



Recent changes in inheritance law.

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Agenda

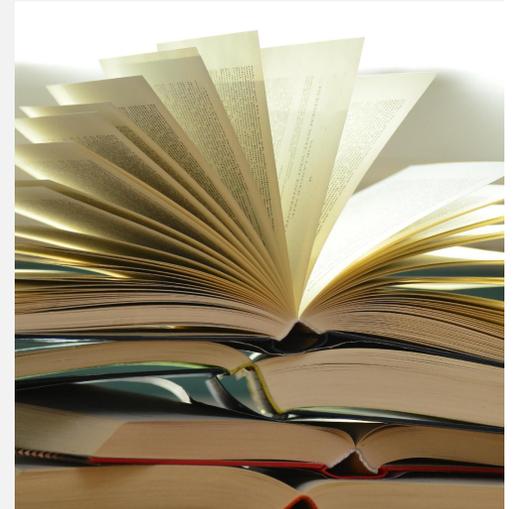
- When will the new Civil Code go into effect?
- Civil law tradition
- Basic concepts
- Donation or gift
- Who are the forced heirs
- Orders
- Responsibilities of the heirs
- Testamentary changes
- Executor's remuneration



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Civil law vs. Common law

- Civil code is the primary source of legal authority.
- Civil law notary. Some documents only can be authorized by a notary.
- More formalities for executing legal documents
- Real estate transactions should be recorded in a public registry.



When will the new Civil Code go into effect?

This code is effective on November 28, 2020.

Article 1816.-Successions.

The inheritance rights of those who have died, with or without a will, before this Code enters into force, are governed by the prior legislation.

After the effective date of this Code, the deceased's inheritance, whether or not there is a will, shall be awarded and distributed under this Code, but complying, insofar as possible, with testamentary provisions prior to November 2020. Therefore, the legally required testamentary provisions (“legítimas”), the improvements, and the bequests will be respected; but reducing their amount, if otherwise impossible to give each participant in the inheritance what corresponds to each according to the Code.



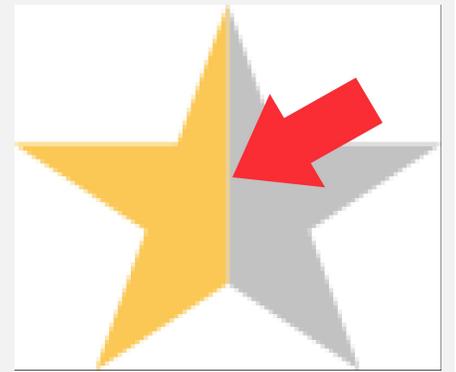
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Basic concepts.

- **Estricta:** Spanish word for half of the estate to which certain relatives and/or spouse have legal rights. These people with special rights are called forced heirs.
- **Discretionary:** The other half of the estate where the person making the will has the right to dispose as she or he wishes.

The amount of the “**estricta**” is established according to this formula:

Total estate assets – **debts** + undisputable donations or gifts.



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Donations

- Legacy or bequest: A gift given by will.
- Donation or gift: assets donated by the testator while alive, potentially disputable by the forced heir.

Undisputable donation:

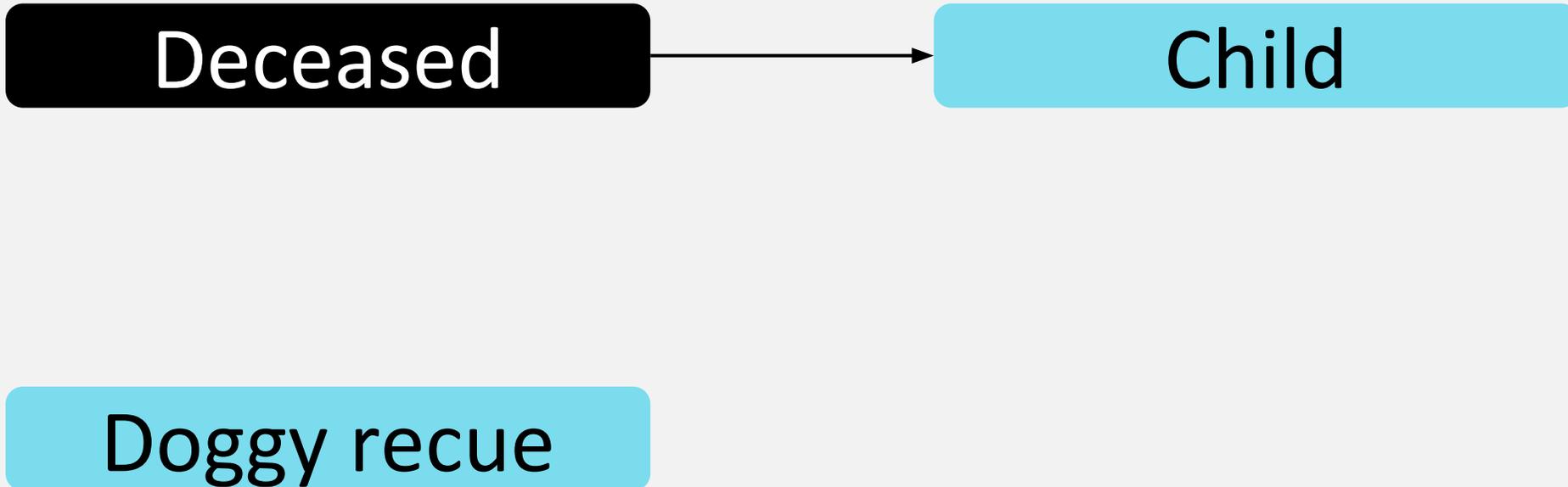
- It is a traditional gift (wedding, family jewelry).
- Expenses for food, education, and health cost assistance, even if the deceased had no obligation to pay them.
- Donations made more than 10 years before death.

Art. 1788



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Examples: Estate: assets at time of death \$2,000,000 and \$4,000,000 donation for Doggy rescue Charity. Estate for forced heirs: 6,000,000



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Deceased



Child

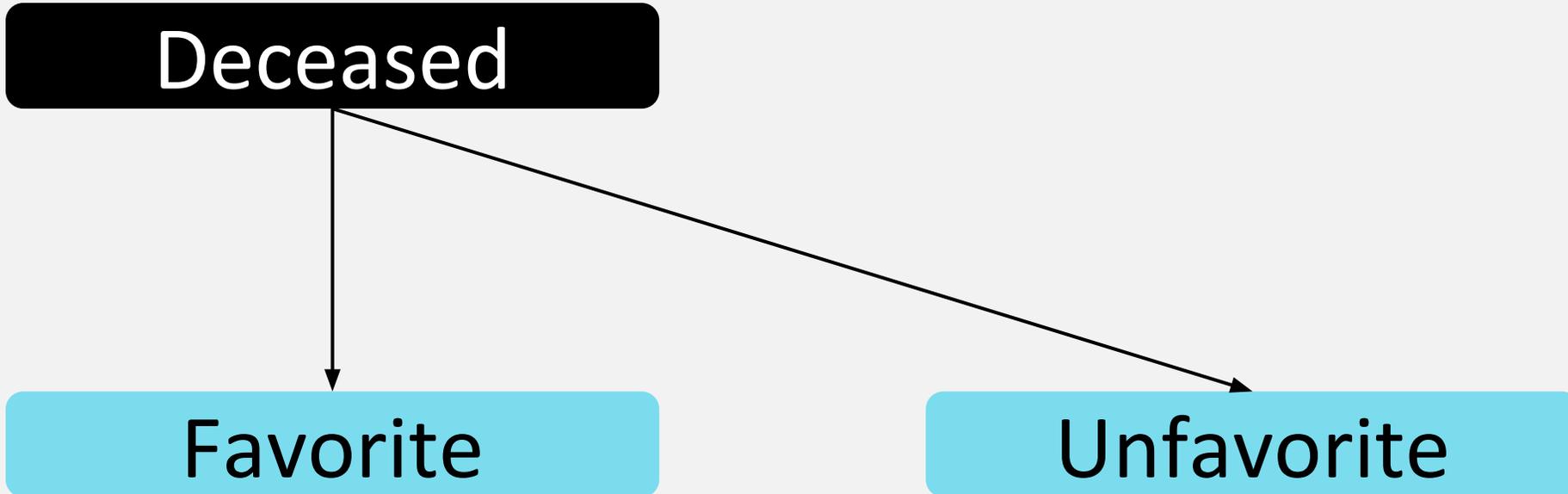
\$3,000,000:

