

---

# Inheriting Portuguese Property as a Foreigner

Foreign heirs of property located in Portugal

## TL;DR

- Portugal has **no inheritance tax** between spouses, parents and children. Direct heirs pay **0%** stamp duty on the value of the property; only the 0.8% real-estate transfer stamp duty applies. Siblings, nieces, partners and friends pay **10% + 0.8%**.
- You must file the **Modelo 1 do Imposto do Selo** with the Portuguese tax authority within **three months** of the end of the month of death. Miss it and you pay interest plus penalties — even when the underlying tax is zero.
- Brussels IV (Regulation EU 650/2012) lets non-Portuguese EU and non-EU nationals elect the **law of their nationality** to govern their entire succession, overriding Portuguese forced heirship. The election has to be made in a valid will *before* death — heirs cannot retrofit it.

**Key 2026 stat:** On an inherited Algarve villa worth €600,000 left by a parent to one foreign child, total Portuguese inheritance cost is roughly **€4,800** (0.8% stamp duty + habilitação + registry). The same villa left to a sibling or unmarried partner costs roughly **€64,800** — a **€60,000 swing** driven entirely by who is named as heir. Plan before death, not after.

---

## Introduction: The Inheritance Nobody Prepared You For

You get the phone call. A parent, an aunt, an old family friend has died — and you, sitting in London, Cologne, Boston or São Paulo, are now apparently the owner of a slice of a country whose tax code you have never read. The villa in Carvoeiro. The apartment in Cascais. The ruin in the Alentejo nobody got around to fixing.

Within days, a Portuguese lawyer is on the phone explaining urgent paperwork, three-month deadlines, NIFs, Conservatórias, habilitação, partilha, mais-valias. Quotes range from €1,500 to €15,000. Repair estimates appear from contractors you have never met. Two siblings want to sell, one wants to keep it.

This is the moment most foreign families make their worst Portuguese property decision — not at acquisition, but at inheritance. They overpay for routine probate work. They miss the three-month tax filing because nobody told them about it. They accept the estate when they should have renounced. They sell in a hurry at the wrong price. Or they default into Portuguese forced-heirship law — when a one-line clause in the deceased's will could have routed everything through home-country rules with a fraction of the friction.

This guide walks through the mechanics: Brussels IV and forced heirship, the 0% vs 10% stamp-duty split, the three-month Modelo 1 deadline, the capital-gains step-up that quietly saves six-figure sums, when to renounce, how cross-border tax treaties bite, and what to do when three heirs disagree about a single villa.

Two warnings. Nothing here substitutes for a Portuguese advogado and a tax adviser; inheritance touches three legal regimes simultaneously and the interaction with your home country is case-

specific. And the costly mistakes happen in the first ninety days, when emotions are high and the deadline clock runs. Read this once now, so when the call comes you know what questions to ask.

---

## Brussels IV: The Most Important Clause Nobody Mentioned

The single largest planning lever in cross-border Portuguese inheritance is **Regulation (EU) No 650/2012** — Brussels IV. It applies to all deaths on or after **17 August 2015** and binds 25 EU member states including Portugal. Ireland, Denmark, and (since Brexit) the UK are *not* bound — but their nationals still benefit, because Portuguese courts apply Brussels IV's choice-of-law rules regardless of whether the elected law belongs to a bound state.

### The Default Rule

Without any election, succession is governed by the law of the deceased's **habitual residence** at the time of death. A British retiree habitually resident in Lagos for twelve years dies under Portuguese succession law — meaning Portuguese forced-heirship rules apply to the entire estate, including UK assets, not just the Lagos villa. A German who splits time between Munich and the Algarve lands wherever a court eventually decides "habitual residence" sat — the legal limbo families want to avoid.

### The Election

Article 22 lets any person, by **explicit declaration in a will**, choose the law of a state of which they are a national to govern the entire succession. The election must be made *during life* — heirs cannot make it after death. It applies to the *whole* succession (no cherry-picking Portuguese law for the villa and English law for the rest). And it overrides the default habitual-residence rule.

This matters enormously. Election of English law — which has no forced heirship — gives the testator full testamentary freedom over their global estate, including Portuguese property. A British national in the Algarve who wishes to leave the villa entirely to a second spouse, to a charity, or unequally between children, can only do so by electing English law in life.

### What the Election Does Not Do

Brussels IV is a **succession** regulation, not a **tax** one. Portuguese stamp duty (0% direct heirs / 10% others) applies to Portuguese-sited assets regardless of which law governs partition. Foreign-law election does not exempt you from the Modelo 1 filing, from the 0.8% real-estate stamp duty, or from home-country inheritance tax. It changes *who inherits*, not *what they pay*.

