Wills and the Jewish Client

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Professionalism Topics covered in this presentation

2.4 Recognizing and being sensitive to clients' circumstances, special needs, and intellectual capacity (e.g., multi-cultural, language, gender, socioeconomic status, demeanour)

- How can traditional Jews living in Canadian society prepare a modern will without running afoul of Jewish law's traditional invalidation of a posthumous bequest?
- What is the position of Jewish tradition regarding disinheriting an heir, and how should that be handled in the context of Canadian law?

Introduction

Vignettes

1> David, an observant Jew, prepared a will in accordance with local law, distributing his property among his children equally and ignoring any considerations of Jewish law. His daughter, Sarah, declares that she will refuse to accept any property bequeathed to her under the terms of this will. Under Jewish law, is Sarah correct?

2> David wishes to appease Sarah; how might he prepare a legal will which conforms to Jewish law?

3> David's son Sam has stopped observing Judaism, and David is concerned that his grandchildren will not be raised as Jews at all. David wishes to structure his will to exclude Sam, unless Sam would send his children to Jewish schools. Would Jewish law approve of this? Would this be legal in Ontario?

Topics we will not discuss

- Wishes that oppose Halachah (i.e. cremation) https://www.yutorah.org/lectures/lecture.cfm/890765/
- Litigating a will in civil court https://www.yutorah.org/lectures/lecture.cfm/888657/

1. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Even haEzer 112:11

מי שמת והניח בנים ובנות, יירשו הבנים כל הנכסים והם זנים אחיותיהם עד שיבגרו או עד שיתארסו. בד"א? כשהניח נכסים שאיפשר שיזונו מהם הבנים והבנות כאחד עד שיבגרו הבנות... אבל אם אין בנכסים שהניח אלא פחות מזה, מוציאים מהם מזונות לבנות עד שיבגרו, ונותנים השאר לבנים. ואם אין שם אלא כדי מזון הבנות בלבד, נזונות מהם עד שיבגרו או עד שיתארסו, והבנים ישאלו על הפתחים.

When a person dies, leaving sons and daughters, the sons inherit all of the property, and they feed their sisters until they mature or are betrothed. When is this true? Where the deceased left property which could feed both the sons and the daughters until the daughters mature… But where the bequeathed assets are only less than this, they feed the daughters from this until they mature, and the rest is given to the sons. If it is only sufficient to feed the daughters, they are fed until they mature or are betrothed, and the sons ask at doors.

2. The Jewish imperative to write a will Age 50; Arrangements; Causing others to stumble; Non-financial issues

Vignette 1: A secular will

3. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Choshen Mishpat 250:24

בריא שאמר: כתבו ותנו שדה זו לפלוני, אם מחיים, כותבים ונותנים אי לא הדר ביה קמי דמטא שטרא לידיה, אבל לאחר מיתה אין כותבים ונותנים אא"כ קנו מידו.

If a healthy person says, 'Record a deed and give this field to X', then while he is alive they record and give, and it is valid so long as he does not recant before the deed reaches X's hand. However, after his death they do not record a deed and transfer the field, unless he enacted a *kinyan* with them [while he was alive].

4. Rabbi Shlomo ibn Aderet (Rashba, 13th century Spain) 6:254

ללמוד מזה לילך בדרכי הגויים ומשפטיהם ח"ו לעם קדוש לנהוג ככה... וכ"ש אם עתה יוסיפו לחטא לעקור נחלת האב על הבנים, וסומך על משענת קנה הרצוץ הזה! ועושה אלה מפיל חומות התורה ועוקר שרש וענף והתורה מידו תבקש ומרבה הונו בזה בפועל כפיו נוקש. ואומר אני שכל הסומך בזה לומר שמותר משום דינא דמלכותא טועה וגזלן הוא... ובכלל עוקר כל דיני התורה השלמה ומה לנו לספרי הקודש המקודשים שחברו לנו רבי ואחריו רבינא ורב אשי ילמדו את בניהם דיני הגויים ויבנו להם במות טלואות בבית מדרסי הגויים חלילה לא תהיה כזאת בישראל ח"ו שמא תחגור התורה עליה שק

