is worth exactly the U.S. tax paid, and for an estate under the $15 million exclusion that is nothing: the German tax on the daughter in Hamburg stands in full, and the planning that reduces it is German planning, not U.S. planning.

This article covers the rule that Germany taxes the acquirer and the treaty's confirmation of it; the tax classes, allowances, rates, valuation, the absence of a basis step-up, and the notice duty; the treaty credit and § 21 ErbStG; the four channels through which U.S. wealth reaches a beneficiary in Germany, the probate estate, transfer-on-death and payable-on-death designations, joint accounts, and the revocable trust; and the practice points for the U.S. side. Statuses of statutes, treaty text, decisions, thresholds, and allowances are stated as of this writing in September 2026; confirming them is part of any real engagement.

Summary

(1) German inheritance tax is a tax on the acquirer. Unlimited liability on the worldwide acquisition arises under § 2(1) No. 1 ErbStG whenever the decedent or the acquirer is a German resident; a beneficiary living in Germany is taxed on the whole of a U.S. inheritance whatever the decedent's connection to Germany.

(2) The estate tax treaty confirms the charge: Article 11(1)(b) preserves Germany's right to tax a beneficiary domiciled in Germany, and the ten-year rule of Article 4(3) for U.S. citizens newly domiciled in Germany does not protect a beneficiary outside the decedent's household (BFH II B 2/22 of September 20, 2022). A German citizen who has left Germany remains fully liable for five years, and for ten years in relation to the United States.

(3) The rate depends on the relationship: class I (spouse €500,000, children €400,000, grandchildren €200,000, parents on death €100,000) at 7 to 30 percent; class II (siblings, nieces and nephews, in-laws, divorced spouse; €20,000) at 15 to 43 percent; class III (everyone else, including an unmarried partner; €20,000) at 30 to 50 percent.

(4) Assets are valued at fair market value at death, converted to euros at the date-of-death rate; debts and the costs of administration are deductible. There is no basis step-up for German income tax: the heir takes the decedent's cost and holding period (§ 20(4) sentence 6, § 23(1) sentence 3 EStG), although Section 1014 gives a step-up for U.S. purposes. The acquirer must notify the German tax office within three months (§ 30 ErbStG).

(5) Germany credits the U.S. federal estate tax attributable to the beneficiary's share under Article 11(3)(b) of the treaty on all property other than German situs property, and under § 21 ErbStG where the treaty does not apply; the credit cannot exceed the German tax on the same property, and where the U.S. tax is nil, as it is for an estate below the $15 million exclusion, nothing is credited and the German tax stands. A Maryland inheritance tax may be creditable under § 21; state estate taxes are not covered by the treaty.

(6) A distribution from a U.S. probate estate is taxed at the value of the beneficiary's share at death; the estate's income during administration is taxed in the United States to the estate or, when carried out, to the beneficiary with Section 1441 withholding, and in Germany to the heir from the date of death.

(7) Transfer-on-death and payable-on-death designations and transfer-on-death deeds are contracts in favor of a third party on death under § 3(1) No. 4 ErbStG, fully taxable; they save probate in the United States and nothing in Germany.

(8) A surviving joint owner is taxed on the decedent's share; a spouse in class I, an unmarried partner in class III. Section 2040 includes the whole account in the U.S. estate except to the extent of the survivor's contribution, with the half-and-half rule only for a U.S.-citizen spouse. Deposits into a joint account during life can be gifts between the holders (BFH II R 33/10).

(9) A revocable trust is transparent during the settlor's life. At death, a trust that terminates and distributes outright produces an acquisition by the beneficiary in her own class; a trust that continues is itself the acquirer under § 3(2) No. 1 sentence 2 ErbStG but, as a foreign entity, is not a German resident and is not taxed, the beneficiary being taxed later on distributions (as a gift if entitled, otherwise as capital income), on dissolution (in her class), and, under § 15 AStG, on undistributed income unless the exception the Bundesfinanzhof extended to third-country structures in December 2024 applies.

(10) The U.S. adviser's contribution is the file: values at death, the apportionment of any U.S. estate tax, the character of estate income distributed, Form W-8BEN and Forms 1042-S for withholding, and, for a trust, the instrument and accounts, delivered to the beneficiary in time for the three-month notice and the German return.

Part I. Germany Taxes the Acquirer, and the Acquirer's Residence is the Basis

The rule of § 2(1) No. 1 ErbStG

German inheritance tax is levied on each acquisition on death (Erwerb von Todes wegen). Each heir, legatee, and beneficiary is a separate taxpayer, liable on the value of what he or she receives, and the decisive question for each is whether the acquisition falls within unlimited liability, which reaches the worldwide acquisition, or only within limited liability, which reaches German situs property as defined in § 121 of the Valuation Act.[1] Under § 2(1) No. 1 ErbStG unlimited liability arises if the decedent at death or the acquirer at the time of the acquisition is a German resident (Inländer), a person with a residence (Wohnsitz) or habitual abode (gewöhnlicher Aufenthalt) in Germany under §§ 8 and 9 of the Fiscal Code. The two grounds are independent. For a beneficiary who lives in Germany, her own residence supplies the connection, and the entire acquisition, the Virginia decedent's brokerage account, savings account, condominium, and share of a joint account, is within the German tax. That the decedent was never a German resident, never a German citizen, and never owned anything in Germany is irrelevant.[2]

The rule has a tail. A German citizen who gives up German residence remains an Inländer for five years after departure under § 2(1) No. 1

[1] § 1(1) No. 1, § 2(1) Nos. 1 and 3, § 3(1) ErbStG; § 121 of the Valuation Act (BewG) (domestic property for limited liability: German real property, business property of a German permanent establishment, shares of 10 percent or more in German corporations, and the other categories listed).

[2] § 2(1) No. 1 sentence 1 and sentence 2(a) ErbStG; §§ 8 and 9 AO (Wohnsitz, gewöhnlicher Aufenthalt); Inheritance Tax Guidelines (ErbStR) R E 2.1; the acquirer's residence is an independent ground of unlimited liability, and the tax is assessed against the acquirer (§ 20(1) ErbStG).

sentence 2(b) ErbStG, and in relation to the United States for ten years, because the German act approving the 1998 Protocol to the estate tax treaty extended the period to match the treaty's own ten-year rule.[3] A German-citizen daughter who moved from Hamburg to Boston six years before her mother's death is therefore still fully liable in Germany on what she inherits from a U.S. decedent, and the residence and citizenship history of every beneficiary, not only the address on the beneficiary designation, must be established before the German exposure can be stated.