### Practical Takeaway

If the deceased was a foreign national, the *first* document to find is their will. Look for a clause electing national law under Article 22 of EU Regulation 650/2012. Its presence or absence determines whether you spend twelve months arguing about Portuguese forced-heirship fractions or simply execute the will as written.

If a relative with Portuguese property is still alive, a clause electing national law costs €200–€500 with a competent notary. It is the cheapest, highest-leverage piece of estate planning available to foreigners with Portuguese property.

## Forced Heirship Under Portuguese Law

When Portuguese law governs the succession — either by default (habitual residence in Portugal, no election) or by deliberate choice — the *legítima* applies.

### The Mandatory Shares

The Portuguese Civil Code reserves a fixed share for the **legitimários**: descendants, spouse, and ascendants (the latter only if no descendants). The 2026 fractions:

Family situation at death	Reserved share	Free portion
Spouse + descendants	2/3	1/3
Descendants only — one child	1/2	1/2
Descendants only — two or more children	2/3	1/3
Spouse + ascendants (no descendants)	2/3	1/3
Spouse only	1/2	1/2
Ascendants only — parents	1/2	1/2
Ascendants only — grandparents	1/3	2/3

The free portion (quota disponível) can be given freely by will — a friend, charity, second spouse, or unequal shares between children. The *legítima* cannot: any clause overriding it is reducible (redução por inoficiosidade) on an offended heir's application.

### Why This Matters for Foreign Families

Three patterns cause repeated problems:

1. **Second marriages.** A widowed parent remarries and wants to leave most of the estate to the new spouse. Portuguese law keeps two-thirds for the children of the first marriage (shared with the new spouse). Without Brussels IV, the second spouse ends up with substantially less than intended.
2. **Unequal treatment.** A parent wants to leave more to a child who provided care, or less to an estranged one. Portuguese law splits the reserved 2/3 equally per stirpes — no unequal treatment within the *legítima*. Only the free portion can be uneven.
3. **Unmarried partners.** Portuguese law does not recognise unmarried partners as legitimários even after long cohabitation (2017 *união de facto* changes fall well short of marital protection). A

foreign partner without a will electing home-country law has very limited rights.

Brussels IV is the only clean fix. Internal workarounds (lifetime gifts, life-interest structures, company wrappers) exist but are partial, taxable, and frequently overturned on inoficiiosidade claims.

## Inheritance Tax: 0% for Direct Heirs, 10% for Everyone Else

Portugal **abolished classical inheritance and gift tax in 2004** (Decreto-Lei 287/2003) and replaced it with **Imposto do Selo** on gratuitous transfers. The structure is straightforward but the labels confuse foreigners arriving with mental models from the UK (IHT up to 40%), the US (estate tax), Germany (Erbschaftsteuer up to 50%), or France (droits de succession up to 60%).

### The Two Layers

For Portuguese-sited real estate inherited at death, two distinct stamp-duty layers apply:

**Layer 1 — gratuitous-transfer stamp duty (Verba 1.2 TGIS): 10%** of the value of Portuguese-sited assets received. **Fully exempt** for direct heirs (spouse, children, grandchildren, parents, grandparents — Article 6(e) of the Code of Stamp Duty).

**Layer 2 — real-estate transfer stamp duty (Verba 1.1 TGIS): 0.8%** of the value of real estate transferred. Applies to all transfers including inheritances, with no exemption — even direct heirs pay it.

Practical totals on Portuguese real estate:

Heir's relationship to deceased	Layer 1	Layer 2	Total
Spouse, child, grandchild, parent, grandparent	0%	0.8%	<b>0.8%</b>
Sibling, niece, partner, friend, charity, non-family	10%	0.8%	<b>10.8%</b>

### Worked Examples

A €500,000 villa left by a father to his three children: total stamp duty €4,000 (0.8%), split between heirs.

The same €500,000 villa left by an unmarried man to his life partner of 25 years: €54,000 (10.8%). Portuguese tax law does not equate *união de facto* with marriage for stamp-duty purposes.

A €900,000 Lagos villa plus €300,000 of Portuguese bank cash, left by a deceased aunt to a niece in California: €97,200 on the villa (10.8%) + €30,000 on the cash (10%) = €127,200.

### What Value Is Used

The taxable base is the **higher of (i) the VPT (Valor Patrimonial Tributário) and (ii) any value declared in the partition deed**. Most VPTs are well below market value (a villa worth €600,000 may have a

VPT of €250,000–€400,000), so the VPT usually wins as the lower-of-two — favourable for the stamp-duty base, but it matters more for the *capital gains* calculation at later sale (see below).