To deduce from this [principle of obeying government legislation] to follow the ways of the nations and their laws – Gd forbid that this holy nation act thus! All the more so if they will now increase their sin, uprooting the portion of a father upon his children, depending upon this fragile reed! One who does this tears down the walls of the Torah and uproots root and branch, and the Torah will demand recompense from his hand. One who increases his wealth thus will stumble in his own deeds. And I say that any who rely on saying that this is permitted because we must obey the law of the land is mistaken and a thief... He uproots all of the laws of the complete Torah. Why would we need the sacred texts which Rebbe, and then Raveina and Rav Ashi, composed for us? Let them teach their children the laws of the nations, and build for them patchwork altars in the madrassas of the nations! Gd-forbid, let there not be such in Israel, lest the Torah wear sackcloth…

5. Rabbi Moshe Sofer (18th-19th century Pressburg), Chatam Sofer Choshen Mishpat 142

יקח המלך חלקו ומאי איכפת לי' אי היתר לבעל או לשאר יורשי'

The king will take his share, and why will he care if the rest goes to the husband or to other heirs?

6. Rabbi Moshe Feinstein (20th century USA), Igrot Moshe Even haEzer 1:104

בעצם מסתבר לע"ד שצואה כזו שודאי יתקיים כדברי המצוה בדינא דמלכותא א"צ קנין שאין לך קנין גדול מזה.

Logically, in my humble opinion, a will like this, which certainly would be upheld in accordance with the words of the person who issued it under the law of the land, should not require an act of *kinyan*. There could be no greater *kinyan*!

7. Kollel Eretz Chemdah (21st century Israel), B'Mareh haBazak 4:137 footnote 6

ועוד נמסר לנו ע"י הגר"א ליכטנשטיין שחותנו הגרי"ד סולוביצ'יק ערך צוואתו על-פי דינא דמלכותא.

It was also communicated to us by Rav Aharon Lichtenstein that his father-in-law, Rav Yosef Dov Soloveitchik, arranged his will according to the law of the land.

8. Rabbi Chaim Jachter and Martin Shenkman, Esq. (21st century USA), Estate Planning Series Part III

Rav Moshe's ruling aroused great opposition. Dayan Aryeh Leib Grossnass of The London Beth Din penned a thorough critique of Rav Feinstein's ruling (*Teshuvot Lev Aryeh* 2:57). [The authorities who concur with Dayan Grossnass include Rav Zalman Nechemia Goldberg (*Techumin* 4:342-344), Rav Feivel Cohen (*Kuntress Midor L'dor*), Rav Ezra Basri, Rav Hershel Schachter (opinion presented in a lecture to rabbinical students at Yeshiva University) and Rav Mordechai Willig (personal communication). Furthermore, several classical commentaries disagree with Rav Moshe, including the Chatam Sofer (Teshuvot Chatam Sofer, Choshen Mishpat number 142), Rav Yaakov Ettlinger (Teshuvot Binyan Tzion Hechadashot number 24), and Rav Chaim Ozer Grodzinski (Teshuvot Achiezer 3:34). All of these authorities reject the conclusion of Rav Moshe and would not sanction the use of a secular will without supplements…

<u>Vignette 2: How might we make everyone happy?</u>

A gift with a retained life interest

9. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Choshen Mishpat 257:1

הכותב נכסיו לבנו לאחר מותו, הרי הגוף של בן מזמן השטר, והפירות לאב עד שימות, לפיכך האב אינו יכול למכור מפני שהם נתונים לבן, והבן אינו יכול למכור מפני שהם ברשות האב

If one writes his property to his children 'after his death', the physical item belongs to the child from the date on the document, and any products belong to the father until his death. Therefore, the father cannot sell the physical item, for it is given to the son, and the son cannot sell the physical item for it is in the father's domain.