- 2,000,000 for the Estate assets
- 1,000,000 claw back from doggie charity

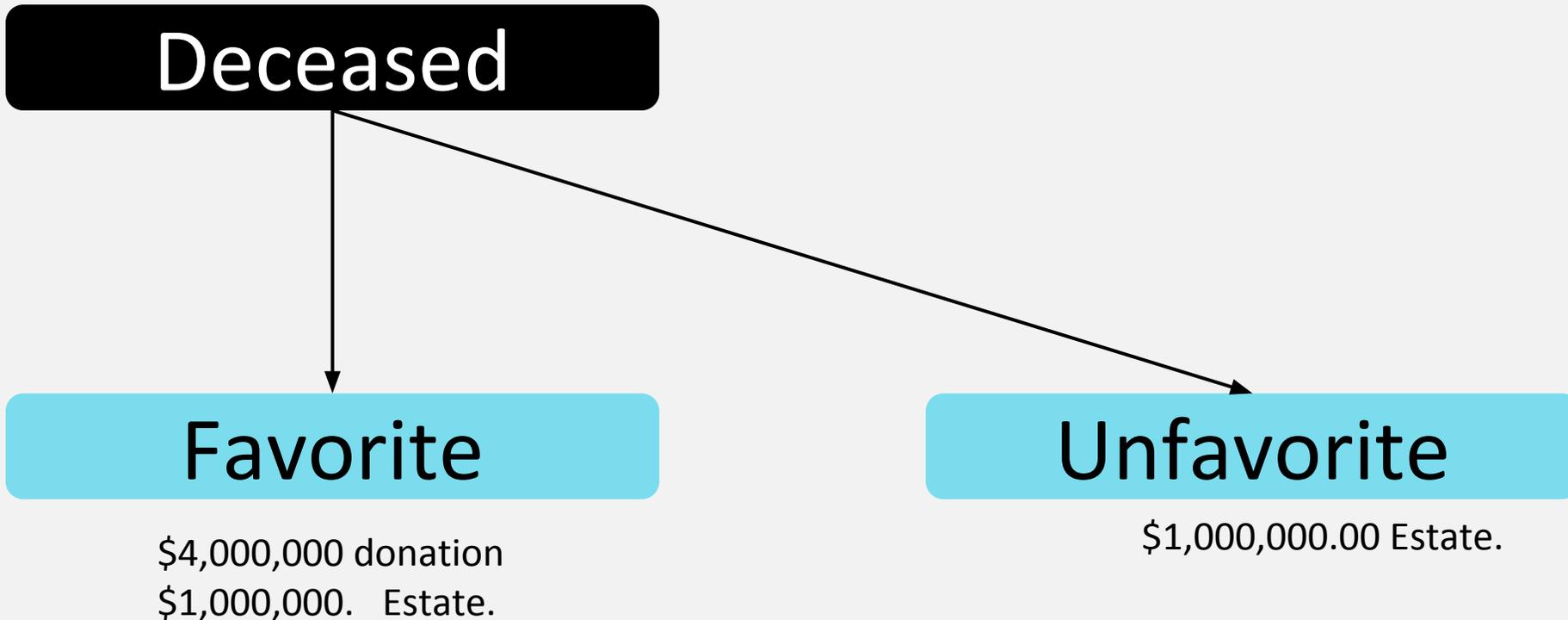
Doggy rescue

Keep: 3,000,000.00

Examples: Estate: assets at time of death \$2,000,000 and \$4,000,000 gift for favorite child 1 in **2008** and the deceased died in 2020. No will.

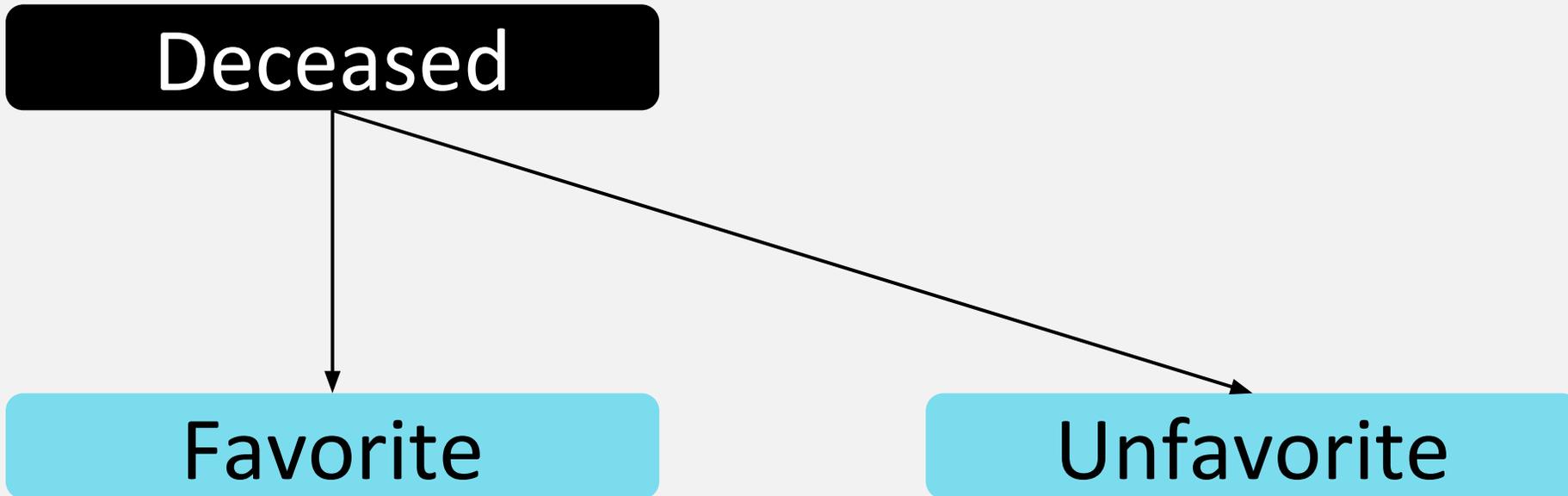


Examples: Estate: assets at time of death \$2,000,000 and \$4,000,000 gift for favorite child 1 in **2008** and the deceased died in 2020. No will. Estate: 2,000,000 \$1,000,000 for each child.