## Cash and Other Movable Assets

Cash in Portuguese accounts, Portuguese-listed securities, and other Portuguese-sited movables follow the same 0%/10% split, with only the 10% gratuitous layer (no 0.8% real-estate layer). Foreign-sited assets are not taxed in Portugal at all — Portugal taxes only Portuguese-sited assets, regardless of the heir's residence.

---

# The Probate Process: Habilitação de Herdeiros

"Probate" in Portugal is not one process but two parallel tracks: **establishing who the heirs are** (habilitação) and **partitioning the estate among them** (partilha).

## Step 1 — Habilitação de Herdeiros

The habilitação is a notarial act declaring who the legal heirs of the deceased are. **Mandatory** before any inherited asset can be sold, mortgaged, or registered in heirs' names. Requires the death certificate, the deceased's marriage/divorce records, birth certificates of all heirs (apostilled and Portuguese-translated if foreign), NIFs of all heirs, and three witnesses to declare the family situation. Cost: €150–€350. Timing: 1–4 weeks once documents are gathered.

The Balcão das Heranças online route exists but only works when all heirs have Portuguese NIFs and the deceased's civil records sit in the central registry — rarely practical for purely foreign families.

## Step 2 — Inventário (Optional)

If heirs disagree on the partition, minors are involved, or the estate is complex, a formal **inventário** is required to inventory assets, value them, and adjudicate disputes. Costs €2,000–€10,000+. For simple estates with cooperating adult heirs, no inventário is needed — partilha is done by direct deed.

## Step 3 — Partilha (Partition)

The deed that divides the estate among heirs in their agreed proportions. Signed at a notary, registered at the Conservatória do Registo Predial for real estate. Cost: €500–€2,000 in notary and registry fees, plus the 0.8% real-estate stamp duty.

## Step 4 — Updating Bank, Utilities, IMI

Each individual heir updates their share with the tax authority (IMI), utilities, condomínio, and insurance. Multi-heir villas often skip this and continue paying from a "joint" account — which works until one heir wants to sell, at which point years of unprocessed updates have to be untangled.

## Realistic Timeline

Clean estate (one property, two or three direct heirs, no disputes): **3–6 months from death to title transfer**. With complications (multiple properties, disputes, difficult-to-apostille documents, missing wills): **12–24 months**. Anyone promising "weeks" is misleading you.

---

## The Modelo 1 do Imposto do Selo: Three-Month Deadline

Within **three months of the end of the month of death**, the heirs (or the *cabeça-de-casal* acting on behalf) must file **Modelo 1 do Imposto do Selo** with the AT. Electronic via the Portal das Finanças, or paper at a Finanças desk. The filing lists all Portuguese-sited assets, their values, and the heirs' identities and relationships. The AT computes the stamp duty owing.

### What Goes Wrong

- **Heirs without NIFs.** Each foreign heir needs a Portuguese tax number before the Modelo 1 can be filed. Requires presence in Portugal or appointment of a fiscal representative. Budget 2–4 weeks. Failing to plan for this blows the three-month deadline.
- **Missing the deadline.** Fine of €25–€165 (Article 116 RGIT) plus interest (~4.7%/yr in 2026) on any tax due. For direct heirs with €0 tax, only the flat fine — but the AT may notify the partilha notary, who will refuse to act until filing is current.
- **Wrong values.** Heirs sometimes declare "convenient" low values to minimise stamp duty. For non-direct heirs facing 10%, the temptation is real — but the same declared value becomes the **acquisition cost** for future capital gains. A €600,000 villa declared at €400,000 saves €21,600 in stamp duty (at 10.8%) but creates a phantom €200,000 capital gain on later sale, taxed at 50% × marginal IRS — easily €30,000 of avoidable tax. Use the real VPT or fair market value, not a fiction.

### Filing While Waiting for Habilitação

The deadline runs from death, not from completion of habilitação. If habilitação is delayed (apostilles, foreign certificate translations), file Modelo 1 with provisional details and request rectification later. The AT accepts this; what they do not accept is silence.

---

## The Capital Gains Base Step-Up

This is the most under-appreciated feature of Portuguese inheritance taxation, and the one that quietly favours foreign heirs.

When an heir later sells, the capital gain is **sale price minus acquisition cost** — and for inherited property the acquisition cost is the **value declared on Modelo 1**, not what the deceased originally paid. Portugal applies a **step-up in basis at death**: decades of accumulated appreciation disappear

from the heir's tax base. A villa bought by a parent in 1995 for €100,000 and worth €600,000 at death gives an heir an acquisition cost of €600,000. Sell two years later for €620,000 and the taxable gain is €20,000 — not €520,000.

