## Contents

<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>The glare of public scrutiny: how taxing the wealthy is changing</td>
</tr>
<tr>
<td>3</td>
<td>From media scandal to government action</td>
</tr>
<tr>
<td>3</td>
<td>Guiding principles for managing your tax affairs</td>
</tr>
<tr>
<td>4</td>
<td>Wealth under the spotlight, 2010</td>
</tr>
<tr>
<td>4</td>
<td>A coordinated approach to business taxes; individuals, not so much</td>
</tr>
<tr>
<td>5</td>
<td>What’s new since 2010</td>
</tr>
<tr>
<td>6</td>
<td>Tax policy changes impacting high net worth individuals</td>
</tr>
<tr>
<td>7</td>
<td>Turning the screw: many countries are increasing the top rate of personal income tax, and thus the overall personal income tax burden</td>
</tr>
<tr>
<td>8</td>
<td>Removing tax relief from pension contributions</td>
</tr>
<tr>
<td>8</td>
<td>Taxing dividends</td>
</tr>
<tr>
<td>8</td>
<td>Friend, can you spare a dime? The rise of the “solidarity surcharge” on high earners</td>
</tr>
<tr>
<td>10</td>
<td>Capital gains taxes: taxing the few (to please the many?)</td>
</tr>
<tr>
<td>12</td>
<td>Wealth taxes rising?</td>
</tr>
<tr>
<td>13</td>
<td>Inheritance and estate taxes</td>
</tr>
<tr>
<td>18</td>
<td>Taxing highly valued residential property</td>
</tr>
<tr>
<td>19</td>
<td>Enforcing the law</td>
</tr>
<tr>
<td>20</td>
<td>A rising wave of tax enforcement around the world</td>
</tr>
<tr>
<td>23</td>
<td>Watch your step – literally</td>
</tr>
<tr>
<td>23</td>
<td>Targeting wealth: new organizational responses from revenue authorities</td>
</tr>
<tr>
<td>24</td>
<td>It’s not just multilateral developments</td>
</tr>
<tr>
<td>24</td>
<td>The meteoric growth of taxpayer information exchange</td>
</tr>
<tr>
<td>27</td>
<td>The OECD’s Standard for Automatic Exchange of Information in Tax Matters</td>
</tr>
<tr>
<td>28</td>
<td>New opportunities to make a voluntary disclosure</td>
</tr>
<tr>
<td>29</td>
<td>Guiding principles for managing your tax affairs</td>
</tr>
<tr>
<td>33</td>
<td>Conclusion</td>
</tr>
</tbody>
</table>
The glare of public scrutiny: how taxing the wealthy is changing
On 3 April 2013, a nonprofit group of crusading reporters called the International Consortium of Investigative Journalists (ICIJ) shattered the long-held view that offshore bank secrecy was impenetrable. The group had received massive leaks detailing individual offshore bank accounts, and they began naming names on their website.

This was the first of hundreds of stories about the financial affairs of high net worth individuals (HNWIs) based on 2.5 million leaked records, including reports focusing on perceived tax evasion and avoidance. Journalists from Australia to Zambia exposed intimate details about their wealthiest citizens in a steady drumbeat of news stories that inflamed public opinion and stoked outrage from government officials, including tax authorities.

From media scandal to government action

“ICIJ’s ‘Offshore Leaks’ probe has ignited reactions around the globe – sparking official investigations, sweeping policy changes and high-profile resignations,” the organization says of its own work on a web entry that catalogs more than 75 specific actions taken by national governments or supranational organizations.¹ EU Tax Commissioner Algirdas Šemeta called news stories about the leaks the most “significant trigger” behind governments’ reinvigorated scrutiny of “how their countries can collect taxes which are due under national laws.”²

Unlike an earlier leak by rogue Swiss and Liechtenstein bank employees of undeclared bank accounts to US tax authorities (which themselves prompted US criminal charges and Senate investigations, beginning in 2008), the ICIJ leaks were delivered straight to the public. They triggered massive public outrage. Tax officials were spurred to act, especially in countries such as the UK, where it was subsequently revealed that they were, in some cases, already in possession of the data they needed to collect taxes.

With the press of a button, secrets that had been locked up in vaults for years circumnavigated the globe instantaneously, and authorities’ knowledge about their wealthiest citizens’ finances grew exponentially. Granted, the ICIJ investigation involved only 2.5 million records on top of the thousands involved in the Swiss and Liechtenstein cases. But the incident triggered a new resolve

¹ http://www.icij.org/blog/2013/04/release-offshore-records-draws-worldwide-response
² http://euobserver.com/economic/120382

Guiding principles for managing your tax affairs

Together, these 10 principles that together can help you develop a framework for managing your personal tax affairs. They are described in more detail at the conclusion of this report.

1. Develop (or refresh) your personal “tax philosophy”
2. Surround yourself with the right tax team
3. Review current structures and positions
4. Build “tax risk management thinking” into everything you do
5. Stay vigilant and active, assessing the impact of tax policy and enforcement changes on your circumstances
6. Be fastidious in meeting your compliance and reporting obligations – not just tax returns, but all other related reporting and disclosure requirements
7. Painstakingly record your travel movements
8. Treat voluntary disclosures with the utmost of care
9. Understand that tax planning remains relevant today
10. Control your tax affairs – don’t let them control you

For more information, see page 30.
among tax authorities to target wealthy individuals for new taxes and ensure that offshore accounts were not being abused. One month after the ICIJ stories began, the UK, the US and Australia identified more than 100 people they say concealed wealth in offshore tax structures. Australia has taken this further, putting in place “Project DO IT: Disclose Offshore Income Today,” which has led to more than 250 significant disclosures at its halfway point. In Great Britain, Finance Minister George Osborne said at the time, “The message is simple: if you evade tax, we’re coming after you.”

Wealth under the spotlight, 2010

During the past few years, many political figures have joined activists in driving headline-grabbing statements about law-abiding wealthy taxpayers, making little or no effort to distinguish legal tax planning from the misdeeds of tax evaders. Officials have called efforts by HNWIs “devious, calculating and unethical” and “morally repugnant.” This harsh rhetoric only underscores the intense scrutiny of wealthy individuals’ tax affairs around the world at this time.

Truly, our 2010 publication, Wealth under the spotlight, was well named, and the spotlight has only gotten brighter since. As we explained then, governments have two levers to pull upon when taxing their citizens. The first is tax policy: what is taxed, to what extent, at what time and under what circumstances. The second is tax enforcement — how the laws are administered, which for the wealthiest taxpayers is increasingly based upon data analytics; sharing of taxpayers’ information among different countries; and the threat of criminal sanctions for tax avoidance. Across both dimensions, actions around the world have been profound and swift; tax policy changes continue to focus on driving higher tax revenues from wealthy individuals. Groundbreaking agreements between countries (often using the leverage of potentially removing access to the requesting countries markets) have opened up former banking secrecy jurisdictions. And in the US, the Foreign Account Tax Compliance Act (FATCA) has not only registered more than 70,000 financial institutions in its own right, but is effectively being globalized under the guidance of the Organisation for Economic Co-operation and Development (OECD).

A coordinated approach to business taxes; individuals, not so much

The levers of tax policy and tax enforcement are both multidimensional. Think of the highly skilled operator of a large piece of construction equipment. His actions are largely transmitted through a pair of controls, which, depending on his skill, can either result in blunt, inaccurate and rough results or the most amazingly fine movements. As the philosopher Jean-Baptiste Colbert once remarked, “The art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest amount of squawking.”

For the taxation of large, multinational businesses, the OECD – with concerted political support from G20 members – is currently attempting to harmonize these operators’ actions. There is still plenty of squawking, but national tax authorities are trying to act in concert so as to increase collections and reduce inconsistencies between their tax regimes.

But where the taxation of wealthy individuals is concerned, there is no such orchestration. Instead, the arms of the tax collection machinery are swinging left and right, up and down, with no sense of rhythm and with no maestro conducting. It is a dangerous landscape for owners of capital, senior executive professionals and private business owners who may be active across multiple countries.

New wealth taxes are being introduced, some temporary, others permanent. Valuable real property is proving to be an attractive target for politicians keen to gain or retain votes. And capital gains taxes have changed in the last three years (mostly upward) in the countries we surveyed for this report. These limited examples reflect just some of changes on the policy side of the equation. Enforcement changes are moving at an even higher pace.

Compliance with complex tax laws is not a black and white issue. But in the glare of the spotlight, with reporters and tax authorities quick to judge, every decision can seem starkly compliant or evasive. This is an era when the penalties imposed on unforeseen errors have increased. Wealthy individuals must address risk in a more proactive manner. Indeed, the risk of criminal prosecution is rising year-on-year. We hope the examples of change we are seeing and the practical guidance we outline in this report point you in the right direction.
What’s new since 2010

- Growing intolerance of perceived abuse of the tax system by the public, the media and activists
- Higher top marginal rates of personal income tax
- Freezing of the limit at which top rates start and removal of various allowances, with the net effect of bringing more taxpayers into higher tax bands
- Increasing the tax on dividend payments
- More countries imposing temporary “solidarity surcharges” on HNWIs
- Increasing capital gains taxes – including on nonresident individuals
- Increasing taxes on immovable property – including residential property
- Increasing scrutiny of HNWI’s tax affairs by tax administrations
- A steady flow of countries offering voluntary disclosure opportunities
- A “revolution” in information exchange between countries – including moving toward global, automatic exchange of information
- A growing number of countries imposing criminal sanctions in relation to tax issues

About this report

This report is based upon the tax policy and tax enforcement developments that have occurred in 16 key jurisdictions since the 2010 publication of our original Wealth under the spotlight report: Australia, Austria, Brazil, Canada, China, France, Germany, India, Italy, Japan, Mexico, Russia, South Korea, Turkey, the UK and the US. We collected data during late 2013 and have since supplemented it with the most significant recent legislative developments.

Tax legislation is constantly changing. This publication contains information in summary form and is therefore intended for general guidance only. It is not intended to be a substitute for detailed research or the exercise of professional judgment. Neither EYGM Limited nor any other member of the global EY organization can accept any responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication. On any specific matter, reference should be made to the appropriate advisor.
Tax policy changes impacting high net worth individuals
Turning the screw: many countries are increasing the top rate of personal income tax, and thus the overall personal income tax burden

Headline marginal personal income tax (PIT) rates are but one lever of policy when taxing the populace. Some countries may argue that marginal increases to the top rate of tax sometimes affect relatively few individuals and raise little revenue. Other commentators believe they do significant damage to the competitive reputation of a country in the eyes of increasingly mobile high earners.

