

# Series on Estate Inheritance - Part One



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## **What procedures need to be carried out in Hong Kong for the transfer of movable properties left by a deceased Mainland Chinese resident to his or her heirs?**

It is quite common for Mainland Chinese residents to own assets in Hong Kong, such as movable properties like money in bank accounts, securities in securities accounts, shares in Hong Kong companies, financial products, or immovable property such as real property. When a holder of these assets (referred to as the "deceased") passes away, his or her heirs need to deal with the inheritance of estate in Hong Kong. The requirements in relation to the inheritance of movable and immovable properties of an estate are different in these circumstances. This article will provide a brief overview of the inheritance of movable properties in Hong Kong only. The inheritance of immovable properties will be discussed in another article separately. Therefore, the estate referred to in the following only cover movable properties in Hong Kong.

Any person who wishes to transfer of a deceased person's estate in Hong Kong to the relevant heirs must first obtain a grant of representation from the High Court of Hong Kong. The document granting representation may take different forms, such as a grant of probate or letters of administration.

Regarding the application for grant of representation, the first step is to determine who has the right to make the application for the grant to the Hong Kong court. There are different approaches to this issue, including:

1. According to Hong Kong common law, the inheritance and distribution of movable properties of an estate are governed by the law of the deceased person's domicile. "Domicile" is a concept in common law that is different from residence or "Hu Ji", the household registration. Domicile can be understood as the permanent place of residence or the place where a person intends to live permanently. For the purpose of this article, we assume that Mainland Chinese residents have their domicile in Mainland China, and the application for grant of representation is based on such assumption.

Based on the foregoing, in so far as movable properties are concerned, for deceased persons domiciled in Mainland China, which person is entitled to apply to the Hong Kong court for grant of representation will depend on Chinese law requirements. This will need to be confirmed by way of a legal opinion from a Chinese lawyer.

2. If the deceased person has left a will in Chinese or English, and an executor has been appointed by the will, the executor may make the application for grant of representation.

Once the eligible applicant has been identified to make the application for grant to the Hong Kong court, he or she may proceed with the application for grant of representation. The application documents will include various supporting documents, such as death certificate, will (if applicable), marriage certificate (if applicable), proof of relationship and inventory of the deceased's estate.

After obtaining the grant of representation from the Hong Kong court, the applicant may arrange for the transfer the ownership of the relevant assets to the relevant heirs by presenting the grant of representation document to the relevant entity where the estate is kept or held.

As the above matters involve Hong Kong law and Chinese law issues, we would recommend prospective applicants for grant of representation to seek advice from Hong Kong lawyers.

Disclaimer: This publication is general in nature and is not intended to constitute legal advice. You should seek professional advice before taking any action in relation to the matters dealt with in this publication.

Please reach out to us if you have any questions.



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