10. Donna Litman, Steven Resnicoff, *Jewish and American Inheritance Law* pg. 175

The transfer of a future interest also requires that the kinyan be accompanied by appropriate language. Thus, a transferor who wants to retain beneficial ownership until just before death could state (or include in any deed): "This transfer is from now and until one moment before I die." By this language, the transferor will retain the right to possession of the property until the moment before death, when that right will vest in the transferee. Because at the transferor's death, the property belongs completely to the transferee, the transferor's Torah heirs receive nothing.

11. Rachel Blumenfeld, *The Jewish Laws of Inheritance and Estate Planning in Canada*, pg. 7
There are a number of practical and legal drawbacks to this solution — not the least of which is the loss of control by the donor over his or her property. As well, there would be tax consequences to the transfer if there is an accrued gain realized on the disposition (unless the property is a principal residence). If the donor does wish to proceed with a transfer of this nature, it is important to document what is to occur if, for example, the donor is unable to continue living in the property.

Artificial Debt
12. Rabbi Yosef Karo (16th century Israel), Code of Jewish Law, Choshen Mishpat 40:1
המחייב עצמו בממון לאחר בלא תנאי, אף על פי שלא היה חייב לו כלום, ה"ז חייב. כיצד, האומר לעדים: הוו עלי עדים שאני חייב לפלוני מנה, או שכתב לו בשטר: הריני חייב לך מנה, אף על פי שאין שם עדים, או שאמר לו בפני עדים: הריני חייב לך מנה בשטר, אף על פי שלא אמר: אתם עידי... שהרי חייב עצמו כמו שישתעבד הערב.
One who obligates himself to pay another person unconditionally is obligated, even if there was no debt. One who says to witnesses, 'Witness that I owe X a *maneh*' or one who writes in a deed, 'I owe X a *maneh*' even without witnesses, or one who says to X before witnesses, 'A deed says that I owe you a *maneh*', is obligated even without saying to the witnesses, 'You are my witnesses.'… He has obligated himself, as one who obligates himself to be a guarantor.

13. Rambam (12th century Egypt), Mishneh Torah, Laws of Sales 11:16
חייב עצמו בדבר שאינו קצוב, כגון שאמר הריני חייב לזון אותך או לכסות חמש שנים, אע"פ שקנו מידו לא נשתעבד, שזו כמו מתנה היא ואין כאן דבר ידוע ומצוי שנתנו במתנה, וכן הורו רבותי.
One who obligates himself to pay an unspecified sum, as in, 'I am obligated to feed/clothe you for five years', is not obligated even if a *kinyan* was made. This is like a gift without a known object. So my mentors have ruled.

14. Rabbi Yosef Karo (12th century Egypt), Code of Jewish Law, Choshen Mishpat 60:2
המחייב עצמו בדבר שאינו קצוב, כגון שנתחייב לזון את חבירו או לכסותו חמש שנים, (או שלא נתן קצבה לשנים) (ב"י בשם הרשב"א), אף על פי שקנו מידו, לא נשתעבד להרמב"ם; וחלקו עליו כל הבאים אחריו לומר שהוא משתעבד, והכי נקטינן
One who obligates himself to pay an unspecified sum, such as to feed or clothe someone for five years (or without a specific number of years), is not bound according to the Rambam, even with a *kinyan*. All who came after Rambam disagreed with him, though, saying he is bound, and this is the law.

15. Donna Litman, Steven Resnicoff, *Jewish and American Inheritance Law* pg. 175
[A] husband is first in line to inherit from his wife. In addition, however, a husband's rights are deemed to have vested at the outset of the marriage. Consequently, even if, during the marriage, the woman were to admit a great debt to a third party, this would not affect the husband's rights. Given that his rights preceded the indebtedness to the third party, the husband would have prior rights to the wife's estate.
Consequently, for a married woman to use this device, she needs her husband's cooperation. The husband should sign a separate admission of indebtedness that falls due on his wife's death. This document, however, should provide that this indebtedness is deemed fully paid and discharged if he fulfills the gifts set forth in his wife's "will".