### Practical Tip

Declare the **true fair market value** on Modelo 1, supported by a valuation. Direct heirs pay only 0.8% on whatever value you declare, so declaring high costs almost nothing — and the higher acquisition basis saves the 50%-inclusion-at-progressive-IRS tax on any future gain. Counter-intuitive but mathematically clean: for direct heirs, a high declared value is almost always optimal.

For non-direct heirs paying 10.8%, the trade-off is real and case-specific — model both scenarios before deciding.

---

## When You Do Not Want the Property: Renúncia

Not every inheritance is a gift. Inherited property can come with €30,000 of accrued IMI back-dues, a roof needing €60,000 in repairs, a mortgage of €180,000, or pending litigation. The assumption that "free property is always good" is wrong about as often as right.

Portuguese law gives heirs three options:

1. **Accept Purely and Simply (Aceitação Pura e Simples)**. Take the inheritance with all assets and all liabilities, unlimited. If the property is worth €400,000 but carries €600,000 of debt, you pay the €200,000 difference. Default if no explicit choice is made.
2. **Accept Under Benefit of Inventory (Aceitação a Benefício de Inventário)**. Cap personal liability at the value of inherited assets. If debts exceed assets, you lose nothing beyond what was inherited. Requires a formal inventário (€2,000–€10,000+) but powerfully protective when the debt picture is unclear.
3. **Renounce (Repúdio)**. Refuse the inheritance entirely. Irrevocable, done by formal notarial deed, operating retroactively. Share passes to next-in-line heirs.

### When to Renounce

Renounce when:

- Estimated repairs and legalisation exceed 30–40% of market value
- Accumulated IMI, AIMI, condomínio or AL-licence back-dues exceed 5% of value
- The mortgage is near or above market value
- The property is in contested legal situation (boundary disputes, expropriation, planning enforcement)
- Co-heirs include people you cannot work with for 12–24 months

Rule of thumb: if the all-in cost of "owning until sellable" plus tax exceeds 60% of expected net proceeds, renounce. Below that, accept under benefit of inventory and sell as soon as title is clean.

## Sale Post-Inheritance

If you keep and later sell, both resident and non-resident heirs are taxed on **50% of the net gain at progressive IRS rates** since the 2023 reform (worldwide income counted only for rate-determination). The old flat 28% has been gone since 1 January 2023; anyone quoting it in 2026 has not updated their notes. Combined with the step-up in basis at death, effective tax on selling shortly after inheritance is typically 5–12% of gross sale price.

---

## Cross-Border Tax Treaties

This is where most foreign heirs get an unpleasant surprise. **Portugal has almost no inheritance-tax double-taxation treaties.** The Portuguese stamp-duty regime exists in parallel with whatever the heir's home country imposes, and the two systems rarely coordinate.

### United Kingdom

**No UK–Portugal inheritance-tax treaty.** The new UK–Portugal Double Taxation Convention in force since **1 January 2026** covers income tax, capital gains and corporation tax — **not** inheritance tax. UK heirs of Portuguese property pay Portuguese stamp duty (0% direct / 10.8% other) *plus* UK Inheritance Tax at up to 40% on the worldwide estate of a UK-domiciled deceased. The Portuguese stamp duty paid is **not creditable** against UK IHT. UK families with substantial Portuguese property frequently need deemed-domicile, life-interest or IHT-aware planning during life.

### United States

**No US–Portugal inheritance-tax treaty.** US citizen / domiciliary deceased estates face US federal estate tax up to 40% on worldwide assets above the lifetime exemption (~\$13.99M in 2026), plus state-level estate taxes. The Portuguese stamp duty paid is **not creditable** against Form 706.

US-citizen *heirs* receive the inheritance income-tax-free (US does not tax inheritances received) — but **must file Form 3520** when the foreign bequest exceeds \$100,000 in a year. Failure to file is one of the most heavily penalised omissions in US international tax: 5% per month of the gift value, up to 25%. Do not skip it.

### France

A **France–Portugal inheritance-tax treaty exists** (1971, still in force). Taxing rights are allocated primarily to the country of the deceased's domicile, with the country of asset location retaining secondary rights and a credit mechanism. French heirs pay Portuguese stamp duty and then French *droits de succession* (up to 60% for unrelated heirs); the Portuguese stamp duty is creditable in France.