The treaty confirms the charge

The estate tax treaty of December 3, 1980, as amended by the Protocol of December 14, 1998, is built on the domicile of the decedent: Article 9 provides that property of a decedent domiciled in one country is taxable only in that country, except real property and business property, which Articles 5, 6, and 8 leave to the country where they lie. Read alone, Article 9 would deny Germany any tax on the Virginia decedent's intangibles. Article 11(1)(b) restores it: nothing in the treaty prevents Germany from taxing an acquisition by a beneficiary domiciled in Germany, as though the treaty did not exist, subject to the credit in Article 11(3)(b).[4] The treaty therefore confirms the German charge on the German-resident beneficiary and adds a credit; it does not remove the charge.

One argument for removing it has been tried and has failed. Article 4(3) of the treaty deems an individual who is a citizen of one country and not the other, and has been domiciled in the other country for less than ten years, to be domiciled in the country of citizenship; a U.S.-citizen beneficiary who had recently moved to Germany argued that she was therefore not "domiciled in Germany" for Article 11(1)(b). The Bundesfinanzhof rejected the argument on September 20, 2022: Article 4(3) is framed by reference to the time of death and applies to the decedent and to the members of the decedent's household who meet the same conditions, not to an acquirer living in her own household, even where Germany taxes on the basis of the acquirer's residence.[5] A U.S.-citizen child who has lived in Germany for two years is taxed exactly as one who has lived there for twenty; only a spouse or other family member who shared the decedent's household, and who has been in Germany less than ten years, takes the decedent's treaty domicile with him. The residence of the beneficiary is the fact on which everything turns, and the treaty does not soften it.

Part II. Classes, Allowances, Rates, Valuation, No Step-Up, and the Three-Month Notice

The relationship sets the class

Once unlimited liability applies, the tax on the acquisition depends on the relationship be-

[3] § 2(1) No. 1 sentence 2(b) ErbStG (German citizens for five years after giving up German residence); Article 3 of the Act of September 15, 2000 approving the Protocol of December 14, 1998 to the estate tax treaty (Bundesgesetzblatt 2000 II p. 1170), which provides that in relation to the United States the five-year period is ten years for persons within the scope of the Protocol.

[4] Convention between the United States of America and the Federal Republic of Germany for the Avoidance of Double Taxation with Respect to Taxes on Estates, Inheritances, and Gifts of December 3, 1980, as amended by the Protocol of December 14, 1998, Articles 5, 6, 8, 9, and 11(1)(b) (Germany may tax an acquisition by a beneficiary domiciled in Germany at the time of the decedent's death, subject to the credit provisions).

[5] BFH of September 20, 2022, II B 2/22 (headnote: Article 4(3) of the treaty is not applicable to an acquirer who did not belong to the decedent's household, even where Germany bases its taxing right under Article 11(1)(b) on the acquirer's residence; the case concerned a U.S. citizen who had moved to Germany in September 2011 and inherited from a U.S.-resident aunt in February 2015); Article 4(3) of the treaty (the deemed domicile extends to family members belonging to the individual's household who meet the same conditions).

tween the decedent and the acquirer, expressed through three tax classes with their allowances (Freibeträge) and rate scales. Class I comprises the spouse or registered partner (allowance €500,000, plus a pension allowance of up to €256,000 reduced by the capitalized value of survivor's pensions not subject to the tax), children and stepchildren (€400,000), grandchildren (€200,000, or €400,000 where the intermediate generation is deceased), and, on death only, parents and grandparents (€100,000); its rates run from 7 percent to 30 percent. Class II comprises siblings, nieces and nephews, parents-in-law, children-in-law, stepparents, and the divorced spouse (€20,000) at rates from 15 percent to 43 percent. Class III comprises everyone else, including an unmarried partner, a friend, and a caregiver (€20,000) at rates from 30 percent to 50 percent.[6] The rate is applied to the whole taxable acquisition above the allowance, with a hardship rule at the boundaries of the brackets, and the allowance is available once per acquirer per decedent, aggregated with gifts from the same person in the preceding ten years under § 14 ErbStG. For the family in the opening scene the class is the whole story: the daughter in Hamburg pays between 7 and 30 percent on what exceeds €400,000; the companion in Munich pays 30 percent from the first euro above €20,000 on his half of the joint account. As on the rest of the Continent, who inherits, and how closely related, is the main variable, and the unmarried partner is treated as a stranger.

Valuation and deductions

The acquisition is valued at the date of death under § 12 ErbStG and the Valuation Act: listed securities at their quoted price, bank balances at face, a fund at its redemption price, foreign real property at its fair market value (gemeiner Wert) without the discounts that the statute grants for rented residential property in Germany and the European Economic Area, and everything converted into euros at the exchange rate of the date of death.[7] The beneficiary deducts the decedent's debts, the costs of the funeral and of administering and distributing the estate, including the executor's commission and the U.S. attorney's fees attributable to her share, or a lump sum of €15,000 without proof, and the costs of obtaining the assets.[8] The U.S. federal estate tax is not deducted as a debt; it is credited, as Part III explains, and only to the extent it was actually paid on the property she acquired.

No basis step-up

Two features of the German system surprise U.S. advisers. The first is that Germany gives no basis step-up at death. For German income tax the heir steps into the decedent's position (Fußstapfentheorie): under § 20(4) sentence 6 EStG she takes the decedent's acquisition cost

[6] § 15(1) ErbStG (tax classes); § 16(1) ErbStG (allowances: spouse €500,000; children €400,000; grandchildren €200,000, or €400,000 where the parent is deceased; parents and grandparents on death €100,000; class II and class III €20,000); § 17 ErbStG (pension allowance for the spouse, €256,000, and for children by age); § 19(1) ErbStG (rate scales: class I 7 to 30 percent, class II 15 to 43 percent, class III 30 to 50 percent); § 19(3) (hardship rule); § 14 ErbStG (aggregation of acquisitions from the same person within ten years).

