**About last wills and testaments**

**It is useful for everyone to make a will, also known as testament.**

If you die without a will, your properties will be distributed according to the laws of your country. If you are married, this usually means that a part of your properties will go to your spouse, and the rest to your children. If you are not married, your properties will go to the nearest legal relatives. If you have no relatives, your properties will go to the state.

If you die without a will, nothing will be distributed to friends or charities for causes you are close to. If you have a partner to whom you are not legally married, your partner may not have any rights to your property. Moreover, the lack of a will may cause long and expensive delays in settling your properties.

For all these reasons it is useful to make a will.

Until you die, the will is only an expression of your intention. Therefore, it can be changed as many times as you wish. You can, during your lifetime, dispose off any property mentioned in your will. The will only applies to those assets, right and interest which are owned at the time of death plus any future or contingent interests.

**Where to make a will.**

A will or testament should best be made in your home country. In many countries, wills have to be made by a notary public or an attorney to be legally valid. In those countries, a will made and signed by yourself, without a notary or attorney, has no legal value.

The notary or attorney will write your will in a proper and precise language and ensure that the correct procedures are being followed. They will also inform you if what you want is legally possible. For example, in some countries children and the spouse have a legal right to part of the inheritance and cannot be disinherited for that part. Other countries do not have such a provision.

The notary or attorney will also inform you what inheritance taxes, if any, (see below) the beneficiaries will have to pay.

If you are a foreign national and cannot make a will in your home country, you can make a testament in India. This can be done with a notary public or, alternatively, at the Sub-Registrar’s office in Vanur.

For a testament made in India to be accepted in the foreigner’s home country, it will be necessary that the testament is (1) authenticated and then (2) formally attested. This formal attestation is called ‘to apostille the document’.

The process is as follows:

# **Making the testament**

# Draft your testament with the help of a qualified person and copy it on your memory stick.

# Go to the Sub-Registrar’s office in Vanur or, alternatively, to a notary public in Pondicherry.

## In case you go to Vanur: Nearby the Sub-Registrar’s office a document writer will print the testament on stamped paper and then you go to the Sub-Registrar to officially sign it in his presence and he will register it. Make copies of the document.

## In case you go to a notary public in Pondicherry: The Notary will print the document on stamped paper, after which you sign it in his presence and he registers it. Make copies of the document.

# **Authenticating the testament**

# In case you have registered your testament in Vanur: Go with the testament + copies to the Under Secretary, Government Public (Foreigners) Department, Government of Tamil Nadu, (Secretariat, Fort St. Georges) who will certify on the documents that it has been issued by the Sub-Registrar’s office in Vanur. For this, the Home Department will send intimation to Vanur, to which Vanur has to respond. This process may take long (in once case, up to 8 months; with the help of the Auroville Foundation office, Vanur finally responded)

# In case you made your testament with a notary in Pondicherry: Go with the testament + copies to the Home Department, Chief Secretariat, Puducherry which will certify on the documents that it has been issued by the notary.

1) **Apostilling of the document**

## The Ministry of External Affairs Branch Secretariat, Chennai is the next step. Here the authenticated document (by the government of Tamil Nadu or Pondicherry) has to be submitted for apostilling. The Ministry of External Affairs Branch Secretariat is at 68, College Road, EVK Sampath Mallaligai, 7th floor, Nugambakkam, Chennai 600 006, Phone: 044-28252200, 28251323, Fax: 044-28251034, Email: usbs.chennai@mea.gov.in

## In June 2013, the requirements were:

1) Fee payable for each document to be apostilled is Rs 50, to be made available by bank draft or Postal Order in favour of PAO/M.E.A. New Delhi and payable at New Delhi. For more than one document, one DD or order can suffice, e.g. 2 docs can be paid through one DD for Rs 100.

2) Write your name and your cell number on the reverse of the DD

3) Bring original document and one photocopy (back to back) and photo identity proof, e.g. passport copy, of document holder.

4) Time of delivery between 10.30 and 13.00 am. Time of pick up between 4.30 and 5 pm.

