FROM THE IUSTORIA BLOG

“You Only Inherit Debts up to the Value of the Estate”: True Only with an Inventory Reservation

> *An heir pays the deceased's debts only up to the value of the estate if they reserve an inventory in time. Otherwise they pay out of their own pocket. When to disclaim, and what not to touch.*

IUSTORIA TEAM

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The letter from the notary usually arrives out of the blue. Your father, whom you have not spoken to for twenty years, has died, and under the law you are his heir. With the letter comes a question we hear at the firm very often: “But you only inherit debts up to the value of the estate, don't you?”

Not quite. That rule applied to every heir automatically for as long as the old Civil Code was in force. Today it applies only to those who ask for it within a short time limit, that is, who reserve an inventory of the estate. Without that reservation, an heir pays the deceased's debts in full, even out of their own salary and savings.

We explain what your options are, how much time you have to decide, what not to do in the meantime and how to proceed when the deceased is a parent whose life and debts you know nothing about.

Where the misconception comes from and what applies today

The old Civil Code provided that an heir was liable for the deceased's debts up to the value of the inheritance acquired (Section 470 of Act No. 40/1964 Coll.). For people who died on or before 31 December 2013 that is still the case, because inheritance is governed by the law in force on the day the deceased died (Section 3069 of the Czech Civil Code).

Today's Civil Code starts from the opposite rule. The deceased's debts pass to the heirs (Section 1701(1)), and an heir who has not made an inventory reservation (*výhrada soupisu*) pays them in full (Section 1704). If several heirs have not made the reservation, they pay the debts jointly and severally, so a creditor can claim the whole debt from any one of them.

Only the inventory reservation limits that liability. With it, the heir pays the debts only up to the value of the inheritance acquired (Section 1706). If there are several such heirs, a creditor can claim from each of them no more than the amount corresponding to that heir's share of the inheritance (Section 1707).

An example: a father left a car worth CZK 40,000, CZK 15,000 in his account and unpaid loans of CZK 600,000. A son who did not reserve an inventory owes the creditors the full CZK 600,000 and pays whatever exceeds the value of the inheritance out of his own pocket. A son with an inventory reservation pays at most CZK 55,000, the value of what he inherited, provided he pays the creditors proportionately (more on that below). A son who disclaimed the inheritance gets nothing and owes nothing.

Until the court confirms who inherits, creditors can enforce debts only against whoever is administering the estate, and only out of the deceased's assets (Section 1703). So do not pay reminders that arrive during this period out of your own money, do not sign an acknowledgment of debt or a repayment schedule in response to them, and forward them to the notary. Our guide for creditors whose debtor has died (in Czech) describes how the whole matter looks from the creditor's side.

Three options and one month

The court opens probate proceedings of its own motion as soon as it learns of the death (Section 138(2) of the Czech Act on Special Court Proceedings), and the steps in them are taken by a notary acting as court commissioner (*soudní komisař*). The notary issues an order notifying you of your right to inherit and informing you that you can disclaim the inheritance (Section 164). The time limit for disclaiming runs from service of this order, or from its announcement if you are present at the notary's office (Section 165(1)). The notary informs you about the inventory reservation separately, often in the same order or at the hearing (Section 175). There are three options:

- **Do not disclaim the inheritance and do not reserve an inventory.** You inherit the assets and all the debts, without limit. This only makes sense if you know for certain that the assets exceed the debts.
- **Do not disclaim the inheritance, but reserve an inventory.** You inherit, but you are liable for the debts only up to the value of the inheritance acquired. The inventory reservation can be made orally before the court or in writing (Section 1674(2)), within one month of the day the court notified you of this right (Section 1675). It cannot be made afterwards (Section 1676(2)).
- **Disclaim the inheritance.** Disclaiming an inheritance (*odmítnutí dědictví*) requires an express declaration to the court, either in writing to the notary or orally for the record. The time limit is one month from notification, or three months if your only residence is abroad (Section 1487(1)). Anyone who disclaims an inheritance is treated as if they had never acquired it (Section 1486).

For important reasons, the court will extend either time limit. But ask for the extension before the time limit ends. In its order of 29 November 2018, file no. 24 Cdo 2832/2018, the Supreme Court held that the time limit for disclaiming an inheritance is a substantive one and that missing it cannot be excused. Missing it has much the same effect as if the heir had declared that they were not disclaiming the inheritance. The time limit runs separately for each heir.

A disclaimer is final. According to the same order, it cannot be withdrawn even if further assets come to light later, and its validity does not depend on whether the heir had an accurate picture of the deceased's assets and debts. A disclaimer of only part of the inheritance, or one made subject to a condition or with a reservation, is invalid (Section 1489(1)).

Beware of silence, too. The notary summons the deceased's spouse, descendants (children, grandchildren) and ascendants (parents, grandparents) and asks them to state expressly whether they are making the inventory reservation. If an heir makes no statement for the record, or fails to appear without a proper excuse, they are deemed not to have made it (Section 176(2) of the Act on Special Court Proceedings). So come to the hearing with your mind already made up. Other heirs, such as siblings, are deemed not to have made the reservation if they say nothing within the time limit (Section 1676(1) of the Civil Code).