[7] § 12 ErbStG; § 11(1) BewG (listed securities at the lowest quoted price on the valuation date), § 11(4) (fund units at the redemption price), § 12 BewG (claims and bank balances at face); § 31 BewG and § 12(7) ErbStG (foreign real property and foreign business property at fair market value, gemeiner Wert, § 9 BewG); § 13d ErbStG (10 percent discount for rented residential property confined to Germany, the European Union, and the European Economic Area); on currency conversion, the reference rate of the European Central Bank on the valuation date, ErbStR R E 12.1.

[8] § 10(1) sentence 2 and (5) ErbStG (deduction of the decedent's debts and of the costs of the funeral, the administration and distribution of the estate, and the acquisition of the inheritance; lump sum of €15,000 under § 10(5) No. 3 sentence 2 as amended by the Annual Tax Act 2024 for acquisitions from January 1, 2025); § 10(8) ErbStG (the German inheritance tax itself is not deductible); on foreign estate taxes as debts, § 10(5) No. 1 in conjunction with § 21 ErbStG and BFH of June 19, 2013, II R 10/12 (foreign tax that is not creditable is not deductible as a debt of the estate).

for securities, under § 23(1) sentence 3 EStG she takes the decedent's acquisition date and cost for real property, and under § 17(2) sentence 5 EStG the same applies to a substantial shareholding.[9] The inheritance itself is subject to inheritance tax and not to income tax, but a later sale is measured from the decedent's original cost, and the built-in gain on a brokerage account the decedent held for thirty years remains latent for German income tax in the daughter's hands. On the U.S. side Section 1014 steps the basis up to the date-of-death value, and a nonresident alien heir is in any event not taxed by the United States on the gain from U.S. securities; the two rules coexist, and the German heir who sells the account on the day after distribution pays German tax on the decedent's gain at 25 percent plus solidarity surcharge while paying nothing in the United States.[10] The step-up the U.S. adviser takes for granted has no German counterpart, and the decedent's cost records are part of the file the heir will need.

The tacking of the holding period cuts the other way for real property. Gains on privately held real property are exempt from German income tax after ten years of ownership under § 23(1) No. 1 EStG, and the heir inherits the decedent's holding period; a condominium the decedent bought in 2009 can be sold by the heir in 2027 free of German income tax, although the United States taxes the gain under Section 897 with FIRPTA withholding on the sale by a foreign seller, and Article 13(1) of the income tax treaty allows it to do so.[11]

The three-month notice

The second surprise is the notice. Under § 30(1) ErbStG every acquirer must notify the competent German tax office in writing within three months of learning of the acquisition, stating the decedent, the relationship, the assets, and their value; the duty falls on the beneficiary personally, is independent of any U.S. filing, and is not discharged by the fact that the U.S. executor has filed Form 706 or that no U.S. tax was due.[12] German banks and insurers report acquisitions under § 33 ErbStG, and a German court that issues a certificate of inheritance reports under § 34; a U.S. broker reports nothing to Germany, so that for a U.S. inheritance the § 30 notice is the tax office's only source. The office then requests a return under § 31 ErbStG, and the tax is assessed against the acquirer. A German beneficiary who waits for the U.S. estate to close before notifying has usually missed the three months; the notice can be given on estimated values, and the return corrected when the executor delivers the figures.

[9] § 20(4) sentence 6 EStG (gratuitous acquisition: the acquirer takes the acquisition cost of the predecessor); § 23(1) sentence 3 EStG (acquisition by the predecessor attributed to the successor for the ten-year period); § 17(2) sentence 5 EStG (substantial shareholdings); § 6(3) EStG (business property); on the term Fußstapfentheorie, the settled case law of the Bundesfinanzhof.

[10] IRC § 1014(a) and (b)(1); § 871(a)(2) and § 865(a)(2) (a nonresident alien is not taxed on gains from U.S. securities unless present in the United States for 183 days); Article 13(5) of the income tax treaty (gains taxable only in the residence State); § 20(2) No. 1, § 32d(1) EStG (25 percent flat rate plus solidarity surcharge); § 52(28) sentence 11 EStG (securities acquired by the decedent before January 1, 2009 remain exempt from the gains charge in the heir's hands).

[11] § 23(1) sentence 1 No. 1 and sentence 3 EStG; IRC § 897(a), § 1445(a) (15 percent withholding on the amount realized, reducible by withholding certificate under § 1445(c)); Article 13(1) of the income tax treaty; Article 23(3)(b) (German credit for U.S. tax on gains from U.S. real property where Germany also taxes).

[12] § 30(1) and (2) ErbStG (notice within three months of learning of the acquisition; contents under § 30(4)); § 31 ErbStG (return on request); § 33 ErbStG (notification duties of banks and insurers, confined to German institutions and German branches); § 34 ErbStG (courts and notaries); the failure to notify extends the assessment period, § 170(5) No. 1 AO, and may constitute tax evasion or reckless understatement, §§ 370, 378 AO.

Part III. Relief from the Double Charge: Article 11(3)(b) of the Treaty and § 21 ErbStG

The United States taxes the estate; Germany taxes the heir. Where the U.S. estate pays federal estate tax and the German heir pays inheritance tax on the same property, the treaty relieves the overlap by credit, and the treaty credit is the rule for this readership. Article 11(3) provides that where Germany taxes on the basis of domicile, including the domicile of the beneficiary under Article 11(1)(b), Germany credits the U.S. tax on property that the United States may tax under Articles 5, 6, and 8 as situs property, and, where the decedent was domiciled in the United States, on all other property as well, except property that Germany may tax under those Articles because it lies in Germany.[13] For the daughter in Hamburg inheriting from a Virginia domiciliary the credit therefore covers the whole of her share other than any German real property or business property, and it is limited to the German tax attributable to the same property. The U.S. tax to be credited is the portion of the federal estate tax attributable to her share, which requires an apportionment of the estate's tax among the beneficiaries on the basis of the values on Form 706, and proof of payment; the executor supplies both, and without them Germany credits nothing.[14]