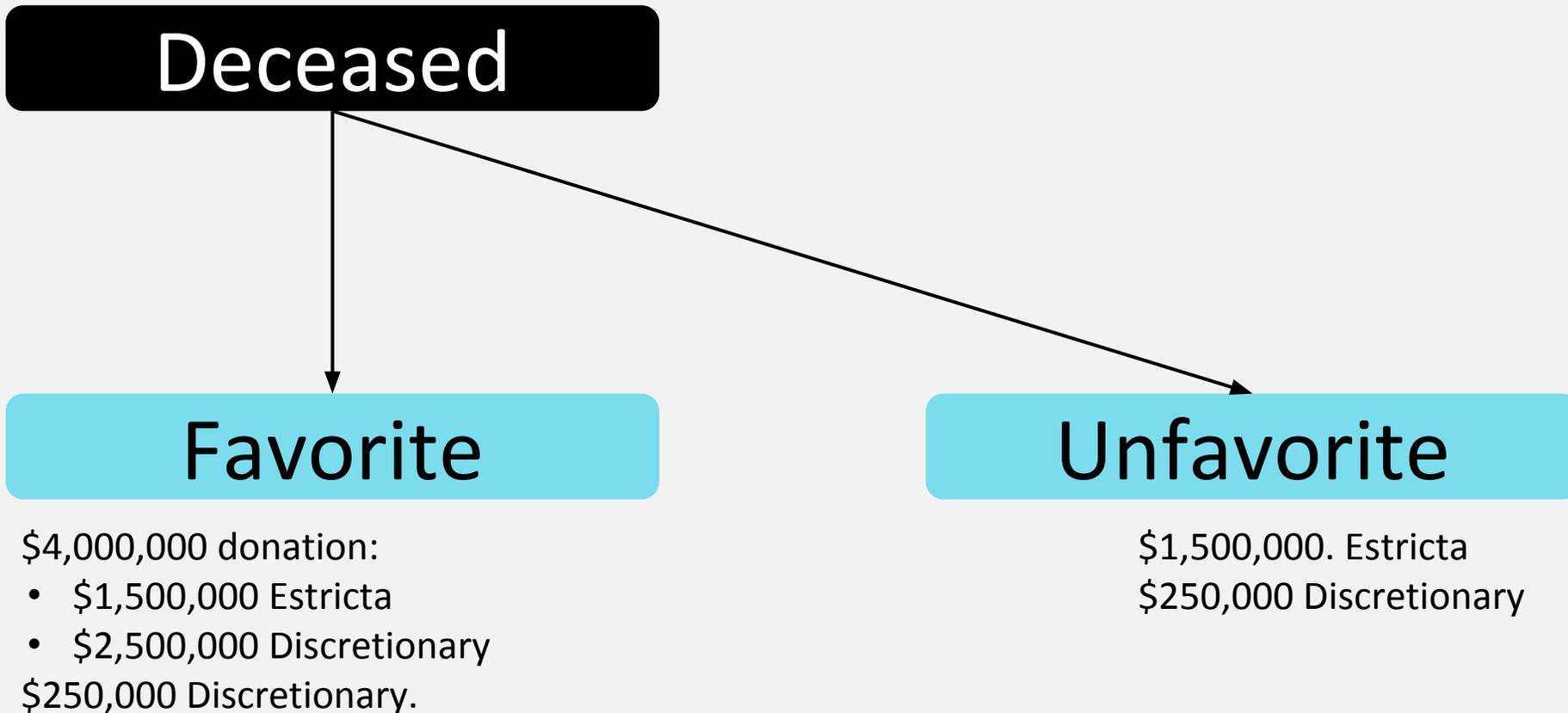


New: Statutory time limitation on disputable

Examples: Estate: assets at time of death \$2,000,000 and \$4,000,000 gift for favorite child 1 in **2018** and the deceased died in 2020, no will.



Examples: Estate: assets at time of death \$2,000,000 and \$4,000,000 gift for favorite child 1 in **2018** and the deceased died in 2020, no will. Estate: 6,000,000. Estriccta: 1,500,000 each child.



New: How to calculated donation to forced

Who are the forced heirs:

- descendants (children and grandchildren) + spouse.

If there are no descendants, then:

- Ancestors: Parents and grandparents.

In Puerto Rico, the testator cannot freely dispose of part of the estate because he or she must respect the forced heirship except in extreme cases, such as indignity (incapacity to inherit) or disinheritance.

New reasons for indignity:

- a person who abandoned or physically or psychologically abused the deceased;
- a person who fails to comply for three (3) consecutive months or six (6) total months with the obligation, administratively or judicially imposed, to support the deceased.

No will: Orders

First order: -children and grandchildren- and spouse Art. 1720

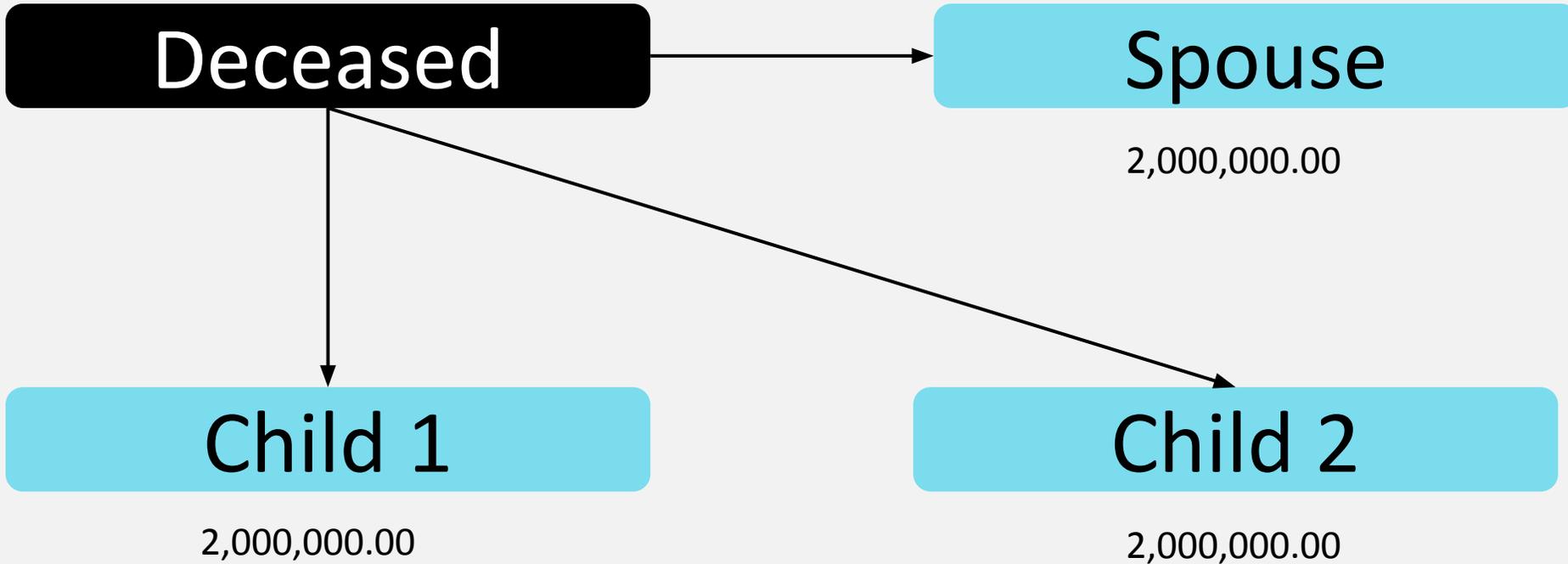
Second order: Ancestors: parents and grandparents. Art. 1723

Third order: Collaterals (siblings, cousins, etc....). Art. 1724

Fourth order: The Puerto Rico government. Art. 1727

The possible heirs are grouped into four orders or priorities. As long as there is any person standing in a nearer order, no person standing in a more remote one can succeed.

Examples: Estate: 6,000,000, no will.



New: Spouse has the right to a part equal to that of each child

Spouse's right to residence of the deceased:



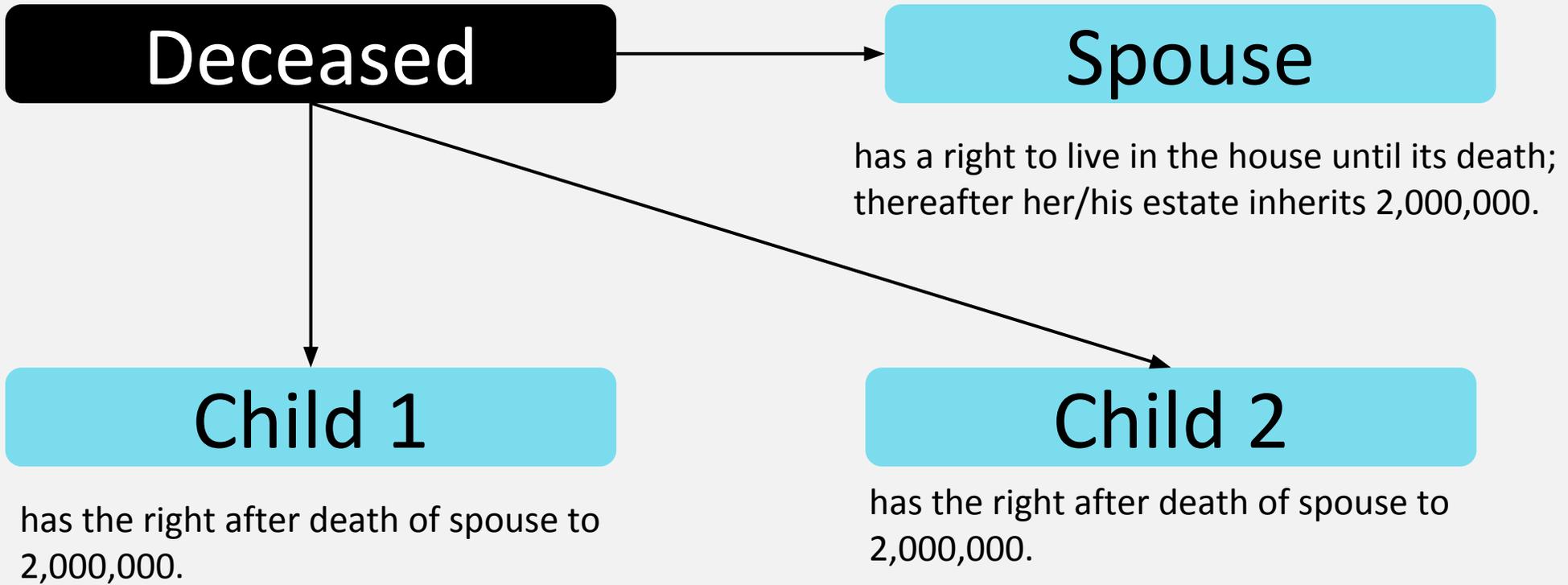
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The surviving spouse may have a right to the family home.

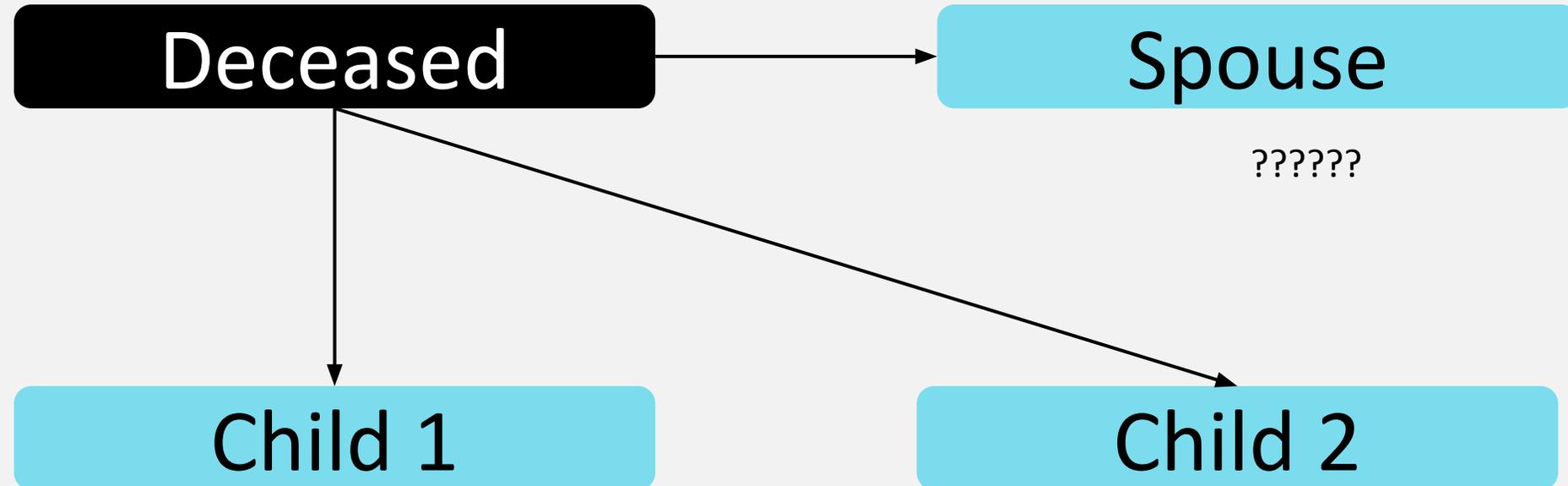
If the value of the spouse's portion in the estate and the community property does not reach the amount necessary to pay for the home, the surviving spouse has the right to live free of charge in proportion to the difference between the property's value and the sum of her/his rights.

Art. 1625

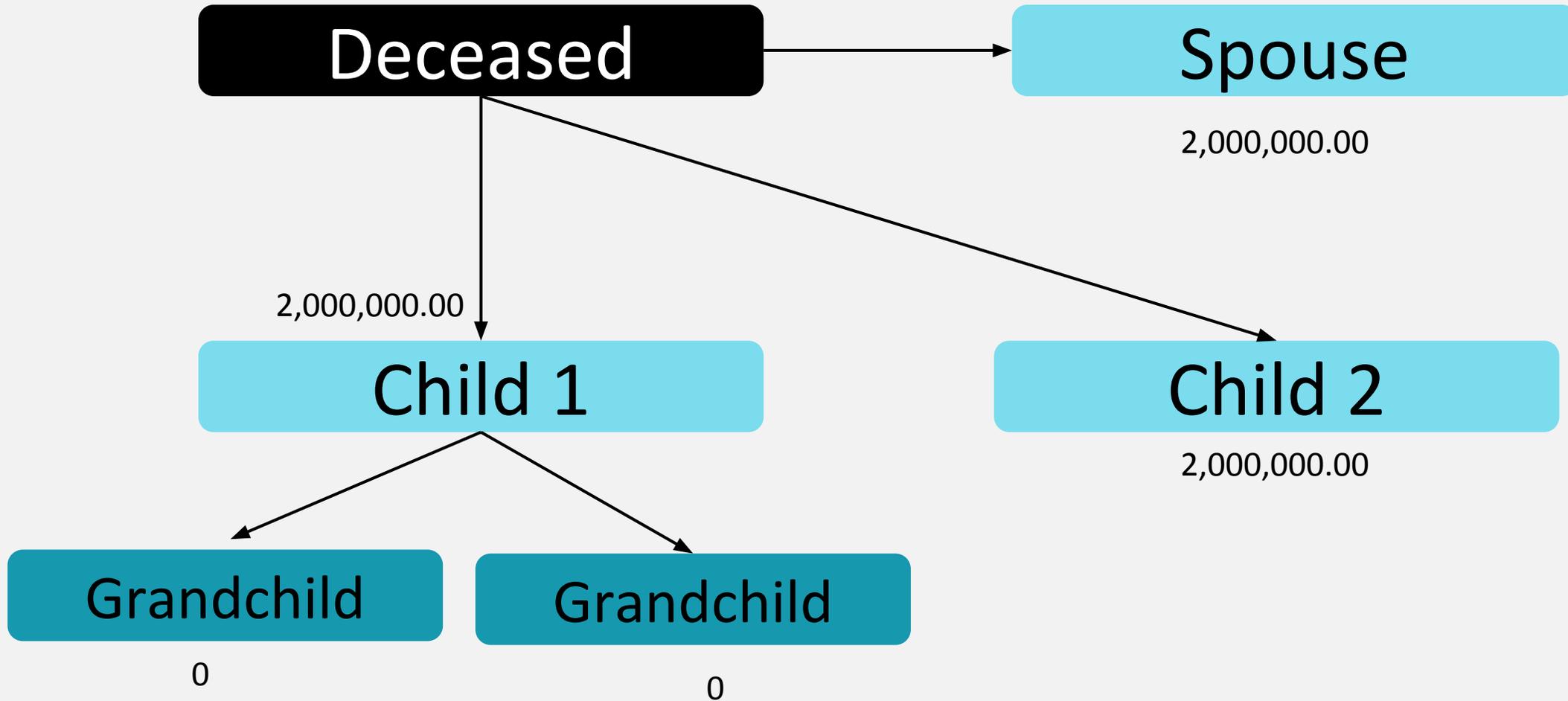
Example: Estate: 6,000,000 residence of the deceased and spouse. No will



Examples: Estate: 6,000,000 residence of the deceased and spouse. The deceased in a will leaves the house to a child 1???