### Germany

**No Germany–Portugal inheritance-tax treaty.** German heirs are subject simultaneously to Portuguese stamp duty and to German *Erbschaftsteuer* (up to 50%). The Portuguese stamp duty

paid is potentially creditable against the German tax under §21 ErbStG, but only on certain conditions and capped at the German tax attributable to the Portuguese asset.

### Practical Implication

The Portuguese 0% rate for direct heirs is **not the end of the story** for UK, US or German families. A British family inheriting a €1.2M Algarve villa from a UK-domiciled parent could pay €9,600 in Portuguese stamp duty *and* up to €330,000 in UK IHT. Always model the home-country bill alongside the Portuguese one.

---

## Multi-Heir Scenarios

Single-property estates with multiple heirs are where families implode. Three options:

### Option A — Sell and Split

Everybody sells. The villa is partilhado in undivided fractions, sold to a third-party buyer, proceeds split per the partilha. Practical frictions: agreeing on price, agent, and timing. A neutral professional whose only client is "the estate as a whole" makes the conversation cleaner.

### Option B — Buy-out

One heir keeps the property and pays the others their share in cash. Requires an independent valuation (not the cheapest agent's estimate); a partilha deed allocating the villa to one heir with tornas to the others; tax planning (receiving heir pays 0.8% stamp duty on full villa value; departing heirs receive cash with no further Portuguese tax, though home-country tax may bite); financing (the heir keeping the property usually needs a mortgage — see [How to Get a Mortgage in Portugal Using Foreign Income](#)).

### Option C — Joint Ownership Continued

Heirs continue as joint owners (compropriedade), sharing use and costs by informal agreement. Default if nothing is decided.

Also the route to litigation. Within five years, one heir wants to sell and others refuse. One stops paying IMI. One redecorates without consulting. A spouse dies and the 1/3 fragments into next-generation 1/12 and 1/24 fractions across continents.

Joint ownership *works* only when (i) the property is genuinely shared-use and (ii) heirs sign a **co-ownership agreement** at the time of partilha codifying use rights, contribution shares, decision rules, and exit pricing. Without the agreement, joint ownership is a slow-motion partition lawsuit. Over decades, restructuring into an Lda is often cleaner; see [Buying as Individual vs Through a Company](#).

---

# When a Portuguese Will Makes Sense Alongside a Foreign Will

"I already have a will in my home country covering my Portuguese property. Do I need a Portuguese will too?" Often, yes — for three reasons that are not about overriding the foreign will but about helping it execute locally:

1. **Brussels IV election** — a Portuguese codicil is a clean place to insert or restate the Article 22 election. (Best practice: put the election in the home-country will, where it is examined first; the Portuguese codicil references it.)
2. **Specific bequests of Portuguese assets** — a Portuguese will with a specific *legado* of a particular apartment is faster through Portuguese registries than a foreign will requiring translation.
3. **Cabeça-de-casal designation** — a Portuguese will lets the testator explicitly name the Portuguese-side administrator (usually a Portuguese-resident heir, lawyer, or trusted local).

The Portuguese will must **complement, not contradict** the home-country will. Conflicting wills create months of delay. Budget €600–€2,000 for a competent advogado. Cost of *not* having either: years of probate and an inflated tax bill.

---

## Real Cases

These vignettes are reconstructed from real situations 2nd Haus has been involved with as buyer-side or estate-coordination advisors. Names changed; numbers rounded.

### Case 1 — The Mortimers (UK): No Will, Forced-Heirship Default

David Mortimer, a 71-year-old retired engineer from Surrey, died at his villa in Carvoeiro in March 2025. He had lived in Portugal for fourteen years. His 2008 UK will said "everything to my second wife Caroline" with no Brussels IV election. He had two adult children from his first marriage, both UK-resident, on cool but civil terms.

Habitual residence at death: Portugal. Caroline expected to inherit everything. Portuguese forced-heirship gave her one-third (free portion) and split the remaining two-thirds equally between the two children, who had not known there was a Portuguese property until the lawyer's letter arrived.

The villa was worth ~€640,000. After *habilitação*, *partilha* and a year of stalled negotiations, the children agreed to sell their combined 2/3 share to Caroline for €425,000. She remortgaged her UK home to fund it. A single Brussels IV clause in David's 2008 will would have given her the entire villa as intended. The omission cost her €425,000 plus ~€18,000 in disputed-estate legal fees.

### Case 2 — The Levines (US): Form 3520 Headache

Sarah Levine, a Boston executive, inherited a Cascais apartment from her widowed aunt (no will) in late 2024 jointly with a cousin — both US citizens, neither Portuguese-resident.