Where the treaty does not apply, § 21 ErbStG provides the domestic credit: a fully liable acquirer may credit a foreign tax that corresponds to the German inheritance tax, was assessed on the acquirer and paid, and arose within five years before the German tax, against the German tax attributable to the foreign property, defined for a non-German decedent as all property other than German situs property; the credit is proportional and cannot exceed the German tax on the foreign property.[15] The treaty prevails where it applies, but § 21 remains relevant in two respects. The first is state taxes: the treaty covers only the federal estate tax, and a state tax is creditable, if at all, only under § 21 and only if it corresponds to the German tax. The Maryland inheritance tax, a tax on the acquirer at 10 percent that exempts spouses, descendants, parents, and siblings, is the kind of tax § 21 contemplates; the Maryland and District of Columbia estate taxes, taxes on the estate above their thresholds, are more doubtful, and Virginia and California levy neither.[16] The second is the five-year limit, which the treaty

[13] Article 11(3)(a) and (b) of the estate tax treaty (German credit for U.S. tax on property taxable by the United States under Articles 5, 6, and 8, and, where the decedent was domiciled in the United States, on all other property except property Germany may tax under those Articles); the following paragraphs of Article 11 (limitation of the credit to the tax attributable to the property; time limit for claims), which apply also where Germany taxes under Article 11(1)(b).

[14] IRC § 2001, § 2010(c) (basic exclusion amount, $15,000,000 for 2026 under Pub. L. 119-21, § 70106, indexed thereafter); Form 706 and the estate tax closing letter or account transcript; on the apportionment of the federal estate tax among beneficiaries for foreign credit purposes, the values on Form 706 and the state apportionment statutes (Va. Code § 64.2-540 et seq.; Md. Code, Tax-Gen. § 7-308; Cal. Prob. Code § 20100 et seq.; the District of Columbia follows the federal apportionment rules and the will); ErbStR R E 21 on proof of the foreign tax.

[15] § 21(1) sentences 1 to 4 ErbStG (credit of a corresponding foreign tax assessed on the acquirer and paid, on foreign property, limited to the German tax attributable to the foreign property, and only for foreign tax that arose within five years before the German tax); § 21(2) No. 2 ErbStG (for a decedent who was not an Inländer, foreign property is all property other than domestic property under § 121 BewG); § 21(3) (proof); § 21(1) sentence 1 (subject to the provisions of a double taxation treaty); ErbStR R E 21.

[16] Article 2(1) of the estate tax treaty (taxes covered: the U.S. federal estate and gift taxes; the German Erbschaft- und Schenkungsteuer); Md. Code, Tax-Gen. § 7-201 et seq. (inheritance tax at 10 percent, exemptions under § 7-203 for spouses, lineal descendants and ancestors, siblings, and others), § 7-301 et seq. (estate tax, exemption $5,000,000); D.C. Code § 47-3701 et seq. (estate tax, zero bracket indexed); Va. Code § 58.1-901 et seq. (estate tax repealed for deaths after July 1, 2007); Cal. Rev. & Tax. Code § 13302; on the requirement under § 21 ErbStG that the foreign tax correspond to the German inheritance tax, ErbStR R E 21.

does not carry and which can matter where a U.S. estate is assessed late.

The arithmetic of the credit deserves the candid sentence. The credit is worth the U.S. tax actually paid on the beneficiary's share, and no more. An estate under the federal exclusion, $15 million in 2026 and indexed thereafter, pays no federal estate tax, and the German heir credits nothing; the German inheritance tax on her share is then the only transfer tax on the inheritance, and it is not reduced by the U.S. exclusion, the U.S. marital deduction, or the U.S. charitable deduction, none of which Germany recognizes. Where the estate does pay U.S. tax, at 40 percent above the exclusion, the U.S. tax on the daughter's share will ordinarily exceed the German tax at 7 to 30 percent, and the credit eliminates the German tax on that share; the double charge is a problem of the large estate, and for the ordinary estate the problem is not double taxation but German taxation without relief. The family's assumption that the U.S. exclusion "covers" the transfer is wrong in the one country that matters to the daughter.

Channel	**German inheritance tax for a beneficiary resident in Germany**	**U.S. side and the treaty**
Distribution of a share of a probate estate	Acquisition on death (§ 3(1) No. 1 ErbStG) valued at death; unlimited liability through the beneficiary's residence; class by relationship; § 30 notice within three months; no step-up.	Form 706 on the worldwide estate, $15 million exclusion; Article 11(1)(b) permits the German tax, Article 11(3)(b) credits the U.S. tax attributable to the share; § 1441 withholding on U.S. source income carried out through DNI.
Transfer-on-death securities account or payable-on-death bank account	Contract in favor of a third party on death (§ 3(1) No. 4 ErbStG); fully taxable at the value at death; same class, allowance, notice.	Included in the gross estate (Sections 2033, 2038); no probate; Form W-8BEN to the broker for later dividends at the 15 percent treaty rate.
Transfer-on-death deed (District of Columbia, Virginia, California; not Maryland)	Same, § 3(1) No. 4; foreign real property at fair market value without the German residential discount; decedent's holding period tacks for the ten-year exemption of § 23 EStG.	Included in the gross estate; Section 1014 step-up; later sale taxed under Section 897 with FIRPTA withholding, permitted by Article 13(1) of the income tax treaty.
Joint account with right of survivorship	Decedent's share (presumptively one half) is an acquisition on death; spouse class I, unmarried partner class III; deposits during life may be gifts between the holders (BFH II R 33/10).	Section 2040(a) includes the whole account except the survivor's proven contribution; Section 2040(b) half-and-half only for a U.S.-citizen spouse; Section 1014 step-up on the included portion.
Revocable trust that terminates at death and distributes outright	Acquisition by the beneficiary from the decedent in her own class, as for a bequest.	Grantor trust during life; included in the gross estate under Section 2038; Article 11(3)(b) credit as for a bequest.

Channel	German inheritance tax for a beneficiary resident in Germany	U.S. side and the treaty
Revocable trust that continues after death	Acquisition by the trust (§ 3(2) No. 1 sentence 2 ErbStG), not a German resident, not taxed; beneficiary taxed later on distributions (gift if entitled, otherwise capital income), on dissolution (in her class), and on undistributed income under § 15 AStG unless the exception applies.	Non-grantor trust; Section 1441 withholding on U.S. source income carried out; no U.S. tax at termination; estate tax credit only where she acquires outright.

