



Family Law

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Surekha Bhargavan
LAWYER

Q

I was married for 10 years, and we have one daughter. My husband died without a will. What is my share of the family property?

A

When a married spouse dies without a will, the surviving spouse has two options: to equalize their property under the Family Law Act, or to inherit under the laws of intestacy. You will want to figure out what option is best for you with a family lawyer and make your choice within six months of his death.

Equalization calculates assets in his name less his debts and compares it to the assets in your name less your debts, and figures out who owes who some money, assuming each party keeps the assets in their name. There is an added wrinkle that if assets existed at the date of marriage, they would be subtracted from assets at the date of separation. If at his death, his joint family property was worth \$600,000 and your joint family property was worth \$500,000, the difference would be divided by half. You would keep all your assets and an additional \$50,000, so you would have \$550,000 in total.

If you choose to inherit under the laws of intestacy, you will receive the first \$350,000 of the estate then the balance would be divided under a formula, depending on the number of surviving children. In your case with one child, \$600,000 - \$350,000 paid to you leaves \$250,000, which is divided in half between you and your daughter. In this case you would receive $\$350,000 + \$125,000$, or \$475,000.

Do not assume that one option is better than the other because the facts- the equalization, the number of surviving children, determine the outcome.

Your friends at Shank Law.



Phone: 705-435-5055

Email: lynn@shanklawoffice.com

Web: shanklawoffice.com