16. Donna Litman, Steven Resnicoff, *Jewish and American Inheritance Law* pg. 181
As a general rule, American law does not enforce an obligation or deem it legally binding when a person voluntarily undertakes an obligation to another without consideration or a consideration substitute.

17. Rabbi Chaim Jachter (21st century USA)
https://www.koltorah.org/halachah/yerushah-shtar-chatzi-zachar-and-its-contemporary-variation-by-rabbi-chaim-jachter
In terms of applicability to the contemporary American situation, one may ask if creating such a debt creates concern for tax consequences. Rav Feivel Cohen wrote to me that it is Halachically feasible to name a charity, not a daughter, to help address such concerns. Rav J. David Bleich, in his contemporary variation of this Shtar, adds a clause to address this concern that includes the statement, "This instrument shall be regarded as of no effect whatsoever in any proceedings brought before any civil court of competent jurisdiction." We should note that the fact that the document has no validity in civil law does not detract from its Halachic validity (see Teshuvot Chatam Sofer Orach Chaim 113, Teshuvot Divrei Chaim 2:37 and Rav Zevin's LeOr HaHalacha p.122). Mechon L'hoyroa (Making a Will the Jewish Way, page 7)

advises that the executed Shtar be kept with a third party, an Orthodox Jewish attorney who will store it with a will and/or trust documents and present it only if the Halachic heirs challenge the Halachic validity of the secular will in a Beit Din.

18. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law, Even haEzer 108:3
ומה שנוהגין בשטר חצי זכר שכותבים עכשיו לבנות שנוטלין בכל אשר ימצא לו כמו הזכרים, משום דכותב להם דרך הודאה שחייב סך מה, ולא יפטר אלא כשנותן להם כמו הזכרים, ובדרך זה יכול להקנות אף מה שלא ברשותו, הן ראוי הן מוחזק...
The practice of *shtar chatzi zachar*, writing for daughters that they should have a share like the males, written in the form of an admission that he owes a certain sum to her and he will not be exempt other than by giving them a share like the males, and so he can even give her that which he does not currently own, whether that which is his due or that which he currently has…

19. Rabbi Yitzchak Weiss (20th century England, Israel), Minchat Yitzchak 3:135:4
הנהיגו דוקא כחצי זכר, שיהי' מעלת הזכר על הבת, כמעלת הבכור על הפשוט...
They specifically gave half that of the male, so that the increase of the male over the daughter would match the increase of the firstborn over the regular…

20. Rabbi Chaim Jachter (21st century USA), *Estate Planning, Disinheritance*, Gray Matter III
We noted earlier that the Ketzot Hachoshen mentions the option of leaving a daughter a full share in the *yerushah* and that Rav Akiva Eiger wrote such a *shtar* for his daughter upon her marriage to the *Chatam Sofer*. Rav Hershel Schachter, in turn, told me that today one should give his daughters a full share in the *yerushah* lest there be bitterness and acrimony in the family. Rav Schachter told me that he is following the lead of Rav Shlomo Zalman Auerbach, who also gave such advice (as reported by Rav Meir Goldvicht). Indeed, Rav Yitzchak Herzog (*Techukah L'yisrael Al Pi Hatora*h 2:110) records that the famed author Shmuel Yosef ("Shai") Agnon reports that in pre-war Galicia, a great Chassidic Rebbe died and his sons asserted their halachic right to the entire *yerushah*, whereupon they received the stern disapproval of the entire regional Jewish community. Rav Yaakov Kaminetzky (cited in *Emet L'yaakov Al Shulchan Aruch* p. 455) expresses a similar sentiment, stating, "In today's times, it is proper for the daughters to receive an appropriate share of the estate, and it is not considered *avurei achsanta*. However, the sons should also receive an appropriate share of the estate." Rav Yechiel Michel Tukachinsky (*Gesher Hachaim* 1:41-42) espouses a similar approach. Rav Binyamin Rabinowitz-Teumim (in an essay published in *Techukah L'yisrael Al Pi HaTorah* 2:224-226) explains that in an age when women are expected to contribute to the financial well-being of their families, daughters also need a share in the *yerushah*.