Part IV. The Probate Estate

The ordinary case is the one the Virginia will governs: the executor collects the assets, pays the debts and the expenses, files Form 706 if the estate requires it, and distributes to the daughter in Hamburg. For German purposes she acquired her share at the moment of death, at its value on that day, and the German tax is assessed on that value and in her class regardless of when the executor distributes or what the assets are worth by then.[17] The German tax office does not deal with the executor and does not need him; it assesses the daughter on her § 30 notice and her return, and it will accept the executor's inventory, the Form 706 values, and the closing statement as evidence of the value and of the deductible costs. A German certificate of inheritance (Erbschein) is not required for a U.S. estate administered in the United States, and the daughter need not involve a German court unless the decedent left German assets.

The estate's income during administration is the point at which the two systems overlap in time. The United States taxes the estate as a separate taxpayer on Form 1041 on the income it retains and carries the income it distributes out to the beneficiaries through distributable net income, with its character preserved; toward a beneficiary who is a nonresident alien the executor is a withholding agent under Section 1441, withholding on the U.S. source dividends and other fixed or determinable income included in her share at the treaty rate, 15 percent on dividends under Article 10(2)(b) of the income tax treaty against Form W-8BEN, and nothing on portfolio interest or on capital gain, which Article 13(5) leaves to Germany.[18] Germany, which has no separate taxpayer for an estate, treats the heir as the owner of her share of the assets from the date of death and taxes her on their income from that day under § 20 EStG at the 25 percent flat rate, crediting the U.S. withholding under § 32d(5) EStG up to the treaty rate. The overlap is avoided if the executor distributes the income in the year it is earned, so that it is carried out to the daughter, withheld upon at 15 percent, and reported on Form 1042-S, which is the document her German return needs; income the estate retains and pays U.S. tax on at the estate's own compressed brackets

[17] § 9(1) No. 1 ErbStG (the tax arises at the decedent's death); § 11 ErbStG (valuation date); the acquisition of a share of a U.S. probate estate is characterized for German purposes as an acquisition by inheritance or legacy under § 3(1) No. 1 ErbStG according to the content of the U.S. instrument, ErbStR R E 3.1; on the recognition of a U.S. administration without a German certificate of inheritance, §§ 2353 et seq. BGB and Article 62 et seq. of Regulation (EU) No 650/2012, which do not apply to an estate administered in the United States.

[18] IRC §§ 641, 643(a), 651, 652, 661, 662 (distributable net income and its character in the beneficiary's hands); § 1441(a), § 1461; Treas. Reg. § 1.1441-5(b)(2)(i) (an estate is a withholding agent with respect to amounts distributable to foreign beneficiaries); Article 10(2)(b), Article 11(1), and Article 13(5) of the income tax treaty; IRC § 871(h) (portfolio interest); Form W-8BEN.

is taxed in Germany to the daughter in the same year without a credit for the estate's tax, since it is not her tax.[19] The executor who understands the German side distributes income currently, delivers Forms 1042-S and Schedule K-1 promptly, and does not withhold 30 percent for want of a Form W-8BEN.

The bequest itself is not income to the daughter in either country. Germany taxes it as an acquisition on death; the United States excludes it from her income under Section 102 and, because the estate is a domestic estate, requires no Form 3520 from anyone.[20]

Part V. Transfer-on-Death and Payable-on-Death Designations and Transfer-on-Death Deeds

Americans pass an increasing share of their wealth outside probate: securities accounts registered transfer-on-death under the Uniform TOD Security Registration Act, bank accounts payable on death, retirement accounts and life insurance by beneficiary designation, and, in the District of Columbia, Virginia, California, and about half the states, real property by transfer-on-death deed; Maryland has not adopted the deed.[21] In the United States these devices avoid court administration and nothing else: the asset is included in the gross estate under Sections 2033, 2038, 2039, or 2042 as the case may be, and the beneficiary takes a stepped-up basis. In Germany they change nothing at all. § 3(1) No. 4 ErbStG treats every asset acquired on the decedent's death by a contract concluded by the decedent in favor of a third party, the German category into which a beneficiary designation, a TOD registration, and a TOD deed all fall, as an acquisition on death, taxable in the recipient's hands exactly as a bequest under a will.[22] The daughter in Hamburg is taxed on the brokerage account, the savings account, and the condominium at their date-of-death values, in class I, against the same €400,000 allowance, whether they came to her through the executor or through the transfer agent, and the three-month notice runs from the day she learns of the designation.

The condominium carries the additional features of Part II: foreign real property is valued at its fair market value without the German discount for rented housing; the decedent's holding period tacks for the ten-year exemption of § 23 EStG; and a later sale by the daughter is taxed in the United States under Section 897 with FIRPTA withholding of 15 percent of the price unless reduced by certificate, and reported on Form 1040-NR, while Germany, which may tax the gain within ten years of the decedent's purchase, credits the U.S. tax under Article 23(3)(b) of the income

[19] § 39(2) No. 2 AO and § 20 EStG (income of the inherited assets attributed to the heir from the date of death; a foreign estate is transparent for German income tax); § 32d(5) EStG (credit of foreign withholding up to the treaty rate); Article 23(3)(b)(aa) of the income tax treaty; Forms 1042-S and Schedule K-1 (Form 1041); on the estate's own tax at the compressed brackets of § 1(e), and its non-creditability in the heir's German return, § 34c EStG requires that the foreign tax be the taxpayer's own.

[20] IRC § 102(a); § 7701(a)(30)(D) and (31)(A) (domestic estate); § 6039F and § 6048 (Form 3520 applies to gifts and bequests from foreign persons and to foreign trusts, not to a domestic estate).

[21] Uniform TOD Security Registration Act (1989), adopted in Virginia (Va. Code § 64.2-612 et seq.), the District of Columbia (D.C. Code § 19-601.01 et seq.), Maryland (Md. Code, Est. & Trusts § 16-101 et seq.), and California (Cal. Prob. Code § 5500 et seq.); Uniform Real Property Transfer on Death Act, adopted in the District of Columbia (D.C. Code § 19-604.01 et seq.) and Virginia (Va. Code § 64.2-621 et seq.); California revocable transfer on death deed (Cal. Prob. Code § 5600 et seq., extended through 2032); Maryland has not enacted a transfer-on-death deed statute.