Until you have decided, do not treat the deceased's assets as your own. Withdrawing money from their account, selling their car or clearing out their flat may mean you have already accepted the inheritance, and the court will disregard a later disclaimer (Section 1489(2) of the Civil Code). You lose the benefit of the inventory reservation,

in turn, if you take over full administration of the estate without authority, deliberately conceal something, or mix estate assets with your own so that they can no longer be told apart (Section 1681(1)).

What not to touch until you decide

In the order mentioned above, the Supreme Court summarised what is usually treated as accepting an inheritance: withdrawing money from the deceased's account and closing their accounts, selling or transferring their property, getting rid of their belongings, using them as one's own and collecting debts owed to them. By contrast, arranging the funeral, looking after the property to the extent needed to prevent damage, or filing a tax return for the deceased were not treated as accepting the inheritance. Nor did the court regard mere cooperation with the notary in tracing the assets as acceptance.

In the case before it, however, the court concluded that the inheritance had been accepted by a son who had proposed to the other heir how they would settle up financially, had raised the question of how a gift should be counted, and had asked the other heir to give up the inheritance in his favour. The court also took his question whether he had any reason to reserve an inventory as showing an intention to acquire the inheritance. His later disclaimer was therefore of no help to him. Nor was his explanation that he had written the letters for reasons other than an interest in the inheritance: the court did not take his motives into account. So ask the notary about assets and debts, not about how to divide the inheritance to best advantage.

For the first few weeks, then:

- You can arrange the funeral. Funeral costs are paid out of the estate (Section 114(2) of the Civil Code), so keep the receipts and claim them with the notary. But do not take money out of the deceased's account to pay for the funeral.
- Lock the flat, turn off the water, secure the car. Do not sell, give away or clear out anything.
- The heirs may share out family photographs, letters and keepsakes; that does not put the inventory reservation at risk (Section 1681(2)).

What else to deal with in the first weeks after a death (bank accounts, powers of attorney, the lease of the flat, the car) is covered in our article A Loved One Has Died: What to Do in the First Weeks and What to Leave Alone.

An over-indebted estate: disclaim, or reserve an inventory?

If you know that the debts exceed the assets, disclaiming the inheritance seems the obvious choice. But it has a consequence that people forget. If a child of the deceased does not inherit, that child's share passes in equal parts to his or her own children (Section 1635(2)). So if a son disclaims the inheritance, the notary writes to his children, the deceased's grandchildren, and the decision has to be made all over again. A parent can disclaim an inheritance on behalf of a minor child only with the court's consent (Section 898(2)(c)). Apply for consent straight away, let the notary know, and if the court cannot decide in time, ask for the time limit for disclaiming to be ex-

tended (Section 1487(1)). If none of the descendants inherits, the spouse and other relatives inherit, and only at the very end the state, which stands in the same position towards creditors as an heir with an inventory reservation (Section 1634).

The second route is not to disclaim the inheritance and to reserve an inventory instead. The heir is then liable for the debts only up to the value of the inheritance acquired, and no chain of further disclaimers is set off. If the estate is over-indebted, an heir with an inventory reservation can apply for it to be liquidated (*likvidace pozůstalosti*); so can the state, or a creditor who has proved its claim (Section 195 of the Act on Special Court Proceedings). Once the order for liquidation becomes final, the heirs' inheritance rights cease; they remain entitled to any surplus left after the liquidation (Section 200(a)). The assets are sold and the proceeds go to the creditors.

With an inventory reservation, do not pay the first creditor who gets in touch. Until the court confirms the inheritance, you can ask it to call on creditors to lodge their claims (Section 1711 of the Civil Code). The time limit for lodging claims is at least three months from the posting of the order on the court's official notice board (Section 174(1) of the Act on Special Court Proceedings), and until that procedure is over you do not have to pay any creditor. If you do not ask for creditors to be called on, or you pay one creditor without regard to the others, you may owe the remaining creditors more than the value of the inheritance, up to the amount they would have received if the estate had been liquidated (Section 1713).

With an over-indebted estate, the heir does not pay the notary's fee out of their own pocket: in a liquidation it comes out of the estate, and otherwise the state pays it (Section 108(1) and Section 109(1)). The inventory reservation does come at a price, though. The cost of the inventory is paid out of the estate, and if the estate is not enough, the court can order the heirs who benefit from the inventory to contribute (Section 1686(1) of the Civil Code).

Which route should you choose? If it is clear that there is next to nothing in the estate, and your children are adults and prepared to disclaim the inheritance as well, disclaiming is usually the quickest option. If you do not know what the estate contains, or you have minor children, we recommend the inventory reservation. The concept of "leaving an over-indebted estate to the creditors" (*přenechání předlužené pozůstalosti věřitelům*), which you will come across in older guides, does not exist in today's Act on Special Court Proceedings. An over-indebted estate is dealt with by liquidation. And if the deceased left no assets at all, the court discontinues the proceedings; if they left only assets of negligible value, it hands them over to whoever arranged the funeral, if that person agrees (Sections 153 and 154 of the Act on Special Court Proceedings). In that case, nobody has to disclaim anything.

