

About Notaries

Anyone may need to consult a notary one day. These legal experts intervene on all sorts of occasions, from the most mundane to the most significant.

What do Notaries do ?

The Notary has extensive expertise, particularly in matters of family law (marital agreements, wills and succession), property law, administrative law, taxation and private international law. Notaries are authorised by the state to draw up notarial deeds (also called authentic deeds), which offer the very highest level of legal certainty under Swiss law. They can also authenticate or notarize signatures, copies etc.

Specific qualities

Advice : the Notary's extensive knowledge makes him or her an excellent adviser.

Trust : the law protects the legal professional privilege of Notaries and their employees.

Impartiality : the Notary ensures the fairness of contracts and never takes the side of one party against another.

How much does it cost ?

Notaries earn fees for their activities as public officers which are set by the state. For other advice and services, the notary may charge additional fees.

Ask the notary
It's safer

www.notaires-geneve.ch

Permanence de la Chambre des notaires
13, rue Verdaine
CH-1204 Geneva
Telephone : 022 781 08 28
Consultations every Thursday from 10 am to 6.30 pm,
no appointment required.

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CH-1204 Geneva
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This leaflet is available in french

Geneva Notaries

A guide for foreign residents in Geneva

Marital property regimes/marital agreements

Spouses who take up residence in Switzerland and who have not entered into a marital agreement or agreed in writing to maintain the contract they concluded abroad, are subject to the statutory Swiss marital agreement, regime of participation in acquired property (participation in acquisitions). This regime will apply throughout their marriage, unless excluded by the spouses in a written agreement.

The regime distinguishes two types of property :

- Individual property, which is the property that each spouse owns before the marriage or which s/he receives by way of inheritance or gift during the marriage,
- Acquired property, which covers all other property owned by either or both of the spouses.

When the marriage ends, through divorce (subject to the terms of the judgment) or death, the individual property (with any increased value) reverts back to the respective spouses, while the total value of the acquired property, with any increased value, is divided in two between them.

Marital agreements

Spouses are free to enter into a marital agreement in Switzerland. This then allows them to choose a marital property regime under the Swiss law, but also a marital regime governed by the law of the State of which either one is a citizen.

Because of the many different possibilities and the importance of the effects of these various marital property regimes, spouses taking up residence in Switzerland are strongly advised to consult a Notary in order to choose the solution best adapted to their needs.

Succession

In general, the law governing successions is that of the last domicile (principal residence) of the deceased. This rule also applies to foreign residents in Switzerland. Thus, the succession of a foreigner resident in Switzerland on the day of his death is governed by Swiss law (subject to any international conventions to the contrary).

Wills

If a person dies intestate, the Swiss Civil Code determines who is to inherit and to what degree. The surviving spouse and descendants, in particular, are protected since the law grants them a minimum share of the estate which, in general, is inviolable. However, in the case of foreign nationals, if the Swiss rules are not suitable, for example because of a particular family or property situation, they may, by means of a will, submit their succession to the law of a State of which they are a citizen, if that law can more suitably fulfil the testator's wishes. Nevertheless, this choice of foreign law ceases to apply if the testator acquires Swiss citizenship. Moreover, the chosen law cannot be applied to real property outside Switzerland.

Taxes

The estate of a deceased, with the exception of foreign realty, is generally taxable by the revenue authorities where he was last domiciled, even if he submitted his succession to the law of his country of origin. In Geneva, inheritance tax varies according to the relationship between the deceased and the heirs or legatees (up to 54.6% between unrelated persons). Succession between direct descendants and ascendants, and between spouses or civil partners, is exempt from inheritance tax (except if the deceased was taxed under the lumpsum taxation system - *forfait fiscal*).

When to contact a Notary

Whether it is for estate planning, particularly the drawing up of a will, or to obtain help or advice on settling the estate of a person who was domiciled in Switzerland on the date of his death, the Notary can provide invaluable assistance.

Buying property

Swiss law imposes restrictions on the acquisition of real estate by persons abroad. However, these restrictions do not apply to people with "C" permits (permanent residence permits) and citizens of the European Union residing in Switzerland; they can purchase property freely. Non-European citizens who hold a "B" permit (annual residence permit) or a legitimization card may, in general, purchase a home if it is intended for use as their main residence.

In all other cases, acquisition of residential property in Switzerland is subject to authorisation. However, all foreigners, whatever their nationality or place of residence, are free to acquire property that is to be used solely for economic activities (businesses, offices, warehouses, workshops, etc).

There are other aspects too that need to be carefully considered. One of the most important is how to finance the purchase (percentage of down payment vs. mortgage loan ; use of pension plans [2nd and 3rd pillars] to purchase a home ; tax reductions, etc). Another is to decide on the type of contract to be signed, which will take account of the specific needs of the purchaser and seller (depending on whether the sale is immediate or future, direct or indirect). Finally, depending on the buyer's family situation, it is also important to think about the type of ownership (individual ownership, co-ownership between spouses, simple partnership, usufruct, etc).

The Notary offers specialist expertise and can advise you on all of these key matters, as well as on secondary issues such as creating easements, dividing or consolidating parcels of land, setting up and changing mortgage security, etc.