[22] § 3(1) No. 4 ErbStG (every pecuniary advantage acquired on the decedent's death by a third party directly under a contract concluded by the decedent); ErbStR R E 3.7; on beneficiary designations, joint accounts, and comparable U.S. non-probate transfers, the characterization follows the economic result under § 3(1) No. 4 or, where the transfer is by will substitute, § 3(1) No. 1; IRC §§ 2033, 2038, 2039, 2042.

tax treaty.[23] A retirement account passing by designation adds a layer on both sides that this article does not treat: the U.S. withholding on distributions to a nonresident alien beneficiary, which Article 18 of the income tax treaty reduces to nothing for periodic payments and lump sums alike, and the German taxation of the distributions under § 22 Nr. 5 EStG, since 2025 in full where the contributions were tax-favored in the United States. The transfer-on-death registration of a securities account has one practical advantage for the German beneficiary, which is speed: the account passes without waiting for the estate, and the daughter can deliver Form W-8BEN to the broker, have the account re-registered, and decide whether to sell the decedent's low-basis positions with the German income tax consequence of Part II in view.

Part VI. The Joint Account

Where a U.S. account is held jointly with right of survivorship, the survivor takes the account by operation of law at the first death. For German purposes the survivor acquires the decedent's share on death, and the decedent's share is presumed to be one half under § 430 BGB unless the account holders had agreed otherwise or the facts show a different contribution; the acquisition is taxed in the survivor's class, so that a surviving spouse resident in Germany applies class I and the €500,000 allowance, and the companion in Munich applies class III and €20,000, at 30 percent and upward, on his half of an account he may have regarded as already his.[24] The severity of the result for an unmarried partner is the reason the joint account, harmless between spouses, is the wrong vehicle for a couple with a German-resident partner; a will or a transfer-on-death registration produces the same class III tax, and the only devices that reduce it are marriage, which moves the survivor into class I, and lifetime gifts spaced ten years apart under § 14 ErbStG, each within the €20,000 allowance.

Two further points matter. On the U.S. side, Section 2040(a) includes the whole of a joint account in the first decedent's gross estate except to the extent the survivor proves that he furnished the consideration, and the half-and-half rule of Section 2040(b) applies only where the survivor is a U.S.-citizen spouse; where the survivor is a nonresident alien spouse, the marital deduction is available only through a qualified domestic trust or, under Article 10(6) of the estate tax treaty, as a treaty marital deduction limited to the applicable exclusion, and the German spouse who is the sole survivor of a large joint account should have both routes explained before the estate tax return is filed.[25] On the German side, the joint account carries a lifetime risk that has nothing to do with death. The Bundesfinanzhof held in 2011 that where one spouse deposits his own funds into a joint account (Oder-Konto) to which both have equal access, the other spouse may acquire half of the deposit as a gift, taxable under § 7(1) No. 1 ErbStG, unless the spouses can show an agreement that the depositor alone was entitled to the funds; the tax administration applies the

[23] IRC § 897, § 1445(a) and (c), Form 8288-B, Form 1040-NR; § 23(1) No. 1 EStG; Article 13(1) and Article 23(3)(b) of the income tax treaty; § 12(7) ErbStG and § 31 BewG for the German valuation of the property at death.

[24] § 430 BGB (presumption of equal shares among joint creditors); § 3(1) No. 1 or No. 4 ErbStG for the acquisition of the decedent's share by the survivor, ErbStR R E 3.7; § 15(1), § 16(1) Nos. 1 and 7, § 19(1) ErbStG (spouse class I, €500,000; unmarried partner class III, €20,000); § 14 ErbStG.

[25] IRC § 2040(a) and (b); § 2056(d)(1)(B) (the qualified joint interest rule of § 2040(b) does not apply where the surviving spouse is not a U.S. citizen); § 2056A (qualified domestic trust); Article 10(6) of the estate tax treaty (treaty marital deduction, limited to the applicable exclusion amount, for a surviving spouse who was not a U.S. citizen, where the decedent was domiciled in either State and the executor elects); Treasury Technical Explanation of the 1998 Protocol.

principle to unmarried joint holders as well, for whom the class III allowance of €20,000 is exhausted almost at once.[26] A U.S. client who adds a German-resident partner or child to an account for convenience has, in German eyes, potentially made a gift of half the balance, and the survivorship at death is then the second taxable event on the same money. Both events must be reviewed, and the review is cheaper before the account is opened.

Part VII. The Revocable Trust That Terminates and the Trust That Continues

The revocable living trust is the will substitute of choice in California and increasingly in the District of Columbia and Virginia, and it is the channel that German law reads least like American law. Germany has no trust and is not a party to the Hague Trust Convention; its courts transpose a U.S. trust into the nearest German institution, and its tax law treats an irrevocable trust whose purpose is to bind assets as a foreign asset-holding entity (Vermögensmasse ausländischen Rechts) that is taxed at defined events.[27] During the settlor's life the revocable trust is transparent: the settlor can take the assets back, has given nothing, and remains the owner for every German purpose. The German analysis begins at death, and it turns on the one question the U.S. adviser controls: whether the trust terminates and distributes, or continues.

A trust that terminates at the settlor's death and distributes the beneficiary's share outright, or that holds it only until the trustee has collected and delivered the assets, produces an acquisition by the beneficiary from the decedent in her own class, taxed like a bequest, with the Article 11(3)(b) credit for any U.S. estate tax attributable to her share; the tax class follows the beneficiary's relationship to the settlor, and a daughter takes class I and the €400,000 allowance.[28] A trust that continues after death, for a surviving spouse, for a child for life, or for grandchildren, is a different object. Under § 3(2) No. 1 sentence 2 ErbStG the passing of property on death to a foreign asset-holding entity is an acquisition by that entity, and the entity, a U.S. trust, is not a German resident; where the settlor was not a German resident either, Germany taxes nothing at death, and the daughter, who has acquired only a beneficial interest, is not taxed at that moment. Her tax comes later, in three forms. Distributions during the trust's life are gifts under § 7(1) No. 9 sentence 2 ErbStG only if she is a Zwischenberechtigte, a beneficiary with a right to income or assets independent of the trustee's discretion, and then in the class of her relationship to the settlor under § 15(2) sentence 2 ErbStG, class I for a daughter, not class III; distributions to a purely discretionary beneficiary are not gifts at all but capital income under § 20(1) No. 9 EStG at the 25 percent flat rate to the extent they consist of the trust's earnings, and the earnings component of a distribution to a Zwischenberechtigte may bear both taxes, the Bundesfinanzhof

[26] BFH of November 23, 2011, II R 33/10, BStBl. II 2012, 473 (a spouse who deposits his own funds into a joint account makes a gift of one half to the other spouse under § 7(1) No. 1 ErbStG unless an agreement between the spouses shows that the depositor alone was entitled to the funds; the burden of proof lies with the tax office for the gift and with the spouses for the agreement); coordinated decree of the state ministries of finance on Oder-Konten; § 7(1) No. 1 ErbStG.

