



TYPES OF SUCCESSION PLANNING

SUCCESSION PLANNING SERIES #02

Process and types of succession

The two types of succession, based on the existence of a Will or not, are as follows:

Testamentary succession:

It refers to passing of the properties to the intended beneficiaries named in the Will left by the deceased. The Will has to be valid and enforceable.

A

Intestate succession:

It refers to passing of properties in cases where there is no Will prepared by the deceased. The wealth distribution is undertaken in accordance with the legislations prevailing in the country.

B

In India, the process of succession depends on various factors such as:

- Whether a proper Will is left by the deceased,
- The religion to which the deceased belongs to,
- Nature and location of the asset / wealth owned
- Type of legal heirs and the number of legal heirs



What is a Will?

A

Will is a legal declaration of a person's wishes regarding the disposal of his or her property or estate after death.

B

A person who makes a Will is known as testator and the person who has been given the right of executing such Will is known as executor.

C

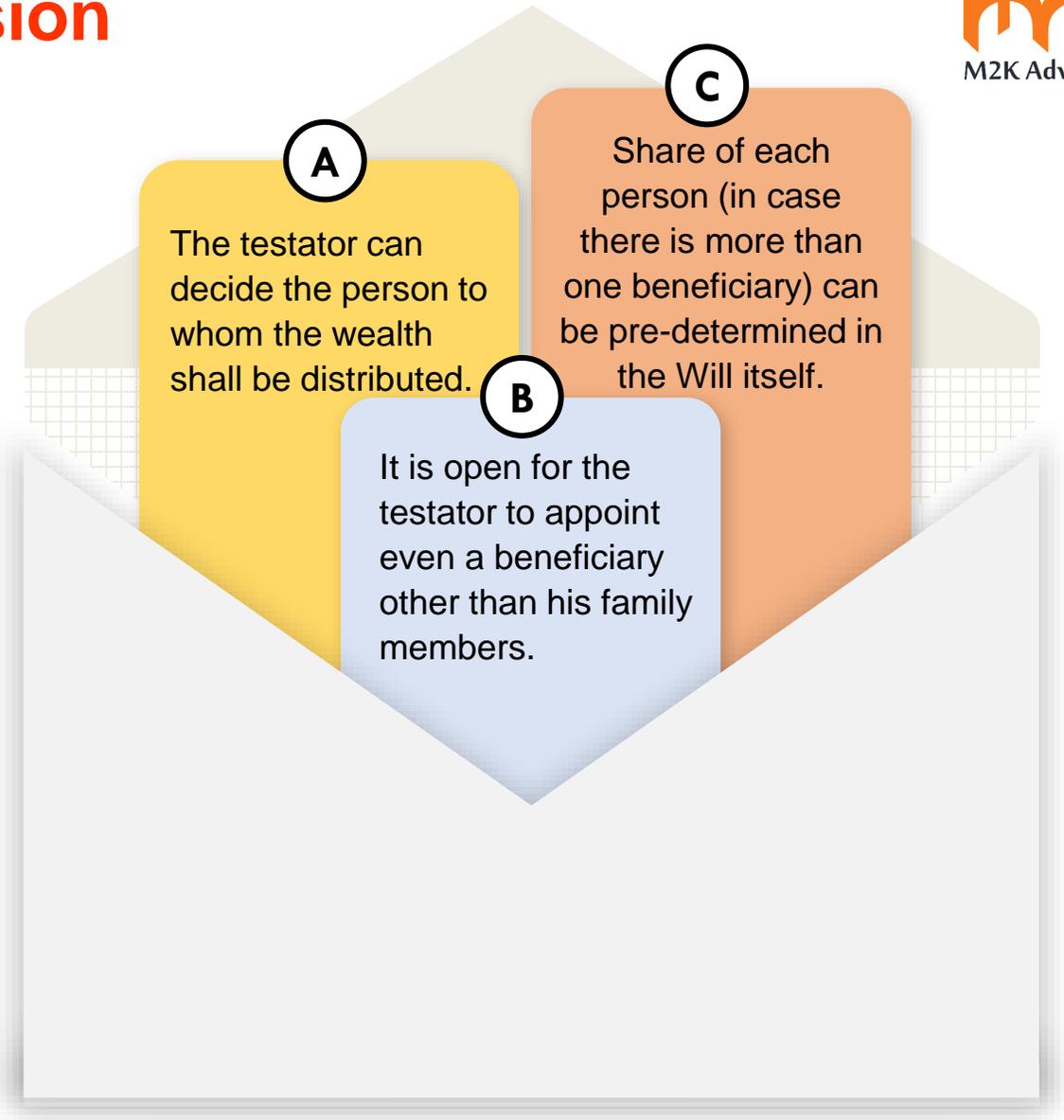
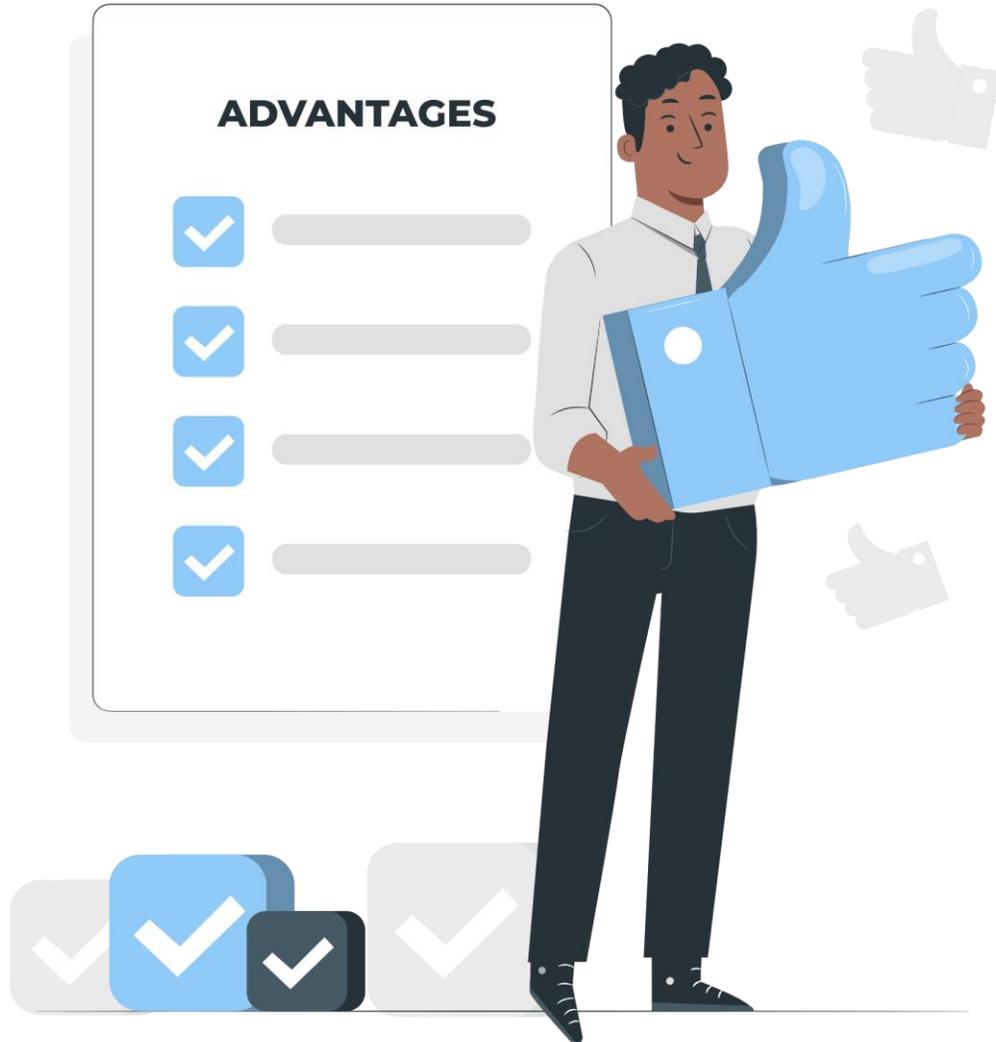
The certified copy of the Will bearing the seal of the court, which is handed over to the executor, is known as Probate.

