Louisiana Successions

Questions to ask

What type of property is it?
Is there a will?
Are there any forced heirs?
Are there any debts left behind?
What type of debts?

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1. Funeral expenses;
2. Legal expenses, and
3. Any expenses caused by the deceased person’s last illness

Community or Separate?

Community Property:
All property earned or acquired during the marriage is Community Property. This includes property earned or acquired individually by either spouse. As long as it was acquired or earned during the marriage it is presumed community unless proven otherwise.

Separate Property:
Separate property includes property that is inherited or “heir property”, property you had before you married or property bought with money that is designated as separate from the community.

WHAT TYPE OF PROPERTY?

IS THERE A WILL?

With a will, who inherits?
Louisiana still has Forced Heirship. All children under the age of 23, and any of your children with physical or mental impairments so severe that they cannot support themselves are considered your “forced heirs.” If you have forced heirs, you are required by law to leave a portion of your estate to your forced heirs.

If you have no forced heirs, you may give away your belongings any way you choose by writing a WILL (Testament). Your will controls who gets your belongings.

By giving a right of use in a will, Louisiana allows, the ownership of property to be given to one person while the use or enjoyment of that property can be given to another. You may give your belongings to several persons in divided or undivided shares as well.

If you choose not to write a will, who inherits?

Descendants (children or grandchildren) and your surviving spouse will inherit. The surviving spouse will have a legal Usufruct, which is the use and enjoyment of the property inherited by the descendants.

This use terminates when your spouse dies or remarries.

ARE THERE ANY DEBTS?

Privileged Debts

The law requires that certain of your debts be paid. If they are not paid, your creditors have a privilege or lien on the movables of the estate. These are called Privileged Debts. The privileged debts on all movables in general are paid in the following order:

Bank Accounts and Employers

With respect to bank accounts and employers, the following laws may apply.

Any bank, credit union or other depository may pay to the surviving spouse of a depositor up to $10,000 out of the deposits of the deceased without any court proceedings. The surviving spouse must give the bank a sworn statement that the total funds withdrawn do not exceed the $10,000 limit.

Any employer may pay to the surviving spouse of a deceased employee up to $6,000 in wages, sick leave, annual leave, or other benefits due the deceased employee, as long as neither spouse has filed suit for divorce. If the deceased employee leaves no surviving spouse, or if either spouse has filed suit for divorce, the employer may make this payment to any adult child of the deceased employee. These payments can be made without any court proceedings.

It is important that you consult with your bank or an attorney before making such a withdrawal.