Examples: Estate: 6,000,000, no will



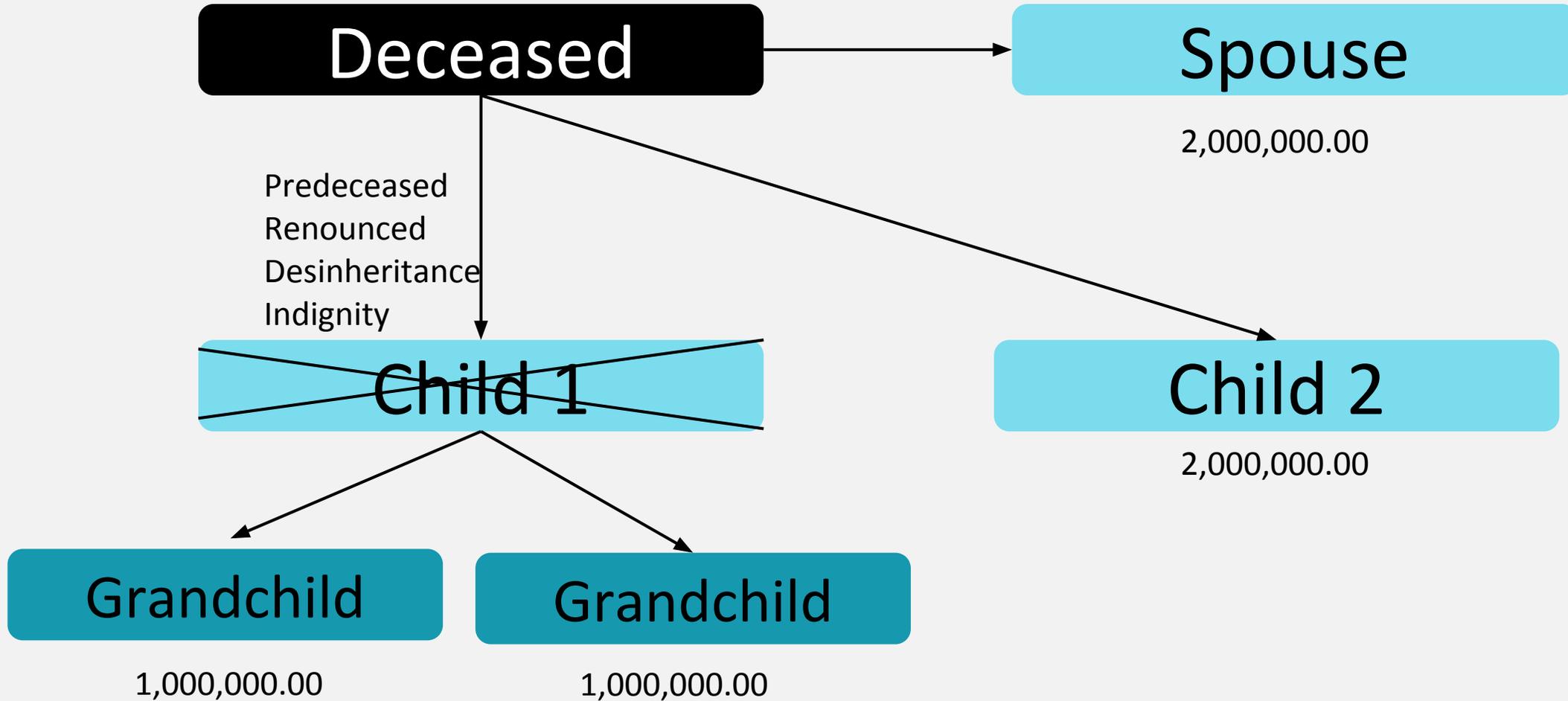
Representation rule

A descendant (child) who stood in the first order but who predeceased, renounced the inheritance, is disinherited or afflicted with indignity is represented by his descendants of their shares is per lienage (“estirpe”). This means that the estate is divided into as many parts as there are lines of descendants, living and (dead or the other situations). Representation is allowed with respect to descendants regardless of how far removed.

