

Assalamu 'Alaikum.

First, it should be clear that combining estates of deceased persons is not advisable because it could result in complications especially if the heirs of one deceased cannot inherit from the second deceased.

Let's assume that a man dies and leaved behind his wife and two male children only, the value of his estate is \$100. But before the estate is shared, the wife also dies. The value of her estate is \$70.

The man's estate will be distributed thus:

$$\text{Wife} = 1/8 = \$12.5$$

The two sons will then share the remaining \$87.5 equally such that each gets \$43.75

Thereafter, the wife's estate will be shared among the two sons but note that the value has increased by \$12.5. It's no more \$70 but \$82.5. So, each will get \$41.25

$$\text{As a result, total inheritance of each son is } \$43.75 + \$41.25 = \$85$$

An easier alternative to work this out is to simply combine the assets since the two sons are the only heirs of both deceased persons.

$$\text{Hence, total value of man's and wife's estates} = \$100 + \$70 = \$170$$

$$\text{Each son gets } 1/2 \text{ of } \$170 = \$85$$

Problem emanates when there exist an heir who will inherit from only one of the deceased persons e.g. wife's mother.

In this case, the wife's estate valued at \$82.5 will be distributed as follows:

$$\text{Mother} = 1/6 = \$13.75$$

$$\text{Balance} = \$82.5 - \$13.75 = \$68.75$$

$$\text{Each son gets } 1/2 \text{ of } \$68.75 = \$34.38$$

$$\text{So, total inheritance of each son is } \$43.75 + \$34.38 = \$78.13$$

With this scenario, if the estates were combined, how do we determine the share of wife's mother? Are we going to give her 1/6 of \$170? If we do that, she will end up getting \$28.33 which exceeds \$13.75 she is rightly entitled to. Thus, the ideal thing to do is to share the estates one after the other and not combine them.

Now answering your question directly, even though some of your assets are in your husband's name and vice versa, I believe that there are some assets that are still yours and yours alone such as shoes, handbags and pendants. Conversely, there are assets that are his and his alone. And based on your definitions of Charity, Bequeath and Will, I understand that Charity and Bequeath are to be executed from 1/3 of the estate. The remaining 2/3 is to be distributed as inheritance/Will among rightful heirs.

For more clarity, I will make the following numerical assumptions:

1. Your estate is valued at \$750. You write and sign a letter stating that certain assets valued at \$400 be gifted to your husband after your death.
2. Your husband's estate is valued at \$1000. He writes and sign a letter stating that certain assets valued at \$600 be gifted to you after his death.

Scenario 1: You both die at the same time such that it cannot be determined who died first.

Although you shall not inherit from him and vice versa, both letters will be made available to the executors for implementation. This will lead to a revaluation of your estates.

Your estate = \$750 – \$400 (you gifted your husband) = \$350

\$350 + \$600 (he gifted you) = \$950

His estate = \$1000 – \$600 (he gifted you) = \$400

\$400 + \$400 (you gifted him) = \$800

So, your estate value increases from \$750 to \$950 while his estate value decreases from \$1000 to \$800

- a) Distributing each estate one by one

Yours

Charity and Bequeaths = 1/3 of \$950 = \$316.66

Your Muslim relatives will then inherit 2/3 of \$950 = \$633.33

His

Charity and Bequeaths = 1/3 of \$800 = \$266.66

Balance of \$533.33 will go to *Baitul Maal* as he has no Muslim relatives

- b) Combining the estates

Total value = \$950 + \$800 = \$1750

Charity and Bequeaths = 1/3 of \$1750 = 583.33

Ironically, this is the same value we get by adding up your 1/3 and his 1/3 i.e.

\$316.66 + \$266.66 = \$583.32

Balance of 2/3 of \$1750 = \$1,166.66

Who gets this? Your Muslim relatives? This is almost double of \$633.33 they are entitled to because it includes your husband's assets which they have no legal right to inherit. In other words, they will wrongfully inherit \$533.33 that should have gone to *Baitul Maal*.

Scenario 2: You die before your husband

Your husband will inherit from you. But first, your transfer of assets to your husband will be executed. Hence, the value of your remaining estate will be \$350 only. From this,

Charity and Bequeaths = $1/3$ of \$350 = \$116.66

Balance of $2/3$ of \$350 = \$233.33 is shared among your Muslim heirs INCLUDING your husband according to Islamic Law.

Scenario 3: Your husband dies before you

You will inherit from him. But first, his transfer of assets to you will be executed. Thus, the value of his remaining estate will be \$400 only. From this,

Charity and Bequeaths = $1/3$ of \$400 = 133.33

Balance of $2/3$ of \$400 = \$266.67

You are to inherit $1/4$ of \$266.67 as his wife according to Islamic Law = \$66.67

The remaining \$200 is forfeited to *Baitul Maal*.

I hope I have answered your question.

Assalamu ‘Alaikum.