Joint tenancy
21. Rachel Blumenfeld, *The Jewish Laws of Inheritance and Estate Planning in Canada*, pg. 6
Transferring and holding assets in joint tenancy with children during lifetime may be a solution to the *halakhic* issue of distributing assets to daughters on death. However, in Canada, one must proceed cautiously. There may be tax implications to a transfer to joint tenancy (where a "true" joint tenancy is created), as the parent may be considered to be disposing of one-half of the property. And, in light of the *Pecore* and *Saylor* decisions, if the property is transferred to one of several children with the intention that the child is to distribute the property among several siblings, the property may be considered to fall back into the estate to be divided according to the will. That said, if, as discussed above, there had been a proper *kinyan* at the time of the transfer into joint tenancy, the child holding the property at the death of the parent should be able to distribute it in accordance with the will without offending the *halakha.*

Inter vivos trust
22. Rabbi Chaim Jachter and Martin Shenkman, Esq., Estate Planning Series Part IV
A new suggestion may provide a Halachically viable solution to the Yerusha issues in a manner that is consistent with common secular legal and estate planning. This involves establishing a revocable living trust. A revocable living trust is a contractual arrangement between one's self as the grantor forming the trust, preferably one's self and another person as co-trustees managing the trust, and one's self and his family members as beneficiaries to receive the economic benefits of the trust. This approach to a living trust is fundamentally different from the more simplistic approach of most living trusts in which one would be the sole grantor, trustee and beneficiary until death. The latter approach is less likely to be respected

as a valid entity under Halacha. If such a trust can be respected as a legal entity (a third party) by Halacha, if the transfers of one's assets to such a trust can be characterized as lifetime gifts under Halacha, then this commonly used secular planning technique may afford an ideal method of complying with the Torah requirements concerning Yerusha.

Vignette 3: Disinheriting

23. Charles Wagner, *When is a disappointed heir a defrauded creditor?*, Jewish Tribune, May 7 '13

A seminal case in this area is Stone v. Stone. In 1995, multimillionaire Harry Stone hatched a plan to ensure that his wife of 24 years Sarah Stone would get very little upon his death. In particular, Harry wanted to make sure that his commercial wealth would go to his children from a prior marriage. The problem for Harry, of course, was the Family Law Act, which lets the surviving spouse seek equalization against the estate in the same way that a spouse might on a divorce. Harry tried to thwart his wife's rights under the Family Law Act by transferring his assets to his children before he died. The result was that, when Harry passed away on July 21, 1995, there was virtually nothing left in his estate. Essentially, Harry was preventing his wife from exercising her claim under the Family Law Act for an equalization of net family property. In this case, Ontario Court of Appeal recognized the possibility of using the Fraudulent Conveyances Act to set aside transfers "made with intent to defeat, hinder, delay or defraud creditors or others of their just and lawful actions, suits, debts, accounts, damages, penalties or forfeitures." In Stone v. Stone, the court held that, as a spouse who held rights under the Family Law Act at the time of the fraudulent conveyances, i.e., the right to seek equalization, Sarah was a "creditor or other" within the meaning of the Fraudulent Conveyances Act. Accordingly, Harry's transfers to his kids were declared void and Sarah received an equalization payment of $851,937.