NEW: Representation in wills and in renouncement of inheritance



Examples: Estate: 6,000,000, no will

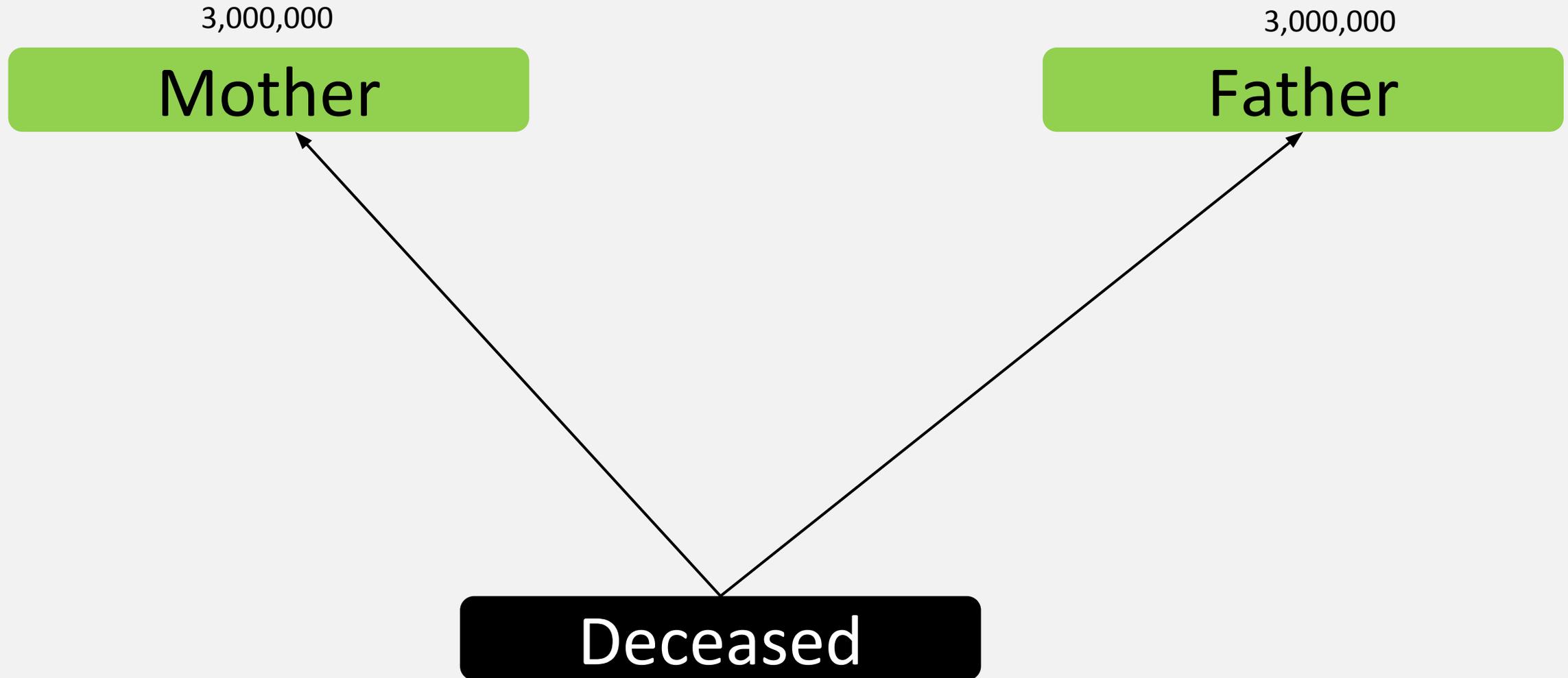


Examples: Estate: 6,000,000

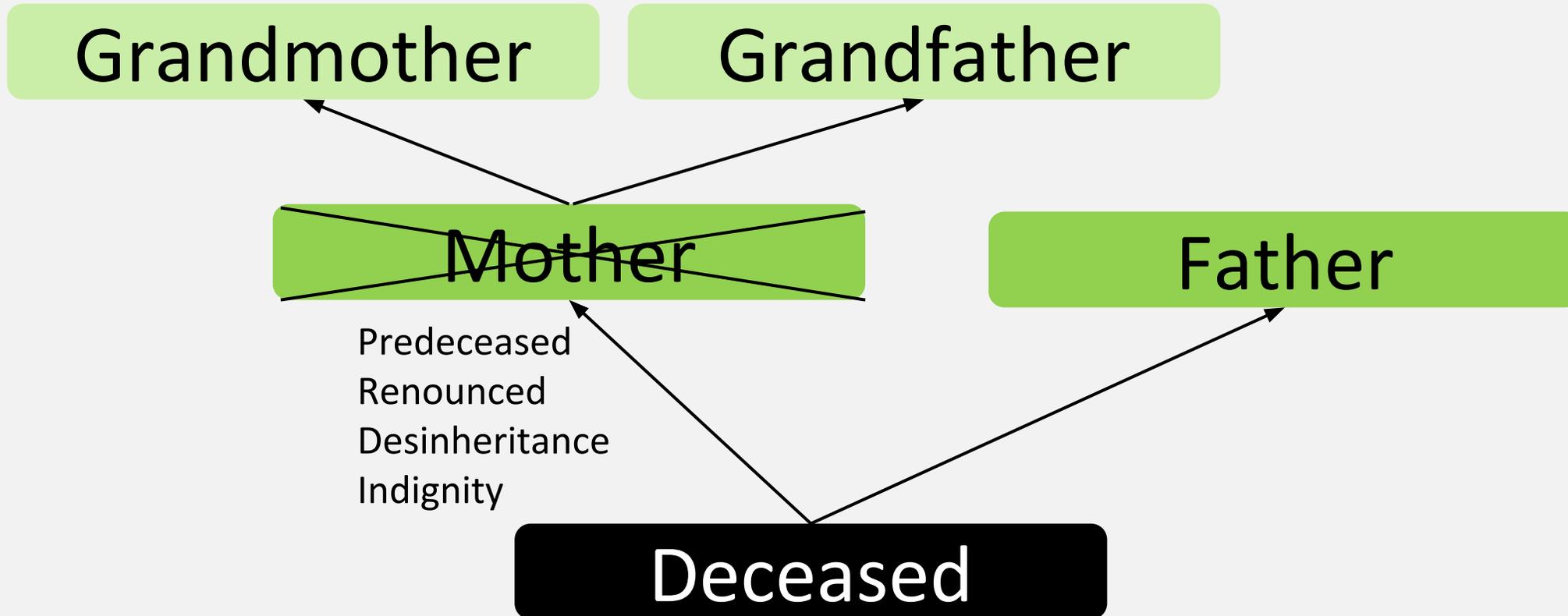


New: Spouse has priority over
ancestors

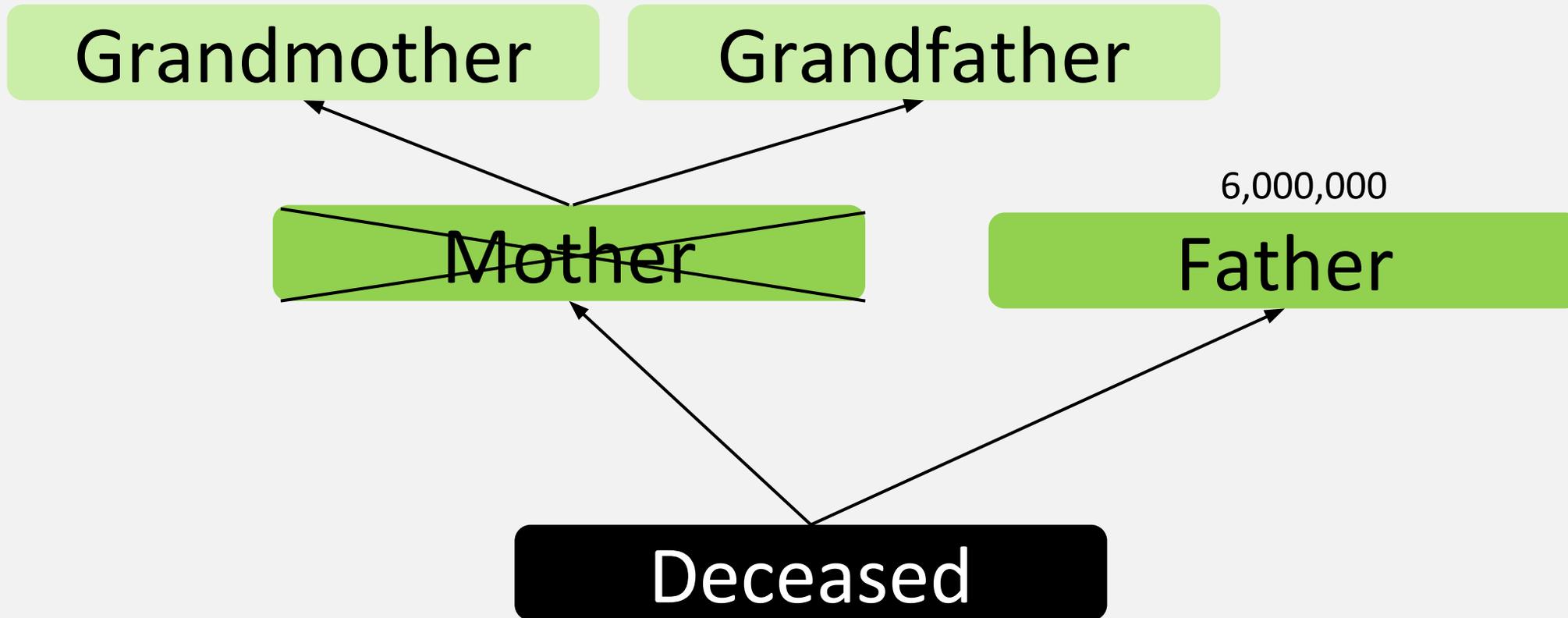
Examples: Estate: 6,000,000



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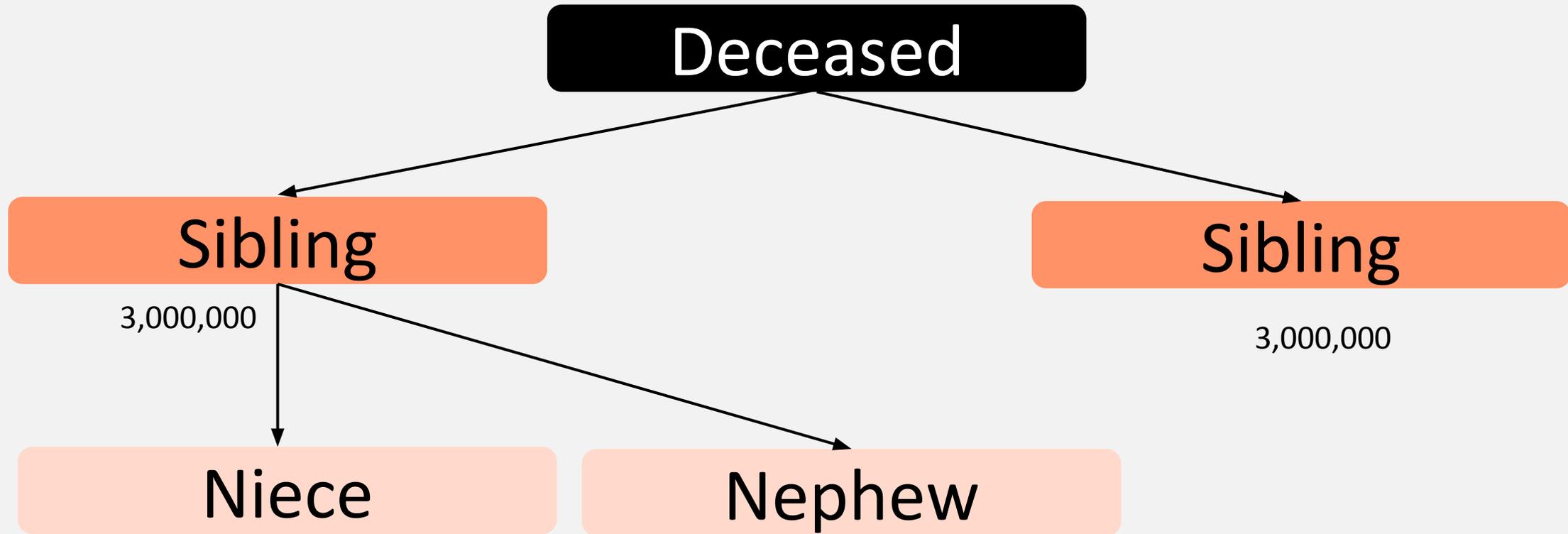