Witness the experiences of the UK where a 5 percentage point reduction in the highest personal income tax rate (from 50% to 45%) was the largest reduction (in overall size) globally in 2013, and which was clearly counter to the trend of a rising tax burden on wealthy individuals elsewhere. The reduction, which moved the UK’s PIT rate from fifth-highest in the European Union (EU) to 11th in 2013, may only have been feasible because the rate had earlier been raised from 40% to 50% in 2010 and because other (wider) policy moves had resulted in the UK returning to economic growth ahead of many other countries.

Significant criticism followed that 2010 rate hike, which was seen as an emergency (austerity) measure in reaction to the global financial crisis. It was the first increase in the UK’s top tax rate for over 30 years, and the Government anticipated it would yield around £2.5 billion in extra tax revenue each year. However, because of the uncertainty regarding how those affected would respond, as well as its impact on the economy, yield estimates were highly uncertain. A report4 from Her Majesty’s Revenue and Customs provided the first comprehensive ex-post assessment of the yield using a range of evidence, including 2010–11 Self-Assessment returns,5 showed that there was a considerable behavioral response to the rate change, including a substantial amount of forestalling: around £16 billion to £18 billion of income was estimated to have been brought forward to 2009-10 to avoid the introduction of the higher rate. As the report noted, “The conclusion that can be drawn from the Self-Assessment data is therefore that the underlying yield from the additional rate is much lower than originally forecast (yielding around £1 billion or less), and that it is quite possible that it could be negative.”

But without doubt, to pull the lever that increases tax rates for the wealthy can be both tempting and politically expedient. On 19 November 2013, for example, the French National Assembly adopted the Government’s proposed “exceptional solidarity tax” of 50% (but borne by companies, not individuals) on the portion of remuneration granted to an employee or director that exceeded €1 million. Under this measure, remuneration taken into account included wages, as well as pension payments and stock options, though specific computation rules apply for these. The extra tax payment would, in principle, be deductible from any corporate income tax liability, and the tax would apply only to remunerations granted in civil years 2013 and 2014 and would be capped at 5% of the turnover of the civil year.

The increase is a clear reflection of political positioning; 2014 has been an important year for the French Government as it was subject for the first time since its formation to the vote of the electoral body during municipal, European and senatorial elections held in March, May and September, respectively. Again, the forecasted effect of this tax is relatively minor when compared to other tax types; it is forecast to raise €60 million of new taxes in 2014 and €160 million in 2015, from just 470 companies and 1,000 employees or executives. Putting this into wider context, France’s total personal income tax revenues in 2012 (the latest year for which data are available) were almost €166 billion.

In the US, tax increases of any type have shown themselves to be incredibly sensitive. It was the expiration of Bush-era tax cuts (as opposed to a new policy decision) which raised the top federal rate back up from 35% to 39.6%, and similarly, it was the expiration of an Obama-era cut in payroll taxes that pushed the combined employer-employee rate back up to 15.3%.

What about the rest of the world? Across our grouping of 16 countries, 12 have retained the same top rate of federal personal income tax6 since 2010. Three countries have raised their federal personal income tax rate, though it should be noted that the French levy is actually paid by companies. South Korea increased its top rate of PIT from 38.5% to 41.8%, while the US increased from 35% to 39.6%. Only one country, the UK (as noted), saw a tax rate reduction in this period. It should also be noted that both France (see page 9 for the exceptional surtax on high income) and Mexico (30% to 32%) also have already confirmed top rate PIT increases in 2014.

---


5 The UK personal tax regime operates on a self-assessment basis. Not every individual is required to file a tax return. Under the self-assessment regime, certain categories of taxpayers are required to file a tax return, in which they “self-assess” their income and gains.

6 Local or provincial tax rates may have increased.
Of course, any comparison of marginal PIT rates can be described as blunt at best and potentially misleading at worst; it will hide a range of potential tax changes on other types of income, both passive and active, as well as the treatment of capital gains, property taxes and special wealth taxes.

Supporting this hypothesis, a recent report by EY found that governments are generally making fewer changes to headline corporate, personal and indirect tax rates in 2014 compared with 2013 and 2012. Instead, more are expanding the tax base(s) for 2014 and beyond. In the area of PITS, for example, that report found only two countries of 61 surveyed — Mexico and Sweden — had announced increases to top marginal rates of PIT in 2014, while two — Guatemala and Norway — had announced reductions of their highest rates. But even while top tax rates in 2014 are projected to remain largely unchanged, 15 of the 61 countries anticipate an increasing tax burden for personal taxpayers. Taxes around the world are on the rise, but these rises may be a bit less obvious than in the past.

Removing tax relief from pension contributions

It is not just direct charges on income or gains that are attracting attention from governments in our survey. Some are also removing the tax relief from pension contributions made by high-earning taxpayers. Though not a widespread phenomenon, some replication of this policy measure may be experienced in other jurisdictions in due course, especially where inequality (as measured by the Gini coefficient) is high or widening.

Taxing dividends

Policy interest in the taxation of dividends has increased dramatically in the last few years. In particular, there has been a strong focus on reconsidering the relative advantages and disadvantages of integrating the corporate and personal levels of taxation on distributed corporate profits in the form of a dividend.

Dividends are taxed first at the corporate level and then at the personal level; the amount of pretax income earned can be split into three components: portion paid to the government as corporate tax, the portion paid in personal tax and the portion received by the shareholder.

Many European countries have moved away from full imputation systems (where all or some of the corporate taxes paid are taken into account by way of a credit to the personal income taxpayer) to systems where dividends are taxed at lower rates at the personal level.

OECD figures show that, on average, the top marginal tax rate on dividends in OECD countries was reduced by almost 7 percentage points between 2000 and 2012. But it should be noted that much of this has been due to sizeable reductions in corporate tax rates.

In fact, the average rate across OECD countries has been rising between 2011 and 2014, from 41% in 2011 to 43.2% in 2014. Between 2012 and 2014, the number of OECD countries (12) increasing their overall top marginal tax rate (corporate and personal combined) on distributions of domestic source profits outpaced those decreasing them (4) by a factor of three-to-one. Eighteen of the 34 countries maintained the same rates. The largest percentage point increase was in Mexico (+12 percentage points).

Friend, can you spare a dime? The rise of the “solidarity surcharge” on high earners

Governments aren’t begging; they’re demanding. And they’re demanding more than dimes.

One increasingly popular way for governments to extract additional revenue (particularly in times of economic difficulty) is via a “solidarity surcharge.” This is not a new type of tax. Germany’s ongoing 5.5% solidarity tax was first
Six of the 16 jurisdictions we surveyed for *Wealth under the spotlight* levied solidarity surcharges during the period 2010–13, but that is certainly not to say that they are the only countries to do so.

introduced almost a quarter of a century ago to support the economic recovery of the former GDR. But the popularity of such measures as a policy tool of choice (along with VAT increases affecting all taxpayers) has been a key characteristic of the tax landscape in many European nations since the financial crisis.

Simply put, a solidarity surcharge is a tax that is typically levied for a limited number of years in an attempt to provide funding toward (theoretically) unifying or solidifying projects. The tax may be imposed on all taxpayers but often just on those in the highest income brackets. This places an additional burden on taxpayers, including individuals, sole proprietors and in some cases, corporations (such as in the case of Japan’s recently repealed 10% corporate tax surcharge designed to raise revenue to rebuild infrastructure after the 2011 Tōhoku earthquake and tsunami).

Such taxes may be calculated based on a percentage of the final tax bill (a surtax), or they may be an additional tax at one or more rates imposed on income above a set amount. In some countries the surcharge is imposed on what might be considered relatively low income levels, while in others, only taxpayers earning a great many multiples of the average wage fall under such a levy.

In some cases, the definition of “unifying” or “solidifying” projects certainly holds true. In the case of Australia, for example, a one-year levy was imposed to help pay for damages caused by flooding in 2011. In other cases, though, such levies have been longer-term in their nature, designed to shore up structural damage imposed on government finances by events such as the global financial crisis. These are more likely to become a more permanent feature of the country’s tax code.

Six of the 16 jurisdictions we surveyed for *Wealth under the spotlight* levied solidarity surcharges during the period 2010–13, but that is certainly not to say they are the only countries to do so. In the European theater, the Czech Republic, Greece, Italy, Portugal, Slovakia and Spain all levy such surcharges. The duration, reason for and overall size of the surcharges applied varies greatly among countries and includes:

- **Australia**: A temporary flood and cyclone reconstruction levy (flood levy) was introduced from 1 July 2011 to 30 June 2012. The rate was 0.5% on all income over A$50,000 and 1% on income over A$100,000.

- **France**: A 3% or 4% exceptional surtax on high incomes was introduced for 2011 onward. Single payers are subject to a tax of 3% for the portion of taxable income ranging from €250,000 to €500,000 and 4% for the portion exceeding €500,000. Married taxpayers are subject to a tax of 3% for the portion of taxable income ranging from €500,000 to €1 million and 4% for the portion exceeding €1 million. In addition, the 2014 French Finance Bill proposed an “exceptional solidarity tax” of 50% borne by companies on the portion of the annual remuneration granted to an employee or director exceeding €1 million.

- **Germany**: A solidarity surcharge was introduced in 1991 to cover Germany’s reunification costs. Tax rates have varied over the years, reaching as high as 7.5%. Since 1998 it has remained a constant levy at a rate of 5.5% on the income tax from every taxpayer, whether individual or corporate.

- **Czech Republic**: A three-year (2013–15) solidarity surcharge of 7% for employment/business has been put in place on incomes exceeding approximately €48,000 per year. This charge is currently under discussion in negotiations of the emerging coalition in the Czech Republic.

- **Greece**: A special solidarity contribution has been imposed on individuals’ incomes during the five fiscal years 2010–14. The rates rise with income: above €12,000 the rate is 1%, above €20,000 the rate is 2%, above €50,000 the rate is 3%, and above €100,000 the rate is 4%. Some highly paid public officials may pay 5%.

- **India**: The 2013 Finance Act imposed a one-year surcharge of 10% on income tax (for the tax year 2013–14) where the taxable income exceeded INR10 million (around US$161,000).

- **Italy**: A 10% solidarity surcharge applying to workers employed in the financial sectors (e.g., banks, financial institutions) was introduced in tax year 2011. The surcharge applies to income from stock options and variable compensation exceeding 100% of base remuneration. While the surcharge remains in place, an additional 3% income tax applies to income exceeding €300,000 for all taxpayers for tax years 2011, 2012 and 2013, and there are no current proposals to extend it. As of fiscal year 2011, mandatory severance payments exceeding €1 million are taxed at progressive tax rates (i.e., up to 43% plus local taxes) instead of at separate tax rates as was previously the case.