[27] Convention of July 1, 1985 on the Law Applicable to Trusts and on their Recognition, not signed or ratified by Germany; § 3(2) No. 1 sentence 2, § 7(1) No. 8 sentence 2 and No. 9 sentence 2 ErbStG (Vermögensmasse ausländischen Rechts, deren Zweck auf die Bindung von Vermögen gerichtet ist); BFH of September 27, 2012, II R 45/10, BStBl. II 2013, 84.

[28] § 3(1) No. 1 ErbStG; on the transparency of a revocable trust during the settlor's life, BFH of June 28, 2007, II R 21/05, BStBl. II 2007, 669, and ErbStR R E 7.1; on the outright distribution at death as an acquisition by the beneficiary in her own class, the administrative practice and § 15(1) ErbStG; Article 11(3)(b) of the estate tax treaty.

seeing no constitutional bar.[29] The dissolution of the trust is a gift in her class under the same provisions. And the trust's undistributed income is attributed to her currently under § 15 AStG as a beneficiary entitled to income or to the assets on liquidation, unless the trust meets the exception of § 15(6), which requires that the assets be legally and factually beyond the control of the settlor and the beneficiaries and that information be exchanged with the trust's state; the Bundesfinanzhof held on December 3, 2024, for a Swiss family foundation, that the exception, which the statute confines to the European Union and the European Economic Area, must be extended to third-country structures under the free movement of capital, a U.S. trust included, and the Ministry of Finance published on November 18, 2025 a draft rewrite of § 15 AStG that would confine attribution to income taxed abroad below 15 percent, which is pending as of this writing.[30]

The decision whether the revocable trust terminates or continues is therefore not a U.S. convenience; it is the most consequential German tax decision in the plan of a client with a beneficiary in Germany. The continuing discretionary trust with an independent trustee is workable in Germany, taxes the beneficiary on distributions as income and on the corpus once at the end, and can be drafted for the § 15(6) exception; the fixed-income trust for life is the worst form, because every payment is a gift; and the outright distribution at death is taxed once, in class I, with the treaty credit, and is the honest recommendation for the client who wants simplicity. The full analysis of a U.S. trust with a beneficiary in Germany is a subject of its own; for this article the point is that the trust is not a device for avoiding the German tax at death, and that its continuation converts one taxable event into several.

Part VIII. Practice Points

1. **Start with the beneficiary, not the estate.** Identify every beneficiary who lives in Germany, or is a German citizen who left within ten years; each is a German taxpayer on the whole of what he receives, whatever the decedent's connection to Germany, and the treaty confirms it.

2. **Do not rely on Article 4(3) for the beneficiary.** The ten-year rule protects the decedent and members of his household, not a child living in her own household in Germany (BFH II B 2/22). A recently arrived U.S.-citizen child is taxed like a long-time resident.

3. **Model the class.** Spouse and children in class I with €500,000 and €400,000; siblings and in-laws in class II with €20,000; an unmarried partner or friend in class III with €20,000 at 30 to 50 percent. The class, not the asset, drives the tax.

4. **Say the candid sentence about the credit.** Germany credits the U.S. federal

[29] § 3(2) No. 1 sentence 2 ErbStG (acquisition by the foreign asset-holding entity on the settlor's death, taxable only if the decedent or the acquirer is an Inländer); § 7(1) No. 9 sentence 2 and § 15(2) sentence 2 ErbStG; BFH of June 25, 2021, II R 31/19, BStBl. II 2022, 497 (Zwischenberechtigter only where the beneficiary has a right to assets or income independent of the trustee's decision; discretionary distributions are not gifts); § 20(1) No. 9 sentence 2 EStG; BFH of October 1, 2024, VIII R 25/21 (Swiss family foundation: distributions to a person within the class of beneficiaries are capital income under § 20(1) No. 9 EStG), applied to U.S. trusts by FG Münster of March 23, 2023, 1 K 2478/21 E (accumulated earnings taxable, returned contributions not; cumulation with gift tax permissible).

[30] § 15(1), (4), (6), and (11) AStG; BFH of December 3, 2024, IX R 31/22 and IX R 32/22 (the exception of § 15(6) extends to third-country structures under Article 63 TFEU where the assets are legally and factually beyond the control of the settlor and the beneficiaries and information exchange is assured; Article 26 of the income tax treaty and the FATCA agreement of May 31, 2013 provide it for the United States); Federal Ministry of Finance, draft of November 18, 2025 for a new § 15 AStG (trusts named expressly; attribution confined to income taxed below the 15 percent threshold of § 8(5) AStG; third-country exception), consultation closed January 15, 2026, not enacted as of September 2026.

estate tax attributable to the beneficiary's share (Article 11(3)(b), § 21 ErbStG). For an estate under $15 million the U.S. tax is nil and the German tax stands in full; the U.S. exclusion, marital deduction, and charitable deduction save nothing in Germany.

5. **Deliver the German file with the assets.** Date-of-death values in dollars, the decedent's cost basis and purchase dates (Germany has no step-up), the apportionment of any U.S. estate tax and proof of payment, the deductible administration costs attributable to the share, Forms 1042-S and Schedule K-1, and, for a trust, the instrument and the accounts.

6. **Mind the three months.** The beneficiary must notify the German tax office within three months of learning of the acquisition (§ 30 ErbStG), on estimated values if necessary; the U.S. broker reports nothing to Germany, and the notice is the beneficiary's own duty.