The Portuguese side was straightforward: habilitação (€220), Modelo 1 filed on time, total stamp duty ~€38,000 on the €350,000 apartment (10.8%, non-direct heirs). What blew up was the US side. Her CPA told her there was "no US tax on an inheritance" — true for income tax, but she should have filed **Form 3520** by 15 April 2025 reporting the foreign bequest. She did not. The IRS assessed automatic 5%-per-month penalties. A specialised cross-border attorney eventually got abatement under reasonable-cause, but it took 13 months and €11,000 in fees.

Lesson: US heirs of foreign property **must** file Form 3520 by the same due date as their income tax return. Portuguese cleanliness does not save you from US negligence.

### **Case 3 — The Three Brothers (Algarve Villa Buy-Out)**

Three German brothers in their fifties inherited their late father's villa near Burgau in 2023. Two wanted to sell; one (based in Faro since 2019) wanted to keep it as his retirement home.

Independent RICS valuation: €820,000. The Portugal-based brother bought out his siblings for two-thirds — €546,667. He raised €400,000 from novobanco on a non-HPP mortgage and contributed €146,667 from savings. The partilha deed allocated the villa to him with tornas of €273,333 to each sibling. Stamp duty: 0.8% (€6,560 total — all three were direct heirs). Each Munich brother declared the receipt in Germany; within the German child-exemption threshold, no Erbschaftsteuer due either.

Total Portuguese cost: ~€8,200 across all three. Time from death to completed buy-out: 11 months. The clean execution depended on agreement on an independent valuation, prompt habilitação, and a solicitor coordinating with the brothers' German tax adviser.

### **Case 4 — The Hendersons (UK): Renouncing to Escape €42,000 of Liability**

In 2024 three Manchester siblings inherited a quinta near Tavira from a great-uncle they barely remembered. On inspection: roof needed replacement (€32,000), failed septic system (€18,000), three years of unpaid IMI/AIMI (€4,100), and a boundary dispute with a neighbour who had moved a fence in 2019. Fair-market value in current state: ~€180,000. Cost to make it sellable: €58,000. Expected net after CGT: ~€95,000 — €31,000 each.

Two siblings wanted to "give it a try". The third did the math: 14 months of foreign project management for €31,000 each. They all renounced jointly. The inheritance passed to a Brazilian aunt, who also renounced. The property eventually escheated to the Portuguese state under Article 2152 of the Civil Code. The Hendersons paid €1,200 for the joint renúncia and walked away.

Renouncing is legitimate, often correct, and routinely under-used. "Free property" is rarely free.

### **Case 5 — The Bouchard Codicil: Brussels IV Done Right**

Antoine Bouchard, a 67-year-old French national, bought a holiday house in Olhão in 2018 and gradually shifted to spending eight months a year there. His 2020 French will left 70% to his long-term partner Hélène (unmarried) and 30% to his two adult sons, with an explicit Article 22 Brussels IV election of French law.

When Antoine died in May 2025, habitual residence was clearly Portugal. Without the Brussels IV election, Portuguese forced-heirship would have given the sons two-thirds and Hélène essentially

nothing. With the election, French law applied: H el ene received the 70% Antoine wanted, subject to limited French *r eserve h er editaire* protections he had factored in.

Portuguese stamp duty on H el ene's portion: 10.8%. On the sons': 0.8%. France taxed H el ene separately at the brutal unmarried-partner rate of 60% — but with a credit for the Portuguese stamp duty under the 1971 treaty. The total cost was substantial, but the *intended outcome* was achieved. One clause in a will signed five years before death was the difference between H el ene inheriting what Antoine wanted and H el ene inheriting almost nothing.

---

## FAQ

**Do I have to pay inheritance tax in Portugal if I am a foreign heir?** Direct heirs (spouse, child, grandchild, parent, grandparent) pay **0% gratuitous-transfer stamp duty** plus 0.8% real-estate transfer stamp duty — total 0.8% on real estate, 0% on cash. Other relations (siblings, nieces, partners, friends, charities) pay **10% + 0.8%** on real estate, 10% on cash. Residence is irrelevant; relationship to the deceased decides.

**How long do I have to deal with the Portuguese inheritance?** Hard deadline: **three months from the end of the month of death** to file Modelo 1 do Imposto do Selo. Late filing brings a fine ( 25– 165) plus interest. Full title transfer (*habilita  o + partilha + Conservat ria*) typically takes 3–6 months for clean estates, 12–24 months for complex ones. Renunciation must happen before any act of "tacit acceptance" (paying IMI, taking possession) makes refusal impossible.