- **Japan**: A 10% surcharge tax was introduced in 2011, in addition to the progressive personal income tax rate. This tax applies only to workers employed in the financial sector.
Our survey of national governments’ tax policies demonstrates that capital gains taxes retain their political sensitivity. Two linked factors drive this: many countries are trying to reduce stubbornly large budget deficits by increasing tax rates and attempting to broaden tax bases. In addition, because the individuals who pay significant capital gains taxes are few and mostly wealthy, the capital gains tax rate is an attractive target for politicians with an eye on future votes.

Taxing highly mobile capital is easier said than done, and some governments do give credence to the idea that high CGT rates damage capital formation. That makes them careful not to pluck the goose until it squawks (or even runs away completely). Nevertheless, they want more revenue and are putting a great deal of time and money on enforcement of capital gains taxes, not only on their own citizens but increasingly on nonresidents with international assets.

- In September 2013, Brazil implemented a tax rate of 15% on the capital gains nonresidents receive from the sale of goods located in Brazil unless a tax treaty has established a different rate.
- In December 2013, Spain’s 2014 Budget Law extended for another year the increased tax rates on the Spanish source income of nonresidents with no permanent establishment in Spain, including capital gains for which the rate will remain at 21% instead of dropping back to 19%.
- Effective in 2013, India established an 11.33% tax rate on nonresidents’ long-term capital gains from the sale of unlisted securities when the taxpayer’s total income exceeds INR10 million. No indexation of the gain’s value is permitted, nor is foreign exchange fluctuation protection available, as was the case prior to tax year 2012–13.

The new measures to increase capital gains tax collections on nonresidents are not the only policy areas where governments are effectively widening their borders, imposing an ever-growing tax burden on nonresidents, while at the same time increasing legislative and administrative efforts to increase domestic collections.


While arguably generating fewer column inches than personal income tax rate increases, changes to the taxation of capital gains are of primary importance to those who measure their wealth in terms of assets and not income.

Capital gains taxes: taxing the few (to please the many?)

“A very small percentage of people in this country pay a big chunk of the taxes,” said former New York City Mayor Michael Bloomberg in 2011. Bloomberg was talking specifically about capital gains taxes (CGT) in the US.

While arguably generating fewer column inches than personal income tax rate increases, changes to the taxation of capital gains are of primary importance to those who measure their wealth in terms of assets and not income.

Put simply, CGTs are levied on profit, if any, realized on the sale of a non-inventory asset. Not all countries levy a CGT, and for those that do, most have different CGT tax rates for individuals and corporations, different rates for different types of assets and different rates depending on how long the asset was held. The most commonly taxed gains are those realized from the sale of stocks, bonds, precious metals and property.

Because these sources of income flow largely to high-income people, the common policy of taxing them at a lower rate than wages, and in some countries at a zero rate, has made capital gains taxes a perpetual topic of bitter political dispute.

Advocates for low capital gains taxes point out that they spur investment in the economy, which benefits all taxpayers. US President John F. Kennedy described the problem succinctly more than 50 years ago: “The tax on capital gains directly affects investment decisions, the mobility and flow of risk capital ... the ease or difficulty experienced by new ventures in obtaining capital, and thereby the strength and potential for growth in the economy.”

Echoing that sentiment and taking it further in 1997 testimony before the US Congress, then-US Federal Reserve Chairman Alan Greenspan said the “major impact” of the capital gains tax, “as best I can judge, is to impede entrepreneurial activity and capital formation,” arguing that “the appropriate capital gains tax rate was zero.”

From the anti-wealth perspective, such tax policies are an outrage. As the Washington Post wrote, “For the very richest Americans, low tax rates on capital gains are better than any Christmas gift.”


Since our 2010 publication, a majority of the 16 countries surveyed have made changes to capital gains taxation that can be described as significant. Without exception, these changes have increased the burden of tax payable. France, Italy, South Korea, the UK and the US all increased headline CGT rates. For example, 2013 saw France move from a flat rate of 24% on gains to applying personal progressive income tax rates ranging from 0% to 45% – effectively a near 100% increase. Mexico, meanwhile, introduced a CGT for the first time in 2014 and may well be followed by New Zealand.  

Alongside raising statutory rates, other significant changes since 2010 among the 16 surveyed jurisdictions include plugging loopholes, targeting nonresident taxpayers, reducing exemptions and broadening the CGT base:

- **Germany**: Effective 1 March 2013, the German parliament enacted a new provision in order to prevent the application of a special tax optimization scheme known as the “Goldfinger Model.” Under this scheme, taxpayers with extraordinary earnings (e.g., from the sale of a business) could legally lower their individual income tax rate to 0% by declaring negative progression clause income in the year when they accrued the proceeds of the sale. Negative progression clause income is generated by the purchase of gold through a gold trade business entitled to cash basis accounting in another EU Member State.

- **Italy**: Italy increased the flat rate of CGT from 12.5% to 20% in 2012 as part of a wider package of tax increases and spending cuts designed to accelerate deficit reduction. On 12 March 2014, the Italian Government extended this, announcing that the 20% flat tax currently applicable to dividends, interest and certain capital gains will increase to 26%. Interest and capital gains on Italian government bonds should remain taxable at the reduced 12.5% rate. The increase in revenue is intended to finance a 10% reduction of the Italian regional tax on productive activities (IRAP).

- **Japan**: The reduced tax rate (10%) on dividends and capital gains income derived from listed stocks will be abolished at the end of 2013. From 2014, the original tax rate of 20% will become applicable.

- **Mexico**: New legislation was included in Mexico’s 2014 tax bill to tax sales of stock through the Mexican Stock Exchange. The tax will be 10% of the gains realized during a tax year. No credits or other deductions will be permitted.

Four more years (of higher taxes on capital gains)

Since our 2010 publication, a majority of the 16 countries surveyed have made changes to capital gains taxation that can be described as significant. Without exception, these changes have increased the burden of tax payable. France, Italy, South Korea, the UK and the US all increased headline CGT rates. For example, 2013 saw France move from a flat rate of 24% on gains to applying personal progressive income tax rates ranging from 0% to 45% – effectively a near 100% increase. Mexico, meanwhile, introduced a CGT for the first time in 2014 and may well be followed by New Zealand.  

Alongside raising statutory rates, other significant changes since 2010 among the 16 surveyed jurisdictions include plugging loopholes, targeting nonresident taxpayers, reducing exemptions and broadening the CGT base:

- **Austria**: The new Austrian withholding tax and CGT regime have had a major impact on Austrian investors’ income from capital assets since it came into effect on 1 April 2012. Capital gains and income from derivatives are now subject to taxation for private investors, irrespective of their holding period. In general, the taxation became effective for any profits derived from the sale of shares or investment fund units purchased as of 1 January 2011 and for the sale of bonds and derivatives purchased as of 1 April 2012. Only realized income from securitized derivatives will be subject to a special tax rate of 25% and withholding deduction.

- **Australia**: Capital gains accrued to nonresident and temporarily resident taxpayers after 8 May 2012 are no longer eligible for a 50% discount. Generally, only 50% of an individual’s capital gain from the disposal of an asset held for at least 12 months is subject to tax (after offsetting any capital losses against the gross capital gain).

- **France**: The CGT rate was increased from a flat 19% to 24% for tax year 2012, but for all subsequent years, capital gains are taxed at the personal progressive income tax rates ranging from 0% to 45%. Capital gains may also be subject to the specific surtax on high income at a rate ranging from 3% to 4%, depending on the overall amount earned within a fiscal year by the taxpayer. In addition, capital gains are subject to social contributions at the rate of 15.5%.

- **Germany**: Effective 1 March 2013, the German parliament enacted a new provision in order to prevent the application of a special tax optimization scheme known as the “Goldfinger Model.” Under this scheme, taxpayers with extraordinary earnings (e.g., from the sale of a business) could legally lower their individual income tax rate to 0% by declaring negative progression clause income in the year when they accrued the proceeds of the sale. Negative progression clause income is generated by the purchase of gold through a gold trade business entitled to cash basis accounting in another EU Member State.

- **Italy**: Italy increased the flat rate of CGT from 12.5% to 20% in 2012 as part of a wider package of tax increases and spending cuts designed to accelerate deficit reduction. On 12 March 2014, the Italian Government extended this, announcing that the 20% flat tax currently applicable to dividends, interest and certain capital gains will increase to 26%. Interest and capital gains on Italian government bonds should remain taxable at the reduced 12.5% rate. The increase in revenue is intended to finance a 10% reduction of the Italian regional tax on productive activities (IRAP).

- **Japan**: The reduced tax rate (10%) on dividends and capital gains income derived from listed stocks will be abolished at the end of 2013. From 2014, the original tax rate of 20% will become applicable.

- **Mexico**: New legislation was included in Mexico’s 2014 tax bill to tax sales of stock through the Mexican Stock Exchange. The tax will be 10% of the gains realized during a tax year. No credits or other deductions will be permitted.

---

10 Not one of the countries included in our 16, but also understood to be considering adoption of a CGT.
Unlike income taxes, which tax a flow of earnings (i.e., wages, salaries, profits, interest and rents), a wealth tax is generally comprehended as a levy based on the aggregate value or stock of all assets belonging to an individual.

- **South Korea:** A new CGT bracket was introduced in 2012: 38% (41.8% including surtax) for capital gains exceeding KRW300,000,000 (approximately US$280,000). In addition, an exemption for some “majority shareholders” was amended. Although gains from the transfer of listed stock are tax-exempt in order to boost Korea’s stock market, gains accruing to majority shareholders are subject to capital gains tax. Prior to July 2013, a shareholder whose total stake, together with any related parties, in a listed company exceeded 3% (5% for KOSDAQ-listed corporations) or total market value of the stock held by a shareholder is at least KRW10 billion (KRW5 billion for KOSDAQ-listed corporations) was considered to be a majority shareholder. For 2013 and beyond, this scope is amended to include a shareholder whose total stake, together with any related parties, in a listed company exceeds 2% (4% for KOSDAQ-listed corporations) or total market value of the stock held by a shareholder is at least KRW5 billion (KRW4 billion for KOSDAQ-listed corporations).

- **UK:** For gains arising with effect from 23 June 2010, the UK introduced an increase in the top rate of CGT to 28% (from 18%) for taxpayers whose income and gains exceed the basic income tax rate band (which was £32,010 for 2013). The rate increase was accompanied by an increase in the Entrepreneurs’ Relief lifetime limit, from £5 million to £10 million (of gains taxable at 10%). Non-natural persons subject to the Annual Tax on Enveloped Dwellings (ATED) must also pay capital gains tax at 28% from 6 April 2013. Although the charge is on the non-natural person, it will affect individuals who are the ultimate beneficial owners. The most recent UK Finance Act also confirms that CGT will be extended to nonresident individuals in respect of UK residential property from April 2015 onward. CGT was first extended to nonresident companies owning residential property valued at over £2 million in Finance Act 2013 (as above), and this measure will extend it still further. The current proposal is that the new CGT charge will apply to individuals, trustees and companies (including those companies subject to ATED related CGT). However, it is expected that the charge for companies may be limited to companies with closely held shares.

