

HERITAGE – REPUDIATION VERSUS ACCEPTANCE



In terms of Portuguese law, it is essential to the fulfillment of the condition of heir, the acceptance, by this heritage, whether derived from the law or will. The Acceptance may be expressed (written) or implied (by acts of closure, that allows to conclude the acceptance of inheritance), for example, by going to live in the inherited property. The acceptance of inheritance is irrevocable.

The acceptance has got a term of 10 years to occur. Therefore, if in 10 years the inheritance is not accepted, (in a written or by acts of closure) the right to the heritage is lost and the heritage is considered not accepted.

However, the acceptance of inheritance will be total. The heir should be aware of the fact that he only can accept the totality of it. It will not be possible to accept just the goods and to refuse the debts. For which, it is also urgent to know if the debts will be paid off through the inherited goods, to the limit of its value. Or, it is the value of the heritage that vouches for debts.

The patrimony of the heir will not be affected by the payment of debts of inheritance. In order to be able to confirm the goods of inheritance in the presence of creditors of the same, there exists a possibility of accepting the benefit of inventory, through which a relation of inherited goods will take place. Once the inheritance is accepted, will have to be proceeded its administration process, that “the head” of the couple will be responsible for.

If the case of the heir does not want to accept the inheritance, that proceeds to repudiation of inheritance. This is also irrevocable and, to the contrary of acceptance, will have to be accomplished in writing and will adopt the form that the juristic act should take on, in accordance with the assets of goods, which makes up the heritage to repudiate. If, for instance, inheritance was composed by real property, it will be required to hold a public deed. And just as the acceptance, repudiation cannot be partial.

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