

Assalamu ‘Alaikum Wa Rahmatul Lah.

- 1) It is correct that you as his wife is entitled to $\frac{1}{4}$ of your husband’s estate if he happens to pass away before you. The question that comes to mind is what happens to the remaining $\frac{3}{4}$ given that all his relatives are non-Muslims and according to Shari’ah they are non-heirs?

An easy way out is for you to inherit the whole estate. However, it is not permissible for an heir to be given more than what God has allotted to him/her. Sheikh Muhammad Saalih al-Munajjid says: “it is not permissible for anyone to change any part of them (i.e. laws of inheritance), or to deprive an heir, or to bring in anyone who is not an heir, or to deprive an heir of any part of his inheritance or to give him more than the share allotted to him by Sharee’ah.”

Further reading: <https://islamqa.info/en/answers/12911/what-is-the-daughters-share-of-inheritance>

By default, any leftover after rightful heirs have been given their shares is either:

- i. Shared among Muslim relatives of the deceased who are non-heirs, or
- ii. Surrendered to the *Baitul Maal* (Muslim treasury)

Since your husband does not have any Muslim relatives, the first option above is ruled out. Therefore, we go by the second one which is donating to *Baitul Maal*. But in the absence of *Baitul Maal* today in most countries, what do we do? We use the money to do what *Baitul Maal* would have done if it were in existence i.e. provide essential services and initiate or support development projects that are of benefit to humanity especially Muslims. This includes but not limited to healthcare and water supply, building roads, bridges and drainages, supply of food to destitute, etc.

Let me explain this. In the modern economy, the government appoints tax officials. Their function is to make sure that the correct amount of tax is paid by individuals and corporate bodies. The tax is remitted to government coffers which are then used for development projects. This is the standard procedure. The government will not accept any claim (even if it’s true) that the tax a company supposed to pay has been used in repairing some road or rehabilitating a hospital. This “shortcut” is unacceptable because most people will underpay their taxes.

In reality, this operating procedure was adapted from Islam. During the lifetime of the Prophet (SAW), he appointed Zakat collectors who meet Zakatable Muslims, calculate the amount to be given out, take possession of same and remit to *Baitul Maal*. This continued during the reign of the four (4) Rightly Guided Caliphs. In fact, Abu Bakr fought those who declined to pay Zakat. Therefore, as far as Zakat is concerned, one is not allowed to hand it over to any of the eight (8) beneficiaries mentioned in Qur’an 9:60 by himself. If this were allowed, many people will underpay their Zakat. Note that *Sadaqa* (charity) do not have this protocol. Muslims have been encouraged to give charity even if with half a date palm fruit. Now, due to absence of Zakat collectors and *Baitul Maal* in most countries today, should we say Zakat is no more binding? No. Because it is a pillar of Islam, each and every Zakatable Muslim is responsible for calculating the Zakat due on his properties and distributing same

among those entitled to benefit from it. It means that he/she is performing the functions of Zakat collectors and *Baitul Maal*. As stated earlier, at the time of the Prophet (SAW), such Zakat given out would have been null and void; however today it is acceptable. The bottom-line is that one of the functions of *Baitul Maal* (i.e. distributing Zakat to rightful beneficiaries) is now performed by individuals. And I do not know any scholar who has (in the past) issued a *fatwa* (religious verdict) which invalidates individually-administered Zakat because it is in deviance with what was practiced during the time of the Prophet (SAW).

To this end, your husband's estate can be shared in three (3) ways:

- a. You inherit $\frac{1}{4}$ while the remaining $\frac{3}{4}$ is handed over to *Baitul Maal* i.e. used to execute projects that will benefit humanity. Note that this is not Zakat, hence the projects should not be limited to the eight (8) persons mentioned in Qur'an 9:60.
- b. Your husband should write a Will in favour of his non-Muslim relatives. The value should not exceed $\frac{1}{3}$ of his estate. Recall that a Will can be in favour of anyone whether Muslim or non-Muslim. Indeed, it can be in favour of even a favourite cat or dog (of course, for its upkeep). You take $\frac{1}{4}$ and the balance of $\frac{5}{12}$ or 0.416 is used for humanitarian services.
- c. We know that any Will that exceeds $\frac{1}{3}$ of the estate is subject to approval of the rightful heirs of the deceased. In this case, he can write a Will in favour of his non-Muslim relatives worth $\frac{3}{4}$ of his estate **SUBJECT TO YOUR APPROVAL**. Thereafter, you inherit the remaining $\frac{1}{4}$.