We understand that some form of rebasing will be available for nonresidents who already hold property. It is not currently clear whether this will be achieved by uplifting the cost of the property to its market value at the time the charge is introduced, or whether, instead, the actual gain over the total period of ownership might be time-apportioned, with only a proportion of the gain being subject to the new charge. Further details on the operation of the new charge are expected at some point in late 2014.

- **US:** As noted in an earlier section, the American Taxpayer Relief Act of 2012 was signed into law by President Barack Obama on 2 January 2013, extending the Bush-era tax rates originally enacted in 2001 for all but “high-income taxpayers” earning more than $400,000 (and joint filers with incomes above $450,000). Alongside an increase in the top tax rate on ordinary income to 39.6%, the act increased the long-term capital gains rates to 20% (from 15%) for those above the same income thresholds. Net short-term capital gains are still taxed at the ordinary income tax rates. In addition, a new 3.8% tax on net investment income took effect on January 1, 2013, that applies to both short-term and long-term net capital gains. The tax only applies to the extent that an individual’s adjusted gross income exceeds $250,000 for taxpayers who are married filing jointly and income exceeding $200,000 for taxpayers who file as unmarried individuals.

**Wealth taxes rising?**

While *Wall Street Journal* headlines such as “The Coming Global Wealth Tax”\(^\text{11}\) may have caused unnecessary consternation in November 2013, the concept of wealth taxes is one to continue watching closely, as countries balance their move back toward growth trajectories with long-term financial hangovers from six years of fiscal rescue packages.

Unlike income taxes which tax a flow of earnings (i.e., wages, salaries, profits, interest and rents), a wealth tax is generally comprehended as a levy based on the aggregate value or stock of all assets belonging to an individual (or in some cases, a household), including (but not necessarily limited to) housing, cash and other bank deposits, money funds, savings in insurance and pension plans, investment in non-owner occupied real estate, unincorporated businesses, corporate stock, financial securities and personal trusts. In other words, the assets typically accumulated by the wealthy.

**The global financial crisis:**

**a turning point for wealth taxes**

Over the past few decades, until the global financial crisis, recurrent taxes on net wealth were in decline in many countries. Austria, Denmark, Finland, Germany, the Netherlands, and Sweden had all repealed such taxes.

In no country do wealth taxes contribute a large proportion of national tax revenues, but the argument for them is usually the same as for all taxes on high-income people: that they help narrow the gap between the rich and the poor.

More recently, though, several countries have either introduced or seriously debated such taxes. In some jurisdictions their use has been on a temporary basis—often in tandem with a solidarity surcharge on income. In other cases, wealth taxes have been introduced without time limitation, although their existence may ultimately be short-lived as national economies recover and generate more tax revenue.

It probably goes without saying that despite the fact that their impact is felt by few taxpayers, wealth taxes are the subject of intense debate. Germany enacted its Wealth Tax Act in 1952 (Vermögensteuergesetz), which for many years was considered by many to violate constitutional law. Germany’s Constitutional Court (Bundesverfassungsgericht) finally agreed that it did in January 1997, setting out that the valuation of real estate for wealth tax purposes under the German Wealth Tax Act was privileged excessively compared to the valuation of other assets (e.g., bank money) which constituted a conflict with the principle of equality.

In no country do wealth taxes contribute a large proportion of national tax revenues, but the argument for them is usually the same as for all taxes on high-income people: that they help narrow the gap between the rich and the poor.

A counterclaim is that wealth taxes drive away rich people.

In France, for example, one report established by the French Parliament estimated that more than 500 people left the country in 2006 as a result of the impôt de solidarité sur la fortune (or ISF wealth tax). A commonly heard joke in France is that the ISF tax was actually an “incitement à sortir de la France”—an incitement to leave. As amended in 2011, the ISF is levied on taxpayers with total net wealth exceeding €1.3 million on 1 January of each year, with the tax ranging from 0.5% to 1.5% (for wealth above €10 million). French residents are taxed on their worldwide assets while nonresidents are taxed only on their French assets. Individuals who transfer their residence in France and who have not been French residents during the preceding five years are exempt from wealth tax on their foreign assets for five years.

Our survey of 16 jurisdictions (which incidentally, focuses on G20 countries and therefore omits countries such as Greece, Spain, and Switzerland, which also levy wealth taxes) identifies three that currently levy a wealth tax:

- **France**: As discussed above, the ISF wealth tax, as amended in 2011, is levied on taxpayers with total net wealth exceeding €1.3 million on 1 January of each year.
- **India**: India’s wealth tax is computed at the rate of 1% of the amount of net wealth that exceeds INR3 million (approximately US$48,000) on the valuation date of 31 March of the relevant tax year. Assets and debts related to those assets are valued in accordance with India’s Wealth Tax Act. There have been no changes in the threshold limit or rate of tax under the Act in the last three years, while prior to 2010 the threshold limit was INR1.5 million. Under India’s Direct Tax Code proposals, the threshold limit for levy of wealth tax has been proposed to be raised from INR3 million to INR10 million—but additional assets are also proposed to be covered under the tax.
- **Italy**: Italy levies an annual tax on foreign real estate at 0.76% on the purchase price of properties not located in the European Union or on the “cadastral value” (i.e., notional imputed income) for properties held in the EU. The tax is due for each fiscal year and calculated according to the percentage and the period of ownership during each year. A tax on financial assets held abroad is also levied at a rate of 0.15% of the fair market value as of 31 December each fiscal year.

### Inheritance and estate taxes

One type of wealth tax has fallen into disfavor in many countries, the tax at death, but is still a major issue for many taxpayers, especially those with assets that stretch across international borders.

**Death and taxes combine unpleasantly**

“In this world nothing can be said to be certain, except death and taxes,” wrote US founding father Benjamin Franklin in 1789. Inheritance and estate taxes, in their myriad forms, manage to bring both death and taxes into a single, slightly unpalatable focal point.

To expand upon Franklin’s mordant description, inheritance and estate taxes take the simplest concept and make it as intricate (and therefore important to plan for) as possible. When you die, your assets are transferred into a legal entity known in most countries as an estate that, like corporations, is permitted to hold assets and earn investment income, and therefore must pay taxes, until all assets in the estate are transferred to heirs or other parties as instructed by the deceased in a last will and testament or as dictated by law.

---

12 In Spain, a wealth Tax was reintroduced for years 2011 to 2014. For 2015, it is expected that a 100% rebate on the net tax payable will be introduced, but at the time this report was written, no formal announcement had been made.
On estates that hold assets in several countries, overlapping estate or inheritance taxes can be particularly uncoordinated and burdensome.

Whether the assets are passed down to children, family, friends or charitable causes, one or more governments may want a share. Governments may take a percentage of the estate’s assets, in which case the estate will file a special tax return, or governments may demand a percentage of the various inheritances from the estate, in which case the taxes will be paid by all the taxable heirs.

Nations vary widely in their approaches

Not all countries levy estate or inheritance taxes, and among those that do, the rates and treatment can be wildly different. Consider three countries in the Americas: Brazil, Mexico and the United States. In the US, the highest federal rate of estate tax is 40% (plus a sub-national tax in some US states). In Brazil, there is no federal estate or inheritance tax, and the state-leved causa mortis wealth transfer (ITCMD) is capped at 8%. Mexican tax legislation, meanwhile, simply does not levy a tax at death, as is the case in many of the countries covered in this report.

When a government does levy a tax at death, it will typically not tax both the estate and the inheritance, although in South Africa, the passing of assets may be taxed twice – once via capital gains tax upon death, and then again via a 20% estate duty.

More commonly, a double tax may occur due to multiple layers of government, with the inheritance tax typically levied by the sub-national government after the national government has taxed the estate. On estates that hold assets in several countries, overlapping estate or inheritance taxes can be particularly uncoordinated and burdensome.

These two terms – estate and inheritance – are often mixed up in the media, but even in tax law, the meanings vary from country to country and the terms are sometimes used interchangeably. In the UK, for example, “inheritance tax” (IHT) is levied on the assets of the deceased. In US terminology, then, the UK’s IHT is an “estate tax.”

Whatever the complexities of the terminology, they are nothing compared to the complexity of compliance and the shockingly high percentage of tax collected by some governments if the taxpayer has not been fully diligent in planning the estate.

In a world where people and capital are more mobile, where the gaps between rich and poor are more visible and national deficits are alarmingly high, estate and inheritance taxes are more of a political hot potato than ever before. And that’s before you even consider the administrative burden and the rise in cross-border disputes related to collecting the tax.

Is it a tax worth levyng?

At the philosophical level, opponents of inheritance or estate tax, who may refer to either one as a “death tax,” argue that it takes capital out of the productive hands of entrepreneurs’ heirs and into the unproductive hands of the government, that the administrative burden is outrageous, and that it doesn’t even collect much revenue. To quote Investor’s Business Daily, a national newspaper in the US, “People should not be punished because they work hard, become successful and want to pass on the fruits of their labor, or even their ancestors’ labor, to their children. As has been said, families shouldn’t be required to visit the undertaker and the tax collector on the same day.”

Others have put forward empirical evidence. The Tax Foundation, a conservative think tank based in Washington, DC, has made several arguments against the tax:

- The US federal 55% (at the time) estate tax created roughly the same disincentive effect as doubling an entrepreneur’s top effective marginal income tax rate.
- Enforcing the tax was almost five times more costly per dollar of revenue than the federal income tax.
- The tax persuades wealthy people to give larger donations before death and larger bequests at death to nonprofits, escaping the tax. Whatever the merits of charitable foundations, the result for government is lower revenue, not only in the current tax year but in all future years because monies transferred to charities generates no tax revenue in perpetuity, unlike monies transferred to heirs who keep their family fortunes in the taxable, for-profit sector. The recent donations of many billions by the second wealthiest man in the US, Warren Buffett, to a foundation created by the country’s wealthiest man, Bill Gates, illustrate the magnitude of the issue.

---

13 US citizens and residents dying after 31 December 2012 are subject to a top estate tax rate of 40% and are entitled to a $5 million estate tax exemption, which is adjusted annually for inflation ($5.25 million for 2013). Nonresident aliens are also subject to a top estate tax rate of 40%, but their estate tax exemption amount is only $60,000, which is not indexed for inflation.