**Does Brussels IV override Portuguese inheritance tax?** No. Brussels IV is a succession-*law* regulation. Portuguese stamp duty (0%/10%) and the 0.8% real-estate layer apply to Portuguese-sited assets regardless of which succession law governs. Brussels IV changes *who* inherits, not *what they pay*.

**My parent died without a Portuguese will. What happens to their Algarve apartment?** If the deceased was habitually resident in Portugal at death, Portuguese intestacy rules apply: spouse and children share at the *leg tima* proportions in the earlier table. If habitually resident outside Portugal, the foreign country's intestacy rules govern under Brussels IV's default — including the Portuguese apartment. The Portuguese steps (*habilita  o, partilha, Modelo 1, registry*) are the same either way; only the fractions change.

**Can I avoid Portuguese stamp duty by gifting the property before death?** The same 0%/10% structure applies to lifetime gifts. So gifting versus inheriting changes nothing on Portuguese stamp duty within the family. But lifetime gifts crystallise capital gains in the donor's hands (no step-up at death) and can trigger separate home-country tax (US gift tax, German Schenkungsteuer). The Portuguese step-up in basis at death almost always favours inheritance over lifetime gifts within the direct-heir circle.

**Will my home country tax the inheritance even if Portugal does not?** Almost certainly yes. The UK taxes worldwide estates of UK-domiciled deceased at up to 40%. The US taxes worldwide estates of US citizens above the lifetime exemption — and US-citizen *heirs* must file Form 3520. France,

Germany, Spain, and many others tax based on either the deceased's domicile or the heir's residence. Portugal has inheritance-tax treaties with very few countries (France being a notable exception). Most foreign heirs face a Portuguese bill *and* a home-country bill with no automatic credit.

**What is the Modelo 1 do Imposto do Selo and who files it?** The inheritance declaration filed with the AT within three months of the month of death. The **cabeça-de-casal** (typically surviving spouse, or eldest descendant) is responsible. Foreign heirs without Portuguese representation usually delegate to a solicitor or accountant. Filing is free; only the stamp duty owing is paid.

**Can I keep the property and let it without becoming a Portuguese tax resident?** Yes. Owning Portuguese real estate does not by itself create Portuguese tax residency. You file annual non-resident IRS on rental income (25% flat on net, reduced to 10% for moderate-rent long-term contracts under Lei 9-A/2026), pay annual IMI, and pay AIMI if aggregated VPT exceeds €600,000. See [Hands-Off Property Ownership and Management](#).

**What is the capital-gains tax if I inherit and then sell?** Both residents and non-residents are taxed on **50% of the net gain at progressive IRS rates** since the 2023 reform. The gain is computed as **sale price minus the Modelo 1 value** (step-up basis). For non-residents, worldwide income enters only for rate-determination. After two years' holding, inflation correction also applies. Effective tax on a typical inherited-then-sold villa within 2–3 years of inheritance: 5–15% of gross sale price.

**Should I get a Portuguese will if I already have one in my home country?** Often yes. The Portuguese will should **complement** the home-country will: confirm the Brussels IV election, make specific bequests of Portuguese assets, name a Portuguese-resident cabeça-de-casal. Cost €600–€2,000. Cost of not having either: typically €15,000–€50,000 of avoidable legal fees plus 12–24 months of delay.

**Three siblings inherited one villa. We disagree. What now?** Three options: (a) sell to a third party and split — cleanest where everyone wants liquidity; (b) one sibling buys out the others at independent valuation, funded by mortgage or savings — cleanest where one has emotional attachment; (c) continue joint ownership under a formal co-ownership agreement — only works with genuine joint use and codified use rights. The path nobody should take is "informal joint ownership, we'll figure it out later" — that is how families end up in court.

**Can I renounce just part of an inheritance?** No. Portuguese law requires acceptance or renunciation **for the whole** share. You cannot accept the cash and renounce the property. This is one reason many heirs prefer **acceptance under benefit of inventory** instead of outright renunciation — liability protection without losing the asset side.

---

## Conclusion

Inheriting Portuguese property as a foreigner has mostly known answers — but the answers come from three bodies of law (Portuguese succession, Portuguese tax, home-country tax) that almost never coordinate, and the worst mistakes happen in the first ninety days when the deadline clock is running and grief is loudest.

The single highest-leverage decision is made *before* death: a Brussels IV election in a valid will. It costs €200–€500 and saves families six-figure sums. If a relative with Portuguese property is still alive, that clause is the cheapest estate planning available.