24. Rachel Blumenfeld, *The Jewish Laws of Inheritance and Estate Planning in Canada*, pg. 3

[I]t is unlikely for observant Jews in Western societies to want to execute wills that are strictly in keeping with the Biblical laws of inheritance. Not only would such a will be viewed as unfair and likely to cause discord in a family, in many jurisdictions, secular laws may be applied to overturn such distributions.

25. Talmud, Bava Batra 133b

הכותב את נכסיו לאחרים והניח את בניו מה שעשה עשוי אלא אין רוח חכמים נוחה הימנו רשב"ג אומר אם לא היו בניו נוהגים כשורה זכור לטוב

Mishnah: One can write away his property to others, leaving his children, but the sages are displeased with him. Rabban Shimon ben Gamliel said: He is remembered for the good if his children were not behaving properly.

26. Talmud Yerushalmi, Bava Batra 8:6

א"ר בא בר ממל הכות' נכסיו לאחרי' והניח את בניו עליו הו' אומ' ותהי עוונותם על עצמותם

Rabbi Abba bar Mamal said: Regarding one who writes his property to others, leaving his sons, it is written, 'And their sins were upon their bones.'

27. Rabbi Yehoshua Falk (16th century Poland), Sefer Meirat Einayim 282:4

והטעם, דהרי זכתה להן התורה בפרשת נחלות דיקומו היורשים תחת מורישיהן בנחלתן וירושתן:

This is because the Torah's portion of inheritance assigns to the heirs the right to stand in the place of those who bequeath to them, in their lot and inheritance.

28. Rambam, Mishneh Torah, Hilchot Nachalot 6:11

כל הנותן נכסיו לאחרים והניח היורשין, אע"פ שאין היורשין נוהגין (בו) כשורה אין רוח חכמים נוחה הימנו, וזכו האחרים בכל מה שנתן להן, מדת חסידות היא שלא יעיד אדם חסיד בצוואה שמעבירין בו הירושה מן היורש אפילו מבן שאינו נוהג כשורה לאחיו חכם ונוהג כשורה.

One who gives his property to others, leaving the heirs, displeases the sages even if the heirs do not act properly [to him]. The others do acquire whatever he gives them. It is pious to refrain from serving as witness to a will that transfers inheritance from the heir, even from a son who does not act properly to a brother who is wise and acts properly.

29. Rabbi Moshe Isserles (16th century Poland), Code of Jewish Law Choshen Mishpat 257:7

בריא שרוצה לחלוק נכסיו אחרי מותו שלא יריבו יורשיו אחריו, ורוצה לעשות סדר צוואה בעודו בריא, צריך להקנות בקנין.

If a healthy person wishes to distribute his assets after his death, to prevent fighting among his heirs, and he wishes to arrange the instructions while he is healthy, he must assign it with an act of *kinyan*.

30. Talmud, Gittin 47a

כי נח נפשיה שבק קבא דמוריקא, קרא אנפשיה: ועזבו לאחרים חילם.

When [Reish Lakish] died, he left behind a measure of saffron. He applied to himself Psalms 49:11, "And they left their strength to others."

31. Talmud, Eruvin 54a

אמר לי' רב לרב המנונא: בני, אם יש לך - היטב לך, שאין בשאול תענוג ואין למות התמהמה. ואם תאמר אניח לבני - חוק בשאול מי יגיד לך.

Rav said to Rav Hemnuna: My son, if you possess something then it is good for you, for in *she'ol* there is no pleasure and death does not delay. And should you say, 'I will leave a portion for my son,' who will tell you [what happens to it] in *she'ol*?

32. Talmud, Ketuvot 67b

כי קא ניחא נפשיה, אמר: אייתו לי חושבנאי דצדקה, אשכח דהוה כתיב ביה שבעת אלפי דינרי סיאנקי, אמר: זוודאי קלילי ואורחא רחיקתא, קם בזבזיה לפלגיה ממוניה. היכי עביד הכי? והאמר ר' אילעאי: באושא התקינו, המבזבז - אל יבזבז יותר מחומש! הני מילי מחיים, שמא ירד מנכסיו, אבל לאחר מיתה לית לן בה

When [Mar Ukva] was dying, he instructed, "Bring me my *tzedakah* account." He found 7000 *dinari siyanki* recorded therein. He said, "My provisions are light and my path is long!" He stood and gave away half of his money.