14 Capital gains tax is charged at the marginal rate of income tax applicable to the deceased’s income tax return on 33% of the net gain from the deemed disposal of assets. Since the maximum marginal rate of tax for an individual is 40%, the effective rate of tax for an individual is generally 13.3% on the net gain. The current rate of estate duty is 20% on the dutiable net assets of the estate, resulting in an effective tax rate of 33.3%.

Of course, every coin has two sides. William G. Gale and Joel Slemrod (a tax policy specialist and economist, respectively) are often quoted in this area: “While death may be unpleasant to contemplate, there are good administrative, equity, and efficiency reasons to impose taxes at death, and the asserted costs appear to be overblown,” they wrote in 2001.16 While this may be at odds with the notion of it being cruel to have to “visit the undertaker and the tax collector on the same day,” they put forward a series of arguments in support of their theory, which may be summed in one quotation: “Supporters [of taxing inherited wealth] find [the] criticisms to be overstated or wrong … they believe that a highly progressive tax that patches loopholes, helps provide equality of opportunity, reduces the concentration of wealth, and encourages charitable giving can’t be all bad.”

For others, an even simpler argument may be advanced – that inheritance and estate taxes are “fair” when compared to other tax types because a person inheriting wealth did not earn it and may never have to work. Taxing an inheritance may be seen, to quote Winston Churchill, as “a certain corrective against the development of a race of idle rich.”

Dying to move or moving to die?
Whatever the arguments for or against, death and taxes are indeed inevitable. One key issue for wealthy individuals is that as people and capital become increasingly mobile, the number of tax disputes is on the rise. The media is filled with such stories about corporations that change their headquarters and individuals who pay less tax by moving their money or themselves across borders. The border-crossing issues arise for inheritance and estate taxes, too, which makes careful planning a higher priority and consistent implementation and monitoring more important than ever.

When any tax issue crosses borders, it inevitably becomes more complex. Unfortunately, bilateral treaties designed to prevent double taxation often do not cover estates or inheritances, and the risks that international successions will be taxed more heavily are therefore on the rise. Many jurisdictions have far-reaching laws that give them the right to levy tax when people inherit property from another country or where the deceased or the heirs are resident, domiciled or hold nationality in another jurisdiction. Frequently, two or more countries may apply inheritance tax on the assets involved. Cross-border inheritance tax problems afflict businesses, too, especially family-owned businesses that often face transfer difficulties upon the death of their owners.

One initiative to tackle cross-border inheritance tax obstacles has been taken up by the European Commission (EC). In December 2011, the EC adopted a comprehensive package of measures to address cross-border inheritance tax problems such as beneficiaries being required to pay inheritance or gift tax in two or more Member States or being subject to different tax rules in one Member State than those applied to inheritances or gifts in another. The new rules aim to give more protection to citizens who receive foreign inheritances or gifts. The EC is due to evaluate progress at the end of 2014 to see how the situation has evolved and decide whether further measures are necessary at either the national or EU level. While this will not help those residing in countries outside the EU, it is a welcome start to eliminating discrimination in the field of international inheritance and wealth taxation.

Key trends
The 16 countries covered by this report, seven levy inheritance tax, while two levy estate duty. Rates at which both taxes are levied vary massively, between 1% (Turkey) and 50% (Germany, Japan, South Korea), as do threshold amounts. Seven countries levy neither inheritance tax nor estate duty. That does not necessarily mean that no taxes will be due, though. Australia and Canada treat an individual’s death and the subsequent passing of his or her assets to his or her beneficiaries as a disposal of an asset and therefore impose CGT.

Austria, Hong Kong, Norway, Russia, Singapore and Sweden have all abolished their inheritance or estate taxes since 2000. Norway was the latest country to move in this direction, abolishing the tax from 2014 onward. “We are starting the work to turn the Norwegian economy in a better direction, where we acknowledge that value must be created before it can be shared,” said Siv Jensen, the country’s new Minister of Finance, in her first budget speech.

Other than these abolitions, developments in this area since 2010 have been relatively limited, in comparison to other tax types. Turkey, while making no changes in statutory rates, has increased the taxable threshold amounts. In India, this topic has gained prominence because the Indian Government has been thinking of reintroducing this levy, abolished in 1985, but no legislative proposals have thus far been put forward. In the UK, the 2014 Budget contained minor amendments but no significant changes. In the Budget of the United States Government for 2014, calls continue to be made for reinstating on a permanent basis the 2009 estate tax regime, with the top tax rate of 45% and a US$3.5 million per-person exemption.

## Inheritance and estate taxes around the world

<table>
<thead>
<tr>
<th>Country</th>
<th>Inheritance tax levied?</th>
<th>Estate tax levied?</th>
<th>Comments</th>
<th>Recent changes of note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>No</td>
<td>No</td>
<td>An individual’s death and the subsequent passing of his or her assets to his or her beneficiaries constitute disposal of an asset and is subject to CGT. However, exceptions are available with respect to assets owned upon death. These exceptions include transfers to a charity, superfund or foreign resident. Where the CGT exemption is available, the result is that the beneficiary that inherits and subsequently sells the assets is subject to CGT on disposal.</td>
<td>N/A</td>
</tr>
<tr>
<td>Austria</td>
<td>No</td>
<td>No</td>
<td>The Austrian Supreme Court of Constitution abolished the basic provisions of the inheritance tax in 2008. Austria introduced the Gift Registration Act (Schenkungsmeidegesetz), applicable as of 1 August 2008. The Gift Registration Act introduced a new information system for gifts. This information system is, in general, an instrument to monitor asset transfers, but without taxing those transfers.</td>
<td>N/A</td>
</tr>
<tr>
<td>Brazil</td>
<td>No</td>
<td>No</td>
<td>No income tax applies on inheritances, but there is a state tax levied on the transmission of assets due to inheritance – called ITCMD, and rate depends on the state where the deceased person lived – up to 8% (maximum rate).</td>
<td>N/A</td>
</tr>
<tr>
<td>Canada</td>
<td>No</td>
<td>No</td>
<td>While there are no estate taxes in Canada, there is a deemed disposition of all capital property owned by an individual at the time of death. In general, this disposition is deemed to take place at the fair market value (FMV) immediately prior to death. It usually results in the recognition of some amount of gain or loss and is included in computing income in the year of death. In all cases, the estate or the beneficiaries, as the case may be, will acquire the property at a cost equal to the deceased's proceeds from the deemed disposition. Additionally, the FMV of any registered retirement savings plan (RRSP) or registered retirement income fund (RRIF) is fully taxable in the year of death unless it is bequeathed to the individual's spouse or a dependent minor child. Because the deemed disposition of capital property can result in significant tax liabilities, the Canadian Tax Act provides relief in some circumstances. For example, there are exceptions for transfers to spouses and certain transfers of farm or fishing property to children. Estates are taxed at the same rates as individuals. Inter Vivos trusts are taxed at the top marginal tax rate applicable to individuals (no graduated rates as per estate tax system).</td>
<td>N/A</td>
</tr>
<tr>
<td>China</td>
<td>No</td>
<td>No</td>
<td>China issued a draft rule on inheritance tax in 2002 to solicit public opinion. However, as of today, no statute has been passed to provide guidance on inheritance tax.</td>
<td>N/A</td>
</tr>
<tr>
<td>France</td>
<td>Yes</td>
<td>No</td>
<td>Inheritance taxes are due for all transfers at the time of death regardless of whether they result from a legal succession, a will or a gift due to death, such as a gift between spouses. Inheritance taxes are levied on a progressive scale ranging from 5% to 40% (between parents and children). Spouses or partners in a civil union are exempt from inheritance tax. Subject to territoriality rules, tax must be paid in France when the deceased was a French resident, the heirs are French residents or when the assets are located in France.</td>
<td>N/A</td>
</tr>
</tbody>
</table>
## How taxing the wealthy is changing

<table>
<thead>
<tr>
<th>Country</th>
<th>Inheritance tax levied?</th>
<th>Estate tax levied?</th>
<th>Comments</th>
<th>Recent changes of note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Germany</td>
<td>Yes</td>
<td>No</td>
<td>A progressive tax rate is applied; the applicable tax rate depends on the tax class of the acquirer and the value of the taxable acquisition and can range from 7% to 50%. The tax assessment basis is the taxable value of the assets transferred after exemptions and reliefs and numerous significant tax allowances are available due to specific kind of reasons, e.g., the allowance for the transfer of a family home or of business assets.</td>
<td>N/A</td>
</tr>
<tr>
<td>India</td>
<td>No</td>
<td>No</td>
<td>Estate duty abolished in 1985</td>
<td>N/A</td>
</tr>
<tr>
<td>Italy</td>
<td>Yes</td>
<td>No</td>
<td>Beneficiaries who are in a “direct relationship” are subject to tax at 4% on the value of the assets transferred to them (a threshold of €1 million for each beneficiary applies). Brothers and sisters of the decedent are subject to tax at 6% on all assets transferred to them (the first €100,000 for each sibling is exempt from the inheritance charge). Other relatives of the testator are also subject to tax at 6%, but with no exemption being available. An 8% charge is due for recipients with no relationship to the testator. There is no exemption available to this class of beneficiary.</td>
<td>N/A</td>
</tr>
<tr>
<td>Japan</td>
<td>Yes</td>
<td>No</td>
<td>Progressive rates ranging from 10% to 50%</td>
<td>N/A</td>
</tr>
<tr>
<td>Mexico</td>
<td>No</td>
<td>No</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Russia</td>
<td>No</td>
<td>No</td>
<td>General tax rate of 13% may apply with respect to distributions from a trust to a Russian tax resident individual.</td>
<td>N/A</td>
</tr>
<tr>
<td>South Korea</td>
<td>Yes</td>
<td>No</td>
<td>Progressive rates ranging from 10% to 50%</td>
<td>N/A</td>
</tr>
<tr>
<td>Turkey</td>
<td>Yes</td>
<td>No</td>
<td>Progressive rates ranging from 1% to 8%</td>
<td>No rate changes but increases in threshold amounts.</td>
</tr>
<tr>
<td>UK</td>
<td>Yes</td>
<td>Yes</td>
<td>IHT is 40%. Estate – Up to 6% at each 10-year anniversary of settlement and up to 6% on distributions to beneficiaries.</td>
<td></td>
</tr>
<tr>
<td>US</td>
<td>No</td>
<td>Yes</td>
<td>The US imposes an estate tax on the transfer of a decedent’s “taxable estate” at death. The tax applies to US citizens and US residents on their world-wide assets and to non-US citizen/nonresidents on their US situs (or situated) property. The tax is assessed on the fair market value of the assets composing the individual’s estate which deductions allowed for debts of the decedent and for transfers to a spouse or charity. While many states do not impose an estate tax, state estate tax rates can be as high as 19%. The Obama Administration’s 2015 Budget continues to call for reinstating on a permanent basis the 2009 estate tax regime, with the top tax rate of 45% and a US$3.5 million per-person exemption.</td>
<td></td>
</tr>
</tbody>
</table>
A recent IMF report noted that “property taxes are widely regarded as an efficient and equitable means of raising revenue, but with revenue potential that is largely untapped in many countries.”