Examples: Estate: 6,000,000



No representation rule for
ancestors

Examples: Estate: 6,000,000, no will



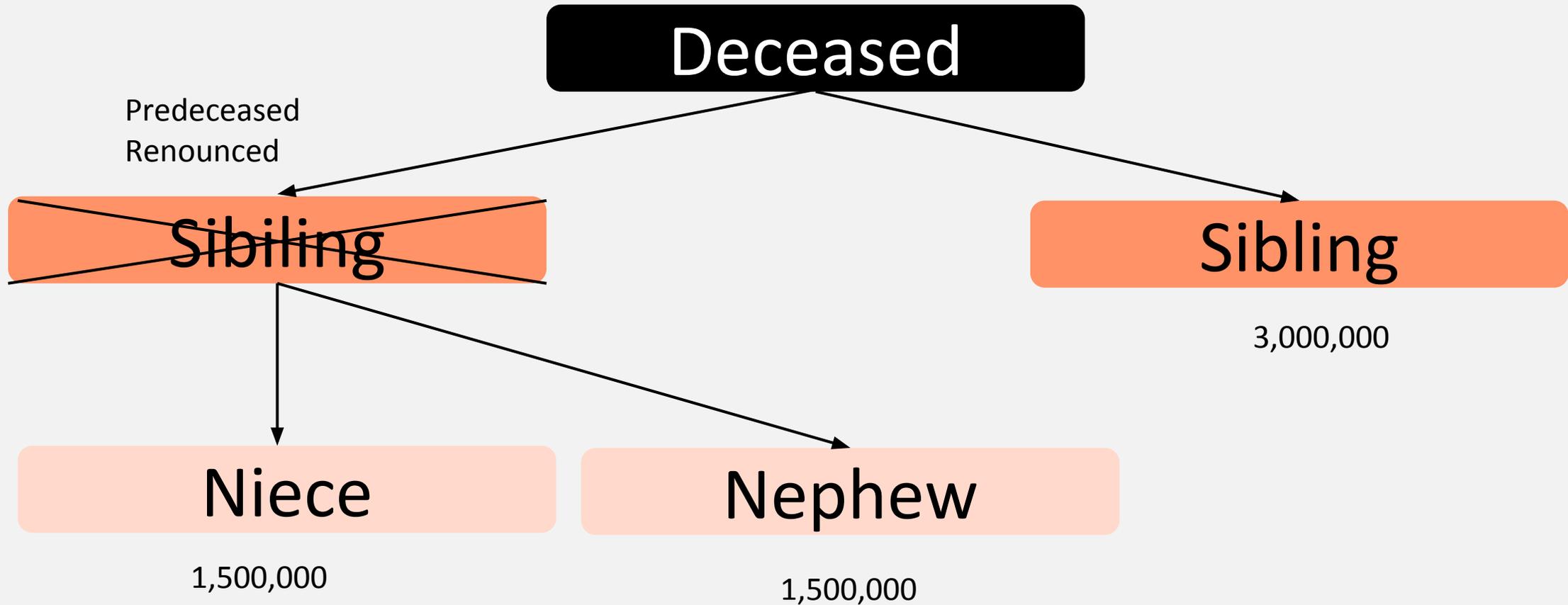
New: Siblings have the same right even if they belong one or both parents.

Representation rule

A sibling who stood in the third order but who predeceased or renounced is represented by his/her descendants (nephews and nieces) and the distribution for the representatives is per lineage. Representation is allowed with respect to siblings as far as nieces and nephews, but not beyond.



Examples: Estate: 6,000,000



NEW: Representation in wills and renouncement.

Responsibilities of the heirs

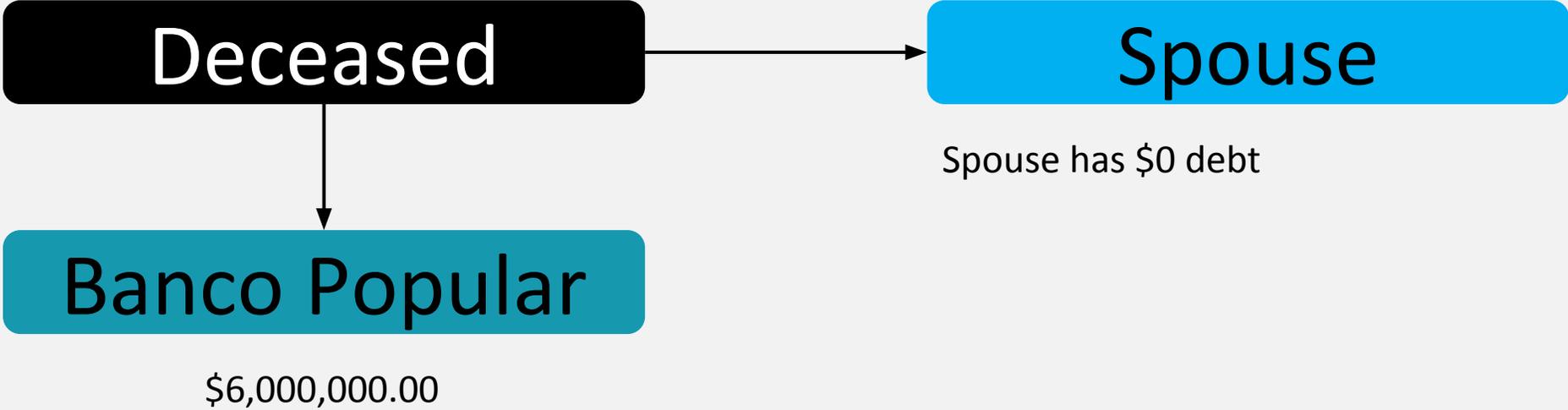
In Puerto Rico, an heir could acquire not only all of the deceased's property, but also their financial obligations. The heirs could become liable for the debts.

New:

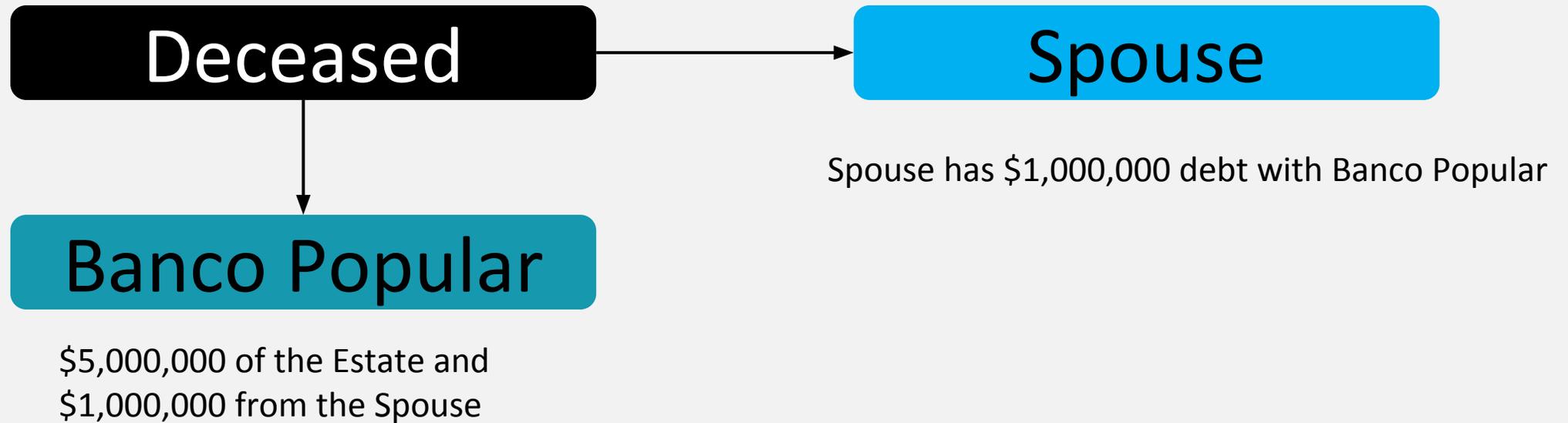
- It limits the liability of the heir exclusively to the value of the hereditary assets. Art. 1587
- Unless heir sells, transfers, donates, steals, consumes, or uses the estate assets to pay for unexpired debts . Art. 1580 and 1588.