7. **Treat TOD, POD, and TOD deeds as bequests.** They avoid probate in the United States and nothing in Germany (§ 3(1) No. 4 ErbStG); their only German advantage is speed. Have the beneficiary deliver Form W-8BEN to the broker at re-registration.

8. **Distribute estate income currently and withhold at the treaty rate.** Income carried out through DNI is withheld upon at 15 percent on dividends and reported on Form 1042-S, which Germany credits; income retained in the estate is taxed in Germany to the heir without credit for the estate's tax.

9. **Warn the unmarried couple about the joint account.** The survivor in Germany pays class III on the decedent's half; deposits during life may already have been gifts (BFH II R 33/10); Section 2040(a) includes the whole account in the U.S. estate absent proof of contribution.

10. **Decide whether the trust terminates or continues, and draft it for Germany.** Outright at death is taxed once in class I with the credit; a continuing trust is not taxed at death but is taxed at distributions, at dissolution, and possibly on undistributed income under § 15 AStG; a fixed-income trust is the worst form. Confirm the status of the pending § 15 AStG reform before advising on attribution.

Conclusion

For a beneficiary in Germany, an inheritance from the United States is taxable in Germany as a matter of course, because German inheritance tax follows the recipient and attaches on the strength of the recipient's own residence; the treaty, which for this readership is the rule, confirms the charge under Article 11(1)(b), declines through the Bundesfinanzhof's reading of Article 4(3) to exempt the recently arrived beneficiary, and gives in return a credit that is worth exactly the U.S. tax paid, which for the ordinary estate is nothing. The channel does not matter: the probate distribution, the transfer-on-death account, the payable-on-death account, the transfer-on-death deed, the survivor's half of a joint account, and the outright distribution from a revocable trust are all acquisitions on death, valued at death, taxed in the class the relationship dictates, without a basis step-up and with a three-month notice. What the channel does change is the file the beneficiary needs and the timing of the events, and, for the trust, whether one taxable event becomes several. The U.S. adviser cannot reduce the German tax; the German tax is reduced, if at all, by German planning on the beneficiary's side, by the class, the allowances, and the ten-year spacing of gifts. What the U.S. adviser can do is name the beneficiary in Germany as a German taxpayer from the first meeting, deliver the values, the basis, the apportionment, and the withholding documents that the German return requires, distribute income currently, keep the unmarried partner off the joint account, and let the trust terminate unless it has been drafted to continue. The German tax on a U.S. inheritance is not a mistake to be corrected; it is a cost to be known in advance, and knowing it in advance is the whole of the adviser's contribution.

Contact

How a U.S. inheritance is taxed for a beneficiary in Germany turns on the beneficiary's residence and citizenship history, on the relationship to the decedent, on the values, basis, and administration costs the U.S. side can document, on the apportionment of any U.S. estate tax for the credit under Article 11(3)(b) of the estate tax treaty and § 21 ErbStG, and, for a trust, on whether it terminates or continues. **Ashford International Law PC advises families, fiduciaries, and their advisers** across the whole map: the German exposure of each beneficiary of a U.S. estate, transfer-on-death and payable-on-death asset, joint account, or revocable trust, the assembly of the German file from the U.S. administration, the § 30 ErbStG notice and the German inheritance tax return, the treaty credit computation, Section 1441 withholding and Forms 1042-S for estate and trust distributions to beneficiaries in Germany, the Oder-Konto review for joint accounts, and the design of a trust that a beneficiary in Germany can live with, alongside the family's existing advisers or leading the U.S. side end to end.

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This article is intended for general educational purposes for U.S. and foreign estate planners, fiduciaries, and their clients and does not constitute legal or tax advice, nor does it create an attorney–client relationship. The matters described (§§ 2, 3(1) Nos. 1 and 4, 3(2) No. 1, 7(1) Nos. 1 and 9, 10, 12, 13, 14, 15, 16, 17, 19, 21, 30, 31, 33, and 34 ErbStG and §§ 11, 12, 31, and 121 of the Valuation Act; §§ 8, 9, and 39 of the Fiscal Code; §§ 17, 20, 23, and 32d EStG; § 15 AStG in its current version and the Ministry of Finance draft of November 18, 2025, which is not enacted and may change; § 430 BGB; the decisions of the Bundesfinanzhof of November 23, 2011 (II R 33/10), September 27, 2012 (II R 45/10), June 25, 2021 (II R 31/19), September 20, 2022 (II B 2/22), October 1, 2024 (VIII R 25/21), and December 3, 2024 (IX R 31/22 and IX R 32/22); Articles 2, 4, 5 to 11 of the Germany–U.S. estate and gift tax treaty of December 3, 1980 as amended by the Protocol of December 14, 1998 and the German act approving that Protocol; Articles 10, 13, and 23 of the Germany–U.S. income tax treaty of August 29, 1989 as amended by the Protocol of June 1, 2006; Sections 102, 641 to 663, 897, 1014, 1441, 1445, 2010, 2033, 2038, 2039, 2040, 2042, 2056, and 2056A and Forms 706, 1041, 1042-S, 1040-NR, and W-8BEN; the Uniform TOD Security Registration Act and the transfer-on-death deed statutes of the District of Columbia, Virginia, and California; and the estate and inheritance taxes of Maryland, the District of Columbia, Virginia, and California) depend on the specific facts, the residence and citizenship history of each beneficiary, the relationship to the decedent, the applicable treaties, and the U.S. and German law and guidance in effect at the relevant time, all of which change; allowances, *rates, thresholds, and exchange rates in particular are subject to change. Statuses are stated as of this writing in September 2026 and must be confirmed before any planning, distribution, or filing decision. Nothing here is advice on any particular estate. Confirm every point with qualified U.S. and German counsel and current law before acting.*

#Erbschaftsteuer #GermanInheritanceTax #USInheritance #GermanBeneficiary #ErbStG #Section2ErbStG #Section21ErbStG #Section30ErbStG #EstateTaxTreaty #Article11 #Article4 #BFH #TaxClass #Freibetrag #NoStepUp #Fussstapfentheorie #TODAccount #PODAccount #TODDeed #JointAccount #OderKonto #Section2040 #RevocableTrust #Zwischenberechtigte #Section15AStG #Section1441 #Form1042S #FormW8BEN #Virginia #DistrictOfColumbia #Maryland #California #CrossBorderEstate #InternationalEstatePlanning