Taxing highly valued residential property

A recent IMF report\textsuperscript{17} noted that “property taxes are widely regarded as an efficient and equitable means of raising revenue, but with revenue potential that is largely untapped in many countries.” Many high net worth individuals – whether active in the business community or not – will likely own residential property in more than one jurisdiction. Governments are aware of this, and whether to suit their political agenda or to try and cool highly-charged property markets, some are charging new levies on highly valued residential properties.

That said, only two countries in our survey – China and the UK – currently levy specific taxes on highly valued residential properties (as opposed to taxing all properties, where the majority of countries surveyed have some form of property tax levy). In China, a pilot program of imposing real estate tax was carried out in the cities of Chongqing and Shanghai in 2011 on certain categories of real estate owned by certain categories of individuals. That pilot may well be extended to other Chinese cities.

In the UK, this form of taxation has proven to be politically attractive as more overseas money has entered London, in particular; Stamp Duty Land Tax (SDLT or more commonly referred to as Stamp Duty) is chargeable on the transfer of residential property worth £125,000 or more.

The top rate of SDLT is currently 7%. However, for residential properties worth more than £2 million acquired by “non-natural” persons (NNPs) the rate of SDLT is 15%. NNPs include companies, partnerships with at least one corporate partner, and certain collective investment schemes. Moreover, the UK has also introduced an Annual Tax on Enveloped Dwellings (ATED), which affects NNPs holding UK residential property valued in excess of £2 million. The ATED works on a progressive scale. Property in the valuation range of £2 million to £5 million attracts an annual levy of £15,000, while property valued at more than £20 million attracts an annual levy of £140,000.

\textsuperscript{17} Taxing Immovable Property: Revenue Potential and Implementation Challenges: International Monetary Fund, 2013
Enforcing the law
Alongside the arc light of public and media scrutiny, the shifting enforcement approach of revenue authorities in relation to HNWIs has been a hallmark of the last five years – and is guaranteed to continue for the next five, if not longer.

The financial crisis in particular has prompted a major change in how tax administrations engage with HNWIs. Although representing only a small percentage of society, wealthy individuals pay a significant proportion of income tax revenues and also tend to have highly complex personal and business affairs. Unfortunately, they are also a target for politically motivated attacks and point scoring, particularly in the run-up to elections.

By focusing their attention on HNWIs, tax administrations recognize that they can make more efficient use of scarce resources and increase overall revenues at a time when public finances are under severe strain. Of the 16 countries surveyed, EY professionals felt that 11 countries had increased their enforcement focus on HNWIs in the last three years, and five countries indicated that there had been no change. No responding country felt that their revenue authorities had reduced their enforcement focus. Ten of the 16 reported that in the last three years, their governments had adopted new legislation designed to target perceived tax avoidance by HNWIs. The legislative changes ranged from very specific actions – such as Canada’s offshore trust rules, which were substantially revised in the 2010 budget and became law in June 2013 – to more universal measures, such as the introduction of General Anti-Abuse or Anti-Avoidance Rules (GAAbR or GAAR) in India and the UK which, though not designed specifically for HNWIs, may well be used to target their activities in the future.

The rising threat of criminal prosecution

In some countries, legislation to support enforcement has ranged further, with criminal sanctions imposed. In India, evading wealth taxes is a criminal offense, with strict penalties and even imprisonment of up to seven years for willful evasion. If the declaration of wealth made is incorrect, revenue authorities may impose a penalty of up to 500% of the amount of tax evaded. In order to defend a penalty proceeding, a bona fide and reasonable cause for not furnishing the assets or furnishing inaccurate particulars of assets would need to be established.

The Indian revenue authorities are also increasingly focusing on whether all taxpayers have filed accurate wealth tax returns. The tax authorities for wealth and income tax are the same, so an
Indian income tax officer may easily call for a list of assets owned by the taxpayer or check the accuracy of the wealth tax return while auditing an income tax return.

Ignorance of the law, no matter how confusing, is no excuse

By freeing prosecuting authorities from the need to show that the taxpayer intended to evade tax, Her Majesty’s Revenue and Customs (HMRC) would open up the possibility that individuals who have made a good-faith effort to comply with extremely complex filing requirements could find themselves facing criminal sanctions.

As appalling as this prospect may seem to wealthy people whose tax filings are so complex that only their advisors understand them, HMRC believes that criminal investigation and sanctions will play an increasingly prominent role in its response to offshore tax evasion, and it states, presumably as a reassurance, that most cases are still likely to be investigated and settled through the civil processes. This includes cases not covered by the scope of the proposed criminal offense – for example, because the revenue lost is below the qualifying threshold – as well as cases which, under its published criminal investigation policy, HMRC decides are not appropriate for criminal investigation.

HMRC therefore continues to see the necessity for the civil penalties framework to provide a consistent, coherent and tough deterrent against offshore tax non-compliance, in addition to the proposed expansion of criminal investigations.

This represents just the latest in a series of efforts by the HMRC to ensure that it is sufficiently powerful to increase revenues from wealthy taxpayers. We expect more of the same in the future, in both the UK and elsewhere.

Different countries, different focus areas

The national tax authorities of the 16 countries surveyed are targeting many tax issues specific to HNWIs, and here we list them in bulleted format, partly to show how varied the concerns are but also to give taxpayers with wide-ranging international holdings a sense of how daunting their compliance exercise is becoming.

Australia
- Trusts
- Access of private company profits other than via dividends (e.g., use of assets and non-commercial loans)
- Overseas interests and international dealings

Austria
- Income derived from capital assets
- Trusts (endowment tax)
- Real estate

Brazil
- Offset of withholding on all types of income, to be cross-checked against more data in the withholding tax returns filed by banks and companies
- Capital gains derived from the sale of shares, especially on large deals that may typically entail tax planning structures
- Money laundering and tax evasion – especially on the sale of luxury assets and off-book income/expenses

Canada
- Offshore trusts and accounts
- Prohibited investments held in a Tax Free Savings Account (TFSA), a Registered Retirement Savings Fund (RRSP), a Registered Retirement Income Fund (RRIF) or Retirement Compensation Arrangement (RCA), which if determined to be prohibited are taxed at a 100% rate
- Retirement Compensation Arrangement in general

China
- Transfer of stocks or ownership of privately held companies
- Tax avoidance measures, especially on offshore indirect transfer of domestic company by nonresident enterprises
- Use of tax havens: As of 13 September 2013, China had signed tax information exchange agreements (TIAAs) with nine jurisdictions, including BVI, Bahamas, Isle of Man, Guernsey, Argentina, Bermuda and Jersey Island, Cayman and San Marino; China also signed the Convention on Mutual Assistance in Tax Administration on 27 August 2013.

France
- Stock options and allocations of free shares
- Holding structures allowing an individual to benefit from wealth tax exonerations

Germany
- Use of tax havens, especially in regard to capital and interest income, resulting in increased focus on international information sharing
- Foreign bank and brokerage accounts
- Inheritance tax
India
- Foreign assets, particularly bank accounts. This was addressed by the Finance Act, 2012, requiring ordinary residents to disclose the details of those foreign assets as part of their income tax returns.
- Potential tax avoidance in past years’ tax returns. The time limit for issue of notice for reopening the audit of an individual’s tax return was increased to 16 years with effect from June 2012, where the potentially evaded tax was due on income derived from any asset (including financial interest in any entity) located outside India.
- Use of tax havens. Ten TIAAs are in effect with Bahamas, Bermuda, British Virgin Islands, Isle of Man, Cayman Islands, Jersey, Macao, Liberia, Guernsey and Gibraltar.
- Wealth tax obligations. The Indian tax authorities are re-examining wealth tax obligations while conducting audits of individual income tax returns.
- Failure to report some income or transactions. In general, the Indian tax authorities are becoming more vigilant in the cross-checking of data provided by external institutions such as banks, credit card issuers and mutual funds.

Japan
- Misreported foreign assets, to be combated by increased use of the reporting system of foreign assets and the information exchange network among foreign tax authorities.
- General noncompliance, to be improved by introducing a Social Security and Tax Number System in 2016.
- Low payments of inheritance tax, to be combated by enlarging the taxable base.

Mexico
- Money laundering and tax evasion – focused on the sale of luxury assets and off-book income or expenses. Assets more expensive than MX$63,000 (about US$4,200) that are paid for in cash must be reported by the seller with an affidavit provided by the buyer of such assets.

Russia
- Transactions with no economic substance, especially the restructuring of assets for the purpose of tax minimization on sale.
- Improper claims of treaty benefits within the chain of a transaction (e.g., payment of income from Russia via corporate holding vehicles with Russian resident UBOs).
- Excessive tax avoidance by exempting overseas interest income.

South Korea
- Use of tax havens, especially owners of conglomerates in Korea.
- Assets held or income earned in foreign countries.
- Insufficient tax payments by individual business owners and high-income self-employed earners, especially in the medical treatment industry and the liquor-related entertainment business.

Turkey
- Sales of share certificates.
- Sales of real property.
- Foreign-sourced income.

UK
- The tax advantages afforded to non-domiciled individuals, to be scrutinized by enquiring into the domicile status of individuals and the remittances made by those who are non-domiciled.
- Potentially unreported assets, especially bank accounts, to be checked by scrutinizing information provided by overseas tax authorities.
- The use of companies and partnership arrangements to potentially take advantage of lower tax rates.

US
- All financial and business activities of HNWIs.
- All foreign assets held by, and foreign income received by, US taxpayers.
- Non-US financial institutions holding assets for US taxpayers.
Of course, these specific focus areas are but one dimension of overall tax enforcement efforts. Increased access to additional taxpayer information (from third parties or from other countries), matching data from business tax returns, advanced data analytics techniques and the use of whistleblower programs are all combining to focus a substantial fraction of tax authorities’ resources more intently on higher risk targets.

In the case of the last area – whistleblower programs – recently updated guidance from the US Internal Revenue Service (IRS) indicated that awards totaling approximately US$175 million have been paid to date on collected proceeds totaling approximately US$700 million, reflecting an award average of approximately 25% of amounts disputed. Such tools are used frequently.

Watch your step – literally

In the days before data could be moved around the world at the click of a button, a country’s right to tax an individual once they had surpassed a set number of days of physical presence was a somewhat haphazardly enforced area of tax law. That has changed beyond recognition today.