D

If the Will is found to be valid and enforceable, the estate of the deceased would be distributed in accordance with the Will.



Benefits of testamentary succession



Different laws of succession in India

Succession, be it testamentary or intestate, would be governed by the legislation applicable to the religion of the deceased. The applicability of different legislations based on the religion of the deceased is as follows:



Religion	Testamentary (with Will)	Intestate (without Will)
Hindus, Jain, Sikh, Buddhist	Indian Succession Act, 1925	Hindu Succession Act, 1956
Christian, Parsis, Jews	Indian Succession Act, 1925	
Muslims	Muslim laws*	

** In cases where the subject matter of property is an immovable property situated in the state of West Bengal, Chennai and Bombay, the Muslims shall be bound by the Indian Succession Act, 1925. This exception is only for the purposes of testamentary succession.*

Did You Know?



Q 1. Does the religion of the beneficiary matter in the process of succession?

Ans. No. Only the religion of the deceased matters.

Q 2. Can a minor make a Will?

Ans. A minor cannot make a Will.

Q 3. Which succession laws would apply in case the deceased had converted from one religion to another?

Ans. The provisions as applicable to religion to which the deceased had converted has to be referred. For instance, a Muslim has converted into Hindu and then died intestate, then the provisions of Hindu Succession Act, 1956 shall apply.

Q 4. If a deceased person (who had created a Will) owned 10 properties and details of only 5 properties are mentioned in the Will, then how will the succession take place?

Ans. The 5 properties, as mentioned in the Will, shall be distributed in the manner specified in the Will and distribution of the balance 5 properties shall be governed by the succession laws applicable to the religion of the deceased.

Got more
questions?

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Succession Planning Series*

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