5) If the document holder cannot come in person, s/he has to write to the Ministry for permission to send an authorised representative. To send a representative there without permission will not work. Such a letter can be as follows:

**Request for Authorisation**

To:

Ministry of External Affairs Branch Secretariat

68,. College Road, EVK Sampath Mallaligai

7th floor,

Nugambakkam

Chennai 600 006

Sir,

I …………………………………….residing at ………..request you to apostille the document .................................

As I cannot travel to Chennai to submit the document in person for reason of ................................... I request your permission that I authorise Mr/Ms…………… residing at ……….. , whose signature is affixed below, to submit to you on my behalf the document for affixing the apostille and receiving it back from you.

Signature document owner signature representative

6) Once permission is granted, bring copy of permission letter + passport copies of the document holder and passport copies of the representative.

***Check out the website of the Ministry of External Affairs for the latest information. http://meaindia.nic.in/myprint.php?id=8801&d=21&sz=c&m=&y=&pg=&flg=&searchdata1=***

**Inheritance taxes.**

According to the laws of your country, inheritance tax may be due by those who will get your properties. In many countries, the inheritance tax is zero or low for a close relative (spouse, children) while distant relatives, unmarried partners, friends and others have to pay more.

In some countries, charitable organisations and organisations working for the general interest do not pay any tax on any inheritance they receive. Many Auroville International Centres qualify as such. If you are, for example, a citizen of The Netherlands and you want to leave money to Auroville, it is best to do that through Auroville International The Netherlands. In this case, AVI The Netherlands will send your bequest on to Auroville without it having to pay inheritance tax. (If the Dutch citizen would leave a bequest directly to Auroville, Auroville would have to pay the highest rate of inheritance tax.) Please note that an AVI Centre may deduct a small percentage from the bequest to cover its banking and other expenses.

India has no inheritance tax laws. If you are a national of India, your beneficiaries will not pay any inheritance tax. Also Auroville does not pay inheritance tax over bequests it receives from Indian nationals.

**What the will should contain**

***1)*** ***Bequests***

The will or testament should contain what you want to leave (‘bequest’) to which persons or organisations. This could be as follows:

a. A general bequest: a beneficiary receives a specified sum or a fixed percentage of your possessions.

b. A specified bequest: the beneficiary receives a specific item (e.g. a work of art, grandmother’s clock, jewellery, items that have a sentimental or emotional value, etc.).

c. A residuary bequest: the individual gets whatever is left over after all the debts, expenses, taxes and general and specific bequests have been paid

d. A contingent bequest: A beneficiary gets a legacy if a primary beneficiary predeceased you.

e. A deferred bequest: an arrangement whereby the beneficiary does not receive his or her inheritance immediately but must wait till some later date.

***2)*** ***Bequests to Auroville / through Auroville International / to Auroville directly***

If you want to leave a bequest to Auroville, it is best to contact the AVI Centre in your home country and enquire about their inheritance tax-exempt status. If they have one, the AVI Centre can become a beneficiary. If it doesn’t have one, you might find another organisation in your country which has this status and is willing to channel the money to Auroville. Alternatively, you can make a bequest directly to Auroville (in which case Auroville will have to pay inheritance tax)

If you leave a bequest to Auroville through an Auroville International Centre, your will should state that you charge the AVI Centre to send it to Auroville for the purpose indicated by you.

For example:
 “I bequest Rs 100,000 to Auroville International (*country*) with the charge that Auroville International (*country*)

1) uses this amount for the following projects (*specify each project and the amount or percentage of the bequest it should receive*)

2) allocates this amount to projects in Auroville as specified by the BCC / WC / one or more individuals of your choice.

3) uses this amount at its discretion for projects in Auroville in the widest sense of the word.

A direct bequest to Auroville should similarly specify the beneficiaries in Auroville, or indicate who has authority to decide on the allocation(s) of the bequest.

3) ***What should happen with your body***

The testament should also state what you want to happen to your body in case you die in India, or in your home country or elsewhere, e.g. cremation and what you want is done with the ashes; or burial and where and if you want a gravestone or other memorial.

In case you wish for a special ceremony to be performed, this should be stated as well.

Alternatively, you can indicate your wishes in the paper ‘*Serious Events in the Lives of Aurovilians*’, downloadable from Auroville.org.in or available from the Auroville Health Centre.

