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Dying Without a Will in Tennessee

BY [JULIE GARBER](#) Updated February 21, 2019

When a Tennessee resident dies without having made a [Last Will and Testament](#), the [intestacy succession laws](#) found in the [Tennessee Code, Title 31, Descent and Distribution, Chapter 2](#) will dictate who inherits the deceased person's [probate estate](#). Below is a summary of the Tennessee intestacy succession laws in various situations.

Deceased Person Is Survived by a Spouse And/Or Descendants

Here is what will happen under the Tennessee intestacy laws if the deceased person is survived by a spouse and/or descendants (children, grandchildren, great-grandchildren, etc.):

- **Survived by a Spouse and Descendants:** In this case, the surviving spouse will inherit either one-third (1/3) of the deceased spouse's probate estate or a child's share of the entire probate estate, whichever is greater, and the children will inherit the balance, [per stirpes](#). For example, if the probate estate is valued at \$600,000 and the deceased person was survived by a spouse and one child, then the surviving spouse will inherit \$300,000 and the child will inherit \$300,000; or if the deceased person was survived by a spouse and two children, then the surviving spouse will inherit \$200,000 and the children will each inherit \$200,000; or if the deceased person is survived by a spouse and three children, then the surviving spouse will inherit \$200,000 and the children will each inherit \$133,333.33.
- **Survived by a Spouse and No Descendants:** In this case, the surviving spouse will inherit the deceased spouse's entire probate estate.
- **Survived by Descendants and No Spouse:** In this case, the deceased person's descendants will inherit the entire probate estate, per stirpes.

Deceased Person is Not Survived by a Spouse or Descendants

Here is what will happen under the Tennessee intestacy laws if the deceased person is not survived by a spouse or any descendants (children, grandchildren, great-grandchildren, etc.):

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- **Survived by One or Both Parents:** In this case, the parents will equally inherit the deceased person's probate estate if both are living, or if one of the parents is deceased then the surviving parent will inherit the entire probate estate.
- **Survived by Brothers And/Or Sisters or Descendants of Brothers And/Or Sister and No Parents:** In this case, the deceased person's brothers and/or sisters and the descendants of deceased brothers and/or sisters (nieces and nephews) will inherit the entire of the probate estate, per stirpes.
- **Not Survived by Parents, Brothers, Sisters, or Descendants of Brothers or Sisters:** In this case the probate estate will be divided so that one-half (1/2) will go to the deceased person's paternal family and the other half (1/2) will go to the deceased person's maternal family; provided that if there are no survivors on the paternal side of the family or no survivors on the maternal side of the family, then the entire probate estate will go to the other side of the deceased person's family.
- **Not Survived by Any Family Members:** In the unlikely circumstance that the deceased person is not survived by any family members as described above, then the entire probate estate will escheat to the State of Tennessee.

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What You Will Inherit From a Tennessee Intestate Estate

What will you inherit if your relative dies without leaving a Last Will and Testament and the relative was a resident of Tennessee or owned real estate located in Tennessee? Even if you determine based on the information above that you are entitled to an intestate share of your relative's estate, you may not inherit anything.

Why? Because your relative may have left all [non-probate property](#) or the debts your relative owed at the time of death may exceed the value of the probate estate which will make the [estate insolvent](#). If you are not sure of your legal rights as an [intestate heir](#) in Tennessee, then consult with a Tennessee [probate attorney](#) to be sure.

Taxes on Your Tennessee Inheritance

Tennessee is one of a handful of U.S. states that still collect an [estate tax](#), however, the tax is scheduled to disappear in 2016. Aside from



NOTE: State laws change frequently and the following information may not reflect recent changes in the laws. For current tax or legal advice, please consult with an accountant or an attorney since the information contained in this article is not tax or legal advice and is not a substitute for tax or legal advice.

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