Converging trends of higher volumes of travel, greater technology use at the border, information exchange among different government agencies and a thirst for cash by national governments generally have all resulted in a landscape where an obligation to pay tax is not only triggered far more accurately, but may actually result in an individual needing to comply with requirements ahead of traveling or while on business, including withholding taxes from day one of a business trip or needing to obtain a waiver to confirm that your circumstances will be covered under a double tax treaty.

Recent years have seen other related anecdotes emerge; in the past, immigration was a key source of horror stories regarding executives being turned away for not having the correct entry clearance. In some countries, that has been surpassed by a different terror – being detained at the point of exit, for not paying the right amount of tax.

Whatever the requirements and whatever the mechanism of enforcement, two things are clear. First, as a frequent traveler across borders, it is imperative that you and your support team are aware of the ever-changing obligations you must meet. Second, to meet those requirements, fastidious attention must be paid to tracking and documenting travel details.

Targeting wealth: new organizational responses from revenue authorities

A common problem for many tax administrations is that the complex affairs of HNWIs tend to be handled by different divisions within their organization, making it more difficult to gain a complete understanding of an individual’s tax obligations from personal and business holdings.

In 2009, the OECD recommended that tax administrations set up dedicated units that would focus more resources and expertise to the task of scrutinizing the HNWI population. Such dedicated tax enforcement teams can also monitor and act against the latest developments in aggressive tax planning, ensuring they have the right countermeasures in place as early as possible, applying insights they learn from one taxpayer to others with similar characteristics.

A dedicated HNWI unit can develop a deep understanding of HNWIs, who, though by no means a homogenous group, do share common concerns such as privacy, wealth preservation and the need to pass assets to the next generation. Dedicated tax officials can develop a relationship that respects these concerns while still conducting robust examinations. One particular advantage of this changing approach is the advent of the “customer relationship manager” role within the revenue authority team.

Although individual units will vary in their approach, it is likely that they will also take into account various risk factors. For example, if a HNWI has complex business affairs, deducts an unusually large amount of money for gifts or donations, or is involved in a sector that is deemed high-risk, such as real estate, this may well influence the decision by the tax administration to assess an individual within the HNWI unit. The HNWI’s choice of advisor may also be a factor. If a particular advisor is known to provide aggressive tax planning services, then the authorities may decide to cast the net broadly and focus their attention across its entire client base. In some jurisdictions, however, the law may prevent this approach.

19 TD 9687 - Awards for Information Relating to Detecting Underpayments of Tax or Violations of the Internal Revenue Laws
Just four of the 16 countries surveyed for this report (Australia, Canada, the UK and the US) have dedicated HNWI units in place in 2014. That should not lead one to think that HNWIs are not a distinct focus in other countries, however; in France, for example, the National Audit Office for Tax Situations (DNVSF) within the tax administration handles tax matters related to HNWI taxpayers. The DNVSF comprises 13 audit teams, task forces (Brigades de Vérifications), and one planning team (Brigade de Programmation). The planning team gathers information on (potential) taxpayers to be audited and determines which one will be subject to a tax audit. This is a fairly common organization model among other countries.

Reports from governments point toward continued support for this organizational model for revenue authorities. “HMRC vigorously polices the rules ensuring it collects the tax that is due, and takes tough action against the minority who seek to avoid their responsibilities,” said David Gauke, MP, Financial Secretary to the Treasury. “This approach is clearly working as HMRC’s High Net Worth Unit has delivered £1 billion in compliance yield. This is against targets totaling £894 million and is further evidence that the government’s investment of nearly £1 billion in HMRC to tackle avoidance, evasion and fraud is paying off.”

The meteoric growth of taxpayer information exchange

It is very likely that the vast majority of taxpayers — whether corporate or individual — will probably not be aware of the staggering volume of tax data that today flows across borders regarding their dealings. This volume will grow exponentially in the next few years. There is truly a step change in international tax transparency occurring.
Taxpayer information exchange: four key factors at play

1. The number of Double Tax Conventions (DTCs) and Tax Information Exchange Agreements (TIEAs) has exploded in the aftermath of the global financial crisis. These can be thought of as pipework via which information can be legally exchanged between jurisdictions. Consider this data point: In 2010, when our last report was published, there were 1,089 agreements in place that would facilitate the exchange of taxpayer data between one country and another. As of October 2013, that number has risen to 2,350. This has been, to quote Angel Gurria, Secretary-General of the OECD, a “revolution” in the exchange of data. Moreover, and, according to an OECD sample of 23 jurisdictions for which comparable data are available, the number of exchange of information requests received (from other countries) has increased by 81% from 2009 to 2012.

2. These bilateral exchange mechanisms have been supercharged by additional developments. In 2010, the OECD and the Council of Europe revised the Convention on Mutual Administrative Assistance in Tax Matters, making it available to all countries, whether or not they were members of the OECD. In the simplest terms, this convention allows the multilateral exchange of information, expanding the bilateral exchange of information to third countries. In essence, a multilateral spider’s web of pipework, so long desired by governments, is now in place. Today, more than 70 countries are party to this agreement, including the Cayman Islands, Liechtenstein and Switzerland.

3. The development of the Foreign Account Tax Compliance Act (FATCA) has changed the face of how governments work together. FATCA will be a well-known acronym to anyone reading the business headlines, but its scale and internal workings may be a surprise. FATCA is a US law aimed at foreign financial institutions (FFIs) and other financial intermediaries to prevent tax evasion by US citizens and residents through use of offshore accounts. The FATCA provisions were included in the HIRE Act, which was signed into US law on 18 March 2010.

FATCA requires US persons, including individuals who live outside the US, to report their financial accounts held outside of the US, and it requires foreign financial institutions to report to the IRS about their US clients. Congress enacted FATCA to make it more difficult for US taxpayers to conceal assets held in offshore accounts and shell corporations, and thus to recoup federal tax revenues.

Currently, the US Treasury lists 40 countries that have what is known as an “inter-governmental agreement” or IGA in place, as well as discussions with many others. According to the IRS, more than 70,000 banks (and other related institutions who are also required to report) have so far registered.

4. In July 2014 the OECD published a Standard for Automatic Exchange of Information in Tax Matters. This new standard, developed by the OECD at the request of the G20 group of countries, effectively represents a global expansion of the FATCA concept, with the express aim of exchanging account information internationally to reduce tax evasion by people who either directly or indirectly control offshore financial accounts.

In fact, the OECD Standard is based heavily on the FATCA Model 1 Intergovernmental Agreement (Model 1 IGA), but with certain amendments to remove US specificities and build on work already performed as a result of FATCA. Interestingly, the US$50,000 de minimis amount for account values under FATCA will not apply under the OECD Standard. It can therefore be reasonably expected that revenue authorities will have access to vast amount of data regarding taxpayers with fairly modest assets outside of their home jurisdiction.

Although the OECD Standard has no direct legal force (the OECD makes recommendations and is not a legislative body) it is expected that jurisdictions will follow it closely in adopting local rules and regulations, with many countries already agreeing to early adoption in 2016 with a view to the first exchange of information taking place in 2017. The net effect is that from around that point in time, there will be an exponential increase in the volume (and speed) of taxpayer information exchanged.

While it remains to be seen how exactly countries will use this new data source, it is already clear that its existence is of huge value to revenue authorities, driving them to new heights of collaboration with one another: “A lot of our focus at the moment has been around the implementation of the Standard,” said David Allen of the Australian Taxation Office (ATO) in an interview with EY.23 “Although there has been some blue-sky thinking, we are just at the starting line. The challenge for tax administrators is rather than each tax administration inventing its own analytics tools and algorithms for CRS data, how we develop a multilateral approach instead.” So it will not just be each jurisdiction acting independently to try and identify compliance issues; it can be expected that cloud-based data analytics will be carried out by revenue authorities on a multilateral basis.

Together, these four trends in taxpayer data exchange represent just how much calls for additional transparency have been taken and translated into action.

The most recent data from ATO suggest that almost half a billion additional Australian dollars were collected after investigations triggered by exchange of information in the 2012–13 financial year. That figure contributes to the global estimate that governments across the world have collected more than €37 billion of tax from offshore accounts since 2009.

With revenue authorities around the world now at the starting line (to quote the ATO) of spontaneous, multilateral information exchange; similar reporting requirements being implemented for companies; and a likelihood that the OECD Standard will be expanded at some point to include trusts and other vehicles, there is little doubt that the figure of US$37 billion will grow in coming years.

23 See www.ey.com/tpcbriefing
The OECD's Standard for Automatic Exchange of Information in Tax Matters

The early adopters group
Argentina, Belgium, Bulgaria, Colombia, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, the Faroe Islands, Finland, France, Germany, Greece, Hungary, Iceland, India, Ireland, Italy, Latvia, Liechtenstein, Lithuania, Malta, Mexico, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, South Africa, Spain, Sweden, and the UK; the UK's Crown Dependencies of Isle of Man, Guernsey and Jersey; the UK's Overseas Territories of Anguilla, Bermuda, the British Virgin Islands, the Cayman Islands, Gibraltar, Montserrat, and the Turks & Caicos Islands.

Other committed parties (excluding the US)
Anguilla, Australia, Austria, Brazil, Canada, the People's Republic of China, Chile, Colombia, Costa Rica, Montserrat, Indonesia, Israel, Japan, Korea, Luxembourg, Malaysia, New Zealand, Russia, Saudi Arabia, Singapore, Switzerland, and Turkey.
While many countries put such disclosure opportunities in place in the immediate aftermath of the global financial crisis (both capitalizing on the focus on tax and the opportunity to quickly bring in additional revenues), their use has to a degree tapered off as economic prospects have improved. That said, many countries maintain opportunities to file voluntary disclosures which will attract lesser penalties than if an inconsistency is identified later by the revenue authority itself. An example is Germany, where, provided the self-disclosure is filed correctly, the taxpayer will be relieved from criminal charges. However, any tax avoided must be paid, as well as interest.

One example of an open disclosure arrangement is the ATO initiative titled “Project DO IT: Disclose Offshore Income Today.” This program offers eligible taxpayers significant legal concessions if they voluntarily disclose unreported foreign income and assets before they are identified by ATO activity. Interestingly, this offer covers structures established by earlier generations. To date (the end of July 2014, with the final date for disclosure being December 2014), the project has resulted in 250 disclosures.

New opportunities to make a voluntary disclosure

The massive increase in taxpayer information exchange leads to a not unreasonable assumption that a growing number of taxpayers may be willing to come forward and disclose their past noncompliance. In response to this demand, many countries are giving their taxpayers an opportunity to disclose undeclared assets in return for reduced penalties or an exemption from legal action. By encouraging the repatriation of funds and applying a tax to them, these schemes also have the added benefit of strengthening the balance sheets of domestic financial institutions in countries not operating as tax havens and providing a quick injection of funds to governments. The figures involved are not insignificant; in a recent speech, OECD Secretary-General Angel Gurria set out that, since 2009, more than half a million taxpayers had taken advantage of voluntary disclosure programs, generating an additional €37 billion of tax collections for the countries involved.