4) ***Guardian for children***

The testament may include naming a guardian for minor or specially challenged children.

5) ***Executor of the will***

*a.* *Appointment of executor and replacement*

The testament should mention the name of the person who will execute your will. This may be a beneficiary, but it may also be a person who does not receive anything from you. Be sure that the person is aware of the responsibilities and is willing and able to serve. As you may live a long life after your testament has been made, it may be useful to select an alterative executor in case the first one is no longer alive or unwilling to do the work.

*b.* *When does the executor start to function?*

After your death, the executor will go with your testament to a notary public or to a court (depending on the country) to get an official certificate which authorises him or her to execute your will. The executor will need to present this document to your pension funds, banks etc.

*c.* *Task of the executor*

The executor will settle your affairs. This may imply:

 i. informing your relatives, friends and official contacts (banks, social security organisations, pension funds, insurance companies) of your passing;

 ii. arranging and paying for the burial or cremation;

 iii. filing your income tax return for the year you passed away;

 iv. paying outstanding debts, expenses, taxes and charges as may be there (e.g. if you own a house, all the local taxes and charges connected to the house);

 v. selling properties (e.g. your house);

 vi. paying the inheritance taxes as applicable

 vii. transferring the bequests to the beneficiaries.

*d.* *Who should be executor*

This work can best be done by a person familiar to you and who has the required competence. Ideally, this person should be a citizen of or at least be familiar with the situation in your home country, or, if such a person is not available, a person who has some legal background and who has familiarity with inheritances.

*e.* *Salary of the executor*

As the executing of your will may be extensive, you may consider including in the will that the executor is entitled to a salary of sorts; the notary or attorney will be able to inform what is legally permissible in your country.

6) ***Your house in Auroville***

In order to avoid problems with legal heirs, it is useful to mention in your testament that you do not own any immoveable properties in Auroville, so that your legal heirs are aware that they have no claim on the land and house you stewarded in Auroville.

**Who to inform of your will**

Once you have made your will, leave a copy in the safe of the Financial Service, Auroville, so that, at your passing, the people in Auroville know about your wishes. You should also leave a copy with a trusted friend and with the person you have appointed in your testament as the executor of your will.

**Make it easy for those you leave behind**

1. Please fill-in the paper ‘*Serious Events in the Lives of Aurovilians’*, downloadable at Auroville.org.in or available from the Auroville Health Centre, so that people know what you want in case of accident, illness or death.

1. It is useful to make a list of people and organisations (with addresses and other details!) you want the executor to inform of your passing. (Family, friends, organisations that are involved with your income such as banks, pension funds, life insurance companies, government organisations) This list may also include an overview of your debts.

Keep important documents (birth certificates, passport, insurance policies, mortgages, deeds, stock certificates, bank accounts and numbers, fixed deposit certificates etc.) together in a safe place. If you have a safe, write down where the safe is / where the keys to your safe are / what the code of your safe is.

1. Deposit with the Financial Service and / or the executor of your will:
	1. a copy of your testament
	2. the list of names and addresses
	3. the note with information on your safe (and perhaps a spare set of keys).

1. Keep all which is strictly personal and which you do not want others to see, such as your diaries, personal letters and papers, in a box on which you write, for example, “to be burnt at my death”. Better: burn such papers yourself.

1. Put a small card in your purse stating: In case of accident or death, inform ..........

**Bank accounts in India**

The banks in India allow you to nominate someone to access your account upon your death. The banks have a special form (the SBI has form DA-1) which is to be filled-in by you and then co-signed by the bank manager. Upon your death the nominee will present the paper to the bank and get access to your account.

In case you want the money on your account to be given to someone / an Auroville project / Auroville in general, it makes sense to give your nominee your instructions in writing (e.g. ‘give all the money to the Financial Service as a general donation to Auroville’ or ‘give all the money to Savitri Bhavan’) and give a copy to the future beneficiary.

Please note that, in case a person has also left a testament, the provisions of the testament prevail over the instructions to the nominee (if they clash). In such a case, the nominee has to inform the executor of the will that he has emptied the account and hand over the amount to the executor of the will.

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