A parent you have not seen for years

Your relationship with the deceased makes no difference to the right to inherit. The deceased's children and spouse inherit in the first class of heirs, each in an equal share (Section 1635(1)), whether or not they had spoken to each other for years. We recommend the following steps:

1. Write down the day the notary served the order on you. The one month for disclaiming runs from that day.
2. Ask the notary what they have found. In the preliminary investigation, the notary establishes the state of the deceased's assets and liabilities (Section 139 of the Act on Special Court Proceedings).
3. Check the public insolvency register (Section 419(3) of the Czech Insolvency Act) and the Central Register of Enforcement Proceedings (*centrální evidence exekucí*), which charges a fee for an extract. That register covers only enforcement by court bailiffs (*soudní exekutor*; Section 125(1) and (4) of the Czech Enforcement Code); tax enforcement by the tax office (Section 175(1) of the Czech Tax Procedure Code) will not appear there.
4. Decide within the time limit: either disclaim the inheritance or reserve an inventory (if you are the deceased's child or spouse, at the latest at the hearing before the notary, for the record). Doing nothing means you inherit, debts and all.
5. If you have reserved an inventory and do not know whom the deceased owed money to, ask for creditors to be called on to lodge their claims (Section 1711 of the Civil Code) and pay nothing until that procedure is over.

If the parent is still alive and you know about their debts, you can waive your right to inherit in advance by an agreement with them. The agreement must take the form of a public instrument, typically a notarial deed, and unless agreed otherwise, the waiver also applies to your descendants (Section 1484).

Write down the day the notary served the notification on you: the one month for disclaiming the inheritance runs from it, and a missed time limit cannot be excused. State the inventory reservation for the record at the hearing before the notary at the latest.
Until you decide, do not touch the deceased's assets: do not withdraw money from their account, sell anything or clear anything out. You can arrange the funeral.
If you do not know what the estate contains, reserve an inventory. Ask for creditors to be called on to lodge their claims and do not pay anyone ahead of the others; you are then liable for debts at most up to the value of what you inherit, and the inheritance does not pass to your children.

At a glance

Question	Answer	Provision
Does an heir pay debts out of their own assets too?	Yes, if they have not reserved an inventory; several such heirs pay jointly and severally	Section 1704 of the Civil Code
How can liability be limited?	By an inventory reservation within one month of notification; the heir then pays only up to the value of the inheritance acquired	Sections 1675 and 1706 of the Civil Code
By when can an inheritance be disclaimed?	Within one month of notification, or three months if the heir's only residence is abroad; missing the time limit cannot be excused	Section 1487 of the Civil Code; 24 Cdo 2832/2018
What defeats a disclaimer or the reservation?	Treating the deceased's assets as one's own; for the reservation, also concealing assets or mixing them with one's own	Section 1489(2) and Section 1681 of the Civil Code
Who inherits if a child of the deceased disclaims?	That child's children; for minors, the court's consent is needed to disclaim	Section 1635(2) and Section 898(2)(c) of the Civil Code
What happens to an over-indebted estate?	The court can order its liquidation; inheritance rights cease and the assets are sold for the creditors	Sections 195 and 200 of the Act on Special Court Proceedings

Have you received a letter from a notary and don't know whether to disclaim the inheritance? We will go through what the notary has found out about the assets and debts with you and, before the time limit runs out, recommend whether to disclaim the inheritance or reserve an inventory. We handle inheritance matters as part of our civil law practice. Get in touch.

Conclusion

The rule that you only inherit debts up to the value of the estate no longer applies automatically. It applies to an heir who reserves an inventory in time and treats the creditors proportionately. The other safe route is to disclaim, knowing that the decision then passes to your children. Whichever you choose, decide within the time limit, and until then do not treat the deceased's assets as your own.

Sources

- Act No. 89/2012 Coll., the Civil Code, Sections 114, 898, 1484 to 1489, 1634 to 1635, 1674 to 1676, 1681, 1686, 1701 to 1713 and 3069 (as in force from 1 January 2026).

- Act No. 292/2013 Coll., on Special Court Proceedings, Sections 108, 109, 138, 139, 153, 154, 164, 165, 174 to 176, 195 and 200 (as in force from 1 November 2026).
- Act No. 40/1964 Coll., the Civil Code, Section 470 (as in force until 31 December 2013).
- Act No. 182/2006 Coll., the Insolvency Act, Section 419.
- Act No. 120/2001 Coll., the Enforcement Code, Section 125.
- Act No. 280/2009 Coll., the Tax Procedure Code, Section 175.
- Supreme Court order of 29 November 2018, file no. 24 Cdo 2832/2018.

This article is for information only and does not constitute legal advice. It reflects the law as at the date of publication; if the deceased died before 1 January 2014, the heirs' liability for their debts is governed by the previous Civil Code.

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