If any of options (b) or (c) is chosen, there is no specific sharing formula to be used for the non-Muslim relatives. In other words, it not necessary to give his brothers twice of what the sisters are given. Also, rules of exclusion do not apply. It is a GIFT from him to them, so he can share it however he likes. Nonetheless, my advice is that the Will should be flexible because no one knows what will happen tomorrow. I mean, God may decide to guide some of his non-Muslim relatives to Islam. Hence, the Will may say: "My wife should be given $\frac{1}{4}$ of my estate in accordance with Islamic law. If there is any member of my family who is a Muslim, he/she should be given what he/she is entitled to according to Islamic law. Then, the leftover should be distributed thus ..."

- 2) The formula for sharing your estate (given that you pass away before your husband, mother and 2 full sisters) is correct. You will observe that the principle of Awl (increment of base number) was applied. The original base number, 6 was increased to 8 so as to facilitate seamless distribution.
- 3) a) The table below represents the order of succession of PATERNAL heirs. Members of column A are the top priority and they exclude all members of columns B, C and D. Therefore, the father (A2) inherits from the deceased (A1). If he is absent, Grandfather (A3) replaces him then Great Grandfather (A4).

	A	B	C	D
4	Great Grandfather	Great Grandfather's brother	Great Grandfather's brother's son	Great Grandfather's brother's grandson
3	Grandfather	Grandfather's brother	Grandfather's brother's son	Grandfather's brother's grandson
2	Father	Uncle	Uncle's son	Uncle's grandson
1	Deceased	Brother	Brother's son	Brother's grandson

In a situation whereby no member of column A is alive, the Brother (B1) inherits from the deceased. We know that a Brother can either be full or consanguine. And the former comes before the latter. I do not want to complicate the table that is why such details are not reflected. Now, if the deceased has no any Brother in whatever form, who is next in line? Here, there is a twist. Instead of going up the column to B2 (Uncle), we move to C1 (Brother's son), if he is absent, then D1 (Brother's grandson) and that continues.

In the absence of everyone in column A and row 1, Uncle (B2) then comes in, next is his son (C2) then grandson (D2), etc. If all persons in row 2 are not alive, Grandfather's brother (B3) inherits from the deceased, then his son (C3) followed by his grandson (D3). As you can see, paternal grandfather's brother and paternal uncle's son are heirs but the latter excludes the former. With this development, the sharing formula of your estate requires an update. I will like you to figure it out.

b) It is true that paternal grandmother is excluded by the mother. Mother does not only exclude her own mother (maternal grandmother) but also excludes paternal grandmother.

c) Maternal grandfather is a non-heir. In the absence of father, his own father (paternal grandfather) takes his place not maternal grandfather.

d) Sister's children are non-heirs because they are to inherit from their fathers' line.

4) Transferring the ownership of your home and funds in Islamic bank accounts to your husband in whatever form, with or without change of name, through a Will or otherwise is permissible. According to Sheikh Muhammad Saalih al-Munajjid, "a man may give whatever he wants of his wealth to his wife, and the wife may give whatever she wants of her wealth to her husband."

Further reading: <https://islamqa.info/en/answers/89923/they-are-going-to-buy-a-house-should-they-put-it-in-his-name-or-hers>

My observation is that though it is not wrong to transfer the items in question to your husband but what will be left for your mother, two full sisters and uncle's sons to inherit from you? I thought the definition of "estate" is everything owned by a deceased. If your home and money are gifted to your husband and he is still entitled to ½ of other properties you own, wouldn't your mother, sisters and uncle's sons think or assume (rightly or

wrongly) that they have been short-changed? The fear is that you should not create avoidable problems after your death. You may need to discuss this with them. Their acceptance or non-acceptance is inconsequential because the home and money are owned by you. However, the discussion will enable you understand if they will be comfortable with “losing” your home and money.

5) I suppose a bequest and a will are the same thing. For a detailed explanation of how they work and to whom they can be made to, kindly refer to this link (it’s quite lengthy but exhaustive): <https://www.al-islam.org/waqf-hajr-and-wasaya-according-five-schools-islamic-law-sheikh-muhammad-jawad-mughniyya/will-and>

Hope I have answered all your questions. Do not hesitate to contact me whenever the need arises.

Assalamu ‘Alaikum.