Most governments that offer voluntary disclosure schemes stress that they are temporary. Often, they coincide with the time required for TIEAs or other information exchange mechanisms to come into force. As a result, HNWIs and other taxpayers have a relatively short window of opportunity in which to disclose any undeclared assets before tax authorities can put their exchange agreements to work and request information about taxpayers whom they suspect of tax evasion. And once disclosure schemes expire, penalties can increase substantially.

During the course of the last three years, seven of the 16 countries surveyed for this report had run some form of voluntary disclosure program. Some have been general (encompassing multiple asset types), others have focused on particular jurisdictions (such as the UK-Liechtenstein arrangement) and all have typically been available for limited time periods, as an incentive for taxpayers to come forward.

HNWIs and other taxpayers [may] have a relatively short window of opportunity in which to disclose any undeclared assets before tax authorities can put their exchange agreements to work and request information about taxpayers whom they suspect of tax evasion.
Guiding principles for managing your tax affairs
Most governments have always used a combination of tax policy and tax enforcement in their dealings with wealthy individuals. What has changed is the speed, volume and complexity of changes in both areas. Policy measures seen to work in one country are quickly replicated among others. Tax administrations are collaborating with one another on a regular basis. And the volume of taxpayer information now available to revenue authorities from other countries is unprecedented. A key risk for HNWIs today is failing to keep up with the pace of change — and wrongly assuming that the revenue authorities are doing the same.

Today, managing taxes is not as simple as making sure you file an on-time and accurate tax return; it is far more complex. Taxation regimes are being extended to nonresident individuals. Disclosure and financial reporting requirements are growing in virtually every country. And complex legislation in many countries means that expatriation may not mean the end of an individual’s tax obligations.

Managing these risks is as complex as cross-border business itself. EY has identified 10 key components which together comprise a framework for the effective management of tax risk for HNWIs.

1. Develop (or refresh) your “tax philosophy”

It is important to have a personal tax philosophy which ensures that tax positions taken with respect to tax uncertainties are consistent with your overall level of risk tolerance. Just as you would with an investment or succession plan, make sure that you periodically revisit your tax philosophy, ensuring that you are always comfortable with your positions as the dynamics of the tax debate change.

A key part of your tax philosophy should be to address what kind of relationship you wish to have with the revenue authorities in countries that are important to you. More and more countries are adopting what have become known as “cooperative compliance” philosophies. While typically targeted at large companies, a similar, more open and collaborative approach is often available for HNWIs. As they do with companies, the tax authorities are wanting fuller disclosures from taxpayers in exchange for the likelihood of removing aggressive, time-consuming inquiries. Like businesses, tax authorities wish to make the best use of their time and resources, so they may be willing to develop a closer, more accommodating relationship that allows you and them to agree on important issues as they happen, not later during a tax audit or litigation.

2. Surround yourself with the right tax team

More than ever, wealthy individuals need to be prepared to plan ahead, and your professional advisors’ competence and breadth of services must match your personal needs. People and capital cross borders more readily than before, as does the reach of tax authorities and legal enforcement. So securing an advisor that can offer you the range of services you need in the jurisdictions where you operate is key. Consider the cross-border connectivity your advisor’s team. While securing the very best talent in each market may seem like a reasonable strategy, the cross-border implications of tax are growing rapidly. Having a team that is already connected, responsive and insightful can pay dividends when it comes to planning the most efficient cross-border tax strategy.
3. **Review current structures and positions**

Any risk management exercise starts with an assessment of the current state. A full and extensive tax compliance and risk assessment of your current worldwide tax situation should therefore be carried out. A broad variety of factors must be considered within this exercise:

- Consider environmental factors such as shifting tax legislation and tax enforcement focus areas.
- Review existing assets, currency movements, tax structures and positions for risk, particularly where circumstances may have changed.
- Understand which factors are controllable and prioritize your action on those factors.
- Pay specific attention to areas such as nonresident investments and potential opportunities for treaty relief.

4. **Build “tax risk management thinking” into everything you do**

Many financial transactions or situations today have a potential tax impact. It is therefore imperative to build tax risk management thinking into every decision. Whether it’s your present or future residence, your risk appetite or your cash flow requirements, tax plays a role.

Moreover, HNWIs should develop this tax risk management thinking (and actions) from a truly global perspective, because that is exactly how tax administrations are viewing them today.

Addressing potential tax risks from a bilateral or multilateral perspective can help mitigate risk and prepare for any incoming inquiries in a more efficient manner. Fastidious documentation in every aspect of your financial dealings has become more important than ever, particularly as tax administrators are now both exchanging taxpayer information and collaborating with one another on the analysis of specific facts and circumstances.

The dimensions against which this thinking should be applied are many. Consider, for example, that currency gains (and losses) attract their own tax treatment in many countries. Families may have one or more individuals either traveling extensively, living for parts of the year in different jurisdictions or simply possessing dual citizenship, and in all these circumstances, taxpayers should remain abreast of how transactions and financial decisions in one country may have international implications.

But most importantly, consider timing. Potential tax impacts and outcomes should be considered as early as possible. Enhanced preparation and planning always reduces risk and mitigates subsequent disputes.

5. **Stay vigilant and active, assessing the impact of tax policy and enforcement changes on your circumstances**

The tax policy and tax enforcement environments today are more complex, fast-paced and voluminous. It is critical to put in place the processes and resources to stay abreast of tax trends in the countries where you reside, conduct business or make investments. And more than just identifying change, it is important to put in place (and maintain) the right protocols for assessing impact and rearranging your affairs in response. This includes not only tactically revisiting structures, transactions and positions, but also revisiting your overall tax philosophy to check that it remains valid.

6. **Be fastidious in meeting your compliance and reporting obligations – not just tax returns, but all other related reporting and disclosure requirements**

Historically, filing an on-time and complete tax return might have been the full extent of the tax due diligence required of an individual. Today, that picture has changed substantially. Not only has the overall volume of reporting, disclosure and transparency requirements increased exponentially, but the risk assessment techniques put in place by tax authorities trigger additional scrutiny for anyone who meets a certain fact pattern.
7. **Painstakingly record your travel movements**

The ongoing thirst for cash – and the technology revolution – has driven many revenue authorities to focus more intently on the comings and goings of individuals. This has been compounded by tighter tax policies, increasing the risk of establishing tax residency or a permanent establishment.

All around the world, the trigger points for tax and social security obligations are becoming lighter. Where once avoiding a compliance obligation was as simple as counting workdays and exiting a certain country prior to a specific date, the new tax landscape is characterized by more complex rules. Number of visits, total compensation paid, type of work performed and total time spent in a country must all be tallied and assessed to understand whether a compliance obligation has been triggered – either now or, in many cases, at some point already in the past.

Of course, counting workdays during travel is still a must, so when you add days to business trips, consider the possibility that you are triggering a new tax obligation.

8. **Treat voluntary disclosures with the utmost of care**

Even taxpayers who make every effort to maintain full compliance sometimes need to make a voluntary disclosure. But no two disclosures are the same. Some taxpayers may be concerned that a disclosure will give rise to increased scrutiny of their affairs in the future, that it may place them in a high-risk category or that the information disclosed may not be treated confidentially. It is therefore essential to ensure that any disclosures are carefully planned, taking into account potential multiyear or multijurisdictional impacts. While specific voluntary disclosure programs are useful to be aware of, the lack of a program does not mean that a voluntary disclosure cannot be made. But be aware that different countries have different cultural approaches. As with any complex issue, there are leading practices to follow in this area.

9. **Understand that properly thought out, legitimate planning of your tax affairs has a place**

That public and political perceptions in relation to taxes and the people (and companies) that pay them has changed is undeniable. But it is important to understand that while clearly contrived tax avoidance schemes will rightly attract the wrath of politicians, media and public, the role of properly thought out, rational tax planning remains intact. As oft-quoted Judge Learned Hand once stated, “Anyone may arrange his affairs so that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the treasury. There is not even a patriotic duty to increase one’s taxes.” With the policy dimension changing so dramatically for wealthy taxpayers, it remains highly prudent to plan for the long term.

10. **Control your tax affairs – don’t let them control you**

With few exceptions, wealthy taxpayers travel extensively and own assets in multiple jurisdictions. This can present many problems, not only in terms of maintaining compliance, but in timing tax payments in such a way that avoids a mismatch of timing of tax payment versus timing of income earning or reporting. These failures can impact the claiming of foreign tax credits in particular. Situations such as being subject to double taxation in the year in which income is earned are possible, as is receiving a foreign tax credit in a year when one has no taxable income in that jurisdiction. While returns can indeed be amended, it takes time and effort. Instead, having the right team involved on a multijurisdictional basis, an advisor who closely monitors your tax “operations” is more sensible. Having one single team help you manage your affairs can help you manage tax risks, and can unearth valuable opportunities for tax savings.
Conclusion

We concluded our 2010 report on the taxation of HNWIs with the words “... during the course of the last two years, it is clear that HNWIs are clearly under a bright spotlight, and it is highly likely that they will continue to be so for the foreseeable future.”

Those words hold true today. And with all things considered – including the media, public and political focus on taxation, not to mention the continuing governmental desires to reduce income inequality and budget deficits – there are few, if any drivers that will cause this spotlight to dim.

Any good strategy is centered on building flexibility and resilience to the changing environment and remaining diligent about change. Today, taxation is one of the areas where possessing that flexibility, resilience and diligence is especially important.
EY | Assurance | Tax | Transactions | Advisory

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EY refers to the global organization, and may refer to one or more, of the member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. For more information about our organization, please visit ey.com.

About EY’s Tax Services
Your business will prosper as you build it on a strong foundation and grow it in a sustainable way. At EY, we believe that managing your tax obligations responsibly and proactively can make a critical difference. Our global teams of talented people bring you technical knowledge, business experience and consistency, all built on our unwavering commitment to quality service — wherever you are and whatever tax services you need.

We create highly networked teams that can advise on planning, compliance and reporting and help you maintain constructive tax authority relationships — wherever you operate. Our technical networks across the globe can work with you to reduce inefficiencies, mitigate risk and improve opportunity. Our 38,000 tax professionals, in more than 140 countries, are committed to giving you the quality, consistency and customization you need to support your tax function.

© 2015 EYGM Limited.
All Rights Reserved.
SCORE No. DL1163
1410-1329852
ED none

This material has been prepared for general informational purposes only and is not intended to be relied upon as accounting, tax, or other professional advice. Please refer to your advisors for specific advice.

ey.com