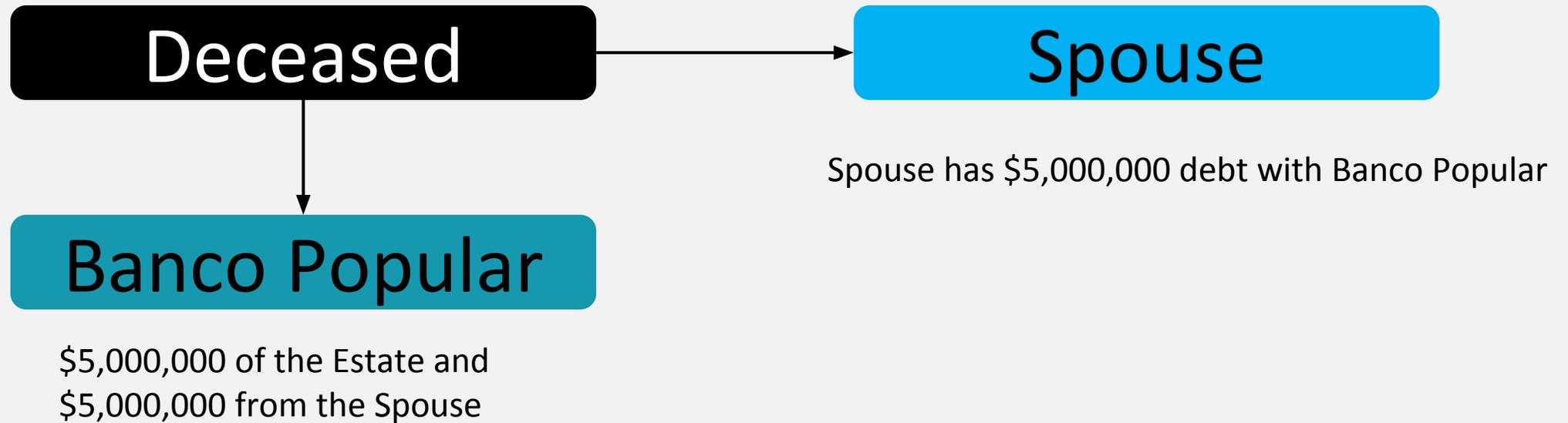
Examples: Estate: 6,000,000 residence of the deceased and spouse and 6,000,000 debt to Banco Popular. Just after the death Banco Popular tries to collect the debt. No will



Examples: Estate: 6,000,000 residence of the deceased and spouse and 6,000,000 debt to Banco Popular, no will. Spouse spends 1,000,000 using a home equity line of credit



Examples: Estate: 6,000,000 residence of the deceased and spouse and 10,000,000 debt to Banco Popular, no will. Spouse spends 1,000,000 using a home equity line of credit



No responsibility for the debt if:

- Art. 1591: If heir
 - Tried to keep the assets in the estate or simply managed them.
 - Paid taxes.

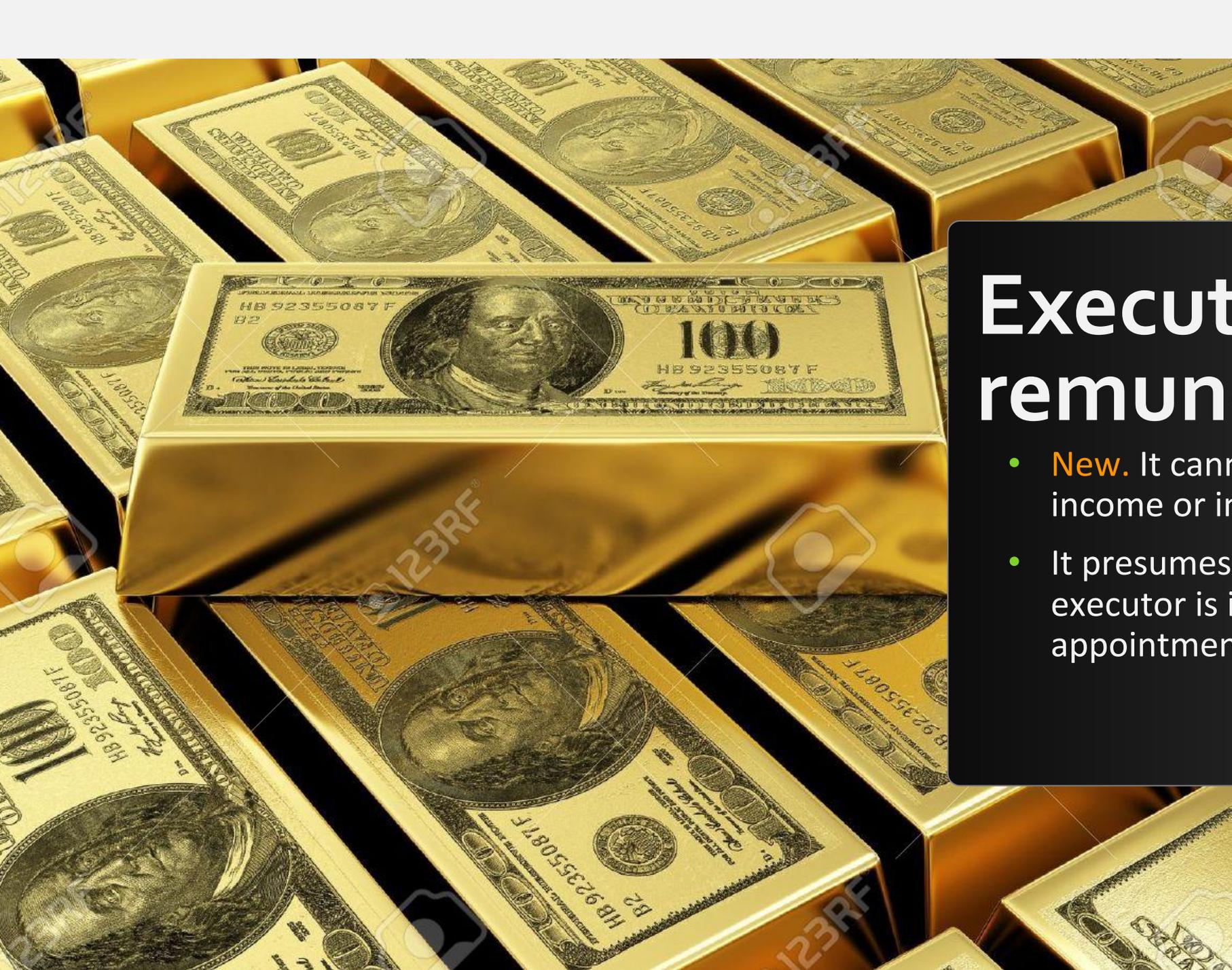


Three forms of wills:

- Notarial will, is executed so that the testator dictates its provisions to the notary. **New: no witnesses necessary.**
- Holographic will.
- And a **new orally declared will** is exceptionally admitted now in video, only in emergency situations for a person finding itself in immediate danger of death



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Executor remuneration

- **New.** It cannot exceed 10% of the income or inheritance. Art. 1761
- It presumes that a legacy to the executor is in payment of his appointment. Art. 1763



Thank you