Once death has occurred: find the will, secure death certificates and apostilles, get NIFs for all heirs, file Modelo 1 within three months, complete habilitação, and run the renunciation calculation honestly before accepting. Direct heirs almost always benefit from the 0% regime and step-up in basis — for them the Portuguese bill is small; the home-country side is where the real money sits. For non-direct heirs, the 10.8% is material but planning levers (valuation, acceptance form, partilha allocation, treaty positions) move the bill substantially.

The Portuguese state is not, by design, a punitive jurisdiction for direct-heir inheritances. It is an *administrative* one — and the cost of getting the paperwork wrong is almost always larger than the cost of doing it right.

---

## Related Reading

- **Taxes and Costs of Buying Property in Portugal** — IMT, stamp duty, AIMI and the non-resident capital-gains regime in detail.
- **Buying as Individual vs Through a Company** — when wrapping inherited property in a Lda makes sense for multi-heir families.
- **Hands-Off Property Ownership and Management** — running an inherited Portuguese property as an absentee owner.
- **How to Get a Mortgage in Portugal Using Foreign Income** — financing a sibling buy-out when you do not have the cash.
- **Mistakes to Avoid with Property Legalisation and Documentation** — the licence and registry traps inherited properties often carry.

---

## How 2nd Haus Can Help

2nd Haus does **pre-purchase and inheritance-coordination reviews** for foreign families with Portuguese property — independent of any bank, broker, lawyer or notary. We do not provide legal or tax advice ourselves; we run the buyer-side / heir-side process and make sure the right specialists are coordinated before any deed is signed.

Two ways to start:

- **Free 30-minute call** — bring your specific situation (whose estate, heirs and relationships, properties involved, deadlines already running, home country) and we tell you the three things to do this week and which professionals to engage in which order.
- **Inheritance cost-stack memo** — written memo modelling the Portuguese stamp duty, expected habilitação and partilha costs, capital-gains scenarios on sale or hold, home-country interactions,

and renunciation versus acceptance trade-offs for your specific case. 5 working days.

Direct: [paulovogel@2ndhaus.pt](mailto:paulovogel@2ndhaus.pt) · [+351 963 639 042](tel:+351963639042) (WhatsApp).

---

## Sources

### Primary

- Regulation (EU) No 650/2012 — EUR-Lex (Brussels IV / EU Succession Regulation)
- Decreto-Lei n.º 287/2003 — Diário da República (abolition of inheritance tax, introduction of Imposto do Selo on gratuitous transfers)
- Código do Imposto do Selo — TGIS Verba 1.1 (real-estate transfer 0.8%) and Verba 1.2 (gratuitous transfer 10%)
- Código Civil Português — Artigos 2156.º a 2178.º (legítima and forced heirship rules)
- Modelo 1 do Imposto do Selo — Portal das Finanças (filing instructions and form)
- Tax liability on the transfer of property through inheritance — gov.pt official guidance

### Further reading

- Portuguese Inheritance Law: Complete Guide — Global Citizen Solutions
- Inheritance Tax Portugal: For Expats & Residents in 2026 — PCC Wealth
- Portuguese Succession Law: Complete Guide for Expats and Property Owners — Madeira Corporate Services
- Forced Heirship in Portugal: Why Your Property Might Not Go to Your Kids — Fresh Legal
- Inheritance in Portugal: What to Do After a Family Member Passes — LVP Advogados
- Estate Planning in Portugal — Blevins Franks
- EU Succession Regulation — Portugal Resident
- Snapshot: Succession Law in Portugal — Lexology
- Inheritance Tax in Portugal for Non-Residents — Lumon
- Inheritance Tax in Portugal — Advocate Abroad
- UK-Portugal Double Taxation Convention (in force 1 January 2026) — note: income tax / CGT only, not IHT
- Form 3520 — IRS instructions for reporting foreign gifts and bequests

---

*Last updated: 15 May 2026. Verified against CANONICAL\_FACTS.md 2026-05-15. Portuguese inheritance law and stamp-duty rules in this guide reflect the position as of May 2026; the 2023 reform of non-resident capital-gains taxation is incorporated, and the Lei n.º 9-A/2026 housing fiscal package (relevant for post-inheritance sale and rental scenarios) is noted where applicable. This guide does not constitute legal or tax advice; specific situations require a Portuguese-qualified advogado and a cross-border tax adviser.*

## Want a buyer-side advisor on your specific case?

2nd Haus is a buyer-side real-estate consultancy specialised in the Algarve. We will tell you not to buy if that is the honest answer.

[Talk to 2nd Haus](#)

© 2nd Haus Real Estate · AMI License 15284 · This guide is general information, not legal or tax advice. Verify against your own professionals before signing anything.