How could he do this? Didn't Rabbi Ila'i say, "In Usha the sages enacted that one who gives to *tzedakah* may not give more than twenty percent!" That is only when one is alive, lest he become impoverished, but after death there is no such concern.

33. Talmud, Ketuvot 53a

אמר ליה שמואל לרב יהודה: שיננא, לא תיהוי בעבורי אחסנתא אפילו מברא בישא לברא טבא, דלא ידיעא מאי זרעא נפיק מיניה...

Shemuel said to Rav Yehudah: Sharp one [or: Long-tooth], do not be among those who divert inheritance, even from a bad son to a good son; you don't know what sort of child may emerge from him.

34. Rabbi Shimon ben Tzemach Duran (15th century Algeria), Tashbetz 3:147

ובטופס שטרו' לראשונים ז"ל יש שיור ד' זוזי וכתב גאון ז"ל דמשום כדי שתהא רוח חכמים נוחה הימנו

In early template documents they noted that the deceased left four *zuz* to his heirs, and one *Gaon* explained that this was to satisfy the sages.

35. Rabbi Moshe Feinstein (20th century USA), Igrot Moshe Choshen Mishpat 2:50:1

והנה אף שלדינא איפסק כשמואל... אבל איתא בקצוה"ח סק"ב מהתשב"ץ דבטופסי שטרות ראשונים יש שיור ד' זוזי, וכתב גאון דמשום כדי שתהא רוח חכמים נוחה הימנו. ועיין בחת"ס חו"מ סימן קנ"א שהביא מתשב"ץ ח"ג סס"י קמ"ז שמה שהניח להיורש רביע זהוב אינו כלום לעשות שיהיה רוח חכמים נוחה הימנו אבל ד' זוזי הוא שיור

Although we rule with Shemuel's view… we find that the Tashbetz wrote that in early template documents they noted that the deceased left four *zuz* to his heirs, and one *gaon* explained that this was to satisfy the sages.

See also the Chatam Sofer, who cited the Tashbetz as saying that leaving a quarter-*Zahuv* coin to an heir is not significant enough to satisfy the sages, but four *zuz* is sufficient…

36. Rabbi Yaakov Yeshayah Blau (20th-21st century Israel), Pitchei Choshen IX 4 footnote 9

ולמעשה לא מצאתי הכרעה בזה, ומ"מ נראה שתלוי בגודל הירושה בכללה (ומסברא נראה שאם יש לו נכסים הרבה ומשייר ליורשיו דולר אחד, או אפילו ד' זוזי ה"ז כחוכא ואיטלולא), וגם במצב היורשים אם הם עניים או עשירים, והדבר נתון לפי ראות עיני הדיין...

ונלענ"ד דכשאמרו שצריך לשייר ליורשים, היינו שצריך להשאיר שיהא בדרך ירושה דממילא כדין תורה, אבל כשמחלק כל נכסיו, אף על פי שנתן גם ליורשיו כשיעור השיור, סו"ס עקר דין ירושה.

In practice, I have not seen a resolution for this. Still, it appears that this depends on the magnitude of the general inheritance (and logically, it appears that if there are a lot of assets and one leaves the heirs one dollar, or even four *zuz*, this is ridiculous), and also on the state of the heirs – are they poor or wealthy. The matter is subject to the perspective of the judge… And in my humble opinion, when they said one must leave to the heirs, that means to leave it in the manner of automatic inheritance, like the law of the Torah. But one who divides up all of his assets, even though he gives his heirs an amount suitable for the remnant, he has still